

Administrative Hearing: An administrative hearing is the adjudication process by which a person holding or applying for a license with the Department may challenge proposed disciplinary action against his or her educator's license. The Office of Professional Conduct oversees the administrative hearing process, which is prescribed in [Chapter 119 of the Ohio Revised Code](#). An administrative hearing provides a fair hearing to the respondent prior to the Department taking any adverse action on the respondent's license. It is imperative that any decision arising from a hearing is based solely on what is contained in the administrative record. Any consideration outside the record violates due process. Except as otherwise provided by law, the burden of proof in administrative cases is proof by a preponderance of the evidence.

BCII/FBI background check – the "fingerprint" criminal records check that is completed in order to research the possibility of criminal arrests/convictions. The Bureau of Criminal Identification and Investigation (BCII) is a division of the Ohio Attorney General's Office which conducts criminal record checks on all applicants. The Federal Bureau of Investigation (FBI) conducts criminal record checks on all applicants who have not continuously lived in Ohio for the five years before submitting an application.

Broken contract – In this case, a broken contract occurs when an educator does not fulfil his or her teaching contract. The educator leaves without the consent of the school board or governing body and outside of the prescribed period. [R.C. 3319.15](#) and [R.C. 3314.103](#).

Certified records – a record with a stamp/seal from the issuing office. The stamp/seal formally confirms the document to be true, accurate and genuine. A certified copy of a plea of guilty or a judicial finding of guilt is conclusive proof of the commission of all of the elements of the crime. [Ohio Adm.Code 3301-73-17](#).

Confidentiality – all information that is learned by the Office of Professional Conduct throughout the entirety of the investigation will remain confidential. However, any disciplinary action that is taken pursuant to an investigation is not confidential. [R.C. 3319.311](#). See also Public Records

Consent Agreement: A legal agreement between an educator and the Ohio Department of Education outlining terms for the educator to bring his or her license into good standing or for an applicant to obtain a license. The focus of the consent agreement is to rehabilitate the applicant or educator through corrective measures. Terms of such agreements can include, but are not limited to license suspensions, training, counseling, drug/alcohol testing, community service and periods of time to monitor the educator's conduct. [Ohio Adm.Code 3301-73-02](#).

Court reporter: an individual who makes a stenographic record of the testimony, evidence, and rulings and who transcribes the hearing process.

Department of Education: the administrative unit and organization through which the policies, directives, and powers of the State Board and the duties of the superintendent of public instruction are administered. [R.C. 3301.13](#).

Disciplinary action: [Revised Code 3319.31](#) grants the State Board of Education authority to deny an application for a teaching license or to suspend, limit, or revoke an existing teaching license. The grounds for the State Board to pursue disciplinary action are listed in 3319.31. There are several types of disciplinary actions that the State Board can pursue to eliminate unprofessional conduct from the teaching profession.

Voluntary surrender – when a licensed/certified educator voluntarily, knowingly and intelligently agrees in writing to permanently give up a license or certificate and gives up all rights to hold a position which requires a license or certificate issued by the state board. [R.C. 3319.311\(F\)](#), [Ohio Adm.Code 3301-73-22\(B\)](#).

Revocation – when the State Board rescinds an educator’s license or certificate. Revocation of a license is permanent. The State Board may establish a minimum period of time before an applicant can apply for a new license. The State Board may also order that the respondent is permanently ineligible to apply for any license and may also order that the respondent shall no longer be permitted to hold any position in any school district in the state that requires a license issued by the State Board. [Ohio Adm.Code 3301-73-22\(A\)\(2\)](#).

Suspension – precludes the teacher from performing any educational activity within the state of Ohio that requires a license through the Ohio Department of Education during the suspension period. Suspension of a license is for the specified period or until all other terms are complete. After the conclusion of the suspension, a license will be reactivated if the educator demonstrates compliance with any educational requirements and conditions of the suspension. [Ohio Adm.Code 3301-73-22\(A\)\(1\)](#).

Deny - when the State Board refuses to grant a license to an applicant. A denial of an application is a permanent action. After the denial, the State Board will (1) establish a minimum period of time before an applicant can reapply for a license, and (2) order that the applicant is permanently ineligible to apply for any license issued by the State Board and that the respondent is not permitted to hold any position in any school district in the state that requires a license issued by the State Board. [Ohio Adm.Code 3301-73-22\(A\)\(3\)](#).

Limit – a restriction placed on a teaching license. For example, a limit may state that the license is only valid and can only be used in the sponsoring school district.

Letter of admonishment – a severe, formal or official written rebuke intended to correct misconduct or critically caution against misconduct. A copy of the letter will be placed in the Department of Education’s file. [Ohio Adm.Code 3301-73-22\(C\)](#).

Warning Letter – a cautionary letter meant to warn against unprofessional conduct

District: under chapter 33 of the Ohio Administrative Code, district means all school districts as described under R.C. 3311.01, educational service centers, community schools, county MR/DD’s, or chartered nonpublic schools. [Ohio Adm.Code 3301-73-03\(D\)](#).

Due Process: Due process refers to the “process” that is “due” to an individual before the government takes an action to deprive the individual of life, liberty or property. When the

government wants to take action against an individual person, the United States and Ohio Constitutions guarantee the individual certain protections. Typically, this concept most often is recognized in the context of a criminal trial: an individual is afforded a trial to determine whether the government may take the defendant's individual freedoms—life or liberty. Administrative hearings, while less formal than court trials, also provide procedural due process. Educators have a property right in their licenses issued by the state.

Expungement: a court-ordered judgment entry that is requested by the individual in order to seal the record of a criminal conviction. The Department of Education has statutory authority to ask questions about sealed and expunged records in order to determine whether the conviction bears a direct and substantial relationship to the teaching profession. [R.C. 3319.31](#) and [2953.33\(B\)](#).

Falsification: reporting information to the Department of Education and/or OPC that is not true and meant to deceive the Department of Education or OPC from knowing and/or learning the truth. This includes an omission of fact as well as a statement that has no truth.

Felony: felonies include any offense specifically classified as a felony, aggravated murder, murder, and any offense not specifically classified as a felony, if imprisonment for more than one year may be imposed as a penalty. Felonies can be classified as felonies of the first, second, third, fourth and fifth degree. [R.C. 2901.02](#).

Final action: any State Board final disposition to an investigation, including, but not limited to: a letter of admonishment, suspension, revocation, or denial of a license. [Ohio Adm.Code 3301-73-03\(H\)](#). State Board will consider the following factors, as applicable and appropriate, when determining a final action: the nature and seriousness of the crime or conduct; the extent of a person's past criminal activity or conduct; the age of the person when the crime or conduct was committed; the amount of time that has elapsed since the person's last criminal activity or conduct; whether the person has completed the terms of probation or deferred adjudication; evidence of rehabilitation; and whether the person fully disclosed the crime or conduct to the State Board and/or the employing school district. See [Ohio Adm. Code 3301-73-21\(A\)](#) for a list of the factors which the State Board considers when determining a final action under [R.C. 3319.31](#).

Hearing officer: The authority and duties of a hearing officer are contained in [Ohio Administrative Code 3301-73-09\(A\)-\(G\)](#). The primary role of the hearing officer is to direct and facilitate the hearing as an independent finder of fact. The hearing officer is required by statute to be a licensed attorney and possess any other qualifications required by the individual agency. As part of directing and facilitating the hearing, the hearing officer may administer oaths or affirmations, rule on motions or objections made at the hearing, evaluate the qualifications of a witness, assess the weight given to witness testimony or evidence, write a report and recommendation, and other associated duties.

Investigator: investigates cases involving criminal convictions. With regard to a hearing, an investigator is an Ohio Department of Education employee who may testify about the process of investigating the misconduct or criminal conviction and who identifies records. (This can be either an investigator or an attorney.)

Investigation: The Office of Professional Conduct is responsible for investigating cases involving alleged professional misconduct and/or criminal convictions. Professional Conduct staff conducts investigations pursuant to [Revised Code 3319.311](#). Currently, the office's investigators investigate cases involving criminal convictions. The office's liaisons are licensed attorneys who investigate allegations of professional misconduct when the alleged professional misconduct has not resulted in a criminal conviction.

License: a certificate, license, or permit as defined under [Revised Code sections 3301.071\(B\), 3301.074, 3319.088](#) or [3319.29](#). [Ohio Adm.Code 3301-73-03\(G\)](#)

Mandatory report: [Revised Code 2151.421](#) mandates that teachers, school employees and school officials report known or suspected child abuse and neglect to children services or a police officer. This report is confidential in civil court actions and the name of the reporting party cannot be released. The report is admissible in criminal proceedings. Reports can be made anonymously.

Misdemeanor: misdemeanors include any offense specifically classified as a misdemeanor and also any offense not specifically classified as a misdemeanor, provided that imprisonment for not more than one year may be imposed as a penalty. Misdemeanors can be classified as misdemeanors of the first, second, third, fourth degree or minor misdemeanor.

Minor misdemeanor: any offense not specifically classified as a minor misdemeanor is a minor misdemeanor if the only penalty that may be imposed is one of the following: for an offense committed prior to 01/01/04, a fine not exceeding \$100; for an offense committed on or after 01/01/04, a fine not exceeding \$150, community service under [Revised Code 2929.27](#), or a financial sanction other than a fine under [Revised Code 2929.28](#). [R.C. 2901.02](#)

Motions: all motions (except as otherwise provided in R.C. chapter 119), unless made upon the record, shall be in writing. A written motion shall state with particularity the relief or order sought, shall be accompanied by a memorandum setting forth the grounds thereof and shall be filed in compliance with [Ohio Administrative Code 3301-73-06](#). All motions (together with supporting documentation) shall be served on the opposing party. A response to the motion may be filed within 10 days from the date of service of the written pre-hearing motion. The hearing officer may fix a time other than 10 days for the filing of a response to the motion. No replies to the initial response shall be permitted. After consideration of all memoranda and supporting documents filed, the hearing officer shall enter a written ruling and shall serve copies of the ruling on the parties and their counsel. The hearing officer shall include in each written ruling on a motion a statement of the reasons for the ruling. [Ohio Adm.Code 3301-73-11\(A\) - \(C\)](#).

Notarized document: when a document is notarized, it is marked with a stamp or seal by a notary public in order to authenticate the document.

Office of Professional Conduct: the office within the Department of Education that is responsible for reviewing background check results, receiving referrals of educator misconduct, opening investigations into educator misconduct, conducting investigations and resolving

investigations with disciplinary action when appropriate. It has the authority under R.C. 3319.311 to issue subpoenas and interview witnesses.

Ohio Attorney General, Education Section: Assistant attorneys general who work in the Education Section of the Office of the Attorney General represent the Department in administrative hearings. It is the assistant attorney general's job to present the Department's case to the hearing officer.

Pre-hearing conference: Upon motion of any party or at the initiation of the hearing officer, the hearing officer shall schedule a pre-hearing conference for the following purposes: identification of issues; obtaining stipulations to admissions; agreements limiting the number of witnesses; discussions of documents, exhibits and witness lists; estimating the time necessary for the hearing; or discussion of any matters the hearing officer deems appropriate. All offers of settlement, proposals for adjustment, and proposed stipulations not agreed to shall be privileged, shall not constitute admissions, shall not be admissible in evidence against the respondent making the offer or proposal, and shall not be a public record under [Revised Code 149.43](#). [Ohio Adm.Code 3301-73-12\(A\) - \(E\)](#).

Public record: records kept by any public office, including, but not limited to: state, county, city, village, township, and school district units, and records pertaining to the delivery of educational services by an alternative school in Ohio kept by a nonprofit or for profit entity operating such alternative school pursuant to [Revised Code 3313.533](#) of the Revised Code. [R.C. 149.43](#). For State Board and Department of Education purposes, the following are public records: consent agreement; letter of admonishment; notice of opportunity of administrative hearing; exhibits offered into evidence in an administrative hearing; administrative hearing transcript; superintendent's proposed resolution; report and recommendation of a hearing officer; objections to the hearing officer's report and recommendation; State Board's final resolution. All other information obtained in the course of an investigation, including but not limited to, all offers of settlement, proposals of adjustment, and proposed stipulations not agreed to are not public records and shall remain confidential. [Ohio Adm.Code 3301-73-04\(A\) – \(G\)](#)

Report and Recommendation (R&R): Within 30 calendar days following the close of record of an administrative hearing, the hearing officer shall submit a written report setting forth a summary of the proceedings, proposed findings of fact and conclusions of law, and a recommendation of the action to be taken by the State Board. The original report shall be submitted to the Department of Education and the Department shall serve the parties. Respondent may file written objections within ten days of receipt of the hearing officer's report and recommendation. Only those objections timely filed shall be considered by the State Board. The State Board shall consider the hearing officer's report and recommendation and any objections filed at the next possible regularly scheduled meeting after the time for filing objections has passed. The State Board may act upon the report and recommendation or remand the matter to the hearing officer. [Ohio Adm.Code 3301-73-20\(A\) - \(E\)](#).

Resolution: the State Board reviews the hearing officer's Report and Recommendation (along with any written objections) and adopts a resolution regarding disciplinary action pursuant to [Revised Code 3319.31](#). The State Board can approve, modify, or disapprove the hearing

officer's Report and Recommendation. The educator has the right to appeal the State Board's disciplinary action by filing an appeal with the court of common pleas in his/her county of residence or in the Franklin County Court of Common Pleas. This written appeal must be filed with the appropriate court of common pleas within fifteen days of the State Board's resolution being mailed to the educator/pre-service educator.

Respondent: a person who currently holds a license, certificate, or permit or a person who has applied for a license, certificate, or permit and is subject to an investigation/disciplinary action. Under Chapter 3301 of the Ohio Administrative Code, respondent means the educator that is subject to the rules of chapter 3301-73 of the Administrative Code. [Ohio Adm.Code 3301-73-03\(E\)](#).

State Board of Education: The State Board is part of the executive branch of government. It is made up of 19 members – 11 are elected and eight are appointed by the governor. The State Board focuses on setting education policy in the state. The State Board supervises the public education system³ by: 1) setting the direction for the Department by establishing education policies and recommendations; 2) holding itself accountable to the public for competent, conscientious and effective accomplishment of its obligations; and 3) evaluating its work to ensure accountability for its performance through its strategic plan and goals.

Under Ohio Revised Code 3319.31, the State Board, in accordance with Revised Code. Chapter 119 and Revised Code. 3319.311, may refuse to issue a license to an applicant; may limit a license it issues to an applicant; may suspend, revoke or limit a license that has been issued to any person; or may revoke a license that has been issued to any person and has expired.

Subpoena: an order of the State Superintendent for a witness to appear at a particular time and place and to testify and/or produce documents in the control of the witness. If the subpoena requires documents, it is called a subpoena duces tecum. Upon written request by any party or at the request of the hearing officer on his own authority, the superintendent shall issue subpoenas (for the purposes of the hearing) to compel attendance and testimony of witnesses and production of information. Each subpoena shall indicate on whose behalf the witness is required to testify. Copies of such subpoena shall be mailed to the representatives of record. Each party shall be responsible for service of subpoenas requested.

- Subpoena requests shall specify the name and address of the person to be served and the date, time, and location at which they are to appear at the administrative hearing. If the subpoena includes a duces tecum request, the specific documents or tangible objects to be produced at the administrative hearing shall be listed in the request. Subpoena requests are to be filed with the Department of Education at least 10 days in advance of the requested date of compliance.
- Upon motion and for good cause, the hearing officer may order any subpoena be quashed.
- Witnesses may not be subpoenaed to pre-hearing conferences. [Ohio Adm.Code 3301-73-13\(A\)-\(G\)](#)

Superintendent of Public Instruction: The superintendent of public instruction is appointed by the State Board of Education. The superintendent or his designee serves as the State Board's

secretary. The superintendent's authority is delegated by the State Board to administer the State Board's education policies. Under direction of the State Board, the superintendent executes the educational policies, orders, directives and administrative functions of the State Board and directs the work of all Department employees. The superintendent is authorized to establish regulations, make decisions, take actions and develop activities that are consistent with the State Board's policies.

Unemployable offenses (absolute bar): [Revised Code 3319.39](#) says that no board of education of a school district, no governing board of an educational service center, and no governing authority of a chartered nonpublic school shall employ an individual as a person responsible for the care, custody or control of a child if that person has previously been convicted of or pleaded guilty to any of the offenses listed.

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