



## Input on Ch. 249 proposed rule changes

Regarding temporary suspensions of an educator certificate

April 20, 2026

The **Association of Texas Professional Educators (ATPE)** offers the following input regarding §249.51. Temporary Suspension Based on Continuing and Imminent Threat as well as §249.52. Process For Temporary Suspension of a License or Permit. These comments were also given in the public comment period, but we wanted to present them directly to the Board as well.

As Texas' largest educator association, ATPE is committed to supporting its members while maintaining a strong focus on student safety. Our organization provides guidance, training, and legal resources to help educators uphold high professional and ethical standards, ensuring that positive educator-student relationships remain at the center of the learning environment. At the same time, ATPE recognizes the importance of protecting children from misconduct and supports clear, effective safeguards to address inappropriate behavior. However, measures such as the temporary suspension of an educator's certificate should be used sparingly and defined with precision as they carry serious professional consequences. Establishing clear criteria and due process protections helps ensure that such actions are applied fairly, preserving both student safety and the rights of educators.

### **249.51. Temporary Suspension Based on Continuing and Imminent Threat**

Subsection (b) identifies five factors to consider when deciding whether an educator's conduct constitutes a "continuing and imminent threat to public welfare." However, this key term remains vague and abstract. Although the proposed language purports to define it, the subsection only lists possible factors rather than offering a clear, working definition. A more effective approach would be to first establish a straightforward definition of what a "continuing and imminent threat" means, followed by a list of factors that may be considered within that framework. At a minimum, the first two factors should be required elements in any determination that could lead to the temporary suspension of an educator's certificate, while the remaining factors should serve as supporting considerations. Without this structure, even a minor issue—such as inaction or conduct occurring off school grounds that does not directly impact or pose a threat to student or public welfare—could be used as justification for

*The Association of Texas Professional Educators (ATPE) is the leading educator association in Texas and has been a strong voice for Texas educators since 1980. With its strong collaborative philosophy, ATPE speaks for classroom teachers, administrators, future, retired and para-educators and works to create better opportunities for the more than 5 million Texas public schoolchildren. ATPE is the ally and the voice of Texas public school educators.*

suspension, even if it does not present a real, immediate, and non-speculative risk to student or the public. **For this reason, ATPE recommends incorporating factors (1) and (2) into the core definition within subsection (b), followed by the remaining factors as additional considerations.** This revision would provide greater clarity for educators and reassurance that only conduct meeting a reasonable and clearly defined standard would result in temporary suspension prior to due process. Because suspending an educator's certificate, even temporarily, carries serious professional consequences, such action should be reserved for the most severe circumstances. It is important to ensure that decisions are guided by clear standards and fairness rather than imposing suspension first and determining the facts later. This approach better supports a balanced system that protects both educators and students.

### **Suggested Language:**

(b) In determining under TEC §22A.202 whether a license or permit holder poses a continuing and imminent threat to the public welfare—defined as a real, present, and non-speculative danger of harm to a student or the public arising from the acts or omissions of the license or permit holder, which may include but are not limited to solicitation or engagement in a romantic relationship, neglect, or abuse— ~~[under TEC §22A.202]~~ the SBEC or SBEC committee will consider:

~~[(1) if there is a real danger to a student or to the public from the acts or omissions of the license or permit holder, including, but not limited to, solicitation or engagement of a romantic relationship, neglect, or abuse;]~~

~~[(2) whether the harm alleged is more than abstract, hypothetical or remote;]~~

(1)~~[(3)]~~ both actions and inactions by the license or permit holder;

(2)~~[(4)]~~ whether the conduct occurred on or off a school district campus; and

(3)~~[(5)]~~ whether there have been prior complaints, investigations, or discipline of the same or similar nature against the license or permit holder.

### **§249.52. Process For Temporary Suspension of a License or Permit**

The proposed subsection (b) permits SBEC to give notice of a temporary suspension hearing via email. This approach does not align with Texas Government Code (TGC) §2001.054(c), which governs actions involving revocation, suspension, annulment, or withdrawal of a license, including hearings that follow a temporary suspension under TEC §22A.202 (TGC §2001.054(c-1)). That statute requires notice to be delivered by “personal service or by registered or certified mail” before agency proceedings begin. TGC 2001.054(c-1) further requires that state agencies with the power to summarily suspend a license under another statute may determine that an imminent peril to the public health, safety, or welfare requires emergency action; however, even in this instance, a state agency does not have the power to

suspend a license without notice and an opportunity for a hearing. The same standard appears in 19 TAC 249.14(p), which correctly requires certified or registered mail notice to the certificate holder. Relying only on email is not sufficient as messages may be filtered, overlooked, or deleted. **Because a temporary suspension is a serious action, notice must be reliable. For this reason, notice should be sent by registered mail or certified mail, though ATPE would support email being used as an additional method of notice.**

**The livelihoods and careers of Texas educators are at stake any time someone makes an allegation of misconduct, even a false allegation, so ATPE strongly recommends that the agency comply with the law when it comes to investigation notices, Priority 1 flagging limitations, and hearing notices.**

### **Suggested Language:**

(b) A with-notice hearing may include activities such as presentation of evidence, deliberations, and announcement of the committee's decision. The committee has discretion over setting time limits and evidentiary determinations. Notice of the temporary suspension hearing shall be sent to the respondent no less than 10 days before the hearing via registered or certified mail. ~~[electronic mail. If the electronic notice is returned as undeliverable, the notice will be sent via certified mail.]~~

Thank you for your consideration of these proposed changes that would strengthen protections against abuse while protecting educator due process.

For additional information, contact ATPE Governmental Relations at (800) 777-2873 or [government@atpe.org](mailto:government@atpe.org).