

MINUTES
Virginia Board of Education
Work Session: Employment of Instructional Personnel, Licensure Process, and
Part VII-*Licensure Regulations for School Personnel* Regarding Actions on Licenses

Wednesday, June 26, 2013
1 p.m.
22nd Floor Conference Room
James Monroe Building
101 North 14th Street
Richmond, Virginia

Welcome and Opening Comments

The Board of Education met at the James Monroe State Office Building, Jefferson Conference Room, 22nd Floor, Richmond, with the following members present:

Mr. David M. Foster, President
Mrs. Betsy D. Beamer, Vice President
Mrs. Diane T. Atkinson
Mr. Christian N. Braunlich
Dr. Billy K. Cannaday, Jr.
Mrs. Darla M. Edwards
Mrs. Winsome E. Sears
Mrs. Joan E. Wodiska
Dr. Patricia I. Wright, Superintendent of Public Instruction

Mr. Foster called the meeting to order at 1 p.m., and made welcoming comments.

Presentation: Employment of Instructional Personnel, Licensure Process, and Part VII-*Licensure Regulations for School Personnel* Regarding Actions on Licenses.

Mrs. Patty S. Pitts, assistant superintendent for teacher education and licensure, presented information on the following three topics:

- Overview of the School Board Employment Process,
- The Licensure Process, and
- Overview of the Process for Taking Action Against a License.

All meeting materials were provided to the Board and are available online at:

http://www.doe.virginia.gov/boe/meetings/2013/work_session/06_jun/employment_and_action_on_licenses_presentation.pdf

Topic 1: Overview of the School Board Employment Process

Mrs. Pitts provided an overview of the employment of instructional personnel, emphasizing that under Virginia law, employment is a responsibility of local school boards. She called the Board members' attention to a flow chart in the materials that sets forth the hiring process. She reviewed the process and described the two main background checks required by statute as a condition of employment:

- an FBI/criminal background check (required since 1989), and
- a search of Department of Social Services registries in Virginia and in any state where an applicant has lived within the previous five years.

The discussion of employment addressed hiring and dismissal of instructional personnel and reporting requirements for school divisions.

Discussion by the Board on this topic included the following questions and comments:

- Mrs. Atkinson requested clarification of the timing of record checks--specifically, whether an individual may be offered or accept a position before searches are complete. Mrs. Pitts explained that timing may vary from division to division.
- There was discussion regarding Section 22.1-296.2 of the *Code of Virginia* that states, in part, "As a condition of employment, the school boards of the Commonwealth shall require any applicant who is offered or accepts employment after July 1, 1989, ... to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant..." Mr. Foster stated that the Board may want to consider requiring completed background checks before employment or setting established timelines for when an employee may begin work without the results of record checks.
- Mrs. Sears expressed concern about teachers serving in classrooms prior to the receipt of results of the background checks.
- Mrs. Atkinson inquired whether school divisions ever hire teachers before they have obtained a license. Mrs. Pitts responded that school boards sometimes do employ and assign teachers prior to the issuance of the license.
- Mrs. Sears asked if an individual could avoid a criminal background check by going from an administrative to a teaching position. Mrs. Pitts explained that as a condition of employment any school employee must submit to fingerprinting and a criminal record check.
- Concerning dismissal, Mrs. Sears inquired about the statutory requirement set forth in Section 22.1-307 regarding reasons that may be cause for dismissal.
- Mrs. Pitts reviewed Section 22.1-313 of the *Code of Virginia* that states, in part, ... "when licensed personnel are dismissed or resign due to a conviction of any felony, any offense involving the sexual molestation, physical or sexual abuse or rape of a child, any offense involving drugs, or due to having become the subject of a founded case of child

abuse or neglect, the local school board shall notify the Board of Education within ten business days of such dismissal or the acceptance of such resignation.”

The Board requested the following information relating to the employment of school personnel:

- Whether circumstances do not allow divisions to wait for results of background checks before hiring instructional personnel, and the impact of requiring school divisions to obtain results of background checks before placing newly-hired teachers in the classroom. (Mrs. Sears)
- The degree to which other states are responding to requests from Virginia school boards for social services record checks. (Dr. Cannaday)

Topic 2: Licensure Process

Mrs. Pitts described the licensure process and emphasized the following key points:

- State law requires that any teacher “regularly employed” by a school board or paid from public funds must hold a license issued by the Board of Education. Substitute teachers are not required to hold a license.
- Components of an application for a Virginia license include a completed application, official student transcripts, report on experience, college verification form, test scores, out-of-state licenses (if applicable), and certification of completion of statutory requirements.
- Official student transcripts are requested by the applicant and submitted with his or her completed application packet. Noting that there has been discussion concerning transcripts, Mrs. Pitts reviewed other options for receiving transcripts, including requiring submission of transcripts in sealed envelopes with the application packet or requiring that transcripts be mailed separately to the Department of Education by institutions of higher education. Requiring transcripts to be submitted in sealed envelopes would have significant impact on staff and resources. The challenge in receiving transcripts directly from the institutions of higher education is matching the transcripts (that typically have limited identifying information) with the application.
- Effective July 1, 2013, background questions on the license application and renewal form have been revised to address a broader range of state actions and misconduct.
- The Department of Education does receive reports of actions against licenses by other states and territories through the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse.
- Local departments of social services are required to notify the Superintendent of Public Instruction when an individual holding a license issued by the Board becomes the subject of a founded case of child abuse or neglect.
- Law enforcement agencies are required to report the arrest of any teacher or school personnel to the superintendent of the employing school division.
- Courts are required to report certain felony convictions by persons licensed by the Board of Education to the Superintendent of Public Instruction and the superintendent of any employing school division.

Discussion by the Board on this topic included the following questions and comments:

- Mrs. Sears asked how long a substitute could serve in a position. Mrs. Pitts explained that the *Code* allows a substitute to serve for up to 90 teaching days in a teacher vacancy, unless otherwise approved by the Superintendent of Public Instruction on a case-by-case basis, during one school year (in accordance with Board of Education guidelines).
- Mrs. Sears asked about reporting to the NASDTEC Clearinghouse. Mrs. Pitts explained that the Clearinghouse receives reported actions from states and territories (not school divisions/districts). The effectiveness of the system does rely on the completeness and accuracy of the data submitted by states and territories.
- Mrs. Pitts noted problems with local departments of social services' reporting of founded cases of child abuse/neglect to the Board of Education.
- Dr. Cannaday noted differences in language in various reporting requirements and recommended legislative or regulatory changes to add clarity and enhance uniformity.

The Board requested the following information or actions on licensure and reporting:

- The percentage of states/territories that report licensure actions through NASDTEC. (Mrs. Sears)
- The responsibility of enforcing reporting requirements and the Board's recourse when local departments of social services, courts, and/or law enforcement agencies fail to report information on founded cases, convictions, and arrests involving licensed instructional personnel. Mr. Foster recommended following up on this question with the Attorney General's Office. (Mr. Braunlich and Mr. Foster)

Topic 3: Overview of the Process for Taking Action Against a License

Mrs. Pitts provided an overview of the process for taking action against a license. She presented a flow chart depicting the process by which a division superintendent investigates a complaint and petitions for the revocation of a license. Mrs. Pitts also explained the Board of Education's authority to seek revocation of a license when a school division does not petition for revocation. She also reviewed the process for action against a license initiated by a Board petition.

Discussion by the Board on this topic included the following question/comment:

- Mrs. Atkinson asked for an explanation of the process and rationale for allowing cancellation of a license, rather than revocation. Mrs. Pitts reviewed the requirement in the *Licensure Regulations for School Personnel* that divisions notify licensees of their right to cancel their license in response to a petition for revocation and explained that cancellation is reported to NASDTEC as a disciplinary action against a license. Mrs. Pitts further explained that cancellation is a quicker process than revocation and results in faster reporting.

Summary

Before adjourning the meeting, Mr. Foster summarized possible regulatory actions discussed by Board members during the work session. These included the following:

1. Discuss the possibility of adding a requirement that school divisions actually conduct criminal history and social services checks and obtain results of background checks before hiring instructional personnel. As appropriate, such regulation could establish time frames and exceptions.
2. Investigate the feasibility of adding a requirement that licenses be issued before employees are hired or assigned to schools and classrooms and any exceptions.
3. Consider possible limits on the use of substitutes and use of the term “vacancy.”

The Board reiterated the need to contact the Attorney General’s Office to inquire about enforcement of reporting responsibilities of local departments of social services, courts, and/or law enforcement agencies in reporting information on founded cases, convictions, and arrests involving licensed instructional personnel. In addition, the Board mentioned the possible need for revision in the *Code* language regarding reasons for mandatory versus discretionary dismissal.

The meeting adjourned at 1:40 p.m.