

NORTH CAROLINA STATE BOARD OF EDUCATION
Policy Manual

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Deleted: License Suspension and Revocation

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I. Licensure Suspension and Revocation

- The State Board of Education shall automatically revoke the license of a teacher or school administrator without the right to a hearing upon receiving verification of the identity of the teacher or school administrator together with a certified copy of a criminal record showing that the teacher or school administrator has entered a plea of guilty or nolo contendere to or has been finally convicted of any of the following crimes: Murder in the first or second degree, GS 14-17; Conspiracy or solicitation to commit murder, GS 14-18.1; Rape or sexual offense as defined in Article 7A of Chapter 14 of the General Statutes; Felonious assault with deadly weapon with intent to kill or inflicting serious injury, GS 14-32; Kidnapping, GS 14-39; abduction of children, GS 14-41; Crime against nature, GS 14-177; Incest, GS 14-178 or 14-179; Employing or permitting minor to assist in offense against public morality and decency, GS 14-190.6; Dissemination to minors under the age of 16 years, GS 14-190.7; Dissemination to minors under the age of 13 years, GS 14-190.8; Displaying material harmful to minors, GS 14-190.14; Disseminating harmful materials to minors, GS 14-190.15; First degree sexual exploitation of a minor, GS 14-190.16; Second degree sexual exploitation of a minor, GS 14-190.17; Third degree sexual exploitation of a minor, GS 14-190.17A; Promoting prostitution of a minor, GS 14-190.18; Participating in prostitution of a minor, GS 14-190.19; Taking indecent liberties with children, GS 14-202.1; Solicitation of child by computer to commit an unlawful sex act, GS 14-202.3; Taking indecent liberties with a student, GS 14-202.4; Prostitution, GS 14-204; and child abuse under GS 14-318.4.

~~The Board shall mail notice of its intent to act pursuant to GS 115C-270.35 by certified mail, return receipt requested, directed to the teacher or school administrator at their last known address. The notice shall inform the teacher or school administrator that it will revoke the person's certificate unless the teacher or school administrator notifies the Board in writing within 10 days after receipt of the notice that the defendant identified in the criminal record is not the same person as the teacher or school administrator. If the teacher or school administrator provides this written notice to the Board, the Board shall not revoke the certificate unless it can establish as a fact that the defendant and the teacher or school administrator are the same person.~~

~~2. The SBE may deny an application for a license or may suspend or revoke a license issued by the Department only for the following reasons:~~

- ~~a. fraud, materials misrepresentation or concealment in the application for the license;~~
- ~~b. changes in or corrections of the license documentation that make the individual ineligible to hold a license;~~
- ~~c. conviction or entry of a plea of no contest, as an adult, or a crime if there is reasonable and adverse relationship between the underlying crime and the continuing ability of the person to perform any of his/her professional functions in an effective manner.~~
- ~~d. final dismissal of a person by a local board pursuant to G.S. 115C.325(e)(1)b if there is a reasonable and adverse relationship between the underlying misconduct and the continuing ability of the person to perform any of his/her professional functions effectively;~~
- ~~e. final dismissal of a person by a LEA under G.S.115C.325(e)(1)e (physical or mental incapacity;~~
- ~~f. resignation from employment with a LEA without thirty calendar days' notice, except with the prior consent of the local superintendent;~~
- ~~g. revocation of a license by another state;~~
- ~~h. any other illegal, unethical or lascivious conduct by a person if there is a reasonable and adverse relationship between the underlying conduct and the continuing ability of the person to perform any of his/her professional functions in an effective manner; and~~
- ~~i. failure to report revocable conduct as required under paragraph (3) of this policy.~~

3. In addition to any duty to report suspected child abuse, any superintendent, assistant superintendent, associate superintendent, personnel administrator or principal who knows or has reason to believe that a licensed employee of the LEA has engaged in behavior that would justify revocation of the employee's license under sections (c), (d), or (h) of paragraph (a) of this policy and which behavior involves physical or sexual abuse of a child, shall report that information to the Superintendent of Public Instruction promptly or at least no later than five working days after the date of a dismissal or other disciplinary action or the acceptance of a resignation based upon that conduct. For purposes of this section, the term "physical abuse" shall mean the infliction of physical injury other than by accidental means and other than in self-defense. The term "sexual abuse" shall mean the commission of any sexual act upon a student or causing a student to commit a sexual act, regardless of age of the student and regardless of the presence or absence of consent. This paragraph shall apply to acts that occur on or after October 1, 1993.
4. Upon the receipt of a written request and substantiating information from any LEA, local superintendent or other person in a position to present information as a basis for the suspension or revocation of a person's license, the Superintendent of Public Instruction will conduct an investigation sufficient to determine whether reasonable cause exists to believe that the person's license should be suspended or revoked.
- a. If the Superintendent determines that reasonable cause exists to believe that the person's license should be suspended or revoked on one or more of the grounds specified in paragraph (a) of this policy, the Superintendent shall prepare and file written charges with the SBE.
 - b. The SBE will review the written charges and determine whether the person's license should be suspended or revoked based on the information contained in the written charges. If the SBE determines that the written charges constitute grounds for suspension or revocation, it shall provide the person with a copy of the written charges, and notify the person that it will revoke the person's license unless the person, within 60 days of receipt of notice, initiates administrative proceedings under Article 3, Chapter 150B of the General Statutes. The notice will be sent certified mail, return receipt requested.
 - c. If the person initiates administrative proceedings the SBE will defer final action on the matter until receipt of a proposed decision as provided for in G.S. 150B-34. If the person does not initiate administrative proceedings within 60 days of receipt of notice, the SBE may suspend or revoke the person's license at its next meeting.
5. The SBE may suspend an individual's license for a stated period of time or may permanently revoke the license, except as limited by G.S. 115C-325(o) (the remainder of the year for resignation without 30 day notice).

- ~~6. The SBE may accept the voluntary surrender of a license in lieu of seeking revocation of the license. Before it accepts a voluntary surrender, the SBE shall make findings of fact regarding the circumstances surrounding the voluntary surrender to demonstrate that grounds existed under which the SBE could have initiated license revocation proceedings. The SBE shall treat a voluntary surrender the same as a revocation.~~
- ~~7. The SBE may reinstate a suspended or revoked license or may grant a new license after denial of a license under paragraph (2) of this policy upon an individual's application submitted no sooner than six months after the suspension, revocation, or denial and a showing that:
 - ~~a. the action that resulted in suspension, revocation or denial of the license did not involve abuse of minors; moral turpitude or grounds listed in G.S.115C-325(e)(1)(b);~~
 - ~~b. the person has no record of subsequent behavior that could have resulted in license revocation; and~~
 - ~~c. there is no court order or judicial determination that would prohibit the person from returning to or holding a licensed position.~~~~
- ~~8. The SBE will notify all other states of all actions, which involve the denial, suspension, revocation, surrender, or reinstatement of a license.~~

In accordance with SBE Policy GOVR-005, the State Board of Education ("SBE") hereby delegates to the Superintendent of Public Instruction ("Superintendent") the authority to execute and issue for an on behalf of the SBE all disciplinary documents relating to licensure for professional educators. This Policy sets forth the circumstances and procedures pursuant to which the Superintendent may impose disciplinary sanctions against a professional educator licensed by the Department of Public Instruction, including the suspension or revocation of the educator's license. This Policy also sets forth the circumstances and procedures pursuant to which the Superintendent may deny an application for a license.

I. Definitions

As used in this Section, the following definitions apply:

1. "Child" means a person under the age of 16.
2. "License" means a professional educator license issued by the Department of Public Instruction ("DPI") in accordance with this Subchapter and Chapter 115C, Article 17E of the General Statutes.

3. “Local superintendent” means the superintendent of a local school administrative unit, as provided in Chapter 115C, Article 18 of the General Statutes, or the staff member with the highest decision-making authority for a PSU, if there is no superintendent.
4. “Public school unit” or “PSU” is means any of the following:
 - a. A local school administrative unit.
 - b. A charter school.
 - c. A regional school.
 - d. A school for the deaf and blind operated under Chapter 115C, Article 9C of the General Statutes.
 - e. A school providing elementary or secondary education operated by the University of North Carolina under Chapter 116, Article 29A of the General Statutes.
5. “Professional educator” or “educator” means an administrator, teacher, or student services personnel.
6. “Respondent” means a person who currently holds a license or who has applied for a license.
7. “Student” means a person enrolled in pre-kindergarten, kindergarten, or in 1st through 12th Grade in any public school unit, or who has been enrolled in a public school unit within the six months of an alleged violation of the Standards of Professional Conduct, as defined in SBE Policy EVAL-035.

II. Investigation of Alleged Misconduct by a Licensed Professional Educator or License Applicant

1. Upon receipt of allegations and substantiating information regarding a respondent that would provide cause for imposing disciplinary sanctions on a licensee or denying an application for a license under this Policy, the Superintendent shall investigate the allegations to determine if such action is warranted. The Superintendent shall investigate allegations or information from any source in a position to provide such information, including a PSU, State agency, court or other tribunal, or other credible person or institution. The Superintendent shall also consider information disclosed by a license applicant in the application.
2. The Superintendent is authorized to utilize the power conferred upon SBE under G.S. 115C-270.35(e), including the power to subpoena documents, secure witness testimony, or hire investigators, for the purpose of conducting investigations under this Policy.
3. If the Superintendent finds cause to impose disciplinary sanctions on a licensee or deny a license application for any of the reasons described in Part III of this Policy, the Superintendent shall prepare a proposed order containing findings of fact, conclusions of law, and the proposed sanction(s) or denial.

4. The Superintendent shall provide the respondent with a copy of the proposed order and notify the respondent that the proposed sanctions or denial described in the order shall become final unless the respondent commences an administrative proceeding under Chapter 150B, Article 3 of the General Statutes within 60 days of the notice. The Superintendent shall send the notice via electronic mail and certified mail to the latest addresses provided to DPI, and the 60-day time limitation shall commence on the date of electronic delivery or placement of the notice in an official depository of the United States Postal Service, whichever is earlier, in accordance with G.S. 150B-23(f).
5. If the respondent commences administrative proceedings, the Superintendent shall stay the proposed order until receipt of a final decision or order under G.S. 150B-34. If the respondent does not commence proceedings within the 60-day time limitation, the proposed order shall become final, and the Superintendent shall take all necessary actions to enforce the order.

III. Denying a License or Sanctioning a Licensee

1. The Superintendent may, following an investigation in accordance with as described in Section II of this Policy, impose disciplinary sanctions on a person who holds a license or deny an application for any such license if the Superintendent finds, by a preponderance of the evidence, that the respondent has done any of the following:
 - a. Engaged in fraud, material misrepresentation, or concealment in an application for the license.
 - b. Become ineligible for the license due to changes or corrections in the license documentation.
 - c. Been convicted of a crime in any state, federal, or territorial court of the United States, including military tribunals.
 - d. Been dismissed by a local board of education, pursuant to G.S. 115C-325(e)(1) or 115C-325.4, or by the governing body of any other PSU.
 - e. Resigned from employment with a PSU without thirty calendar days' notice, except with the prior consent of the superintendent.
 - f. Had a professional educator license or other occupational license revoked or suspended in North Carolina or another state due to a finding of misconduct by the relevant occupational licensing board or agency.
 - g. Failed to report suspected child abuse in accordance with G.S. 115C-400 or other suspicion of professional misconduct by a licensed employee in accordance Section VIII of this Policy.
 - h. Violated the Testing Code of Ethics, as set forth in SBE Policy TEST-010.
 - i. Engaged in any other illegal, unethical, or lascivious conduct, or otherwise violated the Standards of Professional Conduct as set forth in SBE Policy EVAL-035.
2. When deciding whether to impose disciplinary sanctions or deny an application for a license, the Superintendent shall consider the following factors:

- a. The existence of a reasonable and adverse relationship between the underlying misconduct and the ability of the respondent to perform the respondent's professional duties as an educator.
 - b. The severity of the misconduct.
 - c. The impact of the misconduct on students, other educators, and the school community.
 - d. The respondent's degree of culpability in the misconduct.
 - e. The degree of remorse exhibited by the respondent for the misconduct.
 - f. Any evidence of reformed behavior on the part of the respondent.
 - g. Subsequent incidents of misconduct by the respondent or the probability of future misconduct.
3. If the Superintendent determines that sanctions against a current licensee are warranted, it shall impose sanctions in accordance with Part IV of this Policy.

IV. Disciplinary Sanctions

1. Upon finding of a basis for imposing disciplinary sanctions against a respondent's license respondent under Part III of this Policy, the Superintendent may impose any of the following sanctions:
 - a. Written Warning
 - b. Written Reprimand
 - c. Suspension for a Defined Term
 - d. Revocation
2. In addition to one of the sanctions listed in Section 1, the Superintendent may impose additional conditions upon a respondent—including requirements that the respondent complete additional continuing education credits beyond those required by G.S. 115C-270.30, community service hours, or other activities—if the purpose of the condition is remedial, relevant to the misconduct giving rise to the sanction, and designed to reduce the possibility of recidivism.
3. Notwithstanding the above, the Superintendent shall immediately and summarily suspend the license of a respondent if the Superintendent finds that the public health, safety, or welfare requires emergency action and incorporates those findings in the order prepared in accordance with Part II of this Policy. A finding that a respondent has been charged in the General Court of Justice with any crime, the conviction for which would result in automatic revocation of the respondent's license under G.S. 115C-270.35(b) 115C-270.35(b), shall be considered prima facie evidence to justify a summary suspension. Following the summary suspension, the Superintendent shall promptly commence an investigation and proceedings in accordance with Parts II and III of this Policy.
4. DPI shall, upon expiration of the 60-day time limitation described in Part II, Section 5 of this Policy, publish the sanction and a brief description of the basis for the sanction on its website and report it to the National Association of State Directors of Teacher Education

and Certification (“NASDTEC”), except that this requirement shall not apply to a Written Warning. DPI shall not disclose any information related to the sanction that is considered confidential under Chapter 115C, Article 21A of the General Statutes or is otherwise protected from disclosure under State or federal law.

V. Automatic Revocation

1. The Superintendent shall automatically revoke the license of a professional educator without the right to a hearing under Chapter 150B, Article 3 of the General Statutes upon receiving verification of the identity of the professional educator together with a certified copy of a criminal record showing that the professional educator has entered a plea of guilty or nolo contendere to or has been finally convicted of any of the following crimes:
 - a. Murder in the first or second degree, G.S. 14-17.
 - b. Conspiracy or solicitation to commit murder, G.S. 14-18.1.
 - c. Rape or sexual offense, as defined in Article 7B of Chapter 14 of the General Statutes.
 - d. Felonious assault with deadly weapon with intent to kill or inflicting serious injury, G.S. 14-32.
 - e. Kidnapping, G.S. 14-39.
 - f. Abduction of children, G.S. 14-41.
 - g. Crime against nature, G.S. 14-177.
 - h. Incest, G.S. 14-178 or G.S. 14-179.
 - i. Employing or permitting minor to assist in offense against public morality and decency, G.S. 14-190.6.
 - j. Dissemination to minors under the age of 16 years, G.S. 14-190.7.
 - k. Dissemination to minors under the age of 13 years, G.S. 14-190.8.
 - l. Displaying material harmful to minors, G.S. 14-190.14.
 - m. Disseminating harmful material to minors, G.S. 14-190.15.
 - n. First degree sexual exploitation of a minor, G.S. 14-190.16.
 - o. Second degree sexual exploitation of a minor, G.S. 14-190.17.
 - p. Third degree sexual exploitation of a minor, G.S. 14-190.17A.
 - q. Taking indecent liberties with children, G.S. 14-202.1.
 - r. Solicitation of child by computer to commit an unlawful sex act, 14-202.3.
 - s. Taking indecent liberties with a student, G.S. 14-202.4.
 - t. Prostitution, G.S. 14-204.
 - u. Patronizing a prostitute who is a minor or has a mental disability, G.S. 14-205.2(c) or (d).
 - v. Promoting prostitution of a minor or a person who has a mental disability, G.S. 14-205.3(b).
 - w. Child abuse under G.S. 14-318.4.
2. The Superintendent shall mail notice of the Superintendent’s intent to act pursuant to this Part by certified mail, return receipt requested, directed to the professional educator’s last known address. The notice shall inform the professional educator that the Superintendent will revoke the person’s license unless the professional educator notifies the

Superintendent in writing within 10 days after receipt of the notice that the defendant identified in the criminal record is not the same person as the professional educator. If the professional educator provides this written notice to the Superintendent, the Superintendent shall not revoke the license unless the Superintendent can establish as a fact that the defendant and the professional educator are the same person.

VI. Voluntary Surrender of a License

1. An individual licensed under Chapter 115C, Article 17E of the General Statutes may notify the Superintendent in writing of the individual's intention to voluntarily surrender the individual's license to DPI.
2. The Superintendent may accept the voluntary surrender of a license in lieu of pursuing revocation of the license if, following an investigation in accordance with Part II of this Policy, the Superintendent determines that the surrender of the license will not compromise public safety. The Superintendent shall prepare a proposed order containing findings of fact and conclusions of law demonstrating that circumstances exist that would justify pursuing revocation of the respondent's license. The Superintendent shall provide the respondent with a copy of the proposed order and notify the respondent that the respondent's license will be revoked unless the respondent challenges any of the factual findings contained in the order within 10 days of the notice. The Superintendent shall send the notice via electronic mail and certified mail to the latest addresses provided to DPI.
3. DPI shall, upon expiration of the 10-day time limitation described in Section 2, publish the revocation and a brief description of the basis for the revocation on its website and report it to NASDTEC. DPI shall not disclose any information related to the revocation that is considered confidential under Chapter 115C, Article 21A of the General Statutes or is otherwise protected from disclosure under State or federal law.

VII. Reinstatement of or Reconsideration for a License

1. A respondent whose license has been revoked or whose application for a license has been denied under this Policy may seek reinstatement of the revoked license or reconsideration of the license application no sooner than 12 months after the effective date of the revocation or denial.
2. The respondent shall submit a request to the Superintendent in writing that includes a statement describing why the circumstances that led to the revocation or denial do not or no longer justify prohibiting the respondent from holding a license.
3. The Superintendent may deny the request, grant the request, or grant the request on a probationary basis. If the Superintendent grants the request on a probationary basis, the respondent's license status shall be subject to review by the Superintendent one year from

the date that the license is granted, and the respondent shall comply with any conditions the Superintendent may impose.

VIII. Reporting Requirements for PSU Administrators

1. For purposes of this Part, the following definitions apply:
 - a. “Misconduct” means either:
 - i. Conduct that justifies automatic revocation of a license under G.S. 115C-270.35(b);
 - ii. Conduct that has resulted in a criminal charge or indictment for any of the crimes listed in G.S. 115C-270.35(b); or
 - iii. Conduct involving the physical or sexual abuse of a child or a student. “Physical abuse” means the infliction of physical injury other than by accident or in self-defense. “Sexual abuse” means any sexual contact with a child or student, regardless of the presence or absence of consent.
 - b. “PSU administrator” means a superintendent, associate superintendent, assistant superintendent, personnel administrator, principal, school director, or head of school employed by a PSU.
2. In addition to any duty to report suspected child abuse under G.S. 115C-400 or other provision of law, any PSU administrator who knows, has reason to believe, or has actual notice of a complaint that a professional educator licensed under Chapter 115C, Article 17E of the General Statutes has engaged in misconduct, as defined in Section 1, that results in the dismissal, suspension with pay, suspension without pay, or resignation of the educator shall report the misconduct in writing to the State Board of Education (“SBE”) within five calendar days of the dismissal, suspension, or acceptance of the educator’s resignation by the local superintendent. If an educator resigns within 30 days of a complaint for misconduct or during an ongoing investigation of a complaint, the alleged misconduct is presumed to have resulted in the resignation.
3. If a PSU demotes, dismisses, or accepts the resignation of a professional educator licensed under Chapter 115C, Article 17E of the General Statutes as a result of conduct that is not covered by Section 2 but that may otherwise justify disciplinary sanctions against the employee under Part III of this Policy, a PSU administrator for that PSU shall report the conduct in writing to the Superintendent within 30 calendar days of the demotion, dismissal, or resignation of the employee.
4. If one PSU administrator submits a single report on behalf of the PSU pursuant to the requirements of this Policy, that report shall satisfy the reporting obligations of all individuals who may have reporting obligations under this Policy or under G.S. 115C-326.20.