

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

3301-73-26 Action after appeal of conviction.

- (A) The superintendent is required to take action pursuant to division (E) of section 3319.31 of the Revised Code only after receiving notice from the clerk of court or a properly filed petition for reconsideration ~~from the person whose license was revoked or denied, as defined in this paragraph, along with the appropriate court documents~~ verifying that the plea, finding, or conviction that was the basis of an action taken under division (B)(2) of section 3319.31 of the Revised Code, division (C) of section 3319.31 of the Revised Code or division (F) of section 3319.31 was overturned.

Commented [DM1]: Streamlined language for compliance with ORC 9.79 legislation.

A petition for reconsideration is "properly filed" when it is made in writing, and includes a certified copy of the court records demonstrating that the plea, finding, or conviction has been overturned.

- (B) If the superintendent determines, pursuant to division (E) of section 3319.31 of the Revised Code, that the respondent's license ~~should~~ ~~shall~~ be reinstated or granted without limitations after receiving a notice from the clerk of courts or properly filed petition for reconsideration, the superintendent ~~will~~ ~~shall~~ notify the respondent and any former, current, or reporting school district through a written order. The reinstatement or granting of the license ~~will~~ ~~shall~~ be effective immediately upon the date of the written order, but is not necessarily an adjudication on the merits of the case.
- (C) The written order issued pursuant to paragraph (B) of this rule shall be sent by registered mail to the respondent.

Commented [DM2]: Changes made throughout the rule according to SB 9, 134th GA, to remove restrictive regulatory language.

- (1) If the written order is returned because the respondent failed to claim or refused delivery of the written order, the superintendent shall send the written order by first class mail to the respondent at the respondent's last known address, and ~~shall~~ obtain a certificate of mailing. Service by first class mail is complete when the certificate of mailing is obtained, unless the notice is returned showing failure of delivery.
- (2) If the written order sent by registered or first class mail is returned for failure of delivery, the superintendent shall make personal delivery of the notice by an employee, agent of the agency, or agent hired by the agency, or ~~shall~~ cause a summary of the substantive provisions of the written order to be published in the educator conduct database and the educator's electronic credential history, which can be accessed through the department's website (education.ohio.gov) for a period of thirty days. After the thirty calendar days have expired, the superintendent shall remove the initial written order revoking or denying the respondent's license and the subsequent written order granting or reinstating the respondent's license from the educator database. The written orders shall be maintained with the department's official records.
- (D) If after thirty days, the superintendent cannot make a determination as to whether the respondent committed the act in question in the prior criminal action against the respondent, the superintendent ~~will~~ ~~shall~~ reinstate or grant the respondent's license, and reserves the right to continue the investigation and initiate disciplinary proceedings as warranted. The reinstatement or granting of the respondent's license is not an adjudication on the merits of the case; however, if the superintendent determines the results of the investigation warrant the initiation of an action to limit, suspend, revoke or deny a license, the superintendent ~~will~~ ~~shall~~ give notice of an opportunity for a hearing in accordance with sections 119.01 to 119.13 of the Revised Code, and comply with the provisions governing notices for opportunity for hearing as listed in rule 3301-73-05 of the Administrative Code.