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**Liliana Alvarez Petition for Declaratory Order**

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**The Background:**

T.C.A. § 4-5-223 permits any affected person to petition an agency for a declaratory order as to the validity or applicability of a statute, rule, or order within the primary jurisdiction of the agency. Liliana Alvarez has petitioned the State Board for a declaratory order challenging the Board's definition of "conviction" for purposes of sanctioning an educator's license, alleging the definition attempts to repeal or negatively affect T.C.A. § 40-35-313, the statute authorizing judicial diversion.

This item presents the petition for declaratory order for the Board's vote.

Pursuant to T.C.A. § 4-5-223, the Board may vote to:

- (1) Convene a contested case hearing in the presence of a quorum of members and in the presence of an administrative judge and issue a declaratory order; or
- (2) Convene a contested case hearing by an administrative judge sitting alone who will issue an initial declaratory order; or
- (3) Refuse to issue a declaratory order, in which event the petitioner may apply for a declaratory judgment in the chancery court pursuant to T.C.A. § 4-5-225.

**The Recommendation:**

The SBE staff recommends that the Board refuse to issue a declaratory order and allow Petitioner to apply for a declaratory judgment in chancery court.