

91-22-1a. Denial, suspension, or revocation of license; public censure; grounds; report.

(a) Any application for a license issued by the state board may be suspended or revoked, or the license holder may be publicly censured by the state board denied for misconduct or other just cause, including any of the following reasons:

(1) Conviction of any crime punishable as a felony; Pleading guilty, nolo contendere, or no contest to or having been otherwise found guilty of any of the following, regardless of whether sentence is imposed, or upon proof of such conduct provided during a hearing of the professional practices commission:

(A) Any crime punishable as a felony;

(B) any crime involving a child under the age of 18, other than the accused, as an element or instrumentality of the crime;

(C) any crime involving a theft;

(D) any crime involving drug-related conduct;

(E) any crime defined in K.S.A. 21-3601 et seq. and amendments thereto, before repeal of those statutes, or K.S.A. 21-5601 et seq. and amendments thereto; or

(F) any attempt, as defined by K.S.A. 21-3301 and amendments thereto, before its repeal, or K.S.A. 21-5301, and amendments thereto, to commit any crime specified in this subsection;

(2) conviction of any crime involving a minor; commission or omission of any act that injures the health or welfare of a minor through physical or sexual abuse or exploitation;

(3) conviction of any misdemeanor involving theft; engaging in any sexual activity with a student;

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~~(4) conviction of any misdemeanor involving drug-related conduct; engaging in any behavior that can reasonably be construed as involving an inappropriate and overly personal and intimate relationship with, conducts toward, or focus on a student;~~

~~(5) conviction of any act defined in any section of article 36 of chapter 21 of the Kansas statutes annotated; engaging in bullying, as defined in K.S.A. 72-6147 and amendments thereto;~~

~~(6) conviction of an attempt under K.S.A. 21-3301, and amendments thereto, to commit any act specified in this subsection; engaging in conduct that results in substantiated findings of abuse by the Kansas department for children and families;~~

~~(7) commission or omission of any act that injures the health or welfare of a minor through physical or sexual abuse or exploitation; failing to report abuse or neglect of any child pursuant to K.S.A. 38-2223(a) through (d), and amendments thereto;~~

~~(8) engaging in any sexual activity with a student; engaging in academic dishonesty;~~

~~(9) breach of an employment contract with an education agency by abandonment of the position;~~

~~(10) conduct resulting in a finding of contempt of court in a child support proceeding; failing to notify the commissioner of education as required in K.A.R. 91-22-1b(f) while previously licensed;~~

~~(11) entry into a criminal diversion agreement after being charged with any offense or act described in this subsection K.S.A. 72-2165(b) and amendments thereto;~~

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(12) obtaining, or attempting to obtain, a license by fraudulent means or through misrepresentation of material facts; or

(13) denial, revocation, cancellation, or suspension of a any professional license in ~~another~~ any state on grounds similar to any of the grounds described in this subsection; or

~~(b) (14) A license may be denied by the state board to any person who fails failure to meet the licensure requirements of the state board or for any act for which a license may be suspended or revoked pursuant to subsection (a) K.A.R. 91-1-200 through K.A.R. 91-1-220.~~

(b) Any individual with a criminal or civil record described in this regulation may submit a petition to the board for an informal, written advisory opinion concerning whether the individual's civil or criminal record may disqualify the individual from licensure. Each petition shall include the following:

(1) The details of the individual's civil or criminal record, including a copy of court records or the settlement agreement;

(2) an explanation of the circumstances that resulted in the civil or criminal record; and

(3) a check or money order in the amount of \$50.00.

(c) A certified copy of a journal entry of conviction or other court document indicating that an applicant or license holder individual has been adjudged guilty of, or has entered a plea of guilty or nolo contendere to, pled guilty, nolo contendere, or no contest or has been otherwise found guilty, regardless of whether sentence is imposed,

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of a crime shall be conclusive evidence of the commission of that crime in any proceeding instituted against the applicant or license holder individual to deny, suspend, or revoke a license.

(d) In any proceeding instituted against an ~~applicant or license holder individual~~ to deny, suspend, or revoke a license for conduct described in subsection (a) of this regulation, the fact that the ~~applicant or license holder individual~~ has appealed a conviction shall not ~~operate to bar or otherwise stay the prevent any proceeding~~ concerning denial, suspension, or revocation of the license.

~~(e) (1) Suspension or revocation of a license shall suspend or revoke all endorsements on the license.~~

~~(2) Suspension of a license shall be for a definite period of time. A suspended license shall be automatically reinstated at the end of the suspension period if the license did not expire during the period of suspension. If the license expired during the period of suspension, the individual may make an application for a new license at the end of the suspension period.~~

~~(3) Revocation of a license shall be permanent, except as provided in subsection (g) of this regulation.~~

(f) ~~(e) Any applicant for licensure~~ An individual whose professional license has been denied, suspended, canceled, revoked, or surrendered in another any state on grounds similar to any of the grounds described in subsection (a) shall not be eligible for licensure in Kansas by the state board until the applicant individual is eligible for licensure ~~in the state in which~~ where the denial, suspension, cancellation, revocation, or

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surrender occurred.

~~(g)~~ (f) (1) Except as provided in K.S.A. ~~72-1397~~ 72-2165 and amendments thereto, any person who has engaged in conduct ~~been denied a license or who has had a license revoked for conduct~~ described in subsection (a) of this regulation may apply for a license by completing an application for a license and submitting evidence of rehabilitation to the Kansas professional practices commission. The evidence shall demonstrate that the ~~grounds for denial or revocation have~~ conduct has ceased to be a factor in the fitness of the person seeking licensure. Factors relevant to a determination as to rehabilitation shall include the following:

(A) The nature and seriousness of the ~~conduct that resulted in the denial or revocation of a license;~~

(B) the extent to which a license may offer an opportunity to engage in conduct of a similar type ~~that resulted in the denial or revocation;~~

(C) the present fitness of the person to be a member of the profession;

(D) the actions of the person after the denial or revocation;

(E) the time elapsed since the denial or revocation;

(F) the age and maturity of the person at the time of the ~~conduct resulting in the denial or revocation;~~

(G) the number of incidents of improper conduct; and

(H) discharge from probation, pardon, or expungement.

(2) A person who has ~~been denied a license or who has had a license revoked for~~ engaged in conduct described in subsection (a) ~~of this regulation~~ shall not be eligible

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to apply for a license until one of the following conditions is met:

(A) If convicted of a felony, at least five years have elapsed from the date of conviction;

(B) if convicted of a misdemeanor, one year has elapsed since the date of conviction or the person has completed probation, whichever is later;

(C) of the offense or commission of the act or acts resulting in the denial or revocation of, in the case of a person who has entered into a criminal diversion agreement for any crime described in K.S.A. 72-2165(b) and amendments thereto, until the person has satisfied the terms and conditions of the agreement; or

(D) at least one year has elapsed since the date of the offense or commission of the act or acts for which there was no conviction or diversion.

~~(h) (g) Before any license is denied, suspended, or revoked by the state board for any act described in subsection (a) of this regulation, the person shall be given notice and an opportunity for a hearing to be conducted before the professional practices commission in accordance with the provisions of the Kansas administrative procedure act this article of the department's regulations.~~

~~(i) The chief administrative officer of a public or private school accredited by the state board shall promptly notify the commissioner of education of the name, address, and license number of any license holder who is dismissed, resigns, or is otherwise separated from employment with a school for any act described in subsection (a) of this regulation. (Authorized by article 6, section 2 of the Kansas Constitution and K.S.A. 74-120; implementing article 6, section 2 of the Kansas Constitution and K.S.A. 72-8506~~

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72-2155, 72-2165, 72-2313, and 74-120; effective May 19, 2000; amended P-

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91-22-1b. Suspension or revocation of license; public censure; grounds; report.

(a) Any license issued by the state board may be suspended or revoked, or the licensee may be publicly censured by the state board, for misconduct or other just cause, including any of the following reasons:

(1) Pleading guilty, nolo contendere, or no contest to or having been otherwise found guilty of any of the following, regardless of whether sentence is imposed:

(A) Any crime punishable as a felony;

(B) any crime involving a child under the age of 18, other than the accused, as an element or instrumentality of the crime;

(C) any crime involving a theft;

(D) any crime involving drug-related conduct;

(E) any crime defined in K.S.A. 21-3601 et seq. and amendments thereto, before repeal of those statutes, or K.S.A. 21-5601 et seq. and amendments thereto; or

(F) any attempt, as defined by K.S.A. 21-3301 and amendments thereto, before its repeal, or K.S.A. 21-5301, and amendments thereto, to commit any crime specified in this subsection;

(2) commission or omission of any act that injures the health or welfare of a minor through physical or sexual abuse or exploitation;

(3) engaging in any sexual activity with a student;

(4) engaging in any behavior that can reasonably be construed as involving an inappropriate and overly personal and intimate relationship with, conducts toward, or focus on a student;

(5) engaging in bullying, as defined in K.S.A. 72-6147 and amendments thereto;

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(6) engaging in conduct that results in substantiated findings of abuse by the Kansas department for children and families;

(7) failing to report abuse or neglect of any child pursuant to K.S.A. 38-2223(a) through (d), and amendments thereto, for a period not to exceed five years from the failure to report;

(8) engaging in academic dishonesty;

(9) breach of an employment contract with an education agency by abandonment of the position;

(10) failing to notify the commissioner of education as required in subsection (f);

(11) entry into a criminal diversion agreement after being charged with any offense or act described in this subsection;

(12) obtaining, or attempting to obtain, a license by fraudulent means or through misrepresentation of material facts; or

(13) denial, revocation, cancellation, or suspension of any professional license in any state on grounds similar to any of the grounds described in this subsection.

(b) A certified copy of a journal entry of conviction or other court document indicating that an individual has pled guilty, nolo contendere, or no contest or has been otherwise found guilty, regardless of whether sentence is imposed, of a crime shall be conclusive evidence of the commission of that crime in any proceeding instituted against the individual to publicly censure, suspend, or revoke a license.

(c) In any proceeding instituted against an individual to publicly censure, suspend, or revoke a license for conduct described in subsection (a), the fact that the

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individual has appealed a conviction shall not prevent any proceeding concerning public censure, suspension, or revocation of the license.

(d)(1) Suspension or revocation of a license shall suspend or revoke all endorsements on the license.

(2) Suspension of a license shall be for a definite period of time. A suspended license shall be automatically reinstated at the end of the suspension period if the license did not expire during the period of suspension. If the license expired during the period of suspension, the individual may submit an application for a new license, which may be issued only after the suspension period.

(3) Revocation of a license shall be permanent, except as provided in K.A.R. 91-22-1a.

(e) Before any license is suspended or revoked by the state board for any act described in subsection (a), the person shall be given notice and an opportunity for a hearing to be conducted before the professional practices commission in accordance with this article of the department's regulations.

(f) The chief administrative officer of a public or private school accredited by the state board shall notify the commissioner of education within 30 days of the name, address, and license number of any licensee who resigns or is dismissed, suspended, placed on administrative leave, or otherwise separated from employment with a school for any act described in subsection (a). (Authorized by article 6, section 2 of the Kansas Constitution and K.S.A. 74-120; implementing article 6, section 2 of the Kansas Constitution and K.S.A. 72-2155, 72-2165, 72-2313, and 74-120; effective P-

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91-22-2. Commission procedure. (a) A majority of the full membership of the commission shall constitute a quorum for the purpose of conducting business. A majority vote of the full membership of the commission shall be required for the passage of any motion or resolution.

(b) ~~Secretary. Upon receiving a complaint, the chairperson shall be notified by the commission's secretary. The chairperson shall determine and give authorization for the secretary to initiate processing procedures. An~~ The commission's secretary shall keep an accurate file of all votes, official acts, and proceedings of the commission shall be kept by the secretary. (Authorized by article 6, section 2 of the Kansas Constitution; implementing article 6, section 2 of the Kansas Constitution and K.S.A. ~~72-8507~~ 72-2314; effective Jan. 1, 1972; amended Feb. 15, 1977; amended May 1, 1979; amended May 19, 2000; amended P-_____.)

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91-22-5a. Complaints. (a) The commission, on its own motion, or a member of the teaching or school administration profession may initiate proceedings before the commission by filing a written complaint ~~in writing~~ alleging that a license holder or applicant has engaged in any conduct for which a license issued by the state board may be denied, suspended, or revoked under K.A.R. 91-22-1a or 91-22-1b ~~and amendments thereto~~. The complaint shall be filed with the commission's secretary.

(b) Each person filing a complaint shall ~~set forth~~ provide in the complaint the following information:

- (1) The name and address of the complainant;
- (2) the name ~~and last known address~~ of the license holder or applicant charged;
- (3) the act or acts for which the license is sought to be denied, suspended, or revoked; and
- (4) the relief sought.

The complaint shall be typed, signed, and either sworn to ~~verified~~ by the complainant or accompanied by an affidavit attesting to the veracity of the contents of the complaint. Written instruments or documents under the control of or known to a complainant that are relevant to the charges shall be ~~attached as exhibits or, if unavailable~~ referenced in the complaint and made available to the license holder or applicant upon request.

(c) A complaint that does not state a good faith or prima facie case shall be tabled by the commission. The complainant shall be notified in writing of the action. ~~The complainant~~ and shall be permitted to withdraw or amend the complaint. If the complainant decides to file an amended complaint, that complaint shall be filed within

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10 days after service of the notice of action by the commission.

(d) A Each complaint or amended complaint that states a good faith cause of action shall be served on the person charged in the complaint by certified mail, return receipt requested.

(e) ~~Surrender of license.~~ A member of the teaching or school administration profession may voluntarily surrender the member's license to the commission. The action of surrender shall may be investigated by the commission. ~~A recommendation shall be made by the commission to the state board for disposition of the license or, at the discretion of the complainant, may be taken directly to the state board for disposition.~~

(f) ~~Complainant motivated by malice.~~ A Any complainant who is found by the commission to have been maliciously motivated in filing a complaint or to have acted fraudulently may be disciplined by the state board by public censure or by the suspension, cancellation, or revocation of the complainant's license. (Authorized by article 6, section 2 of the Kansas Constitution; implementing article 6, section 2 of the Kansas Constitution and K.S.A. ~~72-8507~~ 72-2314; effective May 1, 1979; amended May 19, 2000; amended P-_____.)

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91-22-9. Answer; time to file; form; content; right to amend. (a) ~~Any~~ Each person charged in a complaint shall have ~~20~~ 15 days after receipt of the complaint in which to file an answer. Each answer to a complaint shall be submitted to the commission's secretary by certified mail, return receipt requested, or by personal delivery.

If no answer is filed within the prescribed period, the person shall be deemed to have admitted the allegations contained in the complaint and to have acquiesced in the proposed action. and the complaint shall proceed directly to the state board for default findings. ~~Any answer to a complaint shall be filed with the commission's secretary by certified mail, return receipt requested, or by personal delivery.~~

(b) Each person filing an answer shall type, sign, and ~~verify~~ swear to the contents of the answer. The caption of any answer shall repeat the caption of the complaint in response to which it the answer is filed, except that the title shall state "answer" instead of "complaint."

(c) Each person filing an answer shall ~~set forth~~ specify each responsive allegation or defense in clear and concise language and in separately numbered paragraphs. The person filing the answer shall admit or deny each allegation contained in the complaint. If the person is without knowledge or information sufficient to form a belief as to the truth of an allegation, the person shall state this in the answer, and this shall have the effect of a denial. Each person filing an answer shall attach to the answer as exhibits or, if unavailable, shall reference in the answer any written instruments or documents under the control of, or known to, the person filing the answer that are relevant to the charges in the complaint or that the person intends to use in

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defending the charges.

(d) Any person filing an answer may amend the answer once ~~as a matter of course~~ at any time within 30 days after service of the complaint. Each amended answer shall be filed with the commission's secretary by ~~restricted~~ certified mail, return receipt requested, or by personal delivery.

(e) Upon application to, and order of, the commission's secretary, the time in which to file an answer may be extended once ~~as a matter of course~~ for a period not to exceed 10 additional days. (Authorized by article 6, section 2 of the Kansas Constitution; implementing article 6, section 2 of the Kansas Constitution and K.S.A. ~~72-8507~~ 72-2314; effective Jan. 1, 1972; amended Feb. 15, 1977; amended May 1, 1979; amended May 19, 2000; amended P-_____.)

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91-22-22. Hearing procedure. (a) Except as otherwise provided for in this article of the department's regulations, All hearings each hearing before the commission shall be conducted in accordance with ~~the provisions of~~ the Kansas administrative procedure act. The chairperson to the commission, or another member designated by the chairperson, shall serve as the presiding officer.

(b) ~~Continuance; extensions of time and adjournments.~~

(1) Upon showing good cause in a timely manner, ~~any person having a substantial interest in the outcome of the proceedings~~ each party to a complaint shall be entitled to one continuance or extension of time. Additional continuances may be granted by the chairperson. When the commission is not in session or conducting a prehearing or hearing, the ~~interested person~~ requesting party shall send a written motion for a continuance or extension of time to the commission's ~~chairperson or~~ secretary. When sending the motion, the ~~interested~~ requesting party shall allow sufficient time to postpone any hearing that has been set.

(2) While the commission is in session and conducting a prehearing or hearing, the presiding officer may entertain oral motions for continuances, extensions of time, and adjournments. Oral motions may be granted or denied by the presiding officer or the commission. (Authorized by article 6, section 2 of the Kansas Constitution; implementing article 6, section 2 of the Kansas Constitution and K.S.A. ~~72-8506~~ 72-2313 and ~~72-8507~~ 72-2314; effective Jan. 1, 1972; amended Feb. 15, 1977; amended May 1, 1979; amended May 1, 1982; amended May 1, 1985; amended May 19, 2000; amended P-
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91-22-25. Decision of the commission; review by state board. (a) Following a hearing, an initial order shall be entered by the commission, in accordance with the provisions of the Kansas administrative procedure act, ~~setting forth its~~ specifying the commission's decision and recommended action. ~~The evidence may be deliberated upon by the commission and its decision may be voted upon by the commission in the presence of all parties, or it may recess into executive session to deliberate and then vote upon the matter in open session.~~ The decision in each case shall include a recommended disposition of the case, which may be any of the following:

(1) Imposition of no discipline;

(2) dismissal of the complaint, if the complaint is based upon an allegation of breach of contract;

(2) (3) denial, suspension, or revocation of the respondent's license; or

(3) (4) public censure of the respondent.

(b) The initial order of the commission shall be delivered by the commission's secretary to the commissioner of education, to be placed on the state board's agenda. A final order, ~~in accordance with~~ pursuant to K.S.A. 77-527 and amendments thereto, shall be made by the state board. (Authorized by article 6, section 2 of the Kansas Constitution; implementing article 6, section 2 of the Kansas Constitution and K.S.A. ~~72-8507~~ 72-2314; effective Jan. 1, 1972; amended Feb. 15, 1977; amended May 1, 1979; amended May 19, 2000; amended P-_____.)

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