



Dr. John Kelly, Chair
State Board for Educator Certification
1701 North Congress Avenue
Austin Texas 78701

October 1, 2021

Re: Item 9, Proposed Amendments to 19 TAC Chapter 249.17, Decision-Making Guidelines for Contract Abandonment

Dr. Kelly, and Members of the State Board for Educator Certification:

I'm Dr. Kevin Brown, here today as the Texas Association of School Administrators' (TASA) executive director to respectfully testify in opposition to the section of proposed rules that expands provisions for contract abandonment. Prior to becoming the executive director at TASA, I spent 28 years as a teacher, school principal, district HR Director, and superintendent, so I appreciate the nuances of educators progressing to new roles in the education system while also prioritizing what is best for students in our communities. The beauty of TEC, Chapter 21 is that it offers protections for both school districts and teachers, and those protections are what make a teacher's resignation different from a resignation in the public sector that has no employee/employer protections.

The most important duty of a school district is to ensure that every child and every classroom has a highly qualified teacher, and the proposed rule changes would make this duty much more difficult to fulfill. If these rules go into effect, we believe the outcome is that students in Texas will more often have a substitute teacher who lacks credentials or the necessary expertise. That is especially true in areas of teacher shortage, such as special education, bilingual, and in the areas of math and science. Thus, TEA's proposed rules could potentially have the most negative impact on our most vulnerable students. We urge you to consider the following input before making any unnecessary changes to rules governing contract abandonment:

TEA data is clear and does not show a need for expansion of teacher contract abandonment provisions.

- TEA data shared with the board in July shows that the opened cases sent to SBEC to review for contract abandonment issues during the last six years has ranged from 120 — 284 of the state's 375,222 teachers. The source is TEA PEIMS data at <https://tea.texas.gov/sites/default/files/employed-teacher-demographics-tgs210603.pdf>
- Recent TEA data indicate the percentage of teachers in the state that have had sanctions assigned by SBEC, is less than one tenth of one percent. This demonstrates that TEA's proposed rules are a solution looking for a problem.
- TEA data (see attached) clearly show that a *vast majority* of contract abandonment cases are handled internally and the few cases that are sent to SBEC for review are from one ISD.

The expansion of good cause and mitigating factors for contract abandonment goes beyond the directives of HB 2519 passed during the regular 87th Legislative Session at a time when students are most in need of stability.

- Students need consistency and stability with instruction provided by teachers that they know and that know of their academic strengths and weaknesses. The rules proposed by TEA could potentially allow for an increase in the number of teachers who leave their students during a school year, adding to the instability in our system already fraught with change and unpredictability due to the pandemic.

Proposed TAC 249.17 (d) Contract Abandonment, Good Cause (p. 30 of Item 9 packet), reduction in base pay.

- The provision that would allow good cause for a reduction in base pay, as compared to the educator's base pay for the prior year at the same school district is based on one instance in a school district in which a change in the educator's assignment, required a lower base pay. Adding a statewide rule, for one outlier, is not efficient or necessary.

Proposed TAC 249.17 (d) Contract Abandonment, Good Cause (p. 30 of Item 9 packet), “reasonable belief”.

- Proposed rule that would allow good cause for an educator’s “reasonable” belief that the educator had written permission from the school district to resign, is again based on *one* circumstance with a district that had an automated system, which mistakenly sent out notice that a teacher’s resignation was accepted. The district has since resolved issues with the automated system.
- 1.5 years ago, stakeholders were not able to reach consensus on adding language that would have allowed “apparent” authority for the acceptance of an educator’s resignation. There are several legal cases that demonstrated “apparent” authority is not a legally binding precedent. You either have authority or you do not. The same applies to TEA’s proposed rule regarding “reasonable” belief as a legally binding precedent.
- It would be a disservice to stakeholders, including district HR systems and students if a teacher does not follow statute, policy, or contract requirements that mandate resignation notice be given directly to school trustees or their designee. Teachers are professionals who should be expected to follow protocol.

Proposed TAC 249.17 (d) Contract Abandonment, Mitigating Factors (p. 30 of Item 9 packet), change in careers or certification class.

- TEA’s draft rule that would call for a change in career within the education field as a mitigating factor is not needed as demonstrated by the data of abandonment cases sent to SBEC, and because it is already covered under TAC 249.17 (c) (10) that requires SBEC to consider *any other relevant circumstances or facts* when deciding about contract abandonment.

Proposed TAC 249.17 (d) Contract Abandonment, Mitigating Factors (p. 30 of Item 9 packet), change in educator’s assignment.

- This provision is not needed as it is already included in good cause (TAC 249.17 (d) (A) and (C) that addresses serious illness or health condition and changes in the educator’s family needs.
- Superintendents have final placement authority for a teacher transferred because of enrollment shifts or program changes in the district. TEA’s proposed rule directly contradicts statutory authority.
- Superintendents are charged with teacher assignments, and with ensuring the best teachers are assigned to the campuses with the neediest students. Proposed rules that would allow a teacher to abandon his/her contract because of a change in campus assignment could affect their carpool schedule or driving time and thus lead to a “significant adverse impact on their health or family needs” would be in direct contradiction to statute calling for district improvement plans; collaboration between school trustees and superintendents; and strategic leadership for maximizing student performance for all district students.
- We are not aware of any other employee contract in a professional career environment that allows employees to abandon their contracts because of driving time or carpool needs.

Proposed TAC 249.17 (d) Contract Abandonment, Mitigating Factors (p. 30 of Item 9 packet), working conditions that reasonably pose an immediate threat of significant physical harm to the educator.

- We are unsure of the term “reasonably pose” in a legal context and what that would involve.
- Superintendents are charged with oversight of a district’s programs, services and facilities as well as overseeing compliance with commissioner standards for school facilities. It is unclear if the proposed rule is attempting to address this kind of “working condition”?
- If a working condition poses an immediate threat to an educator, the condition could also be a threat to students and should be addressed elsewhere in rule or statute to protect all stakeholders.

Thank you for your consideration of TASA membership. We look forward to working with you as the discussion on TEA’s proposed rules take place.

Respectfully,



Dr. Kevin Brown
TASA Executive Director
