



To: Elizabeth Taylor, Tennessee State Board of Education General Counsel  
From: Tennessee Education Association  
Re: Educator Licensure Rule 0520-02-03-.09  
Date: June 3, 2016

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We appreciate the opportunity to comment on the proposed licensure rule revisions within Educator Licensure Rule 0520-02-03-.09. Our primary goal is to have a rule that provides clear guidance related to the discipline imposed for certain offenses and indiscretions.

Based on the current rule draft, we have several questions and comments that fall into the following categories: definitions, statutory consistency and issues, and technical corrections. Though some of these specific comments were discussed in the SBE Teacher Discipline Subcommittee meeting, we want to ensure that all of our comments are captured into one document.

**Definitions:** We recommend revisions related to definitions and examples of prohibited conduct.

1(c): What does it mean to be “on official school business while documented as being under the influence of, possessing or consuming alcohol or illegal drugs?” This language is overly broad and the parameters need to be clarified.

2(c)(ii)(iv): What does “school-related activities” mean? There is no mention of legally using alcohol off school grounds and on non-school business. Does this also apply to drug use?

2(iv)(2): What are the policies and standards related to test scores that are nullified? These standards should be clear in the rule.

2(v): What are the standards for non-explicit inappropriate communication, inappropriate communication of an explicit nature with a student, and inappropriate use of school property?

**Statutory Consistency/Issues:** Some sections in the rule present statutory inconsistencies that warrant revisions.

1(f)(i)(4): The proposed rule lists a violation of any provision in the Teacher Code of Ethics as contained in T.C.A. § 49-5-1003. That standard is lower than the standard for dismissal. We believe the standard should be consistent with T.C.A. § 49-5-501(3)(D) that delineates “conduct unbecoming of the teaching profession.”

2(b): Under the automatic suspension of a license section, is a hearing still permitted?

2(b)(i): The loan default provision is also listed under good cause in 1(f)(i)(2). Why is it under good cause if it is an automatic suspension?

2 (c)(i)(1): If the felony is not an offense listed under 2(a), the educator has a right to a hearing.

4(b)(i): Under T.C.A. §40-15-105, a qualified defendant for a pretrial diversion is someone who has not been granted pretrial diversion before and does not have a prior conviction for a Class A or B misdemeanor (or any class of felony). In addition, the charged offense is not a felony or other offense listed. In short, you can't get a pre-trial diversion for a felony of any class.

**Technical Corrections:** There are several technical issues with the current draft.

1(f)(i) should read 1(f)(1). In addition, it should read “for purposes of subparagraph (f)” and not part.

1(f)(i)(3) should read part 7 and not part (e).

1(f)(ii) should read “for purposes of paragraph (1).” In addition, what is meant by “in addition to judgment of conviction?”

2(a) at the top of page 2 should read 39-14-401-39-14-404. The current drafting misses some sections.

2(iii)(3) should read “authority to *use* reasonable force.”

4(b)(i) should read paragraph (1) and (2) and not part. That revision should also be reflected in 4(b)(ii), 6, and 7.

One issue that sometimes occurs is when the SBE proposes to take a disciplinary action, such as a suspension or revocation, against a teacher's license and the local school system has already disciplined the teacher for the same offense. It is also important to understand and capture this issue when drafting these revisions.

Thank you again for the opportunity to comment on the proposed rule. We look forward to seeing the newly revised version.