



ARIZONA HOUSE OF REPRESENTATIVES

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House: ED DP 10-0-0-0

HB 2023: schools; employees; employment; discipline
Sponsor: Representative Udall, LD 25
House Engrossed

Overview

Requires the State Board of Education (SBE) to subject noncertificated persons to adopted rules and procedures for disciplinary action that are similar to the rules and procedures for certificated persons. Mandates school districts and charter schools to check the educator information system before employing a person.

History

As part of its powers, SBE is required to supervise and control the certification of individuals directly and indirectly engaged in instructional work ([A.R.S. § 15-203](#)). School districts are prohibited from employing teachers who do not have a valid teaching certificate, while charter schools are prohibited from employing teachers whose certificates have been surrendered or revoked, unless reinstated by SBE (A.R.S. §§ [15-502](#), [15-183](#)).

Statute also directs SBE to impose disciplinary action, which may include a letter of censure, suspension, suspension with conditions or revocation of a certificate upon finding that a certificated person has committed immoral or unprofessional conduct. SBE must prescribe procedures for the investigation of every written complaint alleging that a certificated person engaged in immoral or unprofessional conduct. Currently, the investigative unit is housed within the Arizona Department of Education (ADE). The unit is directed and overseen by the Superintendent of Public Instruction (SPI) ([A.R.S. § 15-251](#)).

Noncertificated personnel and unpaid personnel that are allowed to provide direct services to students without the supervision of a certificated employee are required to be fingerprinted. Furthermore, school districts may require noncertificated personnel to obtain a fingerprint clearance card as a condition of employment ([A.R.S. § 15-512](#)). All individuals directly or indirectly engaged in instructional work at a charter school are required to have a valid fingerprint clearance card ([A.R.S. § 15-183](#)).

Provisions

SBE

1. Directs SBE to adopt rules and procedures for disciplinary action of noncertificated persons that are substantially similar to the rules and procedures for certificated persons. (Sec. 5)
2. Instructs SBE to adopt rules that:
 - a) Define and provide guidance to schools on activities that constitute immoral or unprofessional conduct of noncertificated persons; and
 - b) Prescribe procedures for the investigation, by ADE, of every written complaint alleging that a person seeking certification or a noncertificated person has engaged in immoral or unprofessional conduct. (Sec. 2)
3. Allows SBE to provide for a hearing officer or advisory committee to conduct hearings and screenings to determine whether to:

- a) Impose disciplinary action against a certificated person;
 - b) Reinstate a revoked or surrendered certificate;
 - c) To approve or deny an initial application for certification or certificate renewal; and
 - d) To impose or lift disciplinary action against a noncertificated person. (Sec. 2)
4. Permits SBE to dispose of complaints requesting disciplinary action against a noncertificated person after SBE has imposed disciplinary action. (Sec. 2)
 5. Authorizes SBE to review a complaint and determine whether to take disciplinary action against a noncertificated person who has engaged in immoral or unprofessional conduct, including prohibiting the person's employment at a school district or charter school for up to five years. (Sec. 5)
 6. States that a person who is subject to disciplinary action by SBE is not eligible for certification. (Sec. 8)
 7. Instructs SBE to permanently prohibit a noncertificated person from employment at a school district or charter school if the person is convicted of:
 - a) A dangerous crime against children;
 - b) The sexual abuse or sexual assault of a minor;
 - c) Any sexual conduct with a minor;
 - d) An act committed in another state or territory that, if committed in Arizona, would be one of these crimes;
 - e) A preparatory offense of any of these crimes; or
 - f) Any crime that requires the person to register as a sex offender. (Sec. 10)
 8. Stipulates that a final adjudication or judgment in another jurisdiction that a noncertificated person engaged in immoral or unprofessional conduct is to be treated as immoral or unprofessional conduct. (Sec. 9)
 9. Exempts SBE from administrative hearings related to the discipline of noncertificated persons. (Sec. 11)

ADE

10. Requires ADE to investigate written complaints alleging that a noncertificated person has engaged in immoral or unprofessional conduct. (Sec. 5)
11. Requires the SPI to direct and oversee the investigation of noncertificated persons for immoral or unprofessional conduct. (Sec. 3)
12. Authorizes ADE to provide information, records or reports relating to the investigation of a certificated or noncertificated person to:
 - a) Any school or school district that currently employs the person;
 - b) Any school or school district to which the person has applied for employment;
 - c) Any third-party entity that contracts with a school or school district to provide educators and to which the person has applied for employment;
 - d) Any agency that received an application by the person for a certificate or license or that is investigating the person in order to make a certification or licensure decision; and
 - e) A state education agency in another state in which the person holds a certificate or is applying for a certificate. (Sec. 4)

School Districts and Charter Schools

13. Prohibits a school district or charter school from employing the following persons in a position that requires a valid fingerprint clearance card:
 - a) A certificated person whose certificate has been suspended, surrendered or revoked, unless reinstated by SBE; and

- b) A noncertificated person who has been prohibited from employment at a school district or charter school by SBE. (Sec. 1, 5, 6)
- 14. Requires a school district or charter school to check the educator information system prior to employing a person. (Sec. 1, 5, 6)
- 15. Directs each school district and charter school to annually submit a list of employed certificated and noncertificated persons to ADE. (Sec. 5)
- 16. Mandates, upon request by SBE or ADE, a school or school district to make available the attendance and testimony of witnesses, documents and physical evidence if a noncertificated person is alleged to have engaged in conduct constituting grounds for disciplinary action while employed. (Sec. 4)

Reporting Requirements

- 17. Requires a noncertificated person who reasonably suspects or receives a reasonable allegation that a certificated or noncertificated person engaged in conduct involving minors to report to ADE in writing as soon as practicable, but not later than three business days. (Sec. 7)
- 18. Requires a school district superintendent or a chief administrator of a charter school, who reasonably suspects or receives a reasonable allegation that a noncertificated person engaged in immoral or unprofessional conduct, to report the conduct to ADE. (Sec. 7)
- 19. Provides that a person who, in good faith, reports or provides information regarding the immoral or unprofessional conduct of a noncertificated person is not subject to an action for civil damages as a result. (Sec. 7)
- 20. States a noncertificated person's failure to report information pertaining to unprofessional or immoral conduct constitutes grounds for disciplinary action by SBE. (Sec. 7)
- 21. Prohibits a governing board or school district employee who reasonably suspects or receives a reasonable allegation that a noncertificated person engaged in conduct involving minors from accepting the resignation of the noncertificated person until these suspicions or allegations have been reported to SBE. (Sec. 7)

Miscellaneous

- 22. Defines *noncertificated person* as a person who is a school district or charter school employee who does not possess an SBE-issued certificate and is required or allowed to provide direct services to pupils without the supervision of a certificated employee.
 - a) Details that this definition does not apply to a person who does not hold a certificate and who is:
 - i. A transportation employee;
 - ii. A food service employee or contractor;
 - iii. A maintenance worker; or
 - iv. An employee or contractor of the school district or charter school that is not required to possess a valid fingerprint clearance card. (Sec. 5)
- 23. Defines *supervised*. (Sec. 5)
- 24. Makes technical changes. (Sec. 1, 3, 4, 6, 8)
- 25. Makes conforming changes. (Sec. 2,10)

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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