

Chapter 249. Disciplinary Proceedings, Sanctions, and Contested Cases

Subchapter D. Hearing Procedures

Statutory Authority: The provisions of this Subchapter D issued under the Texas Education Code, §§21.031(a); 21.035; 21.040(6) and (7); and 21.041(a) and (b)(1) and (7); Texas Government Code, §§201.058(f); and Texas Occupations Code, §§53.024 and 53.051, unless otherwise noted.

§249.30. Notice of Hearing.

- (a) The notice of hearing is governed by the Texas Government Code, Chapter 2001; 1 Texas Administrative Code, Part 7, Chapter 155 (relating to Rules of Procedure) and this chapter.
- (b) The Texas Education Agency (TEA) staff may serve the notice of hearing by sending it to the party, if a return receipt requested, and regular first-class United States mail to the party's last known address.
- (c) For purposes of this subsection, the last known address is:
 - (1) the address of record of the party or the party

§249.33. Use of Deposition Transcripts in Contested Case Hearings.

The use of deposition transcripts in contested case hearings shall be governed by Rule 203 of the Texas Rules of Civil Procedure. The terms "court proceedings" and "trial" used in Rule 203 are deemed to refer to "contested case hearing(s)" for purposes of applying this section and Rule 203 to contested case hearings before the State Office of Administrative Hearings.

Source: The provisions of this §249.33 adopted to be effective March 31, 1999, 24 TexReg 2304; amended to be effective December 6, 2007, 32 TexReg 9112.

§249.34. Consolidated Proceedings.

A party may move to consolidate two or more proceedings under this chapter if:

- (1) the proceedings involve common questions of law and fact; and
- (2) separate proceedings would result in unwarranted expense, delay, or substantial injustice.

Source: The provisions of this §249.34 adopted to be effective March 31, 1999, 24 TexReg 2304; amended to be effective December 19, 2011, 36 TexReg 8503

§249.35. Disposition Prior to Hearing; Default. o

- (1) If a respondent has failed to timely file a written answer or a petitioner in an administrative denial case has failed to timely file a petition, TEA staff will provide the certificate holder or applicant with a notice of default specifying the factual and legal basis for imposing the proposed sanction at least 30 calendar days prior to presenting a motion for default to the SBEC. It is a rebuttable presumption that the notice was served on the certificate holder or applicant no later than five calendar days after mailing.
- (2) If the case is dismissed and remanded to the SBEC by the SOAH after a certificate holder or applicant failed to appear in person or by authorized representative on the day and at the time set for hearing in a contested case, the TEA staff attorney shall present to the SBEC a motion for default. After consideration of the petition and the motion for default, the SBEC may then issue a default order deeming the allegations in the petition as true.
- (3) Prior to issuance of a default decision or order, the certificate holder may contest the issuance of a default judgment by written notice filed with TEA staff or by written request to appear before the SBEC at an SBEC meeting to show good cause for failure to file an answer or appear at the contested case proceeding.

Statutory Authority: The provisions of this §249.35 issued under the Texas Education Code, §§21.031(a); 21.035; 21.040(6) and (7) and 21.041(a) and (b)(1), (4), (7), and (8); and the Texas Government Code, §2001.058(d)-(e).

Source: The provisions of this §249.35 adopted to be effective March 31, 1999, 24 TexReg 2304; amended to be effective December 16, 2007, 32 TexReg 9112; amended to be effective December 19, 2011, 36 TexReg 8533; amended to be effective October 8, 2015, 40 TexReg 6892; amended to be effective May 15, 2016, 41 TexReg 3310; amended to be effective March 8, 2018, 43 TexReg 1273.