

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

3301-73-23 Consent agreements.

- (A) A respondent who enters into a consent agreement under division (E) of section 3319.311 of the Revised Code with the state board shall agree to and acknowledge the following twenty stipulations:
- (1) That the respondent voluntarily enters into the consent agreement being fully aware of his/her rights under Chapter 119. Of the Revised Code, including the right to representation by counsel and the right to a formal adjudicative hearing;
 - (2) That the respondent waives his/her rights under Chapter 119. of the Revised Code;
 - (3) That the state board is empowered to revoke, limit, suspend, or deny, any licenses held or applied for if, at any time, the holder is convicted of a crime in any jurisdiction, granted treatment in lieu or pre-trial diversion in any jurisdiction, or found to be immoral, incompetent, negligent or guilty of other conduct unbecoming of his/her position;
 - (4) That the consent agreement ~~does shall~~ not in any way or manner limit or affect the authority of the state board of education to initiate disciplinary proceedings against the respondent based on any act, conduct, or admission of the respondent justifying disciplinary action, which occurred before or after the date of the consent agreement, and is not directly related to the specific facts as set forth in the consent agreement;
 - (5) That the disciplinary action in the consent agreement covers all licenses held by him/her which may not be specifically listed in the consent agreement ~~as well as~~ ~~or~~ applications currently under review;
 - (6) That the respondent agrees to report any license limitation or suspension to his /her employing school district, or any other employing agency, which requires licensure through the state board;
 - (7) That the respondent ~~will shall~~ not engage in any unbecoming conduct, as determined by the department, subsequent to the signing of the consent agreement;
 - (8) That failure to abide by the terms and conditions of a consent agreement ~~is shall be deemed~~ a violation of the consent agreement and constitutes ~~unbecoming~~ conduct under division (B)(1) of section 3313.31 of the Revised Code and rule 3301-73-21 of the Administrative Code;
 - (9) That the state board reserves the right to pursue formal action if it learns that the respondent has violated any of the terms and conditions of the consent agreement, regardless of the point in time such information becomes known;
 - (10) That except for the enforcement of the consent agreement, the respondent ~~shall releases~~ the state board and the department, its members, employees, agents, officers, and representatives, jointly and severally, from any liability arising from this matter;
 - (11) That the respondent ~~will shall~~ not proceed with any action to recover attorney's fees from the state board and the department, its members, employees, agents, officers, and representatives jointly and severally;
 - (12) That the consent agreement contains the entire agreement and understanding between the state board and him/her and supersedes and replaces all prior negotiations, proposed agreements, and agreements written or oral;
 - (13) That the consent agreement ~~is shall be~~ binding upon, inure to the benefit of, and ~~is be~~ enforceable by and

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

Commented [DM2]: Added "as well as" and deleted "or" because Consent Agreements can also take action on applications.

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against the personal representatives, heirs, successors, assignees, and transferees of the parties;

- (14) That the respondent has had an opportunity to ask questions concerning the terms of the consent agreement and that all questions asked have been answered;
 - (15) That the respondent ~~will shall~~ inform the department, in writing, within thirty days of any change in address or telephone number for the duration of the terms of the consent agreement;
 - (16) That if the respondent is indicted, convicted, or pleads guilty or no contest to any offense other than a minor misdemeanor or a traffic offense, or is accepted into a diversion or treatment in lieu of conviction program, he/she ~~will shall~~ notify the department within fourteen days for the duration of the consent agreement;
 - (17) That a copy of the consent agreement will be sent to his/her current and/or former employing school district, sponsoring district, or other educational entity and that it ~~is shall be~~ his/her responsibility to provide a copy of the consent agreement to any new, potential educational employer before hire for the duration of the terms of the consent agreement;
 - (18) That the consent agreement ~~is shall be considered~~ a public record as defined in section 149.43 of the Revised Code and ~~will shall~~ be redacted in accordance with paragraph (J) of rule 3301-73-04 of the Administrative Code;
 - (19) That the terms and conditions of the consent agreement may be reported to appropriate organizations, data banks and governmental agencies; and
 - (20) That any violations of a consent agreement that lead to additional disciplinary action ~~will shall~~ be reported by the respondent to any potential employing school district, educational entity, and any current employing school district or educational entity.
- (B) The department may add, delete, or modify the stipulations listed in this rule as agreed upon by the parties to the consent agreement if the consent agreement results in the respondent being permanently barred from reapplying for any license, certificate or permit issued by the department.
- (C) The department may enter into an addendum to the original consent agreement to add, delete, or modify terms as agreed upon by the parties to the consent agreement, and as appropriate to carry out the purpose of the consent agreement.