

PRESENTED AT

32nd Annual School Law Conference

February 23-24, 2017

Austin, Texas

Navigating through the SBEC Educators' Code of Ethics

Augustin Rivera, Jr.

Note: This paper was converted from a scanned image. The conversion has been reviewed for accuracy; however, minor spelling or text-conversion errors may still be present.

Author Contact Information:

Augustin Rivera, Jr.

Del Mar College District

Corpus Christi, Texas

ariverajr@delmar.edu

361.692.8644

Navigating Through the SBEC Educator's Code of Ethics

Introduction

On May 5, 1992, the late Honorable Barbara Jordan was invited by an international association of investment professionals to deliver a speech in San Antonio, Texas, on the topic: "The Rebirth of Ethics—A Pervasive Challenge." The association is responsible for professional credentialing and Professor Jordan began her remarks by explaining she was "pleased ... to be asked to speak to those I do not daily encounter" and "[i]t warms the heart to know that men and women whose daily focus is upon the wise handling of money have an interest in more than the bottom line as it is expressed in dollars and cents."¹ The inimitable Professor Jordan, whose illustrious career and many accomplishments as a public servant and educator are synonymous with ethical behavior, gave the financial professionals plain advice: "There is nothing complicated or difficult about ethics. It's about values. It's about right and wrong behavior. It's about the common good—the good we all hold in common, notwithstanding race or gender."

Professor Jordan went on to compliment the association's work by telling the group that, "[i]t is good—no, it is more than good—it is admirable and highly commendable that you as an association seek to instill the highest of ethical standards in your profession." Fast forward to June 2014, when the association found itself in the news dealing with a sticky and ethical quandary as it faced the following headlines: "Institute Chief Departs After Disclosing Relationship" and "Institute Forced to Answer Own Tricky Ethics Question."²

The point is that the inherent tension between the intent to be ethical and what happens in real life is a constant and, therefore, an adherence to ethical conduct requires constant vigilance and a frequent review and re-commitment to ethical standards of conduct. Most professions and professionals believe themselves to be ethical and Texas educators are no different. However, very recent events have resulted in a less than positive legislative and public focus on educators ethics warranting a current review and recommitment to ethical principles.

This paper will provide a brief overview of the history and main principles underlying the Texas Educators' Code of Ethics.

¹ Jordan, B., & Parham, S. (1999), Barbara C. Jordan—selected speeches. Washington, DC: Howard

² Huang, D. (2014, June 10). CFA Institute Chief Departs After Disclosing Relationship. Retrieved February 17, 2017, from <https://www.wsi.com/articles/cfa-institute-chief-departs-after-disclosing-relationship-1402427710>; (n.d.). Retrieved February 17, 2017, from <https://ftalphaville.ft.com/2014/06/11/1874462/cfa-institute-forced-to-answer-own-tricky-ethics-question/>

History of Educator's Ethics in Texas

In 1971, the Texas Legislature set up the framework for the first Code of Ethics applicable to educators in the state.³ The Teacher's Professional Practices Commission was formed and assigned the task of developing "a code of ethics and standard practices to govern the conduct of members of the profession." Tex. Educ. Code Section 13.210[a], 1971). Initially, the process allowed only educators to file complaints against educators and the role of the Commission was limited to conducting an initial hearing and issuing a decision that was "only advisory." See, *Janice Cundiff v. Clair McKean, Becky Carroll*, Docket Nos. 081-TTC-197,133-TTC-397 (Comm'r Educ. 1997)(Commissioner decision analyzing jurisdictional question including review of history of Texas Code of Ethics). The Commissioner of Education was authorized to make a final administrative decision after a *de novo* hearing of the original complaint, with further possible proceedings before the State Board of Education and the state civil court system. Tex. Educ. Code Section 13.213 [b], [c] and Section 13.214[b].

In 1993, the Texas Legislature abolished the Teacher's Professional Practices Commission and inadvertently created confusion over what still remained of the state ethics complaint process. While the Commission was no longer in existence, the Texas Education Code still provided that "a complaint was initiated by filing a complaint with the commission." *Cundiff v. McKean, et al.*, at 2. As a result of the legal uncertainty, a number of complaints filed under the Code of Ethics were actually dismissed. *Id.*

In 1994, in response to a letter request from the Chair of the Senate Education Committee, Bill Ratliff, Texas Attorney General Dan Morales issued an opinion concluding that, "[t]he Code of Ethics and Standard Practices for Texas Educators continues to exist following the abolition of the Teachers' Professional Practices Commission." Tex. Atty. Gen. Op. DM-290 (1994). General Morales further advised that since the Commission could only issue advisory opinions that were not binding on the Commissioner of Education, the *Commissioner* still had the authority to hear Code of Ethics complaints, even in the absence of a Commission. *Id.*, p. 1544-5.

In 1995, the Texas Legislature attempted to bring clarity and order to the ethics complaint process by creating the Texas State Board for Educator Certification ("SBEC") as part of Senate Bill 1. The appointed members of the SBEC were charged with overseeing the certification, preparation, and standards of conduct of public school educators and further directed to propose rules that "provide for the adoption, amendment, and enforcement of an educator's code of ethics." Tex. Educ. Code Section 21.041 (b)(8) (1995). However, confusion regarding the

³ Tex. Education Code ch. 405, Section 2, 1971 Tex. Gen. Laws 1479.

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Teachers Say The Darndest Things—Again

Also available as part of the eCourse

[2017 School Law eConference](#)

First appeared as part of the conference materials for the
32nd Annual School Law Conference session

"Teachers Say The Darndest Things—Again"