SBEC Update

Presented by:
David Rodriguez, Daniel Berumen, and Tina Farrell
Texas Education Agency

October 19, 2023
Texas Education Agency

**David Rodriguez** is the Executive Director of the TEA Division of Investigations; he has been with the agency for over twelve years. David obtained an MBA from Texas State University and a bachelor’s degree from the University of Texas. He also holds certifications in criminal justice, fraud examination, and process improvement. David is committed to helping the division achieve its primary goal of protecting students.

**Tina Farrell** is the Investigations Manager for the Educator Investigations Division. She is committed to keeping Texas students safe. Tina has over 20 years of experience working for multiple agencies as an investigator and auditor. Her prior roles include investigator for the Tx Dept. of Juvenile Justice and Tx. Dept. of Insurance, auditor for the Tx. Dept. of Criminal Justice, and coroner investigator for the Ventura County (CA) Medical Examiner. Tina obtained a MS from National University and an undergraduate degree from the University of Texas -San Antonio. Tina also holds a Certified Fraud Examiner certification and a TCOLE Peace Officer certification.

**Daniel Berumen** is the Intake Manager for the Educator Investigations Division. Daniel has over 25 years of law enforcement and investigative experience. His previous roles include serving as the Internal Affairs Investigations Manager for the HHSC Office of Inspector General, as an Administrative Investigator, with the Tx Juvenile Justice Department, and as the NCIS Project Manager for the Office of Court Administration. Daniel obtained a bachelor’s degree from Texas State University and an associate degree from South Plains College. Daniel holds a TCOLE Master Peace Officer certification.
Educator Investigations Division

Presentation for Eichelbaum Wardell Hansen Powell & Muñoz, P.C.

Title IX Administrator Conference

Thursday, October 19, 2023

Tina Farrell
Director, Investigations Unit

Daniel Berumen
Director, Intake and Review Unit

David Rodriguez
Executive Director, Division of Investigations
Student Safety

Shared Responsibility

- Schools
- TEA
- CACs
- Parents
- Law Enforcement
- DFPS CPS

TEA Investigations

- Investigations
  - EID Intake
  - EID Investigations
  - Special Investigations
TEA Division of Educator Investigations

Trends

Educator Investigations Division (EID) – FY23

Intake & Investigations

Cases Opened FY 23

- Solicitation of Inappropriate Relationship w/ Student, 402
- Violence/Abuse against Students, 334
- Drugs and Alcohol (In-School and Felony Level), 246
- Miscellaneous, 161
- Sexual Misconduct, 151
- Fraud and Official Misconduct, 51
- Burglary and Theft (Felony Level), 49
- Failure to Report, 30
- Testing Violations
- Sexual Harassment

FY 23 Total 1626
Educator Investigations Division (EID) – FY23

Intake & Investigations

<table>
<thead>
<tr>
<th>Year</th>
<th>Solicitation of inappropriate relationship with student</th>
<th>Violence/abuse against students</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 2021</td>
<td>337</td>
<td>180</td>
</tr>
<tr>
<td>FY 2022</td>
<td>394</td>
<td>384</td>
</tr>
<tr>
<td>FY 2023</td>
<td>402</td>
<td>334</td>
</tr>
</tbody>
</table>

Responsibilities of Administrators and Schools
Administrator and School Responsibilities

- Upload employees to TEA system to initiate fingerprinting
- Superintendents certify compliance annually
- Investigate allegations of misconduct, despite resignation
- Create procedures to ensure requirements are met
- Investigate allegations against SBEC Certified / Non-Cert Employees
- Report misconduct to TEA/SBEC as required
- Verify fingerprint status
- Check Do Not Hire Registry
- Refuse to hire or terminate if on DNHR
- Non-compliance carries penalties for charter schools and DOIs
- Report through Misconduct Reporting Portal
- Failure to report carries penalties

When behaviors cross boundaries
Potential Overlap with Title IX Cases

Regardless of severity, TEA reviews allegations of misconduct that may fall under the following laws:

- **Sexual abuse, Sexual assault** – Penal Code, Fam Code violations
- **Solicitation of a romantic relationship** - 19 TAC §249.3 (51)
- **Failure to maintain appropriate professional boundaries** - 19 TAC §247.2(3)(H)
- **Inappropriate communication** - 19 TAC §247.2(3)(I)
- **Sexual Harassment or Sexual Violence by Teachers** – Title IX

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Potential Overlap with Title IX Cases

Verbal Behaviors
- Romantic or affectionate comments
- Inappropriate comments about the student’s body
- Encouraging student to share sexually-suggestive or private photographs
- Asking about student’s sexual history or sexual preference

Physical Behaviors
- Inappropriate and repeated hugging or touching
- Sexual contact; kissing
- Staring at various parts of body
Potential Overlap with Title IX Cases

Non-Transparent Behaviors
- Counseling student when, educator’s job duties do not include counseling
- Communicating in secret, attempting to conceal communication
- Gift-giving to student, including providing access to non-school events

Other behaviors
- Patterns of exclusivity and attachment
- Requesting to contact on social-media
- Violating directives from LEA or authority

Improper Communication or Solicitation of a Romantic Relationship

Audience Participation
What questions or contribution do you have to this topic?
TEA /SBEC Investigation & Litigation Process

Investigation & Litigation Process

Intake → Investigations → Legal → State Office of Admin Hearings

State Board for Educator Certification (SBEC)

TEA Commissioner
Audience Participation

What questions do you have about the investigation process?

Potential Outcomes: SBEC Sanctions and the Do Not Hire Registry
SBEC Sanctions

SBEC may take the following disciplinary actions against an educator’s certificate:

- Place a **warning** on the certificate during an investigation
- **Deny** certification or place restrictions
- Issue an **inscribed reprimand**;
- **Suspend** a certificate for a set term
- Accept a **voluntary surrender** of a certificate
- **Revoke** a certificate (through board decision or operation of law)
- Impose any **additional conditions or restrictions** upon a certificate as deemed necessary by the SBEC

What is the “Do Not Hire” Registry?

An online list of individuals who are **not eligible for employment** in a Texas public school based on misconduct or criminal history. The list can be accessed by schools through TEAL, or by the public through the TEA website.

In Statute: Registry of persons not eligible for employment in public schools - TEC §22.092 as created by HB 3, individuals not eligible for employment - TEC §22.0832, §22.0833, §22.085 and §21.058(b)
Do Not Hire Registry

Public Registry Search

This registry contains a list of individuals who are not eligible for employment in Texas by a school district, district of innovation, open-enrollment charter school, other charter entity, regional education service center, or shared services arrangement.

Instructions: Enter a First Name (minimum 2 characters) and Last Name (minimum 3 characters) of the person to search. Click "Search" to begin the lookup. Click "Clear" to clear the first name and last name fields for a new search.

First Name *

Last Name *

Search  Clear

Registry Search Results

The Registry Status definitions are as follows:

Not Eligible For Hire - The individual is not eligible to be employed by a public school and may not be hired in any role.

Under Investigation - Pursuant to TEC §22.094, a non-certified employee is currently under investigation by TEA based on allegations that the individual abused or was involved in an inappropriate relationship with a student or minor. The notation means the matter is ongoing and the individual’s eligibility for employment has not yet been determined.

Date on Registry - Represents the date an individual was found to be not eligible for employment in a public school. The earliest date listed will be January 2, 2020, which was the date the Registry was launched.

Approximate Age - Calculated as the number of years between the current year and the person’s birth year.

https://tealprod.tea.state.tx.us/DNH/Public/SearchPerson
Misconduct Reporting Portal

- Application in TEAL; Accessed by authorized school staff and TEA Educator Investigations
- Most secure and expedient method for sending reports of educator misconduct.
- Reports received through the portal are processed through Intake/Review Unit
- Handoff between school district and Ed Inv

Currently, 49% of LEAs are using the MRP
Report should include:
- Summary of facts;
- Name, identifiers and employment status of person being reported;
- Contact information for victims/witnesses;
- Law enforcement or other agencies involved with their contact information.

What questions do you have about reporting misconduct to TEA / SBEC?
Cooperation
TEA - LEA - DFPS

Requirement

Tx Edu Code §38.004 – TEA shall develop a policy for schools that provides for cooperation with law enforcement and DFPS investigations.
TEA / LEA Collaboration

Shared Objective
• Further understanding of subject matter
• Leadership commitment

Open Line of Communication
• Informal discussions
• Transparency

Solution-Oriented
• Procedural change
• Recommended policy

Student Safety

DFPS School Investigations

Known Issues and Guidance
### Known Issues & Current Guidance

<table>
<thead>
<tr>
<th>Issue</th>
<th>Guidance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Campus administration does not permit a CPS Special Investigator to interview students or staff at a school?</td>
<td>Campus administration must permit the CPS Special Investigator to interview students or staff at a school. The investigator may determine the circumstances of the interview, including whether the interview is announced in advance and whether anyone may attend. Tx Fam Code §261.302, 303, 409 / Op. Tx Atty Gen DM 0476 (198) / TASB Policy GRA (LEGAL)</td>
</tr>
<tr>
<td>A video of an incident is not made available to DFPS Special Investigator. Administrator states FERPA or HIPPA issues.</td>
<td>TEA advises that the CPS Special Investigator request to view the video on campus.</td>
</tr>
<tr>
<td>Schools ask CPS Special Investigator to check-in or meet with administrator before interviewing parties</td>
<td>The CPS Special Investigator must request that the principal not alert the alleged perpetrator or others regarding the report until the investigator has first had an opportunity to interview the alleged perpetrator. (40 TAC §707.615)</td>
</tr>
<tr>
<td>Can campus administration require CPS Special Investigators to provide drivers’ license</td>
<td>An investigator may be asked to show a state-issued ID badge. However, if the state-issued ID badge is shown, the district should not ask for personal ID. (TEA Letter-2008)</td>
</tr>
</tbody>
</table>
DFPS School Investigations

TEA Facilitation of LEA -DFPS Communication Issues

TEA receives issue/question from CPS Special Investigations (or school)

TEA contacts school; obtains information from administrator or Legal division

TEA provides guidance to DFPS and/or school administrator

TEA elevates matter as ISD Compliance issue or Educator Training Issue

TEA/DFPS flags issue to as legal obstacle

Audience Participation

How else can TEA Investigations help you and your school?
Questions

Supplemental Slides

Examples of Online Display of Warnings and Sanctions
Investigative Warning

Texas Educator Certificate
Click here to go to EDUCATOR SANCTION HISTORY section
This certificate that
John Doe
has fulfilled requirements of state law and regulations of the
State Board for Educator Certification
and is hereby authorized to perform duties as designated below:

PROVISIONAL

<table>
<thead>
<tr>
<th>Description</th>
<th>Effective Date</th>
<th>Expiration Date</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Elementary Self-Contained</td>
<td>08/09/1985</td>
<td>Life</td>
<td>Valid</td>
</tr>
<tr>
<td>Grades (1-8)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>General Special Education</td>
<td>08/09/1985</td>
<td>Life</td>
<td>Valid</td>
</tr>
<tr>
<td>Grades (PK-12)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

PARAPROFESSIONAL

<table>
<thead>
<tr>
<th>Description</th>
<th>Effective Date</th>
<th>Expiration Date</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Educational Aide III</td>
<td>09/14/1984</td>
<td>Life</td>
<td>Valid</td>
</tr>
</tbody>
</table>

Note: This individual is currently under review by the TEA Educator Investigations Division.

Reprimand

Texas Educator Certificate
Click here to go to EDUCATOR SANCTION HISTORY section
This certificate that
Mary Smith
has fulfilled requirements of state law and regulations of the
State Board for Educator Certification
and is hereby authorized to perform duties as designated below:

Sanction
Reprimand

EDUCATOR SANCTION HISTORY
Begin Date  Ending Date  Sanction Status
9/29/2021    9/29/2021  Valid

Inscribed Reprimand:
An inscribed reprimand is the Board’s formal, published censure appearing on the face of an educator’s certificate. A reprimand does not affect the validity of an educator’s certificate.
Suspension:

A suspended certificate, as a result of disciplinary action by the SBEC, has been rendered invalid for a specific period of time or until reinstated by the board.

Voluntary Surrender:

A voluntary surrender of a certificate occurs as a result of an educator's voluntary relinquishment of a certificate, in lieu of disciplinary proceedings, and renders that certificate invalid.
Permanent Surrender as of 3/1/2023

**Permanent Surrender:**

A permanent voluntary surrender of a certificate(s) occurs as a result of an educator’s voluntary relinquishment of a certificate, in lieu of disciplinary proceedings, and renders that certificate permanently invalid without the opportunity to reapply for a new certificate(s).

### Examples of Disciplinary Orders

#### Supplemental Slides

**Permanent Surrender**

<table>
<thead>
<tr>
<th>Sanction</th>
<th>Begin Date</th>
<th>Ending Date</th>
<th>Sanction Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent Surrender</td>
<td>03/07/2023</td>
<td>Ongoing</td>
<td>Active</td>
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**EDUCATOR SANCTION HISTORY**

- Educational Aide 1: 08/22/2022 to 08/22/2024
- Sanction: 03/07/2023 to Ongoing

**Texas Educator Certificate**

Click here to go to EDUCATOR SANCTION HISTORY section.
Voluntary Surrender = Permanent Surrender.

Placement on DNHR.

Non-certified employee agrees to be placed on the DNHR.