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The Changing Landscape of Contract Abandonment and Resignation From a Chapter 21 Contract

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The State Board for Educator Certification (“SBEC” or “board”) has authority to sanction educators who abandon their contracts without good cause.ⁱ In 2021, the Legislature passed HB 2519, which was designed to give the SBEC more flexibility when it imposed sanctions for contract abandonment and to allow for less severe sanctions for teachers who resign 30 to 45 days prior to the first day of instruction. Implementation of this legislation required the SBEC to revise its rules. During this amendment period, the board also took the opportunity to examine the circumstances that it would consider to be good cause and mitigating factors to resign from the contract. This paper will examine the stakeholder process and issues considered during the adoption process and will discuss the rule that was finally approved.

Background

Teachers who resign later than 45 days prior to the first day of instruction without good cause and without the consent of the school district are subject to certification sanction.ⁱⁱ The SBEC is charged with enforcement of this statutory provision and has adopted rules that specify that the mandatory minimum sanction for contract abandonment is typically a one-year suspension. The rules also outline what circumstances the SBEC would consider to be “good cause,” thus allowing a teacher to resign from the contract without penalty, and other "mitigating factors" that could justify a reduced sanction. The relevant portion of the rule can be found at 19 Texas Administrative Code § 249.17(d) and states as follows:

(1) Good cause. The following factors may be considered good cause when an educator is reported to have abandoned a contract in violation of the TEC, §§21.105(c), 21.160(c), or 21.210(c):

- (A) serious illness or health condition of the educator or close family member of the educator;
- (B) relocation to a new city as a result of change in employer of the educator's spouse or partner who resides with the educator; or

(C) significant change in the educator's family needs that requires the educator to relocate or to devote more time than allowed by current employment.

(2) Mitigating factors. The following factors may be considered in seeking, proposing, or making a decision under this chapter regarding an educator who has abandoned a contract in violation of the TEC, §§21.105(c), 21.160(c), or 21.210(c):

(A) educator gave written notice to school district 30 days or more in advance of the first day of instruction for which the educator will not be present;

(B) educator assisted school district in finding a replacement educator to fill the position;

(C) educator continued to work until the school district hired a replacement educator;

(D) educator assisted in training the replacement educator;

(E) educator showed good faith in communications and negotiations with school district; or

(F) educator provided lesson plans for classes following educator's resignation.

This construct of outlining specific circumstances for what the board will consider to be good cause or mitigating factors is relatively new. The SBEC has had the authority to impose sanctions for contract abandonment since its creation in 1995, but for many years it considered contract-abandonment cases on an individual basis and made its determination based on the facts of the case that was presented to it. However, in July 2015 the Sunset Commission Advisory Committee issued a series of recommendations following its review of the Texas Education Agency, which carries out SBEC's administrative functions. One of those recommendations was that the SBEC develop a disciplinary matrix to ensure fair and consistent application of sanctions.ⁱⁱⁱ The recommendation further specified that such a matrix should include aggravating or mitigating factors that the SBEC would consider in imposing sanctions.^{iv} Following these recommendations, on August 7, 2015 the SBEC charged its Committee on Educator Discipline to create more specific penalty guidelines for TEA staff to follow in settling or prosecuting educator discipline cases.^v The committee met on October 15, 2015 and developed recommendations in response to that charge. Although the SBEC declined to adopt a disciplinary matrix, it did make changes that were

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