

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

HOUSE BILL NO. 1029
(Legislative Management)
(Education Committee)

AN ACT to create and enact sections 15.1-06-06.1, 15.1-06-06.2, and 15.1-06-06.3 of the North Dakota Century Code, relating to school approval; to amend and reenact sections 15.1-02-11, 15.1-06-06, 15.1-13-18, 15.1-13-19, and 15.1-13-25 of the North Dakota Century Code, relating to school approval; to repeal sections 15.1-27-08 and 15.1-27-09 of the North Dakota Century Code, relating to payment reductions for unaccredited schools; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-02-11 of the North Dakota Century Code is amended and reenacted as follows:

15.1-02-11. Superintendent of public instruction - Accreditation of schools - Rules.

The superintendent of public instruction may adopt rules governing the accreditation of public and nonpublic schools. Any rule adopted under this section must incorporate measures of student achievement and bear a direct relationship to improving student achievement.

SECTION 2. AMENDMENT. Section 15.1-06-06 of the North Dakota Century Code is amended and reenacted as follows:

15.1-06-06. Approval of public and ~~nonpublic~~ schools.

~~Each public and nonpublic school in this state offering elementary or secondary education to students must be approved by the superintendent of public instruction. Except as otherwise provided by law, the superintendent may not approve a school unless:~~

- ~~1. In order to obtain certification that a public school is approved, the superintendent of the district in which the school is located shall submit to the superintendent of public instruction a compliance report verifying that:~~
 - ~~a. Each classroom teacher is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board;~~
 - ~~2. b. 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.~~
- c. The school meets all curricular requirements set forth in chapter 15.1-21;
- d. The school participates in and meets the requirements of a review process that is:
 - (1) Designed to improve student achievement through a continuous cycle of improvement; and

- (2) Approved by the superintendent of public instruction;
 - e. The school has been inspected by the state fire marshal or the state fire marshal's designee in accordance with section 15.1-06-09 and:
 - (1) Has no unremedied deficiency; or
 - (2) Has deficiencies that have been addressed in a plan of correction which was submitted to and approved by the state fire marshal or the state fire marshal's designee; and
 - f. All individuals hired after June 30, 2011, and having unsupervised contact with students at the school, have:
 - (1) Undergone a criminal history background check requested by the employing school district; or
 - (2) Undergone a criminal history background check in order to be licensed by the education standards and practices board or by any other state licensing board.
2. The compliance report required by subsection 1 must:
- a. Be signed by the school principal and the superintendent of the school district;
 - b. Be formally approved by the board of the school district; and
 - c. Be filed with the superintendent of public instruction before five p.m. on the:
 - (1) First day of October; or
 - (2) The date of the extension provided under subsection 6.
3. On the tenth day of September and on the twenty-fifth day of September, the superintendent of public instruction shall provide to each school principal, school district superintendent, and school board member, electronic notification that the compliance report is due on the first day of October.
4. If a school's compliance report is not submitted at the time and in the manner required by subsection 2, the superintendent of public instruction shall designate the school as unapproved. No later than thirty days after the date on which a school's compliance report is due, in accordance with subsection 2, the superintendent of public instruction shall post a notice on the department's website, indicating whether a school is approved or unapproved.
5. If a public school does not meet the approval requirements of this section, the superintendent of public instruction shall:
- a. Notify the parents of students enrolled in the school, either directly or through the local media outlets, that the school is unapproved; and
 - b. Subtract from any state aid otherwise payable to the school district the prorated amount attributable to the students in attendance at the unapproved school for each day that the school's compliance report is not on file with the superintendent of public instruction.
6. If because of unforeseen or other extenuating circumstances a school district superintendent is unable to file a school's compliance report with the superintendent of public instruction before five p.m. on October first, the school district superintendent may request one extension from the superintendent of public instruction. The superintendent of public instruction shall grant the extension provided the request was received before five p.m. on October first. An extension under this section terminates at five p.m. on October fifteenth.

7. Upon receipt of a school's compliance report, as required by this section, the superintendent of public instruction shall certify the school as being approved. A certification of approval under this subsection expires at the conclusion of the regular school calendar.
8. If after being certified as approved a school experiences circumstances or events that would render the information contained in its compliance report inaccurate, the superintendent of the school district in which the school is located shall notify the superintendent of public instruction and work with the superintendent of public instruction to address the circumstances or events at the earliest possible time.
9. If a school district does not employ a superintendent, the duties required of a school district superintendent by this section must be performed as provided for in chapter 15.1-11.

SECTION 3. Section 15.1-06-06.1 of the North Dakota Century Code is created and enacted as follows:

15.1-06-06.1. Approval of nonpublic schools.

1. In order to obtain certification that a nonpublic school is approved, the administrator of a nonpublic school shall submit to the superintendent of public instruction a compliance report verifying that:
 - a. Each classroom teacher is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board;
 - b. 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;
 - c. The school meets all curricular requirements set forth in chapter 15.1-21;
 - d. The school has been inspected by the state fire marshal or the state fire marshal's designee in accordance with section 15.1-06-10 and:
 - (1) Has no unremedied deficiency; or
 - (2) Has deficiencies that have been addressed in a plan of correction which was submitted to and approved by the state fire marshal or the state fire marshal's designee; and
 - e. All individuals hired after June 30, 2011, and having unsupervised contact with students at the school, have:
 - (1) Undergone a criminal history background check requested on behalf of the employing school; or
 - (2) Undergone a criminal history background check in order to be licensed by the education standards and practices board or by any other state licensing board.
2. The compliance report required by subsection 1 must:
 - a. Be signed by the school administrator;
 - b. Be formally approved by the governing board of the school; and
 - c. Be filed with the superintendent of public instruction before five p.m. on:
 - (1) The first day of October; or
 - (2) The date of the extension provided under subsection 5.

3. On the tenth day of September and on the twenty-fifth day of September, the superintendent of public instruction shall provide to each school administrator and member of the governing board, electronic notification that the compliance report is due on the first day of October.
4. If a nonpublic school's compliance report is not submitted at the time and in the manner required by subsection 2, the superintendent of public instruction shall designate the school as unapproved. No later than thirty days after the date on which a school's compliance report is due, in accordance with subsection 2, the superintendent of public instruction shall post a notice on the department's website, indicating whether a nonpublic school is approved or unapproved.
5. If a nonpublic school does not meet the approval requirements of this section, the superintendent of public instruction shall notify the parents of students enrolled in the school, either directly or through the local media outlets, that the school is unapproved and that the parents may be in violation of the state's compulsory attendance provisions.
6. If because of unforeseen or other extenuating circumstances the administrator of a nonpublic school is unable to file the school's compliance report with the superintendent of public instruction before five p.m. on October first, the school administrator may request one extension from the superintendent of public instruction. The superintendent of public instruction shall grant the extension provided the request was received before five p.m. on October first. An extension under this section terminates at five p.m. on October fifteenth.
7. Upon receipt of a nonpublic school's compliance report, as required by this section, the superintendent of public instruction shall certify the school as being approved. A certification of approval under this subsection expires at the conclusion of the regular school calendar.
8. If after being certified as approved a nonpublic school experiences circumstances or events that would render the information contained in its compliance report inaccurate, the administrator of the nonpublic school shall notify the superintendent of public instruction and work with the superintendent of public instruction to address the circumstances or events at the earliest possible time.

SECTION 4. Section 15.1-06-06.2 of the North Dakota Century Code is created and enacted as follows:

15.1-06-06.2. Compliance report - Impossibility of timely submission.

The superintendent of public instruction may delay imposing the sanctions set forth in section 15.1-06-06 in the case of a public school and may delay imposing the sanctions set forth in section 15.1-06-06.1 in the case of a nonpublic school, until a time certain, if:

1. The required submission of a school's compliance report is an impossibility due to:
 - a. A natural disaster or act of God, including fire, earthquake, or tornado;
 - b. An unauthorized or illegal act by a third party, including terrorism, sabotage, riot, or vandalism;
 - c. Death;
 - d. A medical or personal emergency;
 - e. Operational interruption, including electrical failure, and computer hardware or software failures; or
 - f. Governmental action, including an emergency order or judicial or law enforcement action;
and

2. The superintendent of public instruction determines that the report, had it been submitted, would have demonstrated compliance with the approval requirements of section 15.1-06-06 in the case of a public school and compliance with the approval requirements of section 15.1-06-06.1 in the case of a nonpublic school.

SECTION 5. Section 15.1-06-06.3 of the North Dakota Century Code is created and enacted as follows:

15.1-06-06.3. Required records - Verification of information - Site visits.

1. The superintendent of public instruction shall notify each school and school district of the records that must be maintained in order to allow the superintendent of public instruction to verify the information contained in each compliance report. The superintendent of public instruction shall establish the length of time that the records must be maintained.
2.
 - a. The superintendent of public instruction may examine the records of any public school at any time and may conduct site visits to ensure the accuracy of information provided on the compliance report. The site visits may be scheduled or unscheduled.
 - b. The superintendent of public instruction may examine the records of any nonpublic school upon request.

SECTION 6. AMENDMENT. Section 15.1-13-18 of the North Dakota Century Code is amended and reenacted as follows:

15.1-13-18. Teaching license - Presentation to business manager.

1. Before being employed to teach by a school district, an individual shall present to the school district business manager a teaching license or other evidence of approval to teach issued by the board.
2. Before being employed to teach by a nonpublic school, an individual shall present to the school business manager a teaching license or other evidence of approval to teach issued by the board.

SECTION 7. AMENDMENT. Section 15.1-13-19 of the North Dakota Century Code is amended and reenacted as follows:

15.1-13-19. Teaching license - Expiration.

Notwithstanding any other law, an individual whose if an individual's teaching license expires within the final six weeks of a school year may continue teaching under the expired licensedistrict's or nonpublic school's calendar, that individual's license is deemed to be extended and in effect until the completion of the school yeardistrict's or nonpublic school's calendar.

SECTION 8. AMENDMENT. Section 15.1-13-25 of the North Dakota Century Code is amended and reenacted as follows:

15.1-13-25. Teaching license - Action by board - Causes.

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

SECTION 9. REPEAL. Sections 15.1-27-08 and 15.1-27-09 of the North Dakota Century Code are repealed.

SECTION 10. EFFECTIVE DATE. This Act becomes effective on July 1, 2011.

SECTION 11. EMERGENCY. This Act is declared to be an emergency measure.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1029 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 93 Nays 0 Absent 1

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 47 Nays 0 Absent 0

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2011.

Approved at _____ M. on _____, 2011.

Governor

Filed in this office this _____ day of _____, 2011,
at _____ o'clock _____ M.

Secretary of State