

SCHOOL APPROVAL - PROPOSAL

Current situation:

NDCC requires that each public and nonpublic school offering elementary or secondary education to students must be approved by the Superintendent of Public Instruction. The Superintendent may not approve a school unless:

1. Each classroom teacher is licensed to teach by the ESPB or approved to teach by the ESPB;
2. Each classroom teacher is teaching only in those course areas or fields for which the teacher is licensed or for which the teacher has received an exception under section 15.1-09-57;
3. The students are offered all subjects required by law;
4. The school is in compliance with all local and state health, fire, and safety laws; and
5. The school has conducted all criminal history record checks required by section 12-60-24.

Problem #1 - Timeliness:

- Data on which approval decision is based is gathered via MISO3. (?)
- Data must first be "cleansed."
- Data is thereafter provided to approval & accreditation unit for annual review.
- Approval & accreditation unit examines data for each of the 400+ schools.
- Time consuming.
- Approval decisions are usually made and schools are notified in late December / early January - i.e. Half the school year is over.

Problem #2 - Compulsory attendance:

Under compulsory attendance provisions, a student of school age must be "in attendance at a public school." Presumably this is intended to mean at an "approved" public school.

A number of exceptions are made, including for a child in attendance "at an approved nonpublic school."

Enforcement of compulsory attendance provisions has historically been lax.

Problem #3 - Enforcement of approval requirement:

What should be done if a school does not meet the approval criteria?

Should the school be closed?

Should state aid be withheld from the district?

Problem #4 - Additional requirements in HB 1400

2009 House Bill No. 1400 imposed additional requirements and provided increased per student payments -- e.g. counselors; instructional strategists.

Questions for legislators:

Are the approval criteria important?

Are they mandatory or merely suggestive?

If they are mandatory, should they be enforced? How?

If they are not important enough to be enforced, then why do we have them?

POTENTIAL SOLUTION

Require education personnel to be responsible for ensuring that their schools meet all statutory approval criteria.

By a date certain, (e.g. August 15) require each principal to complete a simple compliance form such as the following:

School Calendar	Yes	No
Is your school calendar at least 182 days in length?		
Does your school calendar include at least 175 instruction days?		
Does your school calendar include at least three holidays?		
Does your school calendar include two days for parent teacher conferences?		
Does your school calendar include two days for professional development?		
Does your school calendar observe the required state holidays		

School personnel	Yes	No	N/A
Is each classroom teacher licensed to teach by the ESPB or approved to teach by the ESPB?			
Is each classroom teacher teaching only in the course areas or fields for which the teacher is licensed to teach or for which the teacher has received an exception by the ESPB?			
Is there one FTE counselor /300 students in grades 7 - 12 (Up to one-third of this requirement may be met via career advisors)			
Is there one FTE student performance strategist /400 students in grades K - 3?			
Have all criminal history record checks been completed?			

Required Subjects	Yes	No	N/A
Does your school offer all subjects required by law			
Are concepts of personal finance included in your curriculum for either economics or POD?			
Does your curriculum for US government or POD require each student to read the US Constitution?			

Safety	Yes	No
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Is the school approved to operate by the state fire marshal?		
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Compliance

If principal indicates compliance with all listed categories, DPI shall approve the school to operate during the ensuing school year.

Noncompliance - Waiver to operate

If principal does not indicate compliance with all listed categories, DPI may not approve the school to operate during the school year.

- Principal must petition Board of Approval for a waiver.
- Board of Approval must consider the situation and, together with the school's principal, develop a plan of action that will enable the school to continue operating, while working toward the achievement of full approval at the earliest possible date.
- Waiver is good only through the school year.
- If school is not in compliance with all listed categories for the following school year, it may not operate. If the school is in fact the "school district," then dissolution proceedings must be instituted.
(This is based on the theory that school approval requirements are important and that no child should be in a school that does not meet those minimal requirements. School approval is akin to a *license to operate*. If other entities such as restaurants, nursing homes, hospitals, daycares, etc. are not licensed, they are closed.)

Noncompliance occurring during school year - Waiver to continue operating

- If a school was approved by DPI and if during the course of the school year, there is an occurrence that would place the school out of compliance, the principal must notify DPI.
- If principal is able to remedy the situation within a time certain (perhaps 30 days), no action needs to be taken.
- If principal is unable to remedy the situation within a time certain (perhaps 30 days), principal must petition Board of Approval for a waiver.
- Board of Approval must consider the situation and, together with the school's principal, develop a plan of action that will enable the school to continue operating for the remainder of the school year, while working toward the achievement of full approval at the earliest possible date.
- In this case, the district starts with a clean slate for purposes of compliance reporting the following August.

Board of Approval

Consists of:

1. Superintendent of public instruction or his designee;
2. Executive director of the ESPB;
3. A current or former school district superintendent selected by the ND Council of Educational Leaders;

4. A current or former teacher selected by the ND Education Association;
5. A current or former school board member selected by the ND School Boards Association;
6. A member of the ND Legislative Assembly appointed by the Chairman of Legislative Management; and
7. _____.

The superintendent of public instruction shall serve as the chairman.

Meetings: At the call of the chairman

Board compensation: Standard rate of \$135 per day + reimbursement for expenses
 Paid by DPI out of any state aid otherwise payable to the district
 in which the school seeking the waiver is located
 If district does not receive any state aid, it is to be billed directly
 If school seeking the waiver is a nonpublic school, it is to be billed
 directly

DPI Compliance Monitoring

- DPI shall place all schools on a 3-5 year cycle of review.
- At that time, DPI shall conduct an audit of the school's compliance reports
- Nothing precludes the DPI from auditing a school's compliance reports more frequently or investigating any information it receives to determine whether the school is in compliance with the approval criteria.

Penalty

- Any person who fails to file the compliance report on or before August fifteenth is guilty of a class A misdemeanor. (Treat this like filing income taxes on April 15th.)
- A person may request an extension until a date certain. The extension may not go beyond the day before the first day of school.
- Any person who willfully files false information on the compliance report is guilty of a class A misdemeanor.

(Class A misdemeanor = a maximum penalty of 1 year imprisonment, \$2000 fine, or both)

Teaching license - Penalty

NDCC section 15.1-13-25 provides that:

1. After holding a public hearing in accordance with chapter 28-32, the 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:

....

- h. The individual knowingly taught in violation of chapter 15.1-18.
- i. The individual is a school district administrator and knowingly permitted another individual to teach in violation of chapter 15.1-18

Should the penalty be increased?

Other professions' licensure-violation penalties:

- Cosmetology - Practicing without a license - Class B misdemeanor
- Engineering - Acting as an engineer without being registered - Class B misdemeanor
- Law - Practicing without a license - Class A misdemeanor
- Massage therapy - Practicing in violation of the appropriate chapter - Class B misdemeanor
- Medicine - Practicing without a license - Class B misdemeanor
- Optometry - Practicing without a license - Class B misdemeanor
- Physical therapy - Practicing in violation of the appropriate chapter - Class B misdemeanor
- Plumbing - Acting as a plumber without being registered and licensed - Class B misdemeanor
- Realty - Acting as a real estate agent without a licensed - Class A misdemeanor
- Veterinary medicine - Practicing in violation of the appropriate chapter - Class B misdemeanor
- Employing an unregistered dentist - Class A misdemeanor

Penalties

- Class B misdemeanor = a maximum penalty of 30 days imprisonment, \$1000 fine, or both
- Class A misdemeanor = a maximum penalty of 1 year imprisonment, \$2000 fine, or both