

TEXAS EDUCATOR COMPLAINT AND DISCIPLINE PROCESSES, AND APPLICABLE LAWS

By Stuart Baggish, attorney at law

Monday, April 25, 2022

River in the Hills Church
1310 Ranch Road 620 South
Lakeway, TX 78734

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Background

- I am licensed to practice law in the states of Texas, California and Florida.
- I have been practicing law since 1990.
- Until October 2016, I worked in the legal department of the Texas Education Agency (“TEA”).
 - Among the cases I handled at TEA were those involving educator discipline, meaning enforcement of standards governing Texas public school teachers, principals and superintendents, each of whom must hold an educator’s certificate issued by the State Board for Educator Certification (“SBEC”).
 - Discipline against an educator’s SBEC certificate takes the following forms, in order of severity of the sanction:
 - Reprimand (lowest severity);
 - Suspension (middle severity); and
 - Revocation (highest severity).
 - Upon suspension or revocation, an educator is immediately ineligible to work in any role in public education that requires a SBEC certificate (i.e., a teacher, principal or superintendent), and must be removed from such position, no matter what their contract with the school district says.

BACKGROUND

I know a thing or two about obscenity law.

There is a feature-length documentary film available now on Amazon Prime and Netflix (called “Boiled Angels: The Trial of Mike Diana”) about a history-making obscenity case that I prosecuted successfully in 1994, in which a conviction was obtained that withstood appeal up to the U.S. Supreme Court.

It was the first time in U.S. history that a cartoonist was convicted and jailed for obscenity.

YES, THAT'S ME
(I am Public Enemy #1 to the miscreants forcing sexually inappropriate material on children.)

The screenshot shows the Amazon Prime Video interface. At the top, the Amazon Prime logo is on the left, and the user's name 'Hello, Stuart' and account information are on the right. Below the search bar, there are navigation links for 'All', 'Amazon Basics', 'Best Sellers', 'Personal Shopper', 'Livestreams', 'Prime Video', 'Home Improvement', 'Pet Supplies', 'Beauty & Personal Care', 'Shopper Toolkit', and 'Coupons'. The 'prime video' section includes 'Home', 'Free to me', 'Store', 'Channels', 'Categories', 'My Stuff', and 'Deals'. A 'WHO'S WATCHING?' section shows 'Children' with a red circle icon. The main content area features the movie 'Boiled Angels' with a star rating of 4.5 (28 reviews), an IMDb rating of 7.6, a runtime of 1 h 41 min, and a release year of 2018. The purchase options are 'Rent HD \$2.99' and 'Buy HD \$9.99'. A description of the movie is provided, along with the director's name 'Frank Henenlotter' and the starring cast 'Mike Diana, Neil Gaiman, George Romero'.

amazon prime Prime Video

Hello, Stuart Account & Lists Returns & Orders Cart

All Amazon Basics Best Sellers Personal Shopper Livestreams Prime Video Home Improvement Pet Supplies Beauty & Personal Care Shopper Toolkit Coupons

prime video Home Free to me Store Channels Categories My Stuff Deals WHO'S WATCHING? Children

Boiled Angels

★★★★☆ (28) IMDb 7.6 1 h 41 min 2018 18+

Rent HD \$2.99 Buy HD \$9.99 More purchase options

📄 Rentals include 30 days to start watching this video and 48 hours to finish once started.

Underground artist Mike Diana is the first, and only, cartoonist to be convicted of artistic obscenity in the USA. This alarming doc reveals how Diana crashed against the boundaries of free speech with his graphic portrayals of sex, violence, religion and abuse. A horrifying look at how easily the law can cast aside the first amendment to take down a transgressor of good taste.

Directors Frank Henenlotter
Starring Mike Diana, Neil Gaiman, George Romero

I have been fighting it successfully, all the way to the U.S. Supreme Court, since 1994.

I HAVE BEEN ATTACKED IN "THE VILLAGE VOICE," WHICH USED TO BE A POPULAR NEWS, ARTS & COMMENTARY PERIODICAL IN NEW YORK CITY.



May 24, 1994



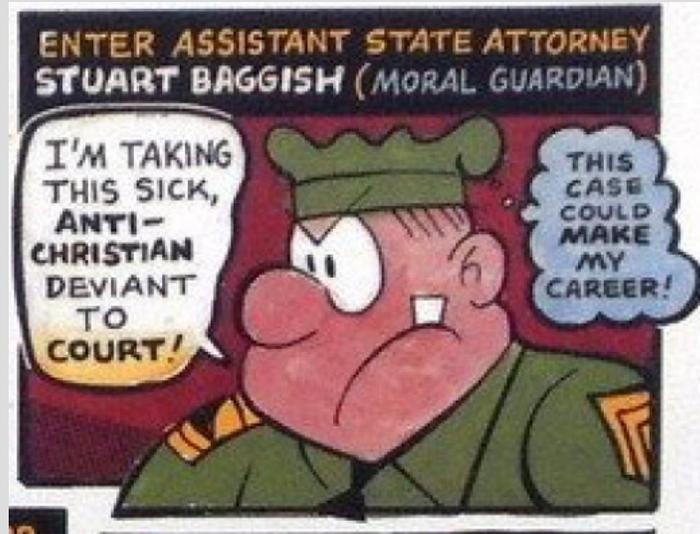
For more information or Donations to help his appeal call Susan Alston at the COMIC BOOK LEGAL DEFENSE FUND 1-800-992-2533

Printing: Morgan Graphics, New York, NY 10014

That is a full-page cartoon, which is highlighted on the cover.

It purports to describe the history of the case without even acknowledging that (1) obscenity is not protected by the First Amendment, (2) the defendant was found guilty based on the evidence presented and him being more than vigorously defended by expert First Amendment defense lawyers, and (3) though the burden of proof was very high, the prosecution had no problem satisfying it.

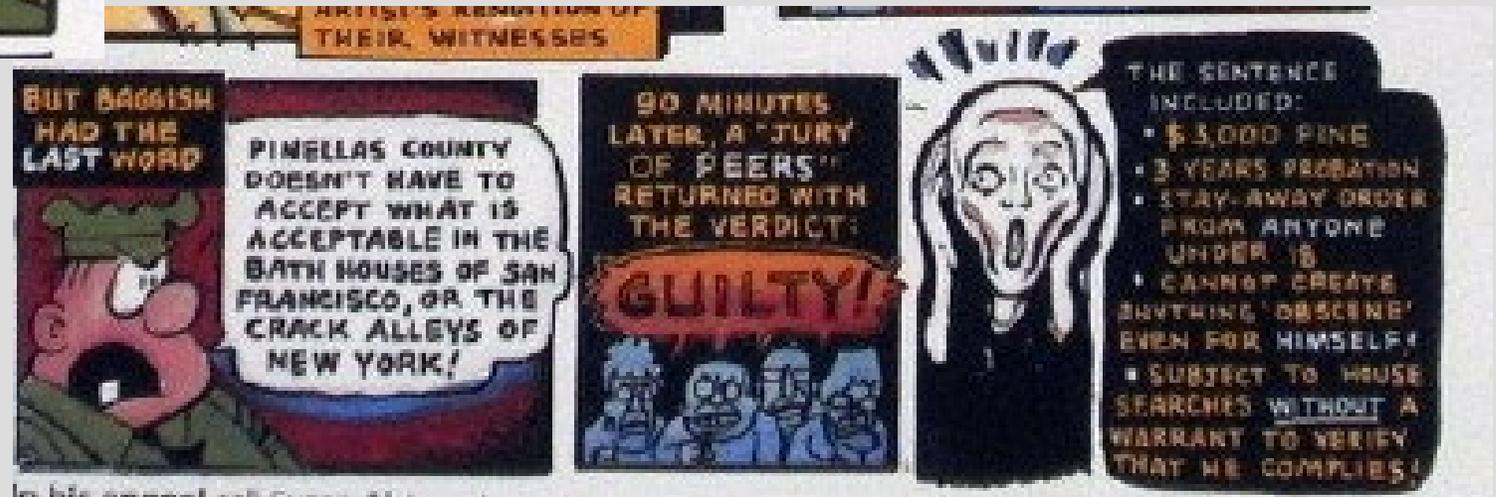
ENLARGEMENTS



All of the people connected with the investigation and prosecution of the obscenity defendant were depicted as cartoon characters.

I was portrayed as the character “Sarge” from the cartoon “*Beetle Bailey*.”

All of the people connected with the obscenity defendant and his defense team (3 lawyers and several experts), paid for by the Comic Book Legal Defense Fund, were depicted as human beings.



I HAVE BEEN DEALING WITH THIS KIND OF MATERIAL FOR A LONG TIME

- My background as an obscenity prosecutor, an education lawyer, and having a degree in history, with an emphasis on 20th Century political and military history including socialist and communist regimes, coupled with having also worked in the U.S. Senate, provides perspective on what is occurring, why it is happening, what the stakes are, and how best to oppose it.
- I have seen this kind of agitation before.
- It has been happening for decades, not just recently. (It has only now become open.)
- The people forcing this stuff on our children are mostly ill-educated woke revolutionaries.
- Leftism is the last thing we want for our children.
- I am prepared to assert and vindicate the position that sexually inappropriate material has no place in our public schools.
- I know how to fight our opponents and make them pay a price they are unwilling to bear for having the audacity to mess with our children by subjecting them to sexually inappropriate material.

STOP CALLING IT “OBSCENITY”

Avoid referring to material that is merely sexually inappropriate for children as being “obscene.”

Under prevailing U.S. Supreme Court First Amendment law, the requirements for proving material is obscene is almost impossible to do.

Obscene material is contraband for everyone. It is illegal to sell it, advertise it and to ship it. You can go to jail for doing so.

To constitute obscenity, something must satisfy all 3 of the following criteria:

1. It must be patently offensive according to contemporary community standards;
2. It must appeal primarily to a prurient interest in sex (which means it makes people horny in a way that makes them ashamed); and
3. Taken as a whole, it must lack any and all serious literary, artistic, political or scientific value.

I have yet to see *anything* in the Texas public schools that qualifies as “obscene.”

So, please, refrain from making things harder for us by invoking this nearly impossible standard.

Please refer to the material in question as “sexually inappropriate,” because that is accurate, it invokes the proper standard that we can win, and I am going to explain to you in this presentation how we do that.

WHY WE'RE HERE

- Recently, you and I, and every other sensible, responsible parent with school children enrolled in local public schools have been alarmed at the corruption of the public education system by radical Leftists intent upon pushing you out of your children's education, while inserting themselves and their Marxist poison in your children's minds, leaving them poorly educated in the ways that matter for success in life, and suitable only as devoted political activists demanding an ever more radically-Leftist future.
- This has taken the form of
 - over-sexualization of children;
 - normalizing public parasitism;
 - attacking or shaming students who are white, male, Christian, heterosexual, or "cis-gendered;"
 - grooming children for sexual exploitation, sexual-preference confusion, and gender confusion; and
 - injecting sexually inappropriate material in public school curricula and libraries.
- **We are here to talk about a method for making it stop.**

Why This Method Is More Effective Than Others

- All public school educators (as used in this presentation, this term includes all full-time teachers, principals and superintendents) must have a valid certificate from SBEC.
- Once that certificate is revoked or suspended, they can no longer hold the position of an educator in the Texas public school system.
- The quickest way to get the attention of educators is to let them know their misconduct could result in them losing their license, which means losing their livelihood.
- Nothing else makes nearly as profound an impression upon educators.
- It applies to all educators from top to bottom.
- Once an example is made, the rest of the educators will learn from that, and will defy their supervisors' directives to engage in misconduct.
- Retaliation by an educator for parents using this process only makes things worse for the educator, which means it increases the severity of the sanction they face, making a reprimand case a suspension case, and making a suspension case a revocation case.
- It is faster than a civil lawsuit, which does not scare educators because the district bears ultimate responsibility for that, not the individual educators engaged in wrongdoing.
- It is a form of law enforcement involving the education laws, rather than the criminal laws.
- It is justice, plain and simple, without any prefatory, negating modifiers (e.g., "social justice").

WHY ARE LEFTIST EDUCATORS SEEMING TO GET AWAY WITH CORRUPTING STUDENTS?

- There is a common-law doctrine called “*In Loco Parentis*” that is at the heart of the problems that parents are having with so-called educators pushing radical Leftism nationwide.
- In 1986, the U.S. Supreme Court ruled that a school can discipline a student for giving a speech at a school assembly that is indecent, although not obscene, because the school stands in the position of the student’s parents. *Bethel Sch. Dist. No. 403 v. Fraser*, 478 U.S. 675, 106 S. Ct. 3159, 92 L. Ed. 2d 549 (1986).
- In the *Bethel* case, SCOTUS acknowledged an "obvious concern on the part of parents, and school authorities acting *in loco parentis*, to protect children—especially in a captive audience—from exposure to sexually explicit, indecent, or lewd speech.“ *Id.* at 684.
- At least then the concern was protecting minor students from corrupting influences.
- But the Left realized that *In Loco Parentis* is a two-edged sword.
- The doctrine of *In Loco Parentis* enables the school to act as if it is a parent of the enrolled minor students whenever the school has physical custody of them.
- If it can be used to redeem wayward students ...
 - ... it can also be used to **make them wayward**, too.
- Unless prohibited by education law (e.g., the Texas Education Code and Title 19 of the Texas Administrative Code), if a parent could provide the material in question to their child, then the school district can do the same to their student.

STRANGE NEW WORLD

- *Bethel* dealt with the schools acting to protect children from exposure to sexually explicit, indecent, or lewd speech.
- *Bethel* did not deal with the school's authority (or lack thereof) to impose sexually explicit, indecent, or lewd speech upon captive students.
- The imposition of sexually explicit, indecent, and lewd speech upon captive students is exactly what the school district is now trying to do.
- We are living in a strange new world, where public officials are acting as predators.
- There is little case law on this point because nobody ever thought things would get this bad.
- Court cases on the relevant points have not (yet) worked their way through the lengthy judicial process.
- There is a way to address it.
- Until the state legislature enacts a law that provides all parents final authority, with informed consent, to make all decisions about everything concerning their children, unless their parental rights have been terminated by a court for abuse, the TEA Complaint process is the best way to make things right and force the teaching trend away from chaotic Leftist indoctrination.

HOW IT'S DONE

- The best way to fight back against sexual grooming and indoctrination, and sexually inappropriate material, is to file a well-drafted and factually well-founded complaint [FN1] with the Texas Education Agency (TEA) against a SBEC-certified educator alleging a violation of the Educator's Code of Ethics [FN2].

- The official TEA general complaint form is found online at the following URL:
https://tea.texas.gov/sites/default/files/General%20Complaint%20Form_201606.pdf.
- The Educators' Code of Ethics (19 Tex. Admin. Code § 247.2) is found at the following URL:
[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=19&pt=7&ch=247&rl=2](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=19&pt=7&ch=247&rl=2).

TEA
Texas Education Agency

Complaints, Investigations and Enforcement Division
General Complaint Form

Use a current version of Acrobat Reader to complete this form. It will not work correctly in Mac Preview.

1 Complainant Contact Information

Name* Phone: Email:

Mailing address: Additional contact information (optional):

Complainant's Role: Today's Date:

2 School Information

District/Charter School City/County Campus (if the allegation involves a specific campus)

3 Complaint Description

Certain information is necessary for the Office of Complaints, Investigations, and Enforcement to review a complaint. Please fill out this form carefully and as completely as possible. The TEA can only accept complaints that allege a violation of a federal or state education law or regulation over which the TEA has the jurisdiction, or authority, to regulate. The violation that is alleged must have occurred not more than two years prior to the date the complaint is received by the TEA.

Please select all areas that apply.

State assessment test security/heating violations Educator misconduct

Financial management practices Local employment issue

Grants/Federal funds Individual student issue

School Board/Governance Other

Discrimination/civil rights violations Educator Preparation Programs (provide name of EPP in the school information field above under Section 2)

Academic/special programs (i.e., bilingual/ESL, CTE, etc.) Special education services**

**The TEA has a separate process for complaint and dispute resolution for complaints regarding special education services under Part B of IDEA. If you are filing a special education complaint, please use the Special Education Complaint Resolution Process found at http://tea.texas.gov/Content/and_Instructional_Programs/Special_Education/Special_Education_Dispute_Resolution_Process/

Copyright Management
120 N. Congress Ave., Austin, TX 78701-1848
940.702.6000 Fax: 940.702.9880
Email: complaints@tea.texas.gov

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Text of Adopted Amendment to 19 TAC

Chapter 247. Educators' Code of Ethics

[247.1. Purpose and Scope, Definitions.

(a) In compliance with the Texas Education Code, [21.041(b)(8)], the State Board for Educator Certification (SBEC) adopts an Educators' Code of Ethics as set forth in [247.2 of this title (relating to Code of Ethics and Standard Practices for Texas Educators). The SBEC may amend the ethics code in the same manner as any other formal rule.

(b) The Texas educator shall comply with standard practices and ethical conduct toward students, professional colleagues, school officials, parents, and members of the community and shall safeguard academic freedom. The Texas educator, in maintaining the dignity of the profession, shall respect and obey the law, demonstrate personal integrity, and exemplify honesty and good moral character. The Texas educator, in establishing ethical relations with colleagues, shall extend just and equitable treatment to all members of the profession. The Texas educator, in accepting a position of public trust, shall measure success by the progress of each student toward realization of his or her potential as an effective citizen. The Texas educator, in fulfilling responsibilities in the community, shall cooperate with parents and others to improve the public schools of the community. This chapter shall apply to educators and candidates for certification.

(c) The SBEC is solely responsible for enforcing the Educators' Code of Ethics for purposes related to certification, disciplinary proceedings. The Educators' Code of Ethics is enforced through the disciplinary procedure set forth in Chapter 249 of this title (relating to Disciplinary Proceedings, Sanctions, and Controlled Cases) pursuant to the purposes stated therein.

(d) As provided in [249.5 of this title (relating to Purpose, Policy Governing Disciplinary Proceedings)], the primary goal: the SBEC seeks to achieve in educator disciplinary matters are:

- (1) to protect the safety and welfare of Texas schoolchildren and school personnel;
- (2) to ensure educators and applicants are morally fit and worthy to instruct or to supervise the youth of the state; and
- (3) to fairly and efficiently resolve educator disciplinary proceedings at the least expense possible to the parties and the state.

(e) The following words, terms, and phrases, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

- (1) Abuse—Includes the following acts or omissions:
 - (A) mental or emotional injury to a student or minor that results in an observable and material impairment in the student's or minor's development, learning, or psychological functioning;
 - (B) causing or permitting a student or minor to be in a situation in which the student or minor sustains a mental or emotional injury that results in an observable and material impairment in the student's or minor's development, learning, or psychological functioning;
 - (C) physical injury that results in substantial harm to a student or minor, or the genuine threat of substantial harm from physical injury to the student or minor, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline; or
 - (D) sexual conduct harmful to a student's or minor's mental, emotional, or physical welfare.
- (2) Applicant—A party seeking issuance, renewal, or reinstatement of a certificate from the Texas Education Agency and/or the State Board for Educator Certification.
- (3) Code of Ethics—The Educators' Code of Ethics codified in this chapter.

THE TEA & SOAH COMPLAINT PROCESS

- A factually well-founded and properly drafted complaint to TEA threatens an offending educator's teaching license, which means they face – if their SBEC certificate is suspended or revoked – *immediate* removal from office, no matter what their contract provides, and they cannot work as a teacher, principal or superintendent anywhere in the Texas public education system.
- This scares them gravely.
- Please study the Educator's Code of Ethics (19 Tex. Admin. Code § 247.2).
- It is the most powerful thing in the parents' arsenal.
- If there is a violation of the Educator's Code of Ethics standards, the TEA has jurisdiction to investigate the alleged violation(s).
- If the elements of a violation appear to exist from the complaint, the TEA Investigations Division will forward the complaint to the legal division (i.e., the lawyers) for a decision on whether to prosecute a disciplinary violation against the educator(s) in question.
- If the complaint is valid and can be proved to a preponderance of the evidence (more than 50% likely to have occurred), the TEA legal division should file a petition [i.e., an administrative law case in the State Office of Administrative Hearings ("SOAH")], where an administrative law judge will take testimony and evidence at a hearing, and make a decision whether to impose disciplinary sanctions, and if so, what those sanctions should be.
- If the SOAH judge rules that disciplinary sanctions are appropriate, the SBEC must impose them, unless there is a substantial, articulable reason not to do so.
- At that point, SBEC imposes the sanction, and if it includes suspension or revocation of the Educator's certificate, it takes effect immediately.

THE EDUCATORS' CODE OF ETHICS

(19 Tex. Admin. Code § 247.2)

The Educators' Code of Ethics appears at Section 247.2 of Title 19 (Education) of the Texas Administrative Code. It provides, verbatim and in its entirety, as follows:

Text of Adopted Amendments to 19 TAC Chapter 247. Educators' Code of Ethics

§ 247.2. Code of Ethics and Standard Practices for Texas Educators.

Enforceable Standards.

(1) Professional Ethical Conduct, Practices and Performance.

- (A) **Standard 1.1.** The educator shall not intentionally, knowingly, or recklessly engage in deceptive practices regarding official policies of the school district, educational institution, educator preparation program, the Texas Education Agency, or the State Board for Educator Certification (SBEC) and its certification process.
- (B) **Standard 1.2.** The educator shall not knowingly misappropriate, divert, or use monies, personnel, property, or equipment committed to his or her charge for personal gain or advantage.
- (C) **Standard 1.3.** The educator shall not submit fraudulent requests for reimbursement, expenses, or pay.
- (D) **Standard 1.4.** The educator shall not use institutional or professional privileges for personal or partisan advantage.
- (E) **Standard 1.5.** The educator shall neither accept nor offer gratuities, gifts, or favors that impair professional judgment or to obtain special advantage. This standard shall not restrict the acceptance of gifts or tokens offered and accepted openly from students, parents of students, or other persons or organizations in recognition or appreciation of service.
- (F) **Standard 1.6.** The educator shall not falsify records, or direct or coerce others to do so.
- (G) **Standard 1.7.** The educator shall comply with state regulations, written local school board policies, and other state and federal laws.
- (H) **Standard 1.8.** The educator shall apply for, accept, offer, or assign a position or a responsibility on the basis of professional qualifications.
- (I) **Standard 1.9.** The educator shall not make threats of violence against school district employees, school board members, students, or parents of students.
- (J) **Standard 1.10.** The educator shall be of good moral character and be worthy to instruct or supervise the youth of this state.
- (K) **Standard 1.11.** The educator shall not intentionally or knowingly misrepresent his or her employment history, criminal history, and/or disciplinary record when applying for subsequent employment.

THE EDUCATORS' CODE OF ETHICS

(19 Tex. Admin. Code § 247.2)

The Educators' Code of Ethics at Section 247.2 of Title 19 (Education) of the Texas Administrative Code, continues, as follows:

Text of Adopted Amendments to 19 TAC **Chapter 247. Educators' Code of Ethics**

§ 247.2. Code of Ethics and Standard Practices for Texas Educators.

Enforceable Standards.

- (1) Professional Ethical Conduct, Practices and Performance. . . .
 - (L) **Standard 1.12.** The educator shall refrain from the illegal use or distribution of controlled substances and/or abuse of prescription drugs and toxic inhalants.
 - (M) **Standard 1.13.** The educator shall not be under the influence of alcohol or consume alcoholic beverages on school property or during school activities when students are present.
 - (N) **Standard 1.14.** The educator shall not assist another educator, school employee, contractor, or agent in obtaining a new job as an educator or in a school, apart from the routine transmission of administrative and personnel files, if the educator knows or has probable cause to believe that such person engaged in sexual misconduct regarding a minor or student in violation of the law.

THE EDUCATORS' CODE OF ETHICS

(19 Tex. Admin. Code § 247.2)

The Educators' Code of Ethics at Section 247.2 of Title 19 (Education) of the Texas Administrative Code, continues, as follows:

Text of Adopted Amendments to 19 TAC **Chapter 247. Educators' Code of Ethics**

§ 247.2. Code of Ethics and Standard Practices for Texas Educators.

Enforceable Standards. . . .

(2) Ethical Conduct Toward Professional Colleagues.

- (A) **Standard 2.1.** The educator shall not reveal confidential health or personnel information concerning colleagues unless disclosure serves lawful professional purposes or is required by law.
- (B) **Standard 2.2.** The educator shall not harm others by knowingly making false statements about a colleague or the school system.
- (C) **Standard 2.3.** The educator shall adhere to written local school board policies and state and federal laws regarding the hiring, evaluation, and dismissal of personnel.
- (D) **Standard 2.4.** The educator shall not interfere with a colleague's exercise of political, professional, or citizenship rights and responsibilities.
- (E) **Standard 2.5.** The educator shall not discriminate against or coerce a colleague on the basis of race, color, religion, national origin, age, gender, disability, family status, or sexual orientation.
- (F) **Standard 2.6.** The educator shall not use coercive means or promise of special treatment in order to influence professional decisions or colleagues.
- (G) **Standard 2.7.** The educator shall not retaliate against any individual who has filed a complaint with the SBEC or who provides information for a disciplinary investigation or proceeding under this chapter.

THE EDUCATORS' CODE OF ETHICS

(19 Tex. Admin. Code § 247.2)

The Educators' Code of Ethics at Section 247.2 of Title 19 (Education) of the Texas Administrative Code, continues, as follows:

Text of Adopted Amendments to 19 TAC **Chapter 247. Educators' Code of Ethics**

§ 247.2. Code of Ethics and Standard Practices for Texas Educators.

Enforceable Standards. . . .

(3) Ethical Conduct Toward Students.

- (A) **Standard 3.1.** The educator shall not reveal confidential information concerning students unless disclosure serves lawful professional purposes or is required by law.
- (B) **Standard 3.2.** The educator shall not intentionally, knowingly, or recklessly treat a student or minor in a manner that adversely affects or endangers the learning, physical health, mental health, or safety of the student or minor.
- (C) **Standard 3.3.** The educator shall not intentionally, knowingly, or recklessly misrepresent facts regarding a student.
- (D) **Standard 3.4.** The educator shall not exclude a student from participation in a program, deny benefits to a student, or grant an advantage to a student on the basis of race, color, gender, disability, national origin, religion, family status, or sexual orientation.
- (E) **Standard 3.5.** The educator shall not intentionally, knowingly, or recklessly engage in physical mistreatment, neglect, or abuse of a student or minor.
- (F) **Standard 3.6.** The educator shall not solicit or engage in sexual conduct or a romantic relationship with a student or minor. [FN1]
- (G) **Standard 3.7.** The educator shall not furnish alcohol or illegal/unauthorized drugs to any person under 21 years of age unless the educator is a parent or guardian of that child or knowingly allow any person under 21 years of age unless the educator is a parent or guardian of that child to consume alcohol or illegal/unauthorized drugs in the presence of the educator.

FN1: A violation of Standard 3.6 of the Educators' Code of Ethics requires mandatory permanent revocation of an educator's certificate by SBEC if proved.

THE EDUCATORS' CODE OF ETHICS

(19 Tex. Admin. Code § 247.2)

The Educators' Code of Ethics at Section 247.2 of Title 19 (Education) of the Texas Administrative Code, continues, as follows:

Text of Adopted Amendments to 19 TAC Chapter 247. Educators' Code of Ethics

§ 247.2. Code of Ethics and Standard Practices for Texas Educators.

Enforceable Standards. . . .

(3) Ethical Conduct Toward Students.

- (H) **Standard 3.8.** The educator shall maintain appropriate professional educator-student relationships and boundaries based on a reasonably prudent educator standard.
- (I) **Standard 3.9.** The educator shall refrain from inappropriate communication with a student or minor, including, but not limited to, electronic communication such as cell phone, text messaging, email, instant messaging, blogging, or other social network communication. Factors that may be considered in assessing whether the communication is inappropriate include, but are not limited to:
 - (i) the nature, purpose, timing, and amount of the communication;
 - (ii) the subject matter of the communication;
 - (iii) whether the communication was made openly or the educator attempted to conceal the communication;
 - (iv) whether the communication could be reasonably interpreted as soliciting sexual contact or a romantic relationship;
 - (v) whether the communication was sexually explicit; and
 - (vi) whether the communication involved discussion(s) of the physical or sexual attractiveness or the sexual history, activities, preferences, or fantasies of either the educator or the student. [FN1]

FN1: These standards [i.e., 19 Tex. Admin. Code § 247.2(3)(I)(v) and (vi)] arguably include, and may justify making a complaint to TEA based on, an educator handing a sexually explicit book to a student in the process of checking it out of the library. Handing a book to a student CAN arguably be construed as an act of communication. Likewise, asking a student or talking to a student about their sexual preferences – the extent to which they are or are not gay -- is prohibited.

THAT'S IT

You have just read the entire *Enforceable Standards* part of the Educators' Code of Ethics.

They are all mandatory.

One violation is enough to warrant an investigation, prosecution and discipline against an educators' license.

For every SBEC-certified public school teacher and administrator, this is a choker-collar that parents need to yank on (hard) every time they step out of line.

THE EDUCATORS' CODE OF ETHICS DEFINITION OF "ABUSE"

Immediately prior to the enforceable standards articulated in the Educators' Code of Ethics, the following definition appears at Section 247.1 of Title 19 (Education) of the Texas Administrative Code:

Text of Adopted Amendments to 19 TAC

Chapter 247. Educators' Code of Ethics

§ 247.1. Purpose and Scope; Definitions. . . .

- (e) The following words, terms, and phrases, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.
 - (1) Abuse -- Includes the following acts or omissions:
 - (A) mental or emotional injury to a student or minor that results in an observable and material impairment in the student's or minor's development, learning, or psychological functioning;
 - (B) causing or permitting a student or minor to be in a situation in which the student or minor sustains a mental or emotional injury that results in an observable and material impairment in the student's or minor's development, learning, or psychological functioning;
 - (C) physical injury that results in substantial harm to a student or minor, or the genuine threat of substantial harm from physical injury to the student or minor, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline; or
 - (D) sexual conduct harmful to a student's or minor's mental, emotional, or physical welfare.

SHAMING STUDENTS FOR WHO THEY ARE IS ABUSE

- “[P]ermitting a student or minor to be in a situation in which the student or minor sustains a mental or emotional injury that results in an observable and material impairment in the student's or minor's development, learning, or psychological functioning.”
- That is what constitutes “abuse” by an educator, under 19 Tex. Admin. Code § 247.1.
- Misconduct that satisfies that definition is being committed all day, every day in public school districts, wherever students are being shamed, either directly or indirectly, for not being part of a group that is favored by woke Leftists for political reasons.
- You know who is being shamed for what they are (and it isn't the so-called “marginalized” racial and religious minorities, gays or transgenders), instead it is . . .
 - ... anyone who is white, male, heterosexual, Christian or cis-gendered.
- Teachers are legally obligated to prevent their abuse from happening if they know about it.
- Teachers can be disciplined by SBEC for failing to do so.

TEXAS EDUCATION CODE PROHIBITS RACE AND SEX SHAMING, AND THE 1619 PROJECT

Texas Education Code § 28.0022 [FN1] is a new statute that went into effect on December 2, 2021 (its precursor Texas Education Code § 28.002 [FN2], used to prohibit the following teaching by social studies teachers, but under § 28.0022, it now applies to all teachers).

Texas Education Code § 28.0022 prohibits all educators from teaching any students:

- That one race is superior to another,
- That one race is inferior to another,
- That one sex is superior to another,
- That one sex is inferior to another,
- That an individual by virtue of one's race is racist,
- That an individual by virtue of one's sex is sexist, and
- The entire 1619 Project.

Please review this, as a violation of this statute by teaching any of these things is a violation of Standard 1.7 of the Educator's Code of Ethics, 19 Tex. Admin. Code § 247.2(1)(G), which provides:

“Standard 1.7. The educator shall comply with state regulations, written local school board policies, and other state and federal laws.”

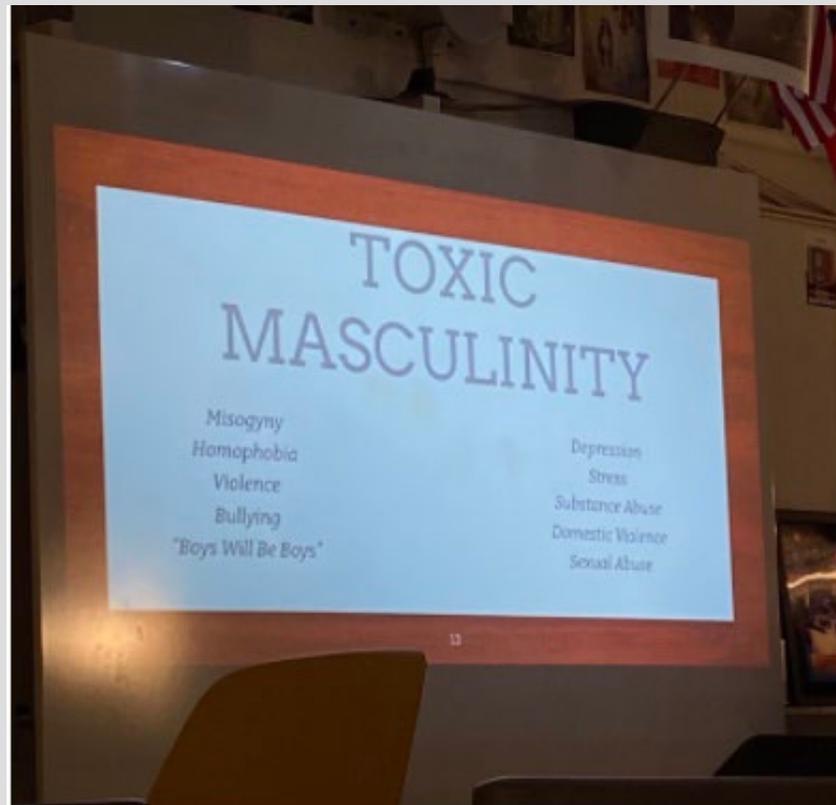
FN1 See URL <https://casetext.com/statute/texas-codes/education-code/title-2-public-education/subtitle-f-curriculum-programs-and-services/chapter-28-courses-of-study-advancement/subchapter-a-essential-knowledge-and-skills-curriculum/section-280022-certain-instructional-requirements-and-prohibitions>.

FN2 See URL <https://casetext.com/statute/texas-codes/education-code/title-2-public-education/subtitle-f-curriculum-programs-and-services/chapter-28-courses-of-study-advancement/subchapter-a-essential-knowledge-and-skills-curriculum/section-28002-required-curriculum>.

A PERSONAL EXPERIENCE

In late 2021, a teacher at Westlake High School in the Eanes Independent School District made the mistake of showing to a class that included my son a slide about “Toxic Masculinity” in a Powerpoint presentation about William Shakespeare’s play “*MacBeth*.”

That slide was, as follows:



A PERSONAL EXPERIENCE (CONT'D)

This led me to write the following email message to the teacher:

Dear [TEACHER]:...

I understand the explanation you have given [for displaying the “Toxic Masculinity” Powerpoint slide in your class], thank you.

I [write] you not solely as the father of one of your students, but also as the attorney representing the parent of another student in your class for the purpose of protecting that clients’ rights.

The proper focus is the understanding with which you left each student who saw the “toxic masculinity” slide in question, which you displayed to the class on [Date] in the course of teaching about William Shakespeare’s play *MacBeth*.

The concept of masculinity being “toxic” is anachronistic, and did not exist until only recently, as a politically ideological trope. It was altogether unknown when Shakespeare wrote *MacBeth* in 1606.

The “toxic masculinity” slide ... wrongly created an understanding that the negative traits listed (i.e., misogyny, homophobia, violence, bullying, “boys will be boys,” depression, stress, substance abuse, domestic violence, and sexual abuse) are uniquely male problems. They are not. They are shared by people of all types, and prevailing Texas law prohibits teaching them as being inherently male traits.

A PERSONAL EXPERIENCE (CONT'D)

There was no slide listing negative, purportedly-female traits. Only males were singled-out for aspersions. You spoke about male mass murderer Elliot Rodger, but you did not mention female murderers such as Andrea Yates and Susan Smith, or even female mutilators like Lorena Bobbitt.

As a result, irrespective of what may have been your expressed intent, the audience of students was left with the erroneous impression that males are categorically toxic, which is contrary to prevailing Texas law. See Tex. Educ. Code § 28.002(h-3)(4)(B) [since December 2, 2021, the applicable statute is Texas Education Code § 28.0022].

A corrective statement is necessary.

I propose that you make the following statement, verbatim and in its entirety, both verbally and in writing as a MS PowerPoint slide (to have the same visual impact as the “toxic masculinity” slide), to each class that saw the slide in question, no later than the close of business tomorrow. . . .

< START >

“Earlier this week I showed you in class a slide entitled ‘Toxic Masculinity’ when discussing William Shakespeare’s play *MacBeth*.

“That slide listed certain negative traits, which may have been misunderstood, because of the way the slide was written, as being behavioral problems that are uniquely male.

“They are not uniquely male problems.

“They are negative traits that afflict people of all types.

A PERSONAL EXPERIENCE (CONT'D)

“To clarify, I want to make the following perfectly clear:

- “No one is responsible for the deeds or omissions of others simply by virtue of being a member of the same sex.
- “It is wrong to treat males as wrongdoers just because they are male.
- “The proper way to treat people is to hold them accountable only for their own actions or omissions, not to blame them simply for being a member of a group.
- “Individual responsibility is proper, not collective guilt.

“I hope this correction is what you remember from the lesson, not the erroneous impression given by the slide in question.”

< END >

Additionally, please refrain from again using the “toxic masculinity” slide, or anything like it, which could violate any provision contained in Chapter 28 of the Texas Education Code.

A PERSONAL EXPERIENCE (CONT'D)

There are many ways to teach *MacBeth* without making male students feel blamed for the wrongdoings of others.

If this correction is not timely made in good faith, I will have no choice but to file a written complaint with the Texas Education Agency (TEA) alleging violations of Texas Education Code § 28.002(h-3)(4)(B) [since December 2, 2021, the applicable statute is Texas Education Code § 28.0022] and Title 19 of the Texas Administrative Code § 247.2(1)(G) (Educators' Code of Ethics Standard 1.7, providing "The educator shall comply with state regulations, written local school board policies, and other state and federal laws"), seeking investigation by TEA and, if appropriate, enforcement by the State Board for Educator Certification (SBEC) by way of discipline against your teaching license.

Please do not pass up this opportunity to set the record straight, and avoid otherwise unnecessary negative consequences.

I look forward to your response.

Sincerely,

Stuart Baggish

The teacher retracted the “Toxic Masculinity” slide and the matter was closed.

There has been no recurrence by this teacher of political activism targeting captive students.

THE LESSON

- That is how you steer things back on track in the public education system.
- Protests have a purpose, but they do not work on teachers, who feel insulated from accountability when their district is standing behind them.
- By making a well-founded complaint to TEA/SBEC (or by knowledgeably and truthfully threatening to do so), parents can *bypass the district*, and bring offending educators back to the realm of what is proper and acceptable to rightly-concerned parents.

EDUCATION CODE, CHAPTER 26

THE PARENTS' BILL OF RIGHTS

PARENTS' BILL OF RIGHTS (Excerpts)
Texas Education Code, Chapter 26 [FN1]

Sec. 26.004. ACCESS TO STUDENT RECORDS. . . .

(b) A parent is entitled to access to all written records of a school district concerning the parent's child, including:

- (1) attendance records;
- (2) test scores;
- (3) grades;
- (4) disciplinary records;
- (5) counseling records;
- (6) psychological records;
- (7) applications for admission;
- (8) health and immunization information;
- (9) teacher and school counselor evaluations;
- (10) reports of behavioral patterns; and
- (11) records relating to assistance provided for learning difficulties, including information collected regarding any intervention strategies used with the child.

FN1 : (URL
<https://statutes.capitol.texas.gov/DocViewer.aspx?DocKey=ED%2fED.26&Phrases=%22chapter+26%22&HighlightType=1&ExactPhrase=True&QueryText=%22chapter+26%22.>)

THIS INCLUDES . . .

. . . Anything about your formerly untroubled child suddenly being (purportedly) gay; and

. . . Anything about your formerly untroubled child suddenly being (purportedly) the opposite sex.

Unless you are abusing your child, they cannot keep it a secret from you, without violating Standards 1.7 and 3.9(iii) of the Educators' Code of Ethics.

EDUCATION CODE, CHAPTER 26 THE PARENTS' BILL OF RIGHTS (CONT'D)

Sec. 26.006. ACCESS TO TEACHING MATERIALS.

(a) A parent is entitled to:

- (1) review all teaching materials, instructional materials, and other teaching aids used in the classroom of the parent's child, including while the child is participating in virtual or remote learning;
- (2) review each test administered to the parent's child after the test is administered; and
- (3) observe virtual instruction while the parent's child is participating in virtual or remote learning to the same extent the parent would be entitled to observe in-person instruction of the child.

(b) A school district shall make teaching materials and tests readily available for review by parents. The district may specify reasonable hours for review. . . .

EDUCATION CODE, CHAPTER 26
THE PARENTS' BILL OF RIGHTS (CONT'D)

Sec. 26.007. ACCESS TO BOARD MEETINGS.

(a) A parent is entitled to complete access to any meeting of the board of trustees of the school district, other than a closed meeting held in compliance with Subchapters D and E, Chapter 551, Government Code.

(b) A board of trustees of a school district must hold each public meeting of the board within the boundaries of the district except as required by law or except to hold a joint meeting with another district or with another governmental entity, as defined by Section 2051.041, Government Code, if the boundaries of the governmental entity are in whole or in part within the boundaries of the district. All public meetings must comply with Chapter 551, Government Code.

EDUCATION CODE, CHAPTER 26
THE PARENTS' BILL OF RIGHTS (CONT'D)

Sec. 26.008. RIGHT TO FULL INFORMATION CONCERNING STUDENT.

- (a) A parent is entitled to full information regarding the school activities of a parent's child
- (b) An attempt by any school district employee to encourage or coerce a child to withhold information from the child's parent is grounds for discipline

Sec. 26.010. EXEMPTION FROM INSTRUCTION.

- (a) A parent is entitled to remove the parent's child temporarily from a class or other school activity that conflicts with the parent's religious or moral beliefs if the parent presents or delivers to the teacher of the parent's child a written statement authorizing the removal of the child from the class or other school activity. A parent is not entitled to remove the parent's child from a class or other school activity to avoid a test or to prevent the child from taking a subject for an entire semester

EDUCATION CODE, CHAPTER 26 THE PARENTS' BILL OF RIGHTS (CONT'D)

Sec. 26.011. COMPLAINTS.

- (a) The board of trustees of each school district shall adopt a grievance procedure under which the board shall address each complaint that the board receives concerning violation of a right guaranteed by this chapter. . . .

Each violation of the Parents' Bill of Rights is a violation of Standard I.7 of the Educators' Code of Ethics, because it is a violation of state law governing public education, which can result is discipline (reprimand, suspension or revocation) against a teachers', principals' and/or superintendents' SBEC license.

WHAT TO DO NEXT

Filing a legitimate written complaint with TEA alleging a genuine violation – any violation, even a minor one – of the Educator’s Code of Ethics is the most direct way to remove an offending SBEC-certified individual from office without having to wait years to resolve a civil lawsuit and related appeals in the court system.

If the complaint results in retaliation against you or your child(ren), file another complaint with TEA alleging a violation of Standard 2.7 of the Educator’s Code of Ethics, and that will aggravate the severity of the complaint, so that the discipline involved will go from being a reprimand to being a suspension, or from a suspension to revocation.

TEA takes witness-tampering (which is what Standard 2.7 of the Educator’s Code of Ethics deals with) very seriously.

The only thing that is taken more seriously by TEA is sexual relationships between educators and students.

TEXAS TORT CLAIMS ACT

Due to the doctrine of Sovereign Immunity, you cannot sue the school district or its officers acting in their official capacity for harm they have caused without the state's permission.

Texas has enacted the Texas Tort Claims Act (the "TTCA") [FNI] for this purpose.

You cannot sue the district, or the principals or superintendents unless the TTCA provides you the right to do so.

That's one more reason the TEA/SBEC Complaint process is preferable to a civil lawsuit for damages.

FNI: Texas Civil Practice & Remedies Code, Chapter 101 (URL <https://statutes.capitol.texas.gov/DocViewer.aspx?DocKey=CP%2fCP.101&Phrases=%22Chapter+101%22&HighlightType=1&ExactPhrase=True&QueryText=%22Chapter+101%22>.)

CONTACT INFORMATION

I am happy to review and revise your TEA/SBEC complaints for free prior to their submission.

I can be reached, as follows:

Stuart Baggish (admitted in TX, CA and FL)

Law Office of Stuart Baggish

12400 West Highway 71, Suite 350-248

Austin, Texas 78738

Email: stuartbaggish@hotmail.com

I am in-house general counsel for a software company. I do not have private paying clients. I am not making money from this. I just want the public schools to stop indoctrinating our children with woke Leftism.

END