

Readopt with amendment Ed 501.01, effective 3-27-14 (Doc #10558), to read as follows:

Ed 501.01 Purpose. The rules of this part implement the statutory responsibilities of the New Hampshire board of education to:

- (a) Develop and administer credential standards for educational personnel;
- (b) ~~Provide oversight and discipline of credential holders;~~ ***Develop continuing professional education requirements and prerequisites for the renewal or reinstatement of credential holders;***
- (c) Develop ***and administer a code of ethicals for all credential holders and to inform members of the public of the ethical and professional standards conduct to be followed by applicable to*** credential holders;
- (d) ~~Develop continuing professional education requirements and prerequisites for the renewal or reinstatement of credential holders~~ ***Define unethical conduct which justifies disciplinary sanction against an educators credential;*** and
- (e) Provide ***oversight of*** adjudicatory proceedings required for ~~the oversight and~~ discipline of credential holders while providing such with fair hearing practices and rights of appeal.

Readopt with amendment Ed 501.02, effective 3-27-14 (Doc #10558), to read as follows:

Ed 501.02 Definitions. Except where the context makes another meaning manifest, the following words have the meanings indicated when used in this chapter:

- (a) "Administrator" means the administrator of the bureau of credentialing.
- (b) "Board" means the state board of education created by RSA 21-N:10.
- (c) "Bureau" means the bureau of credentialing, division of program support, department of education.
- (d) "Certificate" means the actual form of approval when a credential is granted.
- (e) "Commissioner" means the commissioner, department of education.
- (f) "Credential" means the approved certification of an educator.
- (g) ***“Denial” is the refusal to grant an initial certification to an applicant for a credential.***
- (~~g~~h) "Department" means the New Hampshire department of education.
- (~~h~~i) "Director" means the director, division of program support.
- (~~i~~j) "Division" means the division of program support.

~~(jk)~~ “Educator” means any ~~professional employee~~ **individual** of any school district whose position ~~requires~~ **holds** certification **issued** by the state board pursuant to RSA 189:39. Administrators, specialists, and teachers are included within the definition of this term.

~~(kl)~~ "Endorsement" means the specific subject area for which the credential is issued.

~~(lm)~~ "Intern license" means the authorization granted to applicants pursuant to Ed 505.03(e), Ed 505.04 and Ed 505.05 to perform educational services while the plans are being implemented.

~~(mn)~~ "Mentor" means a person who:

(1) Is appointed to provide assistance to an applicant for certification pursuant to Ed 505.04 or Ed 505.05; and

(2) Meets at least one of the following qualifications:

a. Is a certified educator with 3 years of experience as an educator in the area of endorsement; or

b. Has experience equivalent to the experience requirement under a. above such as, but not limited to, involvement in a collegiate teacher preparation program.

~~(no)~~ “Permission to employ” means the authorization issued by the bureau to a school district or school administrative unit to employ a non-credentialed educator to fill a temporary vacancy.

***(p) “Professional Conduct” means a set of established professional norms and behaviors which extend beyond the workplace.***

***(q) “Reprimand” is a formal admonishment of a credentialed educator, as defined in Ed 501.02(k), for his or her conduct but is not a suspension or revocation of a teaching credential.***

***(r) “Revocation” means the department has permanently taken a teaching credential away from an educator.***

~~(os)~~ “Statement of eligibility” means a certificate issued by the department of education that indicates that an individual has successfully met the entry requirements of:

(1) Alternative 4 certification; ***or***

(2) Alternative 5 certification; ~~or~~

~~(3) Highly qualified teacher.~~

***(t) “Suspension” means the department has taken a teaching credential away from an educator for a specified period of time.***

***(u) “Student” means an individual who is enrolled or participating in any class or program from preschool through grade-12 at any school or education institution and includes individuals through nine months after graduation.***

Readopt with amendment Ed 502.01, effective 3-27-14 (Doc. #10558), to read as follows:

PART Ed 502 PUBLIC INFORMATION

Ed 502.01 Confidentiality of Educator Certification Records.

(a) Pursuant to RSA 91-A:5, V the following limited credential status information shall be available to the general public, upon written or verbal request:

- (1) The name of the educator;
- (2) The individual's current credential status, including type of credential, expiration date of credential, and all endorsements;
- (3) The individual's suspension, if applicable, including effective dates of each suspension period, reason for the suspension, *and revocation, if applicable*; and
- (4) The school, if known or stated, where the educator is currently employed.

(b) The provisions of this section shall not require the release of information related to:

- (1) Informal or formal investigations; or
- (2) Board or hearing officer records from adjudicatory proceedings involving the educator when such adjudicatory proceeding is not open to the public in accordance with Ed 200.

(c) The complete record of a credential holder shall be released by the division upon written request to the following:

- (1) A party in an adjudicatory proceeding when:
  - a. The credential holder is a party to the proceeding; and
  - b. The credential holder's certification record is relevant to the proceeding;
- (2) A law enforcement agency when the agency is conducting a criminal investigation of the credential holder;
- (3) A certifying agency of another jurisdiction for:
  - a. Purposes of certification of the credential holder in the other jurisdiction; or
  - b. An investigation of the credential holder by the other jurisdiction, when:
    1. The credential holder was the subject of a formal investigation under Ed 510;  
or

2. Disciplinary action was taken against the credential holder by the state board of education under Ed 510.03;

(4) Board investigators or prosecutors; or

(5) Persons to whom the credential holder has given a release.

(d) As standard operating procedure, the bureau shall report to all of the following entities any discipline ordered against a credential holder:

(1) Each superintendent of school in N.H.;

(2) Each state department of education;

(3) Each department of education for the territories of the United States; and

(4) The National Association of State Directors of Teacher Education and Certification Educator Identification Clearing House.

Readopt with amendment Ed 510.01, effective 2-23-12 (Doc. #10089), to read as follows:

PART Ed 510 ~~PROCEEDINGS~~ ***PRINCIPLES OF PROFESSIONAL CONDUCT***

Adopt Ed 510.01, and renumber the existing Ed 510.01 as Ed 510.05, so that Ed 510.01 reads as follows:

***Ed 510.01*** ***Principle 1—Responsibility to the Education Profession and Educational Professionals***

***(a) In fulfilling this principle of the code of conduct, the following provisions apply to a credential holder:***

***(1) An educator shall not discriminate on the basis of sex, race, age, creed, color, marital status, national origin, or disability against a fellow professional;***

***(2) An educator shall self-report, within 2 business days, if he or she has been arrested for any violation of offenses enumerated in RSA 189:13-a, V;***

***(3) An educator shall not falsify his or her professional qualifications;***

***(4) An educator shall not be in possession of alcohol or controlled drugs, or under the influence of alcohol or controlled drugs, in the presence of students while students are in their care either on or off school grounds; and***

***(5) An educator has a duty to report as outlined in Ed 510.05.***

Adopt Ed 510.02, and renumber the existing Ed 510.02 as Ed 510.09, so that Ed 510.02 reads as follows:

***Ed 510.02 Principle 2—Responsibility to Students***

***(a) In fulfilling this principle of the code of conduct, the following provisions apply to a credential holder:***

- (1) An educator shall not discriminate on the basis of sex, race, age, creed, color, marital status, national origin, or disability against a student;***
- (2) An educator shall not engage in a dereliction of duty which shall constitute an abandonment of students in his or her care, either on or off school grounds;***
- (3) An educator shall not provide alcohol or controlled drugs to students, facilitate the use of alcohol or controlled drugs for students, or knowingly allow students to use alcohol or controlled drugs while the educator is on or off duty;***
- (4) An educator shall not solicit a student, as defined in Ed 501.02(u), to engage in a sexual relationship, sexual activity or both; and***
- (5) An educator shall not engage in a sexual relationship, sexual activity or both with a student as defined in Ed 502.01(u).***

Adopt Ed 510.03, and renumber the existing Ed 510.03 as Ed 510.07, so that Ed 510.03 reads as follows:

***Ed 510.03 Principle 3—Responsibility to the School Community***

***(a) In fulfilling this principle of the code of conduct, the following provisions apply to a credential holder:***

- (1) An educator shall not make an unjust or prejudicial distinction on the basis of sex, race, age, creed, color, marital status, national origin, or disability against a parent or guardian of a student or other member of the community who is on the school property;***
- (2) An educator shall not accept gratuities, gifts or favors that might impair or appear to impair professional judgment;***
- (3) An educator shall not misuse funds intended for use in or by the school, to include funds which are collected from parents and students; and***
- (4) An educator shall not intentionally alter or misrepresent student assessment results or official school records.***

Adopt Ed 510.04, and renumber the existing Ed 510.04 as Ed 510.08, so that Ed 510.04 reads as follows:

***Ed 510.04 Principle 4—Responsible and Ethical Use of Technology***

***(a) In fulfilling this principle of the code of conduct, the following provisions apply to a credential holder:***

***(1) An educator shall not solicit a student, as defined in Ed 501(t), to engage in any illegal activity via electronic media;***

***(2) An educator shall not engage in harassment, stalking, or bullying via electronic media; and***

***(3) An educator shall not engage in inappropriate communication via electronic media. For the purposes of this section, inappropriate communication, considering the intent, timing, subject matter, and amount of communication, is defined to include, but not be limited to:***

***a. Whether the communication made was covert in nature;***

***b. Whether the communication could reasonably be interpreted as solicitous, sexually explicit or romantic in nature; and***

***c. Whether the communication involved discussion(s) of the physical or sexual attractiveness or the sexual activities or fantasies of either the educator or the student.***

Readopt with amendment and renumber Ed 510.01 as Ed 510.05, effective 2-23-12 (Doc #10089) to read as follows:

Ed 510.045 Duty to Report.

***(a) Each principal has a duty to report to the superintendent of the school district or SAU where the principal is employed, if the principal has been notified of, or is personally aware that an educator has violated any of the rules of professional conduct as enumerated in Ed 510.01-.04, which occurred on or off duty.***

***(ab) The superintendent, chief executive officer of a chartered public school or public academy, or headmaster of a nonpublic school, shall report all charges of misconduct against a credential holder within the school district or school administrative unit to the director or designee any of the following to the office of credentialing:-***

***(1) Any confirmed violation of the principles of professional conduct as enumerated in Ed 510.01-.04 by an educator, as defined in Ed 501.02(k), which occurred on or off duty;***

***(2) When a superintendent has knowledge that an educator, as defined by Ed 501.02(k) has been arrested and charged with an offense enumerated in RSA 189:13-a, V; and***

***(3) Misconduct or unprofessional conduct by an educator, as defined by Ed 501.02(k), which occurred on or off duty where the nature or circumstances of the educator's conduct would:***

***a. Potentially place a student(s), as defined in Ed 501.02(t), in physical or emotional jeopardy;***

*b. So detract from the educator’s professional standing as to render the educator unfit for continued certification; or*

*c. Create an inability for the educator to carry out his or her assigned duties.*

(bc) Educators having reason to suspect that another educator has abused or neglected a student shall report the same to:

(1) The department of health and human services, pursuant to RSA 169-C:29; and

(2) The ~~bureau~~ *office of credentialing*.

~~(ed) Failure to report any charges of misconduct or incidence of suspected misconduct shall result in disciplinary actions being taken against the non-reporting educator by the board~~ *The office of credentialing shall undertake an investigation, as enumerated in Ed 510.06, if an educator, principal, superintendent, chief executive officer, or headmaster fails to make a report as required by Ed 510.05(a), (b), or (c).*

~~(de) The bureau~~ *office of credentialing shall conduct undertake an investigation, as enumerated in Ed 510.06, in response to a report made pursuant to Ed 510.05(a), (b), (c), or (d) above whenever it receives a report under (a) or (b) above.*

Adopt Part 511 and renumber the existing Part 511 as 512 to read as follows:

***PART Ed 511 INVESTIGATIONS AND DISCIPLINARY PROCEEDINGS***

Adopt Ed 511.01, and renumber the existing Ed 511.01 as Ed 512.02, so that Ed 511.01 reads as follows:

***Ed 511.01 Investigations.***

*(a) Investigations shall be handled by the department and shall be conducted by the office of credentialing or designee;*

*(b) An investigation shall be undertaken if the office of credentialing or designee deems it necessary to examine acts of possible misconduct by an educator which have come to the attention of the department either through direct reporting or other means;*

*(c) Investigations shall not constitute a disciplinary hearing and shall not constitute an allegation of misconduct against an educator;*

*(d) Educators shall be notified in writing, via certified mail, that an investigation has been opened and the nature of the investigation and the status of the educator’s credential pending the investigation;*

*(e) The department shall interview all people, to include the educator, who might have information which might be relevant to the investigation;*

*(f) Investigations, including those based upon allegations in a complaint, shall be conducted on an ex parte basis;*

*(g) The department shall obtain any and all documentation which might be relevant to the investigation;*

*(h) Once the investigation is complete, the following procedures shall apply:*

*(1) The department shall create a report which documents the results of the investigation;*

*(2) The educator shall be notified in writing of any discipline as set forth below and the specific grounds upon which the discipline is based; or*

*(3) If no disciplinary sanction is imposed, the department shall notify the educator in writing that the investigation is closed;*

*(i) Investigatory reports and all information gathered during the course of the investigations shall be confidential, with the following exceptions:*

*(1) The report shall be made available to the parties in any adjudicatory proceedings resulting therefrom; and*

*(2) If further disciplinary proceedings are to be conducted as a result of the investigation, the department shall provide information gathered in the disciplinary investigation to the following:*

*a. A law enforcement agency when the agency is conducting a criminal investigation of the educator;*

*b. A certifying agency of another jurisdiction for:*

*1. Purposes of certification of the educator in the other jurisdiction; or*

*2. An investigation of the educator by the other jurisdiction when:*

*(i) The educator was the subject of a formal investigation under Ed 510; or*

*(ii) Disciplinary action was taken against the educator by the state board of education pursuant to Ed 510;*

*c. Other state licensing board investigators or prosecutors; and*

*d. Expert witnesses or assistants retained by a prosecutor or investigator in the same related disciplinary matters.*

Readopt with amendment and renumber Ed 510.03 as Ed 511.02, effective 2-23-12 (Doc #10089) to read as follows:

Ed 510.032 Disciplinary Sanctions.

(a) If the ~~board~~ **department** determines that an ~~credential holder~~ **educator, as defined by Ed 501.02(k)**, has committed misconduct, the ~~board~~ **department** shall impose one of the following disciplinary sanctions, as determined to be appropriate by the ~~board~~ **department** under the circumstances of each case:

(1) Suspension; ~~or~~

(2) Revocation; *or*

(3) *Reprimand.*

~~(b) The board shall impose disciplinary sanction pursuant to this chapter against an individual who has committed a violation of RSA 189:14-e in this state or in another state or territory of the United States or a foreign country.~~

*(b) All state disciplinary action shall be documented in writing and set out the terms of the discipline. The educator shall receive a copy of the discipline in writing and a copy shall be placed in the educator's electronic credentialing file at the department once it is signed by all required parties, to include the educator;*

*(c) Any educator whose credential is revoked shall be prohibited from applying or reapplying for any other teaching credential in New Hampshire; and*

*(d) The department shall maintain a list of all educators who have been revoked or who are under suspension and such list shall be published on the department's website.*

Readopt with amendment and renumber Ed 510.02 as Ed 511.03, effective 2-23-12 (Doc #10089) to read as follows:

Ed 510.023 Disciplinary Hearings.

(a) Adjudicatory proceedings/disciplinary hearings shall be commenced pursuant to Ed 200 after the following:

(1) Completion of an informal or formal investigation;

(2) Filing of a written report and recommendation; and

(3) A determination by the director that a disciplinary action before the board is required in accordance with the provisions of Ed 200.

(b) The provisions of Ed 200 shall apply to all disciplinary hearings.

Readopt with amendment and renumber Ed 510.04 as Ed 511.4, effective 2-23-12 (Doc #10089) to read as follows:

~~Ed 510.04 Status of a Credential Pending Completion of Disciplinary Proceeding. A credential shall be suspended prior to a hearing if the board makes a determination that there is imminent peril to the public health, safety or welfare and commences its hearing within 10 days, in accordance with RSA 541-A:30, III, or the holder voluntarily agrees to such a suspension.~~

*(a) When the department receives information indicating that an educator has been arrested for one of the offenses enumerated in RSA 189:13-a, V, the credential holder's teaching credential and any and all endorsements shall be immediately suspended pending an investigation by the department.*

*(b) The department shall notify the educator and the employing school district that the educator's credential has been suspended pending an investigation by the department.*

*(c) The educator shall have a right to request an adjudicative proceeding to commence not later than 15 working days after the suspension of the credential. Such hearings shall be governed by the process set forth in Ed 200. A request for an adjudicative proceeding must be made in writing.*

~~Ed 510.05 Voluntary Surrender of a Credential.~~

~~—— (a) If a certified educator offers to surrender his/her credential voluntarily, the bureau shall automatically revoke the credential.~~

~~—— (b) A statement indicating the educator's request to surrender his/her credential voluntarily and the reason surrounding the circumstances of the request shall be made a part of the educator's certification record with the bureau.~~

~~—— (c) The rules of confidentiality of Ed 502 shall apply to the maintenance and release of information concerning voluntary surrender of a teaching credential.~~

Readopt with amendment and renumber Ed 511.03 as Ed 511.05, effective 2-23-12 (Doc #10089) to read as follows:

Ed 511.035 Grounds for Reinstatement *After Suspension.*

(a) A certificate or endorsement ~~that~~ *which* has been suspended ~~or revoked~~ shall be reinstated for one of the following reasons:

(1) The period of the suspension has passed and any and all *terms and* conditions ~~that have been placed on~~ *regarding possible* reinstatement have been satisfied; ~~or and~~

(2) An educator whose ~~certification~~ *credential* has been revoked demonstrates by clear and convincing evidence that he ~~or~~ she has corrected the deficiencies or conduct ~~that~~ *which* led to the original ~~revocation~~ *suspension*.

(b) ~~A certificate or endorsement, including one that is limited in time, level or scope shall be issued by the board subject to terms it deems necessary for ensuring compliance with certification requirements and professional standards if the certificate has been suspended or revoked. Upon~~

*reinstatement, the department may issue a certificate or endorsement which is limited in time, level, or scope or subject to other terms as the department deems necessary.*

Readopt and renumber Part 511 as Part 512 to read as follows:

~~PART Ed 5142 DENIAL, OF CERTIFICATION SUSPENSION, OR REVOCATION FOR CERTIFIED PERSONNEL~~

Readopt with amendment and renumber Ed 508.07 as Ed 512.01, effective 6-15-13 (Doc. #10362) to read as follows:

~~Ed 508.07~~**511.01** Denial of Initial Application.

(a) An application for a New Hampshire credential shall be denied if the applicant has *been charged pending disposition for or convicted of any violation or attempted violation of any of the crimes enumerated in RSA 189:13-a, or has been convicted of any felony in* a criminal record in this state or any other state, territory or country consisting of:

~~(1) Any felony including but not limited to:~~

~~a. Homicide;~~

~~b. Child pornography;~~

~~c. Aggravated felonious sexual assault;~~

~~d. Felonious sexual assault; or~~

~~e. Kidnapping;~~

~~(2) Manufacturing, selling, administering, dispensing or distributing a controlled substance(s) on school property in violation of any law; or~~

~~(3) Child abuse.~~

(b) An application for a New Hampshire credential shall be denied if there is documentary evidence in the form of a statement bearing the signature of the superintendent, in the case of a public school, or of the chief administrative officer, in the case of a nonpublic school, and after an investigation by the bureau establishes that the applicant has engaged in the following:

(1) Sexual misconduct within the educational setting;

(2) Noncompliance with the professional development requirement of Ed 512; or

(3) Any act or combination of acts which when considered together would be contrary to ~~ethical standards~~ *the principles* of professional conduct as outlined in Ed 5140, including but not limited to:

a. The applicant or someone acting on behalf of the applicant has submitted false information to the bureau in connection with the application; or

b. The applicant has been disciplined by another licensing body, provided that the ethical requirements of the licensing body are equivalent with the ~~ethical requirements~~ ***principles of professional conduct*** as outlined in Ed 510.

(c) An applicant aggrieved by the decision of the bureau to deny an application may file a petition for reconsideration along with supporting documentation to the director within 20 days after receipt of the denial decision. If the petition for reconsideration is denied, the applicant may appeal the director's decision pursuant to RSA 21-N:11, III, and Ed 200.

Readopt with amendment and renumber Ed 511.01 as Ed 512.02, effective 2-23-12 (Doc. #10089), to read as follows:

Ed 512.02 ~~Ed 514.042~~ **Grounds For Denial of *Endorsement, Renewal or Reinstatement* License for Educator Certification.**

(a) A license for educator certification or an endorsement, or renewal or reinstatement shall be denied by the board based on the following grounds:

(1) Failure to meet the conditions for issuance of the certificate or endorsement or renewal or reinstatement;

(2) ~~Conviction of a felony:~~

~~a. That might place students in potential physical or emotional jeopardy; and~~

~~b. When the board determines that either the nature or circumstances of the offense, or the moral turpitude associated with the crime, render the individual unqualified or unfit for licensure based on the educator's:~~

~~1. Inability to perform assigned duties; and~~

~~2. Loss of respect within the community; ***If the applicant has been charged pending disposition for, or convicted of any violation or attempted violation of any of the crimes enumerated in RSA 189:13-a, or has been convicted of any felony in any other state, territory or country;***~~

(3) ***Incompetence;***

~~(34) Misconduct or unprofessional conduct, on or off duty: ***If the applicant is under investigation for, under suspension for, or has been revoked for a violation of the principles of professional conduct enumerated in Ed 510.01 through Ed 510.04***~~

~~a. That might place students in potential physical or emotional jeopardy;~~

~~b. Where the board determines that the nature or circumstances of the conduct so detract from the educator's professional standing as to render him/her unfit or~~

~~unqualified for licensure based on the educator's inability to perform assigned duties;  
and~~

~~e. Where there is a nexus between the off duty misconduct or unprofessional conduct of the educator and the educator's ability to carry out assigned duties; or~~

(45) Falsification or misrepresentation of information provided in connection with an application for licensure for certified personnel or endorsement, renewal or reinstatement.

Ed 511.02 ~~Grounds for Suspension or Revocation of Educator's Certification.~~

~~— (a) A certificate for an educator or an endorsement shall be suspended or revoked based on the following grounds:~~

~~(1) Incompetence;~~

~~(2) Conviction of a felony:~~

~~a. That would potentially place a student or students in physical or emotional jeopardy;~~

~~b. When the board determines that either the nature or circumstances of the crime, or the moral turpitude associated with the crime render the individual unfit for continued certification; and~~

~~c. When the underlying behavior or circumstances of the offense render the educator unfit for continued certification based on the educator's inability to perform assigned duties;~~

~~(3) Misconduct or unprofessional conduct, on or off duty:~~

~~a. That would potentially place a student or students in physical or emotional jeopardy;~~

~~b. Where the nature or circumstances of the conduct so detract from the educator's professional standing as to render the educator unfit for continued certification based on the educator's inability to perform assigned duties; and~~

~~e. Where there is a nexus between the off duty misconduct or unprofessional conduct of the educator and the educator's ability to carry out assigned duties;~~

~~(4) Falsification or misrepresentation of information provided in connection with an application for certification or endorsement or renewal or reinstatement discovered subsequent to issuance of the certificate;~~

~~(5) If the individual is a superintendent, assignment of duties by the superintendent to an individual who does not hold the appropriate certificate or endorsement for the duties assigned, except as otherwise provided in RSA 189:39 b;~~

~~(6) If the individual is a principal, to report to the superintendent any allegations or conduct by an educator for which there is credible evidence of a potential professional conduct violation that might constitute ground for suspension or revocation of an educator's certificate or endorsement; or~~

~~(7) If the individual is a superintendent, failure to report to the director or designee any allegations or conduct by an educator for which there is credible evidence of a professional conduct violation that might constitute grounds for suspension or revocation of an educator's certificate or endorsement.~~

~~— Ed 511.04 Effects of Certificate Surrender.~~

~~— (a) A licensee may surrender the license at any time.~~

~~— (b) Surrender or nonrenewal of a certificate shall not preclude the board from investigating or completing a disciplinary proceeding based upon the licensee's conduct while the certificate was still in effect. Such investigations and proceedings shall be handled in the same manner as other disciplinary investigations and proceedings.~~

~~— (c) An educator who surrenders a certificate shall have no right or privilege in New Hampshire. An educator who reapplies for a certificate in New Hampshire after surrender shall meet all the requirements in effect for new applicants as set forth in statute or rules at that time.~~

~~— (d) An educator who surrenders a license as part of a settlement of pending misconduct allegations shall make a written settlement offer to the board before the close of the record in a disciplinary hearing.~~

~~— (e) Any settlement agreement reached under (d), above, shall include the following concessions:~~

~~(1) That certificate surrender has occurred in settlement of pending disciplinary allegations;~~

~~(2) That the facts or conduct upon which the surrender is based is not contested; and~~

~~(3) That the pending allegations shall be issues to be resolved in any future application the educator submits in New Hampshire.~~

~~— Ed 511.05 Investigations.~~

~~— (a) The department shall conduct such investigations as it deems necessary to examine acts of possible misconduct that come to its attention through complaints or other means.~~

~~— (b) The director or designee shall appoint a member of the department, or other knowledgeable persons to conduct the investigation.~~

~~— (c) The director or designee shall provide the following information to the person conducting the investigation:~~

~~(1) The statutory or regulatory authority for the investigation;~~

~~(2) Any statutes or rules believed to have been, or about to be, violated;~~

~~(3) The identity of the persons, or class of persons, that are subject of the investigation;~~

~~(4) The general nature of the conduct being investigated; and~~

~~(5) The date upon which the investigating officer shall report his or her findings and recommendations to the board.~~

~~— (d) Investigations shall not constitute a disciplinary hearing and shall not constitute an allegation of misconduct against a licensee.~~

~~— (e) When an investigation occurs, an investigator designated by the director or designee shall contact such persons and examine such records and other documents as are reasonably necessary to make a recommendation as to whether further board action should be taken on the allegations in question.~~

~~— (f) Investigations, including those based upon allegations in a complaint shall be conducted on an ex parte basis.~~

~~— (g) Once the investigator completes the investigation, the following procedures shall apply:~~

~~(1) The investigator shall file a written report with the director or designee including:~~

~~a. A recommendation for action by the board; and~~

~~b. The specific grounds listed in Ed 511.02 upon which the recommendation is based;~~

~~(2) The director or designee shall review the investigator's report and recommendation based on a review of the case in relation to the grounds listed in Ed 511.02 to:~~

~~a. Confirm, deny, or amend the investigator's recommendation and report; and~~

~~b. Provide a written recommendation and report;~~

~~(3) If the director determines that disciplinary proceedings are warranted, the director shall notify the educator, and initiate a disciplinary hearing before the board under the procedures established in Ed 200; and~~

~~(4) The board shall not be consulted regarding the director's decision to hold a disciplinary hearing.~~

~~— (h) Investigatory reports and all information gathered by an investigator shall be confidential, with the following exceptions:~~

- ~~(1) The investigator's report shall be made available to the parties in any adjudicatory proceeding resulting therefrom;~~
- ~~(2) If further disciplinary proceedings are to be conducted as a result of the investigation, the board shall provide information gathered in disciplinary investigations to:~~
- ~~a. A law enforcement agency when the agency is conducting a criminal investigation of the credential holder;~~
  - ~~b. A certifying agency of another jurisdiction for:
    - ~~1. Purposes of certification of the credential holder in the other jurisdiction; or~~
    - ~~2. An investigation of the credential holder by the other jurisdiction, when:
      - ~~(i) The credential holder was the subject of a formal investigation under Ed 510; or~~
      - ~~(ii) Disciplinary action was taken against the credential holder by the state board of education under Ed 510.03;~~~~~~
  - ~~c. Board investigators or prosecutors; and~~
  - ~~d. Expert witnesses or assistants retained by board prosecutor or investigators in the same or related disciplinary matters; and~~
- ~~(3) Whether or not further disciplinary proceedings are to be conducted as a result of the investigation, the board shall provide information gathered in disciplinary investigations to persons to whom the licensee has given a release.~~
- ~~—— (i) The educator shall be notified promptly of the nature of any allegations that result in an investigation pursuant to (e) above.~~
  - ~~—— (j) If further disciplinary proceedings are to be conducted as a result of an investigation, the licensee shall be given the opportunity to respond, in writing, to the investigator prior to the initiation of disciplinary proceedings.~~
- ~~—— Ed 511.06 Due Process for Denial of Licensure for an Educator or Endorsement or Renewal or Reinstatement.~~
- ~~—— (a) If, after written application for certification, the department concludes that an applicant should be denied a license or endorsement or renewal or reinstatement the department shall notify the applicant in writing of the grounds for the denial.~~
  - ~~—— (b) The department shall provide an applicant with a description of the procedures for appeal of a denial of a license for an educator or endorsement and shall explain that the applicant may appeal the denial to the board in accordance with the procedures established in Ed 200.~~

~~(c) An applicant shall file an appeal in writing within 10 days of receipt of the denial in order for an appeal to be accepted by the board.~~

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