

CHAPTER 15.1-13 TEACHER LICENSING

15.1-13-01. Definitions.

For purposes of this chapter:

1. "Administrator" means an individual who holds an administrator's credential and who is employed by the board of a school district for the primary purpose of providing administrative services to the schools of the district. The term includes a school district superintendent, an assistant or associate school district superintendent, a school principal, an assistant or associate school principal, a special education director, a director of a multidistrict special education unit, a career and technical education director, and a director of an area career and technology center. The term may include an athletic or activity director who meets the requirements of this subsection.
2. "Board" means the education standards and practices board.
3. "Profession of teaching" means providing services in an approved school as a teacher, counselor, librarian, curriculum director or supervisor, speech or language therapist, school psychologist, special educator, or administrator.

15.1-13-02. Education standards and practices board - Membership.

1. The governor shall appoint to the education standards and practices board:
 - a. Four individuals who are public school classroom teachers;
 - b. One individual who is a nonpublic school classroom teacher;
 - c. Two individuals who are school board members;
 - d. Two individuals who are administrators; and
 - e. One dean of a college of education or chairman of a department of education.
2. The superintendent of public instruction or the superintendent's designee shall serve as a nonvoting ex officio member.

15.1-13-03. Board compensation.

Each member of the board is entitled to receive compensation in the amount of sixty-two dollars and fifty cents per day and to reimbursement for expenses as provided by law for other state officers while attending meetings or performing duties directed by the board. A member of the board may not lose the member's regular salary and may not be required to refuse the compensation to which the member is entitled under this section for serving on the board.

15.1-13-04. Term of office - Vacancy.

The term of office for a member of the board is three years, beginning on July first of the year of appointment. No person may serve for more than two consecutive terms. If a vacancy occurs, it must be filled for the duration of the unexpired term in the same manner as an original appointment.

15.1-13-05. Officers.

The board annually shall select a chairman and a vice chairman. The executive director of the board or the executive director's designee shall serve as secretary.

15.1-13-06. Meetings - Notice.

The chairman of the board shall set the date and time of the board meetings and shall provide at least ten days' notice of the meeting to all board members. The chairman shall call a special meeting when requested to do so, in writing, by a majority of the board members.

15.1-13-07. Quorum - Revocation requirement.

1. A majority of the board constitutes a quorum.
2. Except as otherwise provided in this section, a majority of the quorum at any meeting has the authority to act upon any matter properly before the board.

3. At least five members of the board must consent to the revocation of an individual's teaching license.

15.1-13-08. Board duties.

The board shall:

1. Supervise the licensure of teachers.
2. Set standards for and approve teacher preparation programs.
3. Seek the advice of teachers, administrators, school board members, teacher education professors, and other interested citizens in developing and updating codes or standards of ethics, conduct, professional performance, and professional practices.
4. Adopt, in accordance with chapter 28-32, codes or standards of ethics, conduct, professional performance, and professional practices.
5. Make recommendations for the inservice education of individuals engaged in the profession of teaching.
6. Issue major equivalency endorsements and minor equivalency endorsements.
7. Appoint an executive director to serve at its discretion.
8. Authorize the executive director to employ personnel, subject to approval by the board.

15.1-13-09. Board powers.

The board may:

1. Adopt rules in accordance with chapter 28-32.
2. Apply for and receive federal or other funds on behalf of the state for purposes related to its duties.
3. Perform any duty related to the improvement of instruction through teacher education, professional development, and continuing education programs.

15.1-13-10. Criteria for teacher licensure.

1. The board shall establish by rule the criteria for teacher licensure and the process for issuing teaching licenses. The criteria must include considerations of character, adequate educational preparation, and general fitness to teach.
2. The board may not require a teacher who graduated from an accredited teacher education program on or before September 1, 1980, to earn any college credits in native American or other multicultural courses as a condition of licensure or license renewal.
3. This section does not affect the validity of teaching certificates in effect on July 31, 2001.
4. This section does not affect the qualifications for career and technical education certificates, as otherwise established by law.

15.1-13-10.1. Student teaching requirements - Teachers licensed in other states.

If an individual who is or was licensed to teach in another state applies for a license to teach in this state, the education standards and practices board may not impose on the individual any student teaching requirements as a condition of licensure. This section is applicable to an individual who graduated from a state-approved regular education program but not to an individual who completed an alternative education program as a condition of licensure.

15.1-13-11. Application and licensing fees.

1. The board may set and charge a fee for:
 - a. Filing an application for a teaching license.
 - b. Issuing a teaching license.
2. Any fee collected by the board must be deposited and disbursed in accordance with section 54-44-12.

15.1-13-12. Teaching license - Period of effectiveness.

A teaching license issued by the board is effective for at least one school year, unless suspended or revoked by the board. This section does not apply to provisional teaching licenses issued by the board under section 15.1-13-13.

15.1-13-12.1. Teaching license - Lifetime licensure.

If an individual has been licensed to teach in this state for a period of thirty years, the education standards and practices board shall grant the individual lifetime licensure. Nothing in this section precludes the board from taking any action against an individual's lifetime license if the board determines that the action is warranted under this chapter.

15.1-13-13. Provisional teaching license - Period of effectiveness - Renewal.

The board may issue a provisional teaching license to an applicant, pending completion of the background check required by section 15.1-13-14 or pending the receipt of official transcripts or other original, signed, or certified documents. The provisional license is valid for a period of forty days and may be renewed with the approval of the board. The board may adopt rules governing the issuance of a provisional teaching license. An individual applying for a provisional teaching license may be charged a fee established by the board. However, an individual applying for the renewal of a provisional teaching license may not be charged a fee.

15.1-13-14. Initial and reentry licensure of teachers - Criminal history record check.

The board shall check, or cause to be checked, the criminal history record of each applicant for initial licensure and reentry licensure as a teacher in accordance with section 12-60-24. All costs associated with the background check and with obtaining and processing the fingerprints are the responsibility of the applicant. Criminal history records provided to the board pursuant to this section are confidential and closed to the public and may only be used by the board for determining an applicant's eligibility for licensure and obtaining documentation to support a denial of licensure.

15.1-13-15. Teaching license - Application - Oath or affirmation.

1. Each applicant for a teaching license shall subscribe to the following oath or affirmation:

I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the state of North Dakota, and that I will faithfully discharge the duties of my position, according to the best of my ability.
2. The applicant shall execute the oath or affirmation in duplicate. One copy of the oath or affirmation must be filed with the board when the applicant applies for a teaching license. The applicant shall retain the other copy.
3. The board may not issue a license to teach unless a duly witnessed or notarized oath or affirmation has been filed with the board.

15.1-13-16. Teaching license - Student transcript.

A student who has met all the criteria necessary to receive a teaching license, but who has not graduated from a college or university, may request that the college or university provide a copy of the student's completed transcript to the board or to a comparable entity in another state. Within ten days of the request by the student, the college or university shall provide a copy of the transcript showing that the student has met all the criteria necessary to receive a teaching license except graduation. The transcript must indicate areas in which the student has a major or minor.

15.1-13-17. Teaching license - Requirements - Exceptions.

1. An individual may not engage in the profession of teaching unless:
 - a. The individual holds a teaching license issued by the board; or
 - b. The individual is approved to teach by the board.

2. An individual may be approved to teach by the board only if the individual has previously held a North Dakota teaching certificate or license, holds a teaching certificate or license issued by another state, or has filed a completed application for licensure with the board.
3. The board shall adopt rules establishing the terms and conditions under which an individual may be approved to teach, as provided for in this section. The terms and conditions may include the payment of a fine to the board in an amount not exceeding two hundred fifty dollars per incident, enrollment in and completion of continuing education courses, and submission of a completed application for licensure by a date certain.

15.1-13-18. Teaching license - Presentation to business manager.

1. Before being employed to teach by a school district, an individual shall present to the school district business manager a teaching license or other evidence of approval to teach issued by the board.
2. Before being employed to teach by a nonpublic school, an individual shall present to the school business manager a teaching license or other evidence of approval to teach issued by the board.

15.1-13-19. Teaching license - Expiration.

Notwithstanding any other law, if an individual's teaching license expires within the final six weeks of a school district's or nonpublic school's calendar, that individual's license is deemed to be extended and in effect until the completion of the school district's or nonpublic school's calendar.

15.1-13-20. Applicants licensed in other states.

1. The board shall grant a teaching license to an applicant who holds a regular teaching license or certificate from another state, provided:
 - a. The applicant's licensure or certification is based upon a minimum of a bachelor's degree with a major that meets the issuing state's requirements in early childhood education, elementary education, middle level education, or a content area taught at a public high school;
 - b. The applicant's licensure or certification is based upon the completion of a professional education sequence from a state-approved teacher education program and includes supervised student teaching;
 - c. The applicant submits the required fee and a criminal history record check, as required of initial applicants by this chapter; and
 - d. The criminal history record check reveals nothing for which a North Dakota applicant would be denied initial licensure.
2.
 - a. A license granted under this section is valid for two years if the applicant has not been licensed in another state for at least eighteen months.
 - b. Notwithstanding subdivision a, if the individual received a teaching license or certificate from another state on or after January 1, 2002, and if the issuing state did not require that the individual pass a state test as a condition of licensure or certification, the board shall require that the individual, within two years from the date of licensure, pass all state licensure tests normally required of applicants from this state.
 - c. In all other cases, a license granted under this section is valid for five years and is renewable if the licenseholder meets the reeducation requirements established for all five-year license renewals.

15.1-13-21. Reciprocal acceptance of teaching licenses.

Repealed by S.L. 2011, ch. 135, § 3.

15.1-13-22. Licensure of North Dakota American Indian language instructors.

The board may license an individual as an instructor of North Dakota American Indian languages and culture if the individual is recommended for licensure to teach North Dakota native languages by an indigenous language board created by a tribal government in this state and if the individual:

1. Displays competence in North Dakota American Indian languages and culture and has successfully completed a three-semester-hour course in classroom instruction at a tribal college or other institution of higher education; or
2. Holds a baccalaureate degree and has knowledge of and experience in North Dakota American Indian languages and culture.

15.1-13-23. School guidance and counseling services - Providers.

Notwithstanding any other law, guidance and counseling services at the elementary and secondary school level may be provided by a person holding a graduate degree in counseling from a state-approved school counseling program, with coursework and an internship in school counseling, as required for all counselors by the superintendent of public instruction, provided the person has a North Dakota teaching license or will obtain one within seven years from the date of first employment under this section. The board shall conduct a criminal history record check in accordance with section 12-60-24 on each person hired under this section. All costs associated with a background check are the responsibility of the person being hired. The board shall monitor a person hired under this section to ensure that the person annually completes at least one-seventh of the total credits required for that person to obtain a teaching license, as determined at the time of employment under this section.

15.1-13-24. Complaints against teachers or administrators.

1. Any person may file with the board a complaint against a teacher or an administrator. The complaint must state the claims or charges and it must be signed. The complaint may include supporting documentation.
2. Upon receiving the complaint, the board shall serve a copy of the complaint and any supporting documentation upon the individual personally or by certified mail.
3. The individual has twenty days from the date the individual receives the complaint within which to file a response. The response may include supporting documentation.
4. If the individual files a timely response, the board shall meet to review the complaint, the response, and any documentation submitted by the parties, but may not accept testimony.
5. Based on the complaint, the response, and the documentation submitted in accordance with this section, the board may:
 - a. Dismiss the complaint as unfounded; or
 - b. (1) Determine there is a reasonable basis to believe the claims or charges are true and subject to action by the board under this chapter;
 - (2) File a formal complaint against the individual in accordance with chapter 28-32; and
 - (3) Schedule and hold a public hearing on the complaint in accordance with chapter 28-32.
6. If the individual fails to file a timely response, the board shall determine whether the individual's failure to file a timely response constitutes an admission of the allegations in the complaint and whether the individual's teaching license should be subject to action by the board. If the board determines that the individual's failure to file a timely response is an admission of the allegations in the complaint and that the individual's teaching license should be subject to action by the board, the board shall hold a hearing in accordance with chapter 28-32 to take any appropriate action.

15.1-13-25. Teaching license - Action by board - Causes.

1. After holding a public hearing in accordance with chapter 28-32, the board may issue a written warning or reprimand to the individual, suspend the individual's teaching license, or revoke the individual's teaching license if:
 - a. The individual obtained a license by means of fraud, misrepresentation, or concealment of facts.
 - b. The board becomes aware of any fact or circumstance that would have caused the board to deny licensure had the board known of the fact or circumstance at the time of initial licensure.
 - c. The individual is incompetent, immoral, intemperate, or cruel.
 - d. The individual has been convicted of, has pled guilty to, or has pled nolo contendere to an offense deemed by the board to have a direct bearing upon an individual's ability to serve as a teacher or an administrator.
 - e. The board believes that the individual, having been convicted of an offense, has not been sufficiently rehabilitated under section 12.1-33-02.1.
 - f. The individual has refused to perform the duties of a teacher or an administrator.
 - g. The individual has breached a contract with a school district or nonpublic school.
 - h. The individual knowingly taught in violation of chapter 15.1-18.
 - i. The individual is an administrator in a school district or a nonpublic school and knowingly permitted another individual to teach in violation of chapter 15.1-18.
 - j. The individual has violated this chapter or any rule adopted by the board.
2. Any action of the board taken under this section may be appealed to the district court of Burleigh County in accordance with chapter 28-32.

15.1-13-26. Crimes against a child and sexual offenses - Denial of or immediate revocation of teaching license.

1. The board shall deny an application for a teaching license and shall immediately revoke the teaching license of an individual who has been found guilty of a crime against a child or a sexual offense.
2. An individual who is denied a teaching license or who has had a teaching license revoked under subsection 1 may file a request with the board for a due process hearing under chapter 28-32. The hearing must be held within ten days of the request. The scope of the hearing is limited to determining whether the individual was convicted of a crime against a child or a sexual offense and whether the conviction has been overturned on appeal.
3. A final decision denying a teaching license or revoking a teaching license under this section is appealable pursuant to chapter 28-32. A court may not stay the decision pending an appeal. A court shall affirm the decision denying a teaching license or revoking a teaching license unless the court finds that the individual was not convicted of a crime against a child or a sexual offense or that the conviction was overturned on appeal.
4. The board may impose a fee against a licensee as reimbursement for all or part of the costs of administrative actions that result in disciplinary action against the licensee under this section.
5. As used in this section:
 - a. "Conviction" means a finding of guilt, a guilty plea, a plea of no contest, a plea of nolo contendere, a judgment of conviction even though the court suspended execution of sentence in accordance with subsection 3 of section 12.1-32-02, or a deferred imposition of sentence in accordance with subsection 4 of section 12.1-32-02 or an equivalent statute. The term does not include a finding of guilt overturned on appeal.
 - b. "Crime against a child" means violation of section 12.1-16-01, 12.1-16-02, 12.1-16-03, 12.1-16-04, 12.1-17-01.1, 12.1-17-02, 12.1-17-03, 12.1-17-04, 12.1-17-05, 12.1-17-06, 12.1-17-07, 12.1-17-07.1, 12.1-17-10, 12.1-18-01, 12.1-18-02, 12.1-18-03, 12.1-29-01, 12.1-29-02, or 12.1-29-03, or an equivalent

ordinance, in which the victim is a minor or is otherwise of the age required for the act to be a crime or an attempt to commit these offenses.

- c. "Sexual offense" means a violation of section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-06, 12.1-20-07, 12.1-20-11, or 12.1-20-12.2, or chapter 12.1-27.2, or an equivalent ordinance.

15.1-13-27. Suspension or revocation of teaching license - Notice.

1. If an individual's teaching license is suspended or revoked, the board shall notify the individual, the business manager of the school district employing the individual, each county superintendent of schools in the state, and the superintendent of public instruction.
2. Upon being notified that one's teaching license has been suspended or revoked, the individual shall return the license to the education standards and practices board. If the individual fails to return the license within the time period set by the board, the board may publish notice of the suspension or revocation in the official newspaper of the county in which the individual was employed.

15.1-13-28. Teaching license - Effect of revocation.

The revocation of an individual's teaching license results in the immediate termination of the individual's employment by a school district. The school district shall, however, compensate the individual for services rendered only until such time as the notice of revocation is received by the district.

15.1-13-29. Teaching license of administrator - Determinations by subcommittee.

1. Notwithstanding the provisions of any other law, when a complaint regarding an administrator is filed with the board, all actions and determinations provided for in this chapter must be made by a subcommittee of the board.
2. The subcommittee must consist of the two board members who are administrators, the two board members who are school board members, and two board members who are teachers and who have been appointed to the subcommittee by the board.
3. The subcommittee shall convene at a regular or special meeting of the board.
4. The subcommittee shall select its own chairman and vice chairman and the executive director of the board, or the director's designee, shall serve as its secretary.
5.
 - a. A majority of the subcommittee constitutes a quorum for purposes of this section.
 - b. Except as otherwise provided in this section, a majority of the quorum has the authority to act on any matter properly before the subcommittee.
 - c. At least three members of the subcommittee must consent to the revocation of an administrator's teaching license.
6. Any action or determination by the subcommittee regarding the teaching license of an administrator:
 - a. Must be taken or made by the same process and on the same grounds as provided in sections 15.1-13-24, 15.1-13-25, and 15.1-13-26;
 - b. Has the same force and effect as an action or determination by the education standards and practices board;
 - c. May not be modified by the board; and
 - d. May be appealed under this chapter in the same manner as actions or determinations by the board.

15.1-13-30. Venue for legal actions.

Burleigh County, North Dakota, is the venue for all actions to which the education standards and practices board is a party.

15.1-13-31. Conviction of individual holding teaching license - Written notification.

A state's attorney shall provide written notification to the board when an individual holding a teaching license is convicted of a felony or a class A misdemeanor.

15.1-13-32. Educational standards and practices board - Unified credential system.

Repealed by S.L. 2009, ch. 65, § 8.

15.1-13-33. National board certification fund - Creation - Continuing appropriation.

Repealed by S.L. 2011, ch. 39, § 23.

15.1-13-34. Approval of theological studies instructors.

The board shall approve an individual to be an instructor of theological studies upon receipt of the application and fees required under section 15.1-13-11 and pending completion of the background check required by section 15.1-13-14, if the individual:

1. Holds a baccalaureate degree; and
2. Is recommended for approval as an instructor of theological studies by the governing board of a nonpublic school offering a theological studies course.