

Introduced by

**NORTH DAKOTA CENTURY CODE CHAPTER 15.1-14 -
ADMINISTRATOR'S PROFESSIONAL PRACTICES BOARD**

Chapter 15.1-14 of the North Dakota Century Code is created and enacted as follows:

15.1-14-01. Administrator - Definition. For purposes of this chapter, administrator means a school district superintendent, an assistant school district superintendent, a school principal, and an assistant school principal.

NOTE: Because present law does not identify the individuals who come within the term "administrator," the committee might wish to ensure clarity by including a definition.

15.1-14-02. Administrator's professional practices board - Membership. The administrator's professional practices board consists of the following:

1. The two members of the education standards and practices board who are school principals or school district superintendents;
2. The one member of the education standards and practices board who is a school board member; and
3. Two members of the education standards and practices board who are teachers and who are appointed by the education standards and practices board.

NOTE: Present Section 15-38-17. Present Section 15-38-17 was segregated into several 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 Education Standards and Practices Board is placed in a separate chapter (15.1-13).

The rewrite has maintained the board name using the singular possessive "administrator's." The committee may wish to determine whether the plural possessive (administrators') should be used in referring to the board.

15.1-14-03. Board compensation.

1. Each member of the administrator's professional 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

1 attending meetings or performing duties directed by the board. This subsection
2 does not apply for any time for which the member receives compensation and
3 reimbursement for expenses as a result of the individual's service on the education
4 standards and practices board.

- 5 2. A member of the board may not lose the member's regular salary and may not be
6 required to refuse compensation to which the member is entitled under this section
7 for serving on the board.

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

Education Standards and Practices Board personnel have indicated that if an individual serves on both the Education Standards and Practices Board and the Administrator's Professional Practices Board and if that individual attends meetings of both boards on the same day, the individual would be paid only for service to one board, not both. In order to ensure clarity on this point, the rewrite includes language in subsection 1 to address this issue.

8 **15.1-14-04. Term of office - Vacancy.** The term of office for a member of the
9 administrator's professional practices board is three years, beginning on July first of the year of
10 appointment. No person may serve for more than two consecutive terms. If a vacancy occurs,
11 it must be filled for the duration of the unexpired term in the same manner as original
12 appointments.

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

13 **15.1-14-05. Officers.** The administrator's professional practices board shall annually
14 select a chairman and vice chairman. The executive director of the education standards and
15 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.

16 **15.1-14-06. Meetings - Notice.** The chairman of the administrator's professional
17 practices board shall set the date and time of the board meetings and shall provide at least ten
18 days' notice of the meeting to all board members. The chairman shall call a special meeting
19 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.

20 **15.1-14-07. Quorum.** A majority of the board constitutes a quorum. A majority of the
21 quorum has the authority to act upon any matter 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.

15.1-14-08. Complaints against administrators.

1. Any person may file with the administrator's professional practices board a complaint against an administrator. The complaint must contain the claims or charges against the administrator and 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 administrator personally or by certified mail.
3. The administrator has twenty days from the date the administrator receives the complaint within which to file an answer. The answer may include supporting documentation.
4. If the administrator 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 administrator's teaching license should be suspended or revoked.
6. If the administrator fails to file an answer, the administrator is deemed to have admitted the allegations in the complaint, and the board shall hold a hearing to determine whether the administrator'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.

1 **15.1-14-09. Administrator's teaching license - Causes for suspension or**
2 **revocation.** After holding a public hearing, the administrator's professional practices board
3 may suspend or revoke an administrator's teaching license if:
4 1. The board becomes aware of any fact or circumstance that would have caused the
5 board to deny licensure had the board known of the fact or circumstance at the
6 time of initial consideration.
7 2. The individual is incompetent, immoral, intemperate, or cruel.
8 3. The individual has been convicted of, has pled guilty to, or has pled
9 nolo contendere to an offense deemed by the board to have a direct bearing upon
10 an individual's ability to serve as an administrator.
11 4. The board believes that the individual, having been convicted of an offense, has
12 not been sufficiently rehabilitated under section 12.1-33-02.1.
13 5. The individual refuses to perform the duties of an administrator or neglects the
14 general work of the school.
15 6. The individual has breached a contract with a school district.
16 7. The individual has engaged in a serious violation of, or multiple violations of,
17 professional codes and standards.

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

18 **15.1-14-10. Administrator's license - Proceedings to suspend or revoke.** If the
19 administrator's professional practices board receives a complaint alleging grounds for the
20 suspension or revocation of an administrator's teaching license, and if the board determines
21 that sufficient evidence exists to sustain the allegations, the board shall conduct proceedings in
22 accordance with chapter 28-32. If after a hearing and due consideration of the testimony and
23 evidence the board determines that sufficient grounds exist to warrant the suspension or
24 revocation of an administrator's teaching license, the board shall take appropriate 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.

15.1-14-11. Crimes against a child and sexual offenses - Denial of or immediate revocation of teaching license.

1. Notwithstanding any other law, the administrator's professional practices board shall immediately revoke the teaching license of an administrator who has been found guilty of a crime against a child or a sexual offense.
2. An administrator who has had a teaching license revoked under subsection 1 may file a request with the administrator's professional practices 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 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 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 administrator's professional practices board may impose a fee against a licensee to reimburse the board 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 Education Standards and Practices Board with respect to teachers and the Administrator's Professional Practices Board with respect to administrators have been placed in separate chapters.

15.1-14-12. Revocation of administrator's teaching license - Notice.

1. If an administrator's teaching license is revoked, the administrator's professional practices board shall notify the administrator through the business manager of the school district employing the administrator. The board shall also notify each county superintendent of schools in the state and the superintendent of public instruction.
2. Upon being notified of the revocation, the administrator shall return the teaching license to the administrator's professional practices board. If the administrator fails to return the certificate within the time period set by the board, the board may publish notice of the revocation in the official newspaper of the county in which the administrator is 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 certificate is to be returned.

15.1-14-13. Administrator's teaching license - Effect of revocation - Appeals. The revocation of an administrator'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 until such time as the notice of revocation is received by the individual. Appeals from any order of revocation may be taken to the district court of Burleigh County as provided by 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 administrator whose teaching license 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 15.1-14-10.

- 1 **15.1-14-14. Conviction of administrator - Written notification.** A state's attorney
2 shall provide written notification to the administrator's professional practices board when a
3 school district superintendent, assistant superintendent, school principal, or assistant principal
4 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 a teacher's conviction is placed in a separate section.

CHAPTER NOTE: Under present law, the Education Standards and Practices Board is given the authority to generate income in the following manner:

15-36-08. Fees for licenses. The education standards and practices board must determine a fee for each professional teaching license issued by this state.... The fees must be deposited and disbursed in accordance with section 54-44-12.

54-44-12. Deposit and disbursement of funds of occupational and professional boards - Appropriation. All occupational and professional boards, associations, and commissions created by law shall deposit all fees and other moneys received in any bank selected by the majority vote of the governing body of the board, association, or commission. Checks may be drawn against the bank account, opened pursuant to this section, for the authorized expenditures of the board, association, or commission on the signature or signatures of the person or persons authorized to so act by the governing body. All moneys in accounts opened pursuant to this section are hereby appropriated for the use of the occupational or professional board, association, or commission opening the account. (emphasis supplied)

15-36-11.1. Exception to certificate requirement. An individual without a valid certificate who is teaching under contract with a school may teach and be employed to teach if approved by the education standards and practices board. The education standards and practices board shall establish by rule the terms and conditions of approval. The terms and conditions may include payment of fines to the board

15-38-18. Duties of the education standards and practices board. ... The board may ... apply for and receive federal or other funds on behalf of the state for purposes related to its duties

15-38-18.2. Education standards and practices board - Initial licensure of teachers - Application fee - Background - Provisional teaching certificates. The education standards and practices board may charge an application fee established by the board by rule.... An applicant for a provisional teaching certificate may be charged a fee established by the

board by rule, but no fee may be imposed for the renewal of a provisional teaching certificate.

The only reference to generation of income by the Administrator's Professional Practices Board is found in Section 15-36-15.1.

15-36-15.1. Crimes against a child and sexual offenses - Denial of or immediate revocation of teaching certificate.

4. The ... administrator's professional practices board ... may impose a fee against a certificate holder to reimburse the ... administrator's professional practices board, for all or part of the costs of administrative actions that result in disciplinary action against the certificate holder under this section....

Present law makes no provision for the Education Standards and Practices Board to fund the workings of or otherwise cover any expenses incurred by the Administrator's Professional Practices Board. The committee may wish to examine and perhaps clarify this matter.