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**Teacher License Actions Policy, Rule**

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**The Background:**

Pursuant to State Board of Education Rule 0520-2-4-.01(9)(b) the State Board of Education may revoke, suspend or refuse to issue or renew a license for several reasons listed in the rule.

Currently under the rule and policy, there is no option for the State Board to issue a formal reprimand for a license holder who engages in conduct which may not rise to the level of a suspension, but where Board action is required. Amending the rules and policy to include formal reprimand as an option would ensure that those instances of misconduct are not only recorded with the State Board of Education, but are also reported to the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse.

This item was removed from the July 2012 agenda to allow for the exploration of a probationary license status. After meeting with representatives from the TN Department of Education, Tennessee Education Association, and Tennessee Association of School Superintendents, it was determined that the best option was the formal reprimand.

**The Recommendation:**

SBE staff recommends adoption of this item on final reading.

### **Proposed Rule Revision**

The title of Rule 0520-02-04-.01(9)(6) Denial, Suspension and Revocation of License is amended by deleting the entire title and replacing it with “Denial, Formal Reprimand, Suspension and Revocation of License”

Rule 0520-02-04-.01(9)(6)(b) Denial, Suspension and Revocation of License is amended by deleting the phrase “The State Board of Education may revoke, suspend or refuse to issue or renew a license for the following reasons:” and replacing it with “The State Board of Education may revoke, suspend, reprimand formally or refuse to issue or renew a license for the following reasons:”

Rule 0520-02-04-.01(9)(6)(d) Notice of Hearing is amended by deleting the phrase “Any person whose license is to be denied, suspended or revoked under part (b) ” and replacing it with “Any person whose license is to be denied, formally reprimanded, suspended or revoked under part (b)”

**Authority:** *T.C.A. §§49-1-302, 49-1-607, 49-5-108, 49-5-108(d)(2), 49-5-5201, 49-5-5602, 49-5-5605, and Public Chapter No. 535 -(Education Improvement Act).*

## **Procedure for License Denial, Formal Reprimand, Suspension & Revocation**

Board Rule 0520-2-4-.01(9) governs denial, formal reprimand, suspension and revocation of a Tennessee teaching license. Reporting and recording of action taken on licenses is coordinated with the Department of Education's Office of Teacher Licensing and local education agencies.

Below is a general outline of the procedure followed in cases of possible license denial, formal reprimand, suspension or revocation. Requests for restoration of suspended or revoked licenses are handled in accordance with Board Policy 5.500, License Restoration Requests.

### **Reporting**

Board Rule 0520-2-4-.01(9)(e) requires superintendents to report to the Office of Teacher Licensing whenever a teacher or administrator is "suspended or dismissed, or [has] resigned, following allegations of conduct which, if substantiated, would warrant consideration for license suspension or revocation under" the rule. Superintendents are also required to report "felony convictions of licensed teachers or administrators." These reports must be submitted "within thirty (30) days of the suspension, dismissal or resignation" or "within 30 days of receiving knowledge of the [felony] conviction."

### **Procedure**

After receiving a report, the following procedure should be followed:

#### **For Automatic Revocation**

1. The Office of Teacher Licensing (OTL) flags the individual's file (license or license application) on a database available to Tennessee LEAs. Before hiring new teachers, LEAs should check the potential employee's license status on this database to determine the reason for the flag.
2. The OTL creates a file with the superintendent's report and the teacher's license information to Board counsel.
3. Board counsel obtains a certified copy of the criminal record showing the conviction for one of the offenses at T.C.A. § 40-35-501(i)(2) or 39-17-417 (including conviction on a plea of guilty or nolo contendere).
4. Following receipt of the certified record, Board counsel informs the individual that his/her teaching license is subject to automatic revocation at the next Board meeting. Notification is sent at least 30 days prior to the Board meeting at which the revocation is scheduled to occur.

#### **For Denial, Formal Reprimand, Suspension or Revocation**

1. The Office of Teacher Licensing (OTL) flags the license file on a database available to Tennessee LEAs. Before hiring new teachers, LEAs should check the potential employee's license status on this database to determine the reason for the flag.
2. The OTL prepares a file with the application materials or the superintendent's report and transmits the file to Board counsel.

3. If another proceeding could affect the decision by the Board, Board counsel may wait for:
  - a. The conclusion of any LEA investigation and/or termination proceeding or
  - b. Entry of a final order in any criminal or civil proceeding (including DCS findings) related to the events giving rise to the report.
4. A three person panel of Board staff reviews the file to determine whether disciplinary action (denial, formal reprimand, suspension or revocation) should be pursued, or if additional investigation is necessary. This panel consists of the executive or deputy executive director, counsel to the Board, and at least one other staff member.
  - a. If the panel decides not to investigate further or pursue disciplinary action, counsel to the Board directs the OTL to unflag the file.
  - b. If the panel recommends that the Board impose disciplinary action, then
5. Board counsel then notifies the individual of the Board's intent and the individual's right to a hearing. Counsel may also include a proposed agreed order.
  - a. If the individual waives the right to a hearing, Board counsel submits the proposed disciplinary action to the Board for roll-call vote at its next meeting. Counsel includes a proposed order for the Board to approve.
  - b. If the individual requests a hearing, then Board counsel schedules a hearing with an Administrative Law Judge (ALJ) from the Secretary of State's office, sitting on behalf of the Board.
6. Board or ALJ action:
  - a. No disciplinary action:
    - i. If the Board votes not to impose discipline, Board counsel informs the individual of the decision and directs the OTL to unflag the file.
    - ii. If the ALJ, sitting on behalf of the Board, finds that suspension or revocation is not warranted, Board counsel directs the OTL to unflag the file. The Board may, however, appeal the ALJ's decision at its discretion.
  - b. If the Board votes to impose discipline, counsel sends a copy of the order (signed by the Chair) to the individual, and copies the OTL.
  - c. OTL records the disciplinary action and the grounds on the national clearinghouse (NASDTEC).
7. A license holder can appeal the action of the ALJ or Board to Chancery Court in Davidson County.

NOTE: Suspended licenses are subject to expiration.

A visual representation of the procedure is included as an attachment to this policy.

# SBE Licensure Action Flowchart

