

*****DRAFT - NOT FOR FILING*****

3301-73-21 Conduct unbecoming; aggravating and mitigating factors.

(A) The state board of education ~~will shall~~ consider, but not be limited to, the following factors when evaluating conduct unbecoming under division (B)(1) of section 3319.31 of the Revised Code:

Commented [DM1]: Changes made throughout the rule according to SB 9, 134th GA, to remove restrictive regulatory language.

- (1) Crimes or misconduct involving minors;
- (2) Crimes or misconduct involving school children;
- (3) Crimes or misconduct involving academic fraud;
- (4) Making, or causing to make, any false or misleading statement, or concealing a material fact in a matter pertaining to facts concerning qualifications for professional practice and other educational matters, or providing false, inaccurate, or incomplete information about criminal history or prior disciplinary actions by the state board or another professional licensing board or entity;
- (5) Crimes or misconduct involving the school community, school funds, or school equipment/property, which may include, but are not limited to, findings for recovery by the state auditor;

(6) A plea of guilty to, a ~~finding or finding~~ of guilt, ~~of~~ a conviction, granting of treatment in lieu of conviction, or a pre-trial diversion program ~~for to~~ any offense in violation of federal, state, or local laws and/or statutes regarding criminal activity;

Commented [DM2]: Streamlined language while maintaining consistency with ORC 3319.31.

(7) A violation of the terms and conditions of a consent agreement; ~~and-~~

~~(8)~~ A violation of the licensure code of professional conduct for Ohio educators;

Commented [DM3]: Added factors to account for compliance with Licensure Code of Professional Conduct for Ohio Educators and applicable Revised Code sections.

~~(9)~~ A violation of the Revised Code that specifically addresses educator misconduct including but not limited to sections 3319.151, 3319.15, 3314.103; and

~~(§10)~~ Any other crimes or misconduct that negatively reflect upon the teaching profession, including sanctions and/or disciplinary action by another state educational entity or another professional licensing board or entity.

(B) If the state board finds that a person has engaged in conduct unbecoming as described in paragraph (A) of this rule, then the state board may take the following mitigating and aggravating factors, as applicable and appropriate, into consideration when determining a final action under ~~section 9.79 and~~ division (B)(1) of section 3319.31 of the Revised Code:

Commented [DM4]: Addition of ORC 9.79 factors for first time applicants to reflect recent legislative changes.

- (1) The nature and seriousness of the crime or misconduct;
- (2) The extent of the person's past criminal activity or misconduct;
- (3) The age of the person when the crime or misconduct was committed;
- (4) The amount of time that has elapsed since the person's last criminal activity or misconduct;
- (5) The conduct and work activity of the person before and after the criminal activity or misconduct;
- (6) Whether the educator has completed the terms of his/her probation or deferred adjudication;
- (7) Evidence of rehabilitation and evidence of whether the educator is amenable to rehabilitation;

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~~(8) Whether the applicant is eligible for licensure pursuant to rule 3301-20-01 of the Administrative Code;~~

(8-9) Whether the person fully disclosed the crime or misconduct to the state board, the department or the employing school district;

~~(9-10)~~ Whether licensure will negatively impact the health, safety, or welfare of the school community and/or statewide education community;

~~(10-11)~~ Whether the educator has previously been disciplined by the state board of education or any other licensing entity, including, but not limited to, out-of-state licensing entities;

~~(11-12)~~ Whether the school district or educational entity imposed any penalties, sanctions, or other conditions addressing the educator's professional conduct;

~~(12-13)~~ Whether the educator has been employed in any capacity within a school district or educational entity after having a license, certificate, or permit revoked; and

~~(13-14)~~ Any other relevant factor.

(C) The lack of a criminal charge, indictment, prosecution or conviction ~~does shall~~ not preclude the state board from investigating and, if appropriate, initiating an action against a person.

(D) The state board ~~will shall~~ not be precluded from considering the factors listed in paragraphs (A) ~~and (B)~~ of this rule when the offense is enumerated in division (B)(2) of section 3319.31 of the Revised Code or division (E) of section 3319.311 of the Revised Code.

Commented [DM5]: Removal of factor due to ORC 9.79 legislation for First Time Applicants with criminal convictions.

Commented [DM6]: Clarification to include factors listed in both of the above paragraphs for consideration.