

Introduced by

**NORTH DAKOTA CENTURY CODE CHAPTER 15.1-13 -
EDUCATION STANDARDS AND PRACTICES BOARD**

Chapter 15.1-13 of the North Dakota Century Code is created and enacted as follows:

15.1-13-01. 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. One individual who is a school board member;
 - d. Two individuals who are school principals or school district superintendents;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.

NOTE: Present Section 15-38-17. Present Section 15-38-17 was segregated into several separate sections to enhance clarity and comprehension. Section 15-38-17 covers both the Education Standards and Practices Board and the Administrator's Professional Practices Board. The Administrator's Professional Practices Board is placed in a separate chapter (15.1-14). The present section provides for the dean of a college of education to be on the board. At the direction of the 1997-98 interim Education Services Committee, this was expanded to include reference to the chairman of a department of education. The rewrite clarifies that the reference to two school administrators, according to Education Standards and Practices Board personnel, means school principals or district superintendents.

15.1-13-02. Board compensation. Each member of the education standards and practices board is entitled to receive compensation in the amount of twenty-five dollars 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.

NOTE: Present Section 15-38-17. Present Section 15-38-17 was segregated into several separate sections to enhance clarity and comprehension.

1 **15.1-13-03. Term of office - Vacancy.** The term of office for a member of the
2 education standards and practices board is three years, beginning on July first of the year of
3 appointment. No person may serve for more than two consecutive terms. If a vacancy occurs,
4 it must be filled for the duration of the unexpired term in the same manner as an original
5 appointment.

NOTE: Present Section 15-38-17. Present Section 15-38-17 was segregated into several separate sections to enhance clarity and comprehension.

6 **15.1-13-04. Officers.** The education standards and practices board shall annually
7 select a chairman and a vice chairman. The executive director of the education standards and
8 practices board or the executive director's designee shall serve as secretary.

NOTE: Present Section 15-38-17. Present Section 15-38-17 was segregated into several separate sections to enhance clarity and comprehension.

9 **15.1-13-05. Meetings - Notice.** The chairman of the education standards and
10 practices board shall set the date and time of the board meetings and shall provide at least ten
11 days' notice of the meeting to all board members. The chairman shall call a special meeting
12 when requested to do so, in writing, by a majority of the board members.

NOTE: Present Section 15-38-17. Present Section 15-38-17 was segregated into several separate sections to enhance clarity and comprehension.

13 **15.1-13-06. Quorum.** A majority of the education standards and practices board
14 constitutes a quorum. A majority of the quorum has the authority to act upon any matter
15 properly before the board.

NOTE: Present Section 15-38-17. Present Section 15-38-17 was segregated into several separate sections to enhance clarity and comprehension. The rewrite eliminates the requirement that the board adopt rules of order and procedure consistent with present Sections 15-38-16 through 15-38-19. Legislative authority is not needed to adopt rules of order and procedure. The statutory cites in the sentence are eliminated because, in effect, they merely direct the board to follow the law.

16 **15.1-13-07. Board duties.** The education standards and practices board shall:
17 1. Supervise the licensure of teachers.
18 2. Set standards for and approve teacher preparation programs.
19 3. Seek the advice of teachers, school principals, school district superintendents,
20 school board members, teacher education professors, and other interested citizens

- 1 in developing and updating codes or standards of ethics, conduct, professional
- 2 performance, and professional practices.
- 3 4. Adopt, in accordance with chapter 28-32, codes or standards of ethics, conduct,
- 4 professional performance, and professional practices.
- 5 5. Make recommendations for the inservice education of individuals teaching in the
- 6 state's public schools.
- 7 6. Appoint an executive director to serve at its discretion.
- 8 7. Authorize the executive director to employ personnel, subject to approval by the
- 9 board.

NOTE: Present Section 15-38-18.

10 **15.1-13-08. Board powers.** The education standards and practices board may:

- 11 1. Contract with other states for the reciprocal approval of teacher preparation
- 12 programs.
- 13 2. Apply for and receive federal or other funds on behalf of the state for purposes
- 14 related to its duties.
- 15 3. Perform any duty related to the improvement of instruction through teacher
- 16 education, professional development, and continuing education programs.

NOTE: Present Section 15-38-18.

17 **15.1-13-09. Criteria for teacher licensure.**

- 18 1. The education standards and practices board shall establish by rule the criteria for
- 19 teacher licensure and the process for issuing teaching licenses. The criteria must
- 20 include considerations of character, adequate educational preparation, and general
- 21 fitness to teach.
- 22 2. The education standards and practices board may not require a teacher who
- 23 graduated from an accredited teacher education program on or before
- 24 September 1, 1980, to earn any college credits in native American or other
- 25 multicultural courses as a condition of licensure or license renewal.
- 26 3. Nothing in this section affects the validity of life certificates in existence on July 1,
- 27 1973.
- 28 4. Nothing in this section affects the qualifications for vocational education
- 29 certificates, as otherwise established by law.

NOTE: Present Section 15-36-01. Present Section 15-36-01 requires the Education Standards and Practices Board to determine the criteria for teacher licensure and issue rules regarding the issuance of teaching licenses. The 1997-98 interim Education Services Committee directed that the rewrite clarify what precisely is to be addressed by rule. The rewrite eliminates time-specific language that was necessary when the board was assuming its initial duties.

15.1-13-10. Application and licensing fees.

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

NOTE: Present Section 15-36-08.

15.1-13-11. Teaching license - Period of effectiveness. Except as provided in section 15.1-13-12, any teaching license issued by the education standards and practices board is effective for at least one school year.

NOTE: Present Section 15-36-08. In addition to other matters, present Section 15-36-08 also contains a sentence providing that "no certificate may be issued for less than one school year." Because this was not germane to the other matters in the section, it has been placed in its own section.

15.1-13-12. Provisional teaching certificate - Period of effectiveness - Renewal.

The education standards and practices board may issue a provisional teaching certificate to an applicant awaiting completion of the background check required by section 15.1-13-13. The provisional certificate 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 certificate. An individual applying for a provisional teaching certificate may be charged a fee established by the board. However, an individual applying for the renewal of a provisional teaching certificate may not be charged a fee.

NOTE: Present Section 15-38-18.2. Present Section 15-38-18.2 also contains language regarding criminal background checks. That language has been placed in Section 15.1-13-13.

15.1-13-13. Initial licensure of teachers - Background check. The education standards and practices board shall check, or cause to be checked, the background of each applicant for initial certification as a teacher. The board shall require each applicant for certification to file a complete set of the applicant's fingerprints, taken by a law enforcement

officer, and all other information necessary to complete a statewide and nationwide criminal history check with the bureau of criminal investigation for state processing and filing with the federal bureau of investigation for federal processing. 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.

NOTE: Present Section 15-38-18.2. Present Section 15-38-18.2 also contains language regarding application fees and provisional teaching certificates. These subjects have been addressed in Sections 15.1-13-10 and 15.1-13-12, respectively.

15.1-13-14. 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 a copy of the student's completed transcript from the college or university the student attended. Within ten days of the request by the student, the college or university shall mail a copy of the transcript to the education standards and practices board 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.

NOTE: Present Section 15-36-01.1.

15.1-13-15. Teaching license - Requirements - Exceptions.

1. An individual may not teach students in a public school in this state unless:
 - a. The individual holds a teaching license issued by the education standards and practices board; or
 - b. The individual is approved to teach by the education standards and practices board.
2. An individual may be approved to teach by the board only if the individual has previously held a valid North Dakota teaching certificate, holds a valid teaching certificate or license issued by another state, or has filed a completed application for licensure with the board.
3. The education standards and practices 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

- 1 a fine to the board, enrollment in and completion of continuing education courses,
2 and submission of a completed application for licensure by a date certain.

NOTE: Present Sections 15-36-11 and 15-36-11.1.

- 3 **15.1-13-16. Teaching license - Presentation to business manager.** Before being
4 employed to teach, an individual shall present to the school district business manager a
5 teaching license or other evidence of approval to teach issued by the education standards and
6 practices board. This section does not apply to an individual providing teaching services in
7 accordance with subsection 21 of section 15.1-09-33.

NOTE: Present Section 15-36-12. Present Section 15-36-12 provides that a person may not be compensated for the time the person teaches without a valid license. Because this is in conflict with the previous section (present Section 15-36-11), which prohibits anyone from teaching unless the person holds a valid license, the 1997-98 interim Education Services Committee directed that it be omitted from the rewrite. Similarly, if one section provides that a person is not allowed to teach without a valid license, it is inconsistent to have another section provide that the license must be shown to the business manager prior to receipt of the first paycheck. In order to be consistent with the section that prohibits anyone from teaching without a valid license, the rewrite requires that the license be shown to the business manager before the person is permitted to teach. Present Section 15-36-12 also contains provisions regarding the expiration of a teaching license. These have been placed in a separate section.

- 8 **15.1-13-17. Teaching license - Expiration.** Notwithstanding any other law, an
9 individual whose teaching license expires within the final six weeks of a school year may
10 continue teaching under the expired license until the completion of the school year.

NOTE: Present Section 15-36-12 also contains a variety of provisions. The provisions regarding the expiration of a teaching certificate did not appear to be germane to the other provisions and, therefore, were placed in this new section.

- 11 **15.1-13-18. Interim reciprocal teaching certificate - Period of validity.**

- 12 1. The education standards and practices board shall grant an interim reciprocal
13 teaching certificate in accordance with sections 15-47-46 and 15-41-25 to an
14 individual who holds a regular teaching license or certificate from another state,
15 provided:
16 a. The individual's certification is based upon a minimum of a bachelor's degree
17 with a major that meets the issuing state's requirements in elementary
18 education, middle-level education, or a content area taught at a public high
19 school;

- b. The individual's 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 individual submits to a background check as required of initial applicants by this chapter;
- d. The background check reveals nothing for which a North Dakota applicant would be denied initial certification; and
- e. The individual submits a plan for meeting all requirements necessary to become a licensed teacher in this state.

2. An interim reciprocal certificate granted under this section is valid for two years.
3. The individual shall submit evidence of progress on the plan required by subsection 1 to the board at the end of the two-year period.
4. The board may renew the interim reciprocal certificate for one additional two-year period if the board finds that the individual has demonstrated satisfactory progress.
5. Notwithstanding any other law, an interim reciprocal certificate granted under this section is the equivalent of a teaching license granted under this chapter.

NOTE: Present Section 15-36-11.2. Subsection 3 maintains the same requirement as present law, i.e., that the individual submit evidence of progress on the educational plan to the board "at the end of the two-year period." The committee might wish to examine the phrase "at the end of the two-year period." Should this be "on or before the expiration of the interim certificate"? When precisely is the end of the two-year period? Is this a date certain or is there the intent that the individual be given latitude in the time of submission? This section contains internal references to former Title 15 which will require reconciliation with Title 15.1.

15.1-13-19. Reciprocal acceptance of teaching certificates - Report. On or before July 1, 2001, the education standards and practices board shall pursue the reciprocal acceptance of teaching certificates issued by other states.

NOTE: Present Section 15-36-11.3. The rewrite eliminates the second sentence of Section 15-36-15 which requires that the education standards and practices board present a progress report regarding implementation of the program to the Legislative Council or to a committee designated by the Council before October 1, 2000. The interim Education Services Committee has been assigned to receive the report.

15.1-13-20. Certification of North Dakota American Indian language instructors.
The education standards and practices board may certify an individual as an instructor of North Dakota American Indian languages and culture if the individual is recommended for certification

1 to teach North Dakota native languages by the indigenous language boards created by the four
2 tribal governments of this state's reservations and if the individual:

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

NOTE: Present Section 15-38-18.1.

8 **15.1-13-21. School guidance and counseling services - Providers.** Notwithstanding
9 any other law, guidance and counseling services at the elementary and secondary school level
10 may be provided by a person holding a graduate degree in counseling from a state-approved
11 school counseling program, with coursework and an internship in school counseling, as
12 required for all counselors by the superintendent of public instruction, provided the person has a
13 valid North Dakota teaching license or will obtain one within seven years from the date of first
14 employment under the provisions of this section. The education standards and practices board
15 shall adopt rules relating to the background check of a person hired under this section. All
16 costs associated with a background check are the responsibility of the person being hired. The
17 board shall monitor a person hired under this section to ensure that the person annually
18 completes at least one-seventh of the total credits required for that person to obtain a teaching
19 license, as determined at the time of employment under this section.

NOTE: Present Section 15-36-18.

20 **15.1-13-22. Complaints against teachers.**

- 21 1. Any person may file with the education standards and practices board a complaint
22 against an individual engaged in teaching. The complaint must state the claims or
23 charges against the individual and it must be signed. The complaint may include
24 supporting documentation.
- 25 2. Upon receiving the complaint, the board shall serve a copy of the complaint and
26 any supporting documentation upon the individual personally or by certified mail.
- 27 3. The individual has twenty days from the date the individual receives the complaint
28 within which to file an answer. The answer may include supporting documentation.

4. If the individual files a timely answer, the board shall meet to review the complaint and any documentation submitted by the parties, but may not accept testimony.
5. Based on the complaint and the documentation submitted in accordance with this section, the board may:
 - a. Dismiss the complaint as unfounded;
 - b. Issue a written warning and reprimand; or
 - c. Determine that sufficient evidence exists to sustain the charges and order a hearing to determine whether the individual's teaching license should be suspended or revoked.
6. If the individual fails to file an answer, the individual is deemed to have admitted the allegations in the complaint and the board shall hold a hearing to determine whether the individual's teaching license should be suspended or revoked.

NOTE: Present Section 15-38-19. In order to enhance clarity and comprehension, present Section 15-38-19 was segregated into sections that deal separately with the Education Standards and Practices Board and with the Administrator's Professional Practices Board.

15.1-13-23. Teaching license - Causes for suspension or revocation. After holding a public hearing, the education standards and practices board may suspend or revoke a teaching license issued to an individual if:

1. 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.
2. The individual is incompetent, immoral, intemperate, or cruel.
3. 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.
4. The board believes that the individual, having been convicted of an offense, has not been sufficiently rehabilitated under section 12.1-33-02.1.
5. The individual refuses to perform the duties of a teacher or neglects the general work of the school.
6. The individual has breached a contract with a school district.
7. The individual has engaged in a serious violation of, or multiple violations of, professional codes and standards.

NOTE: Present Section 15-36-15. The rewrite segregates those portions of the section that deal with the revocation of a teacher's certificate from those that deal with the revocation of an administrator's certificate. The rewrite also eliminates the reference to the annulment of a teaching certificate because revocation has the same practical effect.

1 **15.1-13-24. Teaching license - Proceedings to suspend or revoke.** If the education
2 standards and practices board receives a complaint alleging grounds for the suspension or
3 revocation of a teaching certificate as set forth in section 15.1-13-19, and if the board
4 determines that sufficient evidence exists to sustain the allegations, the board shall conduct
5 proceedings in accordance with chapter 28-32. If after a hearing and due consideration of the
6 testimony and evidence the board determines that sufficient grounds exist to warrant the
7 suspension or revocation of an individual's teaching certificate, the board shall take appropriate
8 action.

NOTE: Present Section 15-36-16. The rewrite eliminates the reference to an annulment of a certificate because a revocation has the same practical effect. It also segregates into separate sections the duties to be exercised by the Education Standards and Practices Board and by the Administrator's Professional Practices Board.

9 **15.1-13-25. Crimes against a child and sexual offenses - Denial of or immediate**
10 **revocation of teaching license.**

- 11 1. Notwithstanding any other law, the education standards and practices board shall
12 deny an application for a teaching license and shall immediately revoke the
13 teaching license of an individual, other than an administrator, who has been found
14 guilty of a crime against a child or a sexual offense. If the individual is an
15 administrator, the administrator's professional practices board shall act as required
16 by section 15.1-14-11.
- 17 2. An individual who is denied a teaching license or who has had a teaching license
18 revoked under subsection 1 may file a request with the education standards and
19 practices board for a due process hearing under chapter 28-32. The hearing must
20 be held within ten days of the request. The scope of the hearing is limited to
21 determining whether the individual was convicted of a crime against a child or a
22 sexual offense and whether the conviction has been overturned on appeal.
- 23 3. A final decision denying a teaching license or revoking a teaching license under
24 this section is appealable pursuant to chapter 28-32. A court may not stay the
25 decision pending an appeal. A court shall affirm the decision denying a teaching
26 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 education standards and practices 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 12.1-22-03.1, or chapter 12.1-27.2, or an equivalent ordinance.

NOTE: Present Section 15-36-15.1. The duties of the Administrator's Professional Practices Board, with respect to administrators who have been found guilty of a crime against a child or a sexual offense, have been placed in Chapter 15.1-14.

15.1-13-26. Revocation of teaching license - Notice.

1. If an individual's teaching license is revoked, the education standards and practices board shall notify the individual through the business manager of the school district employing the individual. The board shall also notify 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 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

- 1 board may publish notice of the revocation in the official newspaper of the county
2 in which the individual was employed.

NOTE: Present Section 15-36-17. It is not clear from the present section whether the board is to "enter an action in the case upon the records of the [county] superintendent's office" or upon the records of the Superintendent of Public Instruction. In the rewrite, it was presumed that by notifying a county superintendent, a record would be created and that the section should therefore provide for notification of the Superintendent of Public Instruction. Because it is not addressed elsewhere, the rewrite also provides that the board must set a time period within which a license is to be returned.

- 3 **15.1-13-27. Teaching license - Effect of revocation - Appeals.** The revocation of an
4 individual's teaching license results in the immediate termination of the individual's employment
5 by a school district. The school district shall, however, compensate the individual for services
6 rendered until such time as the notice of revocation is received by the district. Appeals from
7 any order of revocation may be taken to the district court of Burleigh County as provided by
8 chapter 28-32.

NOTE: Present Section 15-36-15. The provisions of this section are part of present Section 15-36-15. They were separated from the other provisions in the section because of germaneness. The rewrite provides that a school district must provide compensation to an individual whose teaching certificate has been revoked until such time as notice of the revocation is received by the school district. It is not clear in present Section 15-36-15 whether this time is based on the receipt of the revocation notice by the individual or by the employing school district. The clarification, however, is to be found in proposed Section 15.1-13-21.

- 9 **15.1-13-28. Venue for legal actions.** Burleigh County, North Dakota, is the venue for
10 all actions to which the education standards and practices board is a party.

NOTE: Present Section 15-38-18.

- 11 **15.1-13-29. Conviction of teacher - Written notification.** A state's attorney shall
12 provide written notification to the education standards and practices board when an individual
13 holding a teaching license is convicted of a felony or a class A misdemeanor.

NOTE: Present Section 15-36-14.1. At the direction of the 1997-98 interim Education Services Committee, the rewrite attempts to clarify existing provisions pertaining to the Education Standards and Practices Board and the Administrator's Professional Practices Board. The verbiage regarding notification in the case of an administrator's conviction is placed in a separate section.