

Public Comment Regarding Potential Amendments to Chapters 247 & 249

Respectfully submitted by: Lance Cain, Managing Attorney, Association of Texas Professional Educators (ATPE). 305 E. Huntland Drive, Ste. 300, Austin, TX 78752, lcain@atpe.org, 800-777-2873

Comment Summary: In response to potential amendments to 19 TAC Chapters 247 & 249, ATPE would like to provide feedback on the following:

1. Potential amendments to existing rules to address SB 12 behavior implementation, temporary suspensions, priority conduct and definitions of inappropriate communications, boundaries and imminent threat.

ATPE's Stakeholder Role: ATPE supports the state's largest community of educators in an effort to elevate public education in Texas. Our connections with Texas educators give us a unique and varied perspective on public education issues. ATPE attorneys give presentations around the state to future teachers in traditional college settings and educator preparation programs. We educate them on appropriate communications, thoroughly discuss solicitation/grooming rules, and outline other important employment-related rights and ethical obligations. These attributes highlight ATPE's commitment to fostering an educated membership that is well-informed of educator-student boundaries. And it also allows us to provide informed feedback to the State Board for Educator Certification (SBEC) based on the experiences of our members and staff. In light of that background, please accept the following stakeholder comments.

Potential revisions to existing rules to address SB 12 Behavior Implementation, temporary suspensions, priority conduct and definitions of inappropriate communications, boundaries and imminent threat: ATPE withholds specific comment until such time that proposed draft language is available for review. But as a general proposition, we respectfully urge SBEC to ensure that temporary suspensions, which impose a penalty prior to granting due process, are reserved only for instances where failure to act immediately

creates an unreasonable risk of further harm and there is clear evidence of culpable conduct. Beyond that, we also generally urge that the rules ensure a timely process for due process is provided to recipients of temporary suspensions as soon as practicable following their suspension and that SBEC streamline the investigative notice (“flagging”) process by adhering to existing regulations relating to priority conduct. Finally, we request that SBEC reconsider adopting additional regulatory definitions for terms that are already defined. The existing framework of criminal laws and administrative regulations is already extensive and fully capable of addressing genuine misconduct. In fact, current definitions have proven so broad and far-reaching that they have created a significant backlog where the rules are triggering investigations in circumstances where we believe there is little to no likelihood there has been any wrongdoing. In short, the system is already overextended.

When an educator is reported to SBEC, the rules mandate that certain allegations/conduct receive “priority one” status and are therefore flagged. However, our understanding is that TEA investigators are currently disregarding these rules and simply flagging all educators accused of misconduct—many involving cases in which Child Protective Services, law enforcement, and the school district itself have already found no wrongdoing. Educators then wait months or years before the investigations proceed and are resolved. This practice of overflagging and excessive investigation timelines carries real professional and personal consequences, despite the absence of any substantiated misconduct. As a result, certified, experienced teachers are being removed from classrooms, disrupting the educational environment and depriving students who are depending on these teachers’ expertise pending unnecessary investigations. This practice hurts educators, students, and school districts and takes the focus away from the serious instances of misconduct that concern ATPE and the general public and that TEA and SBEC should prioritize.

Creating additional rules and definitions will only increase the volume of reports TEA investigators must process, expanding the backlog and further diluting attention from cases that truly demand swift action. Excessive regulation does not protect students; a well-functioning, timely system does. When

SBEC's investigative capacity is overwhelmed, it becomes more—not less—likely that serious allegations will be delayed or overlooked amid the growing caseload.

We believe it is both logical and responsible to strengthen the current system's efficiency rather than layering in additional regulations that will strain it further. Texas educators deserve a fair, timely process, and Texas students deserve an oversight system focused on the cases of most danger to their safety.