

DEPARTMENT OF EDUCATION

Colorado State Board of Education

COLORADO EDUCATOR LICENSING ACT OF 1991

1 CCR 301-37

1.21 Statement of Basis and Purpose for Amendment

The statutory authority for the amendments to these Rules is found in Sections 22-2-107 (l) (c) and 22-60.5-101, et seq., C.R.S. The amendments are necessitated by enactment of SB 08-208, SB 10-175 and HB 11-1121, which, in part, amended the Colorado Educator Licensing Act of 1991 with regard to the grounds for denying, suspending, revoking or annulling licenses. The purpose of the amendments is to ensure that these Rules are in compliance with state statute.

2260.5-R-15.00 Denial, Suspension, Revocation, or Annulment of Licenses and School District Reporting Requirements

15.00(1) The purpose of this section is to establish a procedure for processing complaints and charges for the denial, suspension, revocation or annulment of licenses, including lifetime certificates, endorsements, and authorizations, and to establish and define standards against which said complaints and charges may be judged. These Rules also provide due process protections for license holders and applicants against whom complaints and charges have been lodged, and specify requirements for school district reports concerning employee misconduct to the Department. For the purpose of this section, license shall mean any license, certificate, authorization or endorsement issued by the Department on or after July 1, 1994, pursuant to Section 22-60.5-101, C.R.S., and any certificate, letter of authorization, or endorsement issued by the Department on or before June 30, 1994, pursuant to Section 22-60-101, C.R.S.

15.00(2) A license may be denied, annulled, suspended or revoked by the State Board of Education in accordance with the State Administrative Procedures Act, Sections 24-4-101 through 107, C.R.S., in the following circumstances:

15.00(2)(a) a license may be denied if the applicant attempts to obtain the license through misrepresentation or fraud or through misleading information or an untruthful statement submitted or offered with the intent to misrepresent or mislead or to conceal the truth;

15.00(2)(b) a license may be annulled if the holder obtained the license through misrepresentation or fraud or through misleading information or an untruthful statement submitted or offered with the intent to misrepresent or mislead or to conceal the truth. A license may be annulled or modified if the Department mistakenly issued the license and it is subsequently determined that the holder is not entitled to the license due to a failure to meet educational or non-educational requirements in effect when the license was issued;

15.00(2)(c) a license may be denied, suspended or revoked when the applicant or holder is or has ever been determined to be mentally incompetent by a court of competent jurisdiction and a court has entered, pursuant to Part 3 or Part 4 of Article 14 of Title 15 or ~~Section 27-10-109 (4) or 27-10-125~~ Section 27-65-109 (4) or 27-65-127, C.R.S., an order specifically finding that the mental incompetency is of such a degree that the applicant or holder is incapable of continuing to perform his or her job; except that the license of a person who has been determined to be

mentally incompetent and for whom such an order has been entered shall be denied, revoked or suspended by operation of law without a hearing, notwithstanding the provisions of Section 22-60.5-108, C.R.S.;

15.00(2)(d) a license may be denied, suspended or revoked when the applicant or holder is or has ever been convicted of, pleads or has ever pled nolo contendere to or receives or has ever received a deferred sentence for a violation of any law of this state involving contributing to the delinquency of a minor, as described in section 18-6-701, C.R.S.; a misdemeanor, the underlying factual basis of which has been found by the court on the record to involve domestic violence, as defined in Section 18-6-800.3 (1) C.R.S., and the conviction is a second or subsequent conviction for the same offense; misdemeanor sexual assault, as described in Section 18-3-4012 C.R.S.; misdemeanor unlawful sexual conduct as described in Section 18-3-404, C.R.S.; misdemeanor sexual assault on a client by a psychotherapist, as described in Section 18-3-405.5 C.R.S.; misdemeanor child abuse, as described in Section 18-6-401, C.R.S.; or a crime under the laws of the United States, another state, a municipality of this state or another state, or any territory subject to the jurisdiction of the United States, the elements of which are substantially similar to one of the offenses described in this paragraph (d).

15.00(2)(e) a license may be denied, suspended or revoked when the applicant or holder is or has ever been found guilty of or pleads or has ever pled guilty or nolo contendere to a misdemeanor violation of any law of this state or another state, any municipality of this state or another state, or the United States or any territory subject to the jurisdiction of the United States involving the illegal sale of controlled substances, as defined in Section 12-22-303 (7), C.R.S.;

15.00(2)(f) a license may be denied, suspended or revoked when the applicant or holder is or has ever been found guilty of a felony, other than a felony described in Section 15.00 (3) of these Rules, or upon the court's acceptance of a guilty plea or a plea of nolo contendere to a felony, other than a felony described in Section 15.00 (3) of these Rules, in this state or under the laws of any other state, the United States, or any territory subject to the jurisdiction of the United States, of a crime which, if committed within this state, would be a felony, other than a felony described in Section 15.00 (3) of these Rules, when the commission of said felony, in the judgment of the State Board of Education, renders the applicant or holder unfit to perform the services authorized by his or her license;

15.00(2)(g) a license may be denied, suspended or revoked when the applicant or holder has ever received a disposition or an adjudication for an offense involving what would constitute a physical assault, a battery, or a drug-related offense if committed by an adult and the offense was committed within the ten years preceding the date of the applicant or holder's application for a license;

15.00(2)(h) a license may be denied, suspended or revoked when the applicant or holder forfeits or has ever forfeited any bail, bond or other security deposited to secure the appearance by the applicant or holder who is charged with having committed a felony or misdemeanor, pays or has ever paid a fine, enters or has ever entered a plea of nolo contendere, or receives or has ever received a deferred or suspended sentence imposed by the court for any offense described in Sections 15.00 (3) (a), ~~or~~ 15.00 (3) (b), 15.00 (3) (d) or 15.00 (3)(e) of these Rules;

15.00(2)(i) notwithstanding any provision of Section 15.00 (3) of these Rules to the contrary, a license may be denied, suspended or revoked when the State Board of Education determines an applicant or holder who held a license prior to June 6, 1991, has ever been convicted of an offense described in Sections 15.00 (3) (a) - 15.00 (3) (d) of these Rules, unless the applicant or holder was previously afforded the rights set forth in Section 22-60.5-108, C.R.S., with respect to the offense and the applicant or holder received or retained his or her license as a result;

15.00(2)(j) a license may be suspended when the holder without good cause, resigns or abandons his or her contracted position with a school district without giving written notice to the employing local board of education of his or her intent to terminate his or her employment contract for the succeeding academic year at least thirty days prior to the commencement of the succeeding academic year or the commencement of services under his or her employment contract or without giving written notice to the employing local board of education of his or her intent to terminate his or her employment contract for the current academic year at least thirty days prior to the date he or she intends to stop performing the services required by the employment contract.

15.00(2)(k) a license maybe denied, annulled, suspended or revoked when the State Board of Education finds and determines that the applicant or holder is or has ever been professionally incompetent, as described in Section 15.01 of these Rules;

15.00(2)(l) a license maybe denied, annulled, suspended or revoked when the State Board of Education finds and determines that the applicant or holder is or has ever been guilty of unethical behavior, as described in Section 15.02 of these Rules.

15.00(2)(m) a license maybe suspended or revoked for a period not less than 90 days when the State Board of Education finds and determines that the licensee knowingly and intentionally failed to protect student data, pursuant to 22-1-123 C.R.S.

15.00(2)(n) a license maybe denied, suspended or revoked when the applicant or holder is or has ever been convicted of, pleads or has ever pled nolo contendere to or receives or has ever received a deferred sentence for a misdemeanor committed under the laws of the United States, another state, a municipality of another state, or any territory subject to the jurisdiction of the United States, the elements of which are substantially similar to sexual exploitation of children as described in Section 18-6-403 (3) (b.5), C.R.S.

15.00(3) a license shall be denied, annulled, suspended or revoked by the State Board of Education in accordance with the State Administrative Procedures Act, Sections 24-4-101 through 107, C.R.S., in the following circumstances:

15.00(3)(a) a license shall be denied, suspended or revoked when the applicant or holder is or has ever been convicted by a jury verdict or by entry of a verdict or acceptance of a guilty plea or a plea of nolo contendere by a court of felony child abuse, as specified in Section 18-6-401, C.R.S.; a crime of violence, as defined in Section 18-1.3-406, C.R.S.; a felony offense involving unlawful sexual behavior, as defined in Section 16-22-102 (9), C.R.S.; a felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in Section 18-6-800.3, C.R.S.; or a felony offense in another state, the United States, or territory subject to the jurisdiction of the United States, the elements of which are substantially similar to the elements of one of the offenses described in this paragraph (a);

15.00(3)(b) a license shall be denied, suspended or revoked when the applicant or holder is or has ever been convicted by a jury verdict or by entry of a verdict or acceptance of a guilty plea or a plea of nolo contendere by a court of indecent exposure, as described in Section 18-7-302 C.R.S., or of a crime under the laws of another state, a municipality of this or another state, the United States, or a territory subject to the jurisdiction of the United States, the elements of which are substantially similar to the offense of indecent exposure described in this paragraph (b);

15.00(3)(c) a license shall be denied, suspended or revoked when the applicant or holder receives or has ever received a disposition or an adjudication for an offense that would constitute felony unlawful sexual behavior, as defined in Section 16-22-102 (9), C.R.S., if committed by an adult;

15.00(3)(d) a license shall be denied, suspended or revoked when the applicant or holder fails to submit his or her fingerprints taken by a qualified law enforcement agency to the Department within thirty days after receipt of the Department's written request for fingerprints, which fingerprints submission the Department required upon finding probable cause to believe that the applicant or holder had been convicted of a felony or misdemeanor, other than a misdemeanor traffic offense or traffic infraction, subsequent to his or her licensure. a license shall be denied, suspended or revoked when the applicant or holder is or has ever been convicted by a jury verdict or by entry of a verdict or acceptance of a guilty plea or a plea of nolo contendere by a court of a felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in Section 18-6-800.3, C.R.S., or of a felony offense in another state, the United States, or territory subject to the jurisdiction of the United States, the elements of which are substantially similar to the elements of the offense described in this paragraph (d). These grounds for mandatory denial, suspension or revocation of a license shall only apply for a period of five years following the date the offense was committed, provided the applicant or holder has successfully completed any domestic violence treatment required by the court.

15.00(3)(e) a license shall be denied, suspended or revoked if the applicant or holder is or has ever been convicted by a jury verdict or by entry of a verdict or acceptance of a guilty plea or a plea of nolo contendere by a court of a

felony drug offense described in Part 4 of Article 18 of Title 18, C.R.S., committed on or after August 25, 2012. This requirement for denial, suspension or revocation of a license shall only apply for a period of five years following the date the offense was committed.

15.00(3)(f) a license shall be denied, suspended or revoked when the applicant or holder fails to submit his or her fingerprints taken by a qualified law enforcement agency to the Department within thirty days after receipt of the Department's written request for fingerprints, which fingerprint submission the Department required upon finding probable cause to believe that the applicant or holder had been convicted of a felony or misdemeanor, other than a misdemeanor traffic offense or traffic infraction, subsequent to his or her licensure.

15.00(4) The State Board of Education may take immediate action to deny, annul or suspend a license without a hearing, notwithstanding the provisions of Section 22-60.5-108, C.R.S., upon receipt of a certified copy of the judgment of conviction, a deferred sentence, or the acceptance of a guilty plea or a plea of nolo contendere for any violation of Sections 15.00 (2) (d), ~~and~~ 15.00 (2) (e) or 15.00 (2) (n) of these Rules, or upon receipt of a certified copy of the judgment of conviction or the acceptance of a guilty plea or a plea of nolo contendere for any violation of Sections 15.00 (3) (a) - 15.00 (3) ~~(e)~~ (e) of these Rules. The State Board of Education may revoke a suspended license based on a violation of Sections 15.00 (2) (d), ~~and~~ 15.00 (2) (e) or 15.00 (2) (n) of these Rules and shall revoke a suspended license based on a violation of Sections 15.00 (3) (a) - 15.00 (3) ~~(e)~~ (e) of these Rules without a hearing and without any further action after the exhaustion of all appeals, if any, or after the time for seeking an appeal has elapsed, and upon the entry of a final judgment. A certified copy of the judgment of a court of competent jurisdiction of a conviction, a deferred sentence, or the acceptance of a guilty plea or a plea of nolo contendere shall be conclusive evidence of such conviction or plea for the purposes of Sections 15.00 (2) (d), ~~and~~ 15.00 (2) (e) and 15.00 (2) (n) of these Rules. A certified copy of the judgment of a court of competent jurisdiction of a conviction or the acceptance of a guilty plea or a plea of nolo contendere shall be conclusive evidence of such conviction or plea for the purposes of Sections 15.00 (3) (a) - 15.00 (3) ~~(e)~~ (e) of these Rules.

15.00(5) In cases where the State Board of Education deems summary suspension is appropriate, pursuant with Section 24-4-104 (4), C.R.S., proceedings for suspension or revocation may be instituted upon the Board's own motion without the necessity for having a charge filed pursuant to these regulations. The holder shall be entitled to a post-deprivation hearing consistent with Section 24-4-105, C.R.S. ~~at~~ At such hearing, the burden of proof shall rest with the holder.