

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. Definitions. For purposes of this chapter:

1. "Administrator" means a school district superintendent, an assistant or associate school district superintendent, a school principal, an assistant or associate school principal, an athletic or activity director, a director of a multidistrict special education unit, and a director of a vocational technology center.
2. "Profession of teaching" means the provision in a public school district of teaching services, administrative services, or other services, which require licensure by the education standards and practices board.

NOTE: Because present law does not identify the individuals who come within the term "administrator," the committee directed that the applicability of the law be clarified by the inclusion of this definition.

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

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

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

1 **15.1-13-03. Board compensation.** Each member of the education standards and
2 practices board is entitled to receive compensation in the amount of twenty-five dollars per day
3 and to reimbursement for expenses as provided by law for other state officers while attending
4 meetings or performing duties directed by the board. A member of the board may not lose the
5 member's regular salary and may not be required to refuse the compensation to which the
6 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.

7 **15.1-13-04. Term of office - Vacancy.** The term of office for a member of the
8 education standards and practices board is three years, beginning on July first of the year of
9 appointment. No person may serve for more than two consecutive terms. If a vacancy occurs,
10 it must be filled for the duration of the unexpired term in the same manner as an original
11 appointment.

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

12 **15.1-13-05. Officers.** The education standards and practices board shall annually
13 select a chairman and a vice chairman. The executive director of the education standards and
14 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.

15 **15.1-13-06. Meetings - Notice.** The chairman of the education standards and
16 practices board shall set the date and time of the board meetings and shall provide at least ten
17 days' notice of the meeting to all board members. The chairman shall call a special meeting
18 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.

19 **15.1-13-07. Quorum - Revocation requirement.**

- 20 1. A majority of the education standards and practices board constitutes a quorum.
- 21 2. Except as otherwise provided in this section, a majority of the quorum at any
22 meeting has the authority to act upon any matter properly before the board.
- 23 3. At least five members of the board must consent to the revocation of an individual's
24 teaching license.

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.

15.1-13-08. Board duties. The education standards and practices board shall:

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

NOTE: Present Section 15-38-18.

15.1-13-09. Board powers. The education standards and practices board may:

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

NOTE: Present Section 15-38-18.

15.1-13-10. Criteria for teacher licensure.

- 1 1. The education standards and practices board shall establish by rule the criteria for
2 teacher licensure and the process for issuing teaching licenses. The criteria must
3 include considerations of character, adequate educational preparation, and general
4 fitness to teach.
- 5 2. The education standards and practices board may not require a teacher who
6 graduated from an accredited teacher education program on or before
7 September 1, 1980, to earn any college credits in native American or other
8 multicultural courses as a condition of licensure or license renewal.
- 9 3. Nothing in this section affects the validity of teaching certificates in effect on
10 July 31, 2001.
- 11 4. Nothing in this section affects the qualifications for vocational education
12 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.

15.1-13-11. Application and licensing fees.

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

NOTE: Present Section 15-36-08.

15.1-13-12. Teaching license - Period of effectiveness. A teaching license issued by the education standards and practices board is effective for at least one school year, unless suspended or revoked by the board. This section does not apply to provisional teaching licenses issued by the board under section 15.1-13-13.

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.

15.1-13-13. Provisional teaching license - Period of effectiveness - Renewal. The education standards and practices board may issue a provisional teaching license to an

1 applicant awaiting completion of the background check required by section 15.1-13-14. The
2 provisional license is valid for a period of forty days and may be renewed with the approval of
3 the board. The board may adopt rules governing the issuance of a provisional teaching license.
4 An individual applying for a provisional teaching license may be charged a fee established by
5 the board. However, an individual applying for the renewal of a provisional teaching license
6 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 15.1-13-14.

7 **15.1-13-14. Initial licensure of teachers - Background check.** The education
8 standards and practices board shall check, or cause to be checked, the background of each
9 applicant for initial licensure as a teacher. The board shall require each applicant for licensure
10 to file a complete set of the applicant's fingerprints, taken by a law enforcement officer, and all
11 other information necessary to complete a statewide and nationwide criminal history check with
12 the bureau of criminal investigation for state processing and filing with the federal bureau of
13 investigation for federal processing. All costs associated with the background check and with
14 obtaining and processing the fingerprints are the responsibility of the applicant. Criminal history
15 records provided to the board pursuant to this section are confidential and closed to the public
16 and may only be used by the board for determining an applicant's eligibility for licensure and
17 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 15.1-13-11 and 15.1-13-13, respectively.

18 **15.1-13-15. Teaching license - Student transcript.** A student who has met all the
19 criteria necessary to receive a teaching license, but who has not graduated from a college or
20 university, may request that the college or university mail a copy of the student's completed
21 transcript to the education standards and practices board or to a comparable entity in another
22 state. Within ten days of the request by the student, the college or university shall mail a copy
23 of the transcript showing that the student has met all the criteria necessary to receive a
24 teaching license except graduation. The transcript must indicate areas in which the student has
25 a major or minor.

NOTE: Present Section 15-36-01.1.

26 **15.1-13-16. Teaching license - Requirements - Exceptions.**

- 1 1. An individual may not engage in the profession of teaching unless:
 - 2 a. The individual holds a teaching license issued by the education standards and
 - 3 practices board; or
 - 4 b. The individual is approved to teach by the education standards and practices
 - 5 board.
- 6 2. An individual may be approved to teach by the board only if the individual has
- 7 previously held a North Dakota teaching certificate or license, holds a teaching
- 8 certificate or license issued by another state, or has filed a completed application
- 9 for licensure with the board.
- 10 3. The education standards and practices board shall adopt rules establishing the
- 11 terms and conditions under which an individual may be approved to teach, as
- 12 provided for in this section. The terms and conditions may include the payment of
- 13 a fine to the board, enrollment in and completion of continuing education courses,
- 14 and submission of a completed application for licensure by a date certain.

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

15 **15.1-13-17. Teaching license - Presentation to business manager.** Before being
16 employed to teach, an individual shall present to the school district business manager a
17 teaching license or other evidence of approval to teach issued by the education standards and
18 practices board.

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.

19 **15.1-13-18. Teaching license - Expiration.** Notwithstanding any other law, an
20 individual whose teaching license expires within the final six weeks of a school year may
21 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.

15.1-13-19. Interim reciprocal teaching license - Period of validity.

1. The education standards and practices board shall grant an interim reciprocal teaching license in accordance with sections 15-47-46 and 15-41-25 to an individual who holds a regular teaching license or certificate from another state, provided:
 - a. The individual's licensure or certification is based upon a minimum of a bachelor's degree with a major that meets the issuing state's requirements in elementary education, middle-level education, or a content area taught at a public high school;
 - b. The individual's licensure or certification is based upon the completion of a professional education sequence from a state-approved teacher education program and includes supervised student teaching;
 - c. The 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 licensure; and
 - e. The individual submits a plan for meeting all requirements necessary to become a licensed teacher in this state.
2. An interim reciprocal license 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 prior to renewal of the interim reciprocal license.
4. The board may renew the interim reciprocal license 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 license granted under this section is the equivalent of a teaching license granted under this chapter.

NOTE: Present Section 15-36-11.2. Present law requires that the individual submit evidence of progress on the educational plan to the board "at the end of the two-year period." The committee determined that the phrase "at the end of the two-year period" is not sufficiently clear. The committee consequently decided that the evidence should be submitted "prior to the expiration of the interim reciprocal license."

15.1-13-20. Reciprocal acceptance of teaching licenses. The education standards and practices board shall pursue the reciprocal acceptance of teaching licenses 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.

1 **15.1-13-21. Licensure of North Dakota American Indian language instructors.** The
2 education standards and practices board may license an individual as an instructor of North
3 Dakota American Indian languages and culture if the individual is recommended for licensure to
4 teach North Dakota native languages by an indigenous language board created by a tribal
5 government in this state and if the individual:

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

NOTE: Present Section 15-38-18.1.

11 **15.1-13-22. School guidance and counseling services - Providers.** Notwithstanding
12 any other law, guidance and counseling services at the elementary and secondary school level
13 may be provided by a person holding a graduate degree in counseling from a state-approved
14 school counseling program, with coursework and an internship in school counseling, as
15 required for all counselors by the superintendent of public instruction, provided the person has a
16 North Dakota teaching license or will obtain one within seven years from the date of first
17 employment under the provisions of this section. The education standards and practices board
18 shall adopt rules relating to the background check of a person hired under this section. All
19 costs associated with a background check are the responsibility of the person being hired. The
20 board shall monitor a person hired under this section to ensure that the person annually
21 completes at least one-seventh of the total credits required for that person to obtain a teaching
22 license, as determined at the time of employment under this section.

NOTE: Present Section 15-36-18.

23 **15.1-13-23. Complaints against teachers or administrators.**

- 24 1. Any person may file with the education standards and practices board a complaint
25 against a teacher or an administrator. The complaint must state the claims or

charges and it must be signed. The complaint may include supporting documentation.

2. Upon receiving the complaint, the board shall serve a copy of the complaint and any supporting documentation upon the individual personally or by certified mail.

3. The individual has twenty days from the date the individual receives the complaint within which to file a response. The response may include supporting documentation.

4. If the individual files a timely response, the board shall meet to review the complaint, the response, and any documentation submitted by the parties, but may not accept testimony.

5. Based on the complaint, the response, and the documentation submitted in accordance with this section, the board may:

a. Dismiss the complaint as unfounded; or

b. (1) Determine there is a reasonable basis to believe the claims or charges are true and subject to action by the board under this chapter;

(2) File a formal complaint against the individual in accordance with chapter 28-32; and

(3) Schedule and hold a public hearing on the complaint in accordance with chapter 28-32.

6. If the individual fails to file a timely response, the board shall determine whether the individual's failure to file a timely response constitutes an admission of the allegations in the complaint and whether the individual's teaching license should be subject to action by the board. If the board determines that the individual's failure to file a timely response is an admission of the allegations in the complaint and that the individual's teaching license should be subject to action by the board, the board shall hold a hearing in accordance with chapter 28-32 to take any appropriate action.

NOTE: Present Section 15-38-19.

15.1-13-24. Teaching license - Action by board - Causes.

1. After holding a public hearing in accordance with chapter 28-32, the education standards and practices board may issue a written warning or reprimand to the

individual, suspend the individual's teaching license, or revoke the individual's teaching license if:

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

NOTE: Present Section 15-36-15. The rewrite eliminates the reference to the annulment of a teaching certificate because revocation has the same practical effect.

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

1. The education standards and practices board shall deny an application for a teaching license and shall immediately revoke the teaching license of an individual who has been found guilty of a crime against a child or a sexual offense.
2. An individual who is denied a teaching license or who has had a teaching license revoked under subsection 1 may file a request with the education standards and 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 denying a teaching license or revoking a teaching license under this section is appealable pursuant to chapter 28-32. A court may not stay the decision pending an appeal. A court shall affirm the decision denying a teaching license or revoking a teaching license unless the court finds that the individual was not convicted of a crime against a child or a sexual offense or that the conviction was overturned on appeal.
4. The 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.

15.1-13-26. Suspension or revocation of teaching license - Notice.

1. If an individual's teaching license is suspended or revoked, the education standards and practices board shall notify the individual, the business manager of the school district employing the individual, each county superintendent of schools in the state, and the superintendent of public instruction.

2. Upon being notified that one's teaching license has been suspended or revoked, the individual shall return the license to the education standards and practices board. If the individual fails to return the license within the time period set by the board, the board may publish notice of the suspension or revocation in the official newspaper of the county in which the individual was employed.

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.

- 15.1-13-27. Teaching license - Effect of revocation.** The revocation of an individual's teaching license results in the immediate termination of the individual's employment by a school district. The school district shall, however, compensate the individual for services rendered only until such time as the notice of revocation is received by the district.

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.

15.1-13-28. Teaching license of administrator - Determinations by subcommittee.

1. Notwithstanding the provisions of any other law, when a complaint regarding an administrator is filed with the education standards and practices board, all actions and determinations provided for in this chapter must be made by a subcommittee of the education standards and practices board.
2. The subcommittee must consist of the two education standards and practices board members who are administrators, the education standards and practices board member who is a school board member, and two education standards and practices board members who are teachers and who have been appointed to the subcommittee by the education standards and practices board.
3. The subcommittee shall convene at a regular or special meeting of the education standards and practices board.

- 1 4. The subcommittee shall select its own chairman and vice chairman and the
2 executive director of the education standards and practices board, or the director's
3 designee, shall serve as its secretary.
- 4 5. a. A majority of the subcommittee constitutes a quorum for purposes of this
5 section.
- 6 b. Except as otherwise provided in this section, a majority of the quorum has the
7 authority to act on any matter properly before the subcommittee.
- 8 c. At least three members of the subcommittee must consent to the revocation
9 of an administrator's teaching license.
- 10 6. Any action or determination by the subcommittee regarding the teaching license of
11 an administrator:
- 12 a. Must be taken or made by the same process and on the same grounds as
13 provided in sections 15.1-13-23, 15.1-13-24, and 15.1-13-25;
- 14 b. Has the same force and effect as an action or determination by the education
15 standards and practices board;
- 16 c. May not be modified by the education standards and practices board; and
- 17 d. May be appealed under this chapter in the same manner as actions or
18 determinations by the education standards and practices board.

NOTE: Current law references both an Education Standards and Practices Board and an Administrators' Professional Practices Board. The Education Standards and Practices Board consists of nine members, five of whom form the Administrators' Professional Practices Board. The Education Services Committee found it was not appropriate to address the powers and duties of both boards within the same sections. A first draft provided separate chapters for each board. The committee was told that separate chapters were inappropriate because the Administrators' Professional Practices Board functions not as an independent board but as a "subset" of the Education Standards and Practices Board. The Administrators' Professional Practices Board was initially instituted to ensure that decisions regarding the teaching licenses of administrators would not be made by a board consisting of a majority of teachers. The committee consequently determined that the rewrite should reflect the manner in which business was done and therefore directed that the rewrite provide for an Education Standards and Practices Board, which is charged with making decisions regarding the licenses of teachers. Decisions regarding the licenses of administrators are to be made by a subcommittee of the Education Standards and Practices Board and given the same force and effect as if the decisions had been made by the full Education Standards and Practices Board.

19 **15.1-13-29. Venue for legal actions.** Burleigh County, North Dakota, is the venue for
20 all actions to which the education standards and practices board is a party.

NOTE: Present Section 15-38-18.

- 1 **15.1-13-30. Conviction of individual holding teaching license - Written**
2 **notification.** A state's attorney shall provide written notification to the education standards and
3 practices board when an individual holding a teaching license is convicted of a felony or a
4 class A misdemeanor.

NOTE: Present Section 15-36-14.1.