

16 NCAC 06C .0312 LICENSE SUSPENSION AND REVOCATION

(a) Except for automatic revocations taken pursuant to G.S. 115C-296(d)(2), the SBE may deny an application for a license or may suspend or revoke a license issued by the department only for the following reasons:

- (1) fraud, material misrepresentation or concealment in the application for the license;
- (2) changes in or corrections of the license documentation that make the individual ineligible to hold a license;
- (3) conviction or entry of a plea of no contest, as an adult, of a crime if there is a reasonable and adverse relationship between the underlying crime and the continuing ability of the person to perform any of his/her professional functions in an effective manner;
- (4) final dismissal of a person by a local board pursuant to G.S. 115C-325(e)(1)b., if there is a reasonable and adverse relationship between the underlying misconduct and the continuing ability of the person to perform any of his/her professional functions effectively;
- (5) final dismissal of a person by a LEA under G.S. 115C-325(e)(1)e.;
- (6) resignation from employment with a LEA without thirty work days' notice, except with the prior consent of the local superintendent;
- (7) revocation of a license by another state;
- (8) any other illegal, unethical or lascivious conduct by a person, if there is a reasonable and adverse relationship between the underlying conduct and the continuing ability of the person to perform any of his/her professional functions in an effective manner; and
- (9) failure to report revocable conduct as required under Paragraph (b) of this Rule.

(b) In addition to any duty to report suspected child abuse under G.S. 7B-301, any superintendent, assistant superintendent, associate superintendent, personnel administrator or principal who knows or has reason to believe that a licensed employee of the LEA has engaged in behavior that would justify revocation of the employee's license under Subparagraphs (3), (4) or (8) of Paragraph (a) of this Rule and which behavior involves physical or sexual abuse of a child shall report that information to the Superintendent of Public Instruction no later than five working days after the date of a dismissal or other disciplinary action or the acceptance of a resignation based upon that conduct. For purposes of this section, the term "physical abuse" shall mean the infliction of physical injury other than by accidental means and other than in self-defense. The term "sexual abuse" shall mean the commission of any sexual act upon a student or causing a student to commit a sexual act, regardless of the age of the student and regardless of the presence or absence of consent. This paragraph shall apply to acts that occur on or after October 1, 1993.

(c) Upon the receipt of a written request and substantiating information from any LEA, local superintendent or other person in a position to present information as a basis for the suspension or revocation of a person's license, the Superintendent of Public Instruction shall conduct an investigation sufficient to determine whether reasonable cause exists to believe that the person's license should be suspended or revoked. If the Superintendent determines that reasonable cause exists to believe that the person's license should be suspended or revoked on one or more of the grounds specified in Paragraph (a) of this Rule, the Superintendent shall prepare and file written charges with the SBE. The SBE shall review the written charges and determine whether the person's license should be suspended or revoked based on the information contained in the written charges. If the SBE determines that the written charges constitute grounds for suspension or revocation, it shall provide the person with a copy of the written charges, and notify the person that it shall revoke the person's license unless the person, within 60 days of receipt of notice, initiates administrative proceedings under G.S. 150B-3. The notice shall be sent certified mail, return receipt requested. If the person initiates administrative proceedings the SBE shall defer final action on the matter until receipt of a proposed decision as provided for in G.S. 150B-34. If the person does not initiate administrative proceedings within 60 days of receipt of notice, the SBE may suspend or revoke the person's license at its next meeting.

(d) The SBE may suspend an individual's license for a stated period of time or may permanently revoke the license, except as limited by G.S. 115C-325(o).

(e) The SBE may accept the voluntary surrender of a license in lieu of seeking revocation of the license. Before it accepts a voluntary surrender the SBE shall make findings of fact regarding the circumstances surrounding the voluntary surrender to demonstrate that grounds existed under which the SBE could have initiated license revocation proceedings. The SBE shall treat a voluntary surrender the same as a revocation.

(f) The SBE may reinstate a suspended or revoked license or may grant a new license after denial of a license under Paragraph (a) of this Rule upon an individual's application submitted no sooner than six months after the suspension, revocation, or denial, and a showing that:

- (1) the action that resulted in suspension, revocation or denial of the license did not involve abuse of minors; moral turpitude or grounds listed in G.S. 115C-325(e)(1)b;
- (2) the person has no record of subsequent behavior that could have resulted in license revocation; and
- (3) there is no court order or judicial determination that would prohibit the person from returning to or holding a licensed position.

(g) The SBE shall notify all other states of all actions which involve the, suspension, revocation, surrender, or reinstatement of a certificate.

*History Note: Authority G.S. 115C-12(9)a.; N.C. Constitution, Article IX, s. 5;
Eff. July 1, 1986;
Amended Eff. January 1, 1988;
ARRC Objection Lodged Eff. February 22, 1990;
ARRC Objection Removed Eff. March 15, 1990;
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