

CODE OF PROFESSIONAL CONDUCT FOR EDUCATION PRACTITIONERS

Teachers
Educational Staff Associates
Administrators

STATE OF WASHINGTON

Chapter 180-87 WAC
Washington State Board of Education Administrative Rules

WAC 180-87-005 Purpose. The sole purpose of this chapter is to set forth policies and procedures related to reprimand, suspension, and revocation actions respecting certification of education practitioners in the state of Washington for acts of unprofessional conduct. It is recognized that grounds for the discharge, nonrenewal of contracts, or other adverse change in contract status affecting the employment contracts of education practitioners are broader than stated herein. The grounds set forth as unprofessional conduct in this chapter shall not limit discharge, nonrenewal of contracts, or other employment action by employers of education practitioners.

WAC 180-87-010 Public policy goals of chapter. The public policy goals of this chapter are as follows:

(1) To protect the health, safety, and general welfare of students within the state of Washington.

(2) To assure the citizens of the state of Washington that education practitioners are accountable for acts of unprofessional conduct.

(3) To define and provide notice to education practitioners within the state of Washington of the acts of unprofessional conduct for which they are accountable pursuant to the provisions of chapter [180-86](#) WAC.

PROFESSIONAL ACCOUNTABILITY

WAC 180-87-015 Accountability for acts of unprofessional conduct. Any educational practitioner who commits an act of unprofessional conduct proscribed within this chapter may be held accountable for such conduct pursuant to the provisions of chapter [180-86](#) WAC.

ADMINISTRATIVE PROVISIONS

WAC 180-87-020 Applicability of chapter to private conduct. As a general rule, the provisions of this chapter shall not be applicable to the private conduct of an education practitioner except where the education practitioner's role as a private person is not clearly distinguishable from the role as an education practitioner and the fulfillment of professional obligations.

WAC 180-87-025 Exclusivity of chapter. No act, for the purpose of this chapter, shall be defined as an act of unprofessional conduct unless it is included in this chapter.

WAC 180-87-030 Prospective application of chapter and amendments. The provisions of this chapter shall take effect ninety calendar days after adoption and shall apply prospectively to acts of unprofessional conduct committed after such effective date. Unless provided to the contrary, any revision shall take effect six months after adoption and shall apply prospectively from such effective date.

WAC 180-87-035 Education practitioner -- Definition. As used in this chapter, the term "education practitioner" means any certificate holder licensed under rules of the state board of education to serve as a certificated employee.

WAC 180-87-040 Student -- Definition. As used in this chapter, the term "student" means the following:

(1) Any student who is under the supervision, direction, or control of the education practitioner.

(2) Any student enrolled in any school or school district served by the education practitioner.

(3) Any student enrolled in any school or school district while attending a school related activity at which the education practitioner is performing professional duties.

(4) Any former student who is under eighteen years of age and who has been under the supervision, direction, or control of the education practitioner. Former student, for the purpose of this section, includes but is not limited to drop outs, graduates, and students who transfer to other districts or schools.

WAC 180-87-045 Colleague -- Definition. As used in this chapter, the term "colleague" means any person with whom the education practitioner has established a professional relationship and includes fellow workers and employees regardless of their status as education practitioners.

ACTS OF UNPROFESSIONAL CONDUCT

WAC 180-87-050 Misrepresentation or falsification in the course of professional practice. Any falsification or deliberate misrepresentation, including omission, of a material fact by an education practitioner concerning any of the following is an act of unprofessional conduct:

- (1) Statement of professional qualifications.
- (2) Application or recommendation for professional employment, promotion, certification, or an endorsement.
- (3) Application or recommendation for college or university admission, scholarship, grant, academic award, or similar benefit.
- (4) Representation of completion of inservice or continuing education credit hours.
- (5) Evaluations or grading of students and/or personnel.
- (6) Financial or program compliance reports submitted to state, federal, or other governmental agencies.
- (7) Information submitted in the course of an official inquiry by the superintendent of public instruction related to the following:
 - (a) Good moral character or personal fitness.
 - (b) Acts of unprofessional conduct.
- (8) Information submitted in the course of an investigation by a law enforcement agency or by child protective services regarding school related criminal activity.

WAC 180-87-055 Alcohol or controlled substance abuse. Unprofessional conduct includes:

- (1) Being under the influence of alcohol or of a controlled substance, as defined in chapter [69.50](#) RCW, on school premises or at a school-sponsored activity involving students, following:
 - (a) Notification to the education practitioner by his or her employer of concern regarding alcohol or substance abuse affecting job performance;
 - (b) A recommendation by the employer that the education practitioner seek counseling or other appropriate and available assistance; and
 - (c) The education practitioner has had a reasonable opportunity to obtain such assistance.
- (2) The possession, use, or consumption on school premises or at a school sponsored activity of a Schedule 1 controlled substance, as defined by the state board of pharmacy, or a Schedule 2 controlled substance, as defined by the state board of pharmacy, without a prescription authorizing such use.
- (3) The consumption of an alcoholic beverage on school premises or at a school sponsored activity involving students if such consumption is contrary to written policy of the school district or school building.

WAC 180-87-060 Disregard or abandonment of generally recognized professional standards. Any performance of professional practice in flagrant disregard or clear abandonment of generally recognized professional standards in the course of any of the following professional practices is an act of unprofessional conduct:

- (1) Assessment, treatment, instruction, or supervision of students.
- (2) Employment or evaluation of personnel.
- (3) Management of moneys or property.

WAC 180-87-065 Abandonment of contract for professional services. Any permanent abandonment, constituting a substantial violation without good cause, of one of the following written contracts to perform professional services for a private school or

a school or an educational service district is an act of unprofessional conduct:

- (1) An employment contract, excluding any extracurricular or other specific activity within such contract or any supplementary contract.
- (2) Professional service contract.

WAC 180-87-070 Unauthorized professional practice. Any act performed without good cause that materially contributes to one of the following unauthorized professional practices is an act of unprofessional practice.

(1) The intentional employment of a person to serve as an employee in a position for which certification is required by rules of the state board of education when such person does not possess, at the time of commencement of such responsibility, a valid certificate to hold the position for which such person is employed.

(2) The assignment or delegation in a school setting of any responsibility within the scope of the authorized practice of nursing, physical therapy, or occupational therapy to a person not licensed to practice such profession unless such assignment or delegation is otherwise authorized by law, including the rules of the appropriate licensing board.

(3) The practice of education by a certificate holder during any period in which such certificate has been suspended.

(4) The failure of a certificate holder to abide by the conditions within an agreement, executed pursuant to WAC [180-86-160](#), to not continue or to accept education employment.

(5) The failure of a certificate holder to comply with any condition, limitation, or other order or decision entered pursuant to chapter [180-86](#) WAC.

(6) Provided, That for the purpose of this section, good cause includes, but is not limited to, exigent circumstances where immediate action is necessary to protect the health, safety, or general welfare of a student, colleague, or other affected person.

WAC 180-87-080 Sexual misconduct with students. Unprofessional conduct includes the commission by an education practitioner of any sexually exploitive act with or to a student including, but not limited to, the following:

- (1) Any sexual advance, verbal or physical;
- (2) Sexual intercourse as defined in RCW [9A.44.010](#);
- (3) Indecent exposure as defined in RCW [9A.88.010](#);
- (4) Sexual contact, i.e., the intentional touching of the sexual or other intimate parts of a student except to the extent necessary and appropriate to attend to the hygienic or health needs of the student;

(5) Provided, That the provisions of this section shall not apply if at the time of the sexual conduct the participants are married to each other.

WAC 180-87-085 Furnishing alcohol or controlled substance to students. Unprofessional conduct includes the illegal furnishing of alcohol or a controlled substance, as defined in chapter [69.50](#) RCW, to any student by an education practitioner.

WAC 180-87-090 Improper remunerative conduct. Any deliberate act in the course of professional practice which requires or pressures students to purchase equipment,

supplies, or services from the education practitioner in a private remunerative capacity is an act of unprofessional conduct.

WAC 180-87-093 Failure to assure the transfer of student record information or student records. The failure of a principal or other certificated chief administrator of a public school building to make a good faith effort to assure compliance with RCW [28A.225.330](#) by establishing, distributing, and monitoring compliance with written procedures that are reasonably designed to implement the statute shall constitute an act of unprofessional conduct.

WAC 180-87-095 Failure to file a complaint. The intentional or knowing failure of an educational service district superintendent, a district superintendent, or a chief administrator of a private school to file a complaint pursuant to WAC [180-86-110](#) regarding the lack of good moral character or personal fitness of an education practitioner or the commission of an act of unprofessional conduct by an education practitioner is an act of unprofessional conduct.

OFFICE OF PROFESSIONAL PRACTICES

The Office of Professional Practices, a division under the auspices of the Superintendent of Public Instruction, is charged with enforcement, including discipline of educational practitioners for violation of the professional Code of Conduct. The office receives, investigates, and makes legal findings regarding complaints. A nine member professional advisory committee reviews appeals from proposed disciplinary actions. Educators who violate the code may be reprimanded or their license to practice may be suspended or revoked.

The Office of Professional Practices also reviews charges that an applicant for or the holder of professional certification lacks good moral character or personal fitness. These standards are set forth in WAC 180-86-013 and address commission of criminal acts and other behavior which endanger children. Commission of criminal acts may not be directly related to professional conduct but they do reflect upon the trustworthiness of serving as a professional educator.

Complaints or requests for additional information may be addressed to the following:

Office of Professional Practices
Dr. Terry Bergeson
Superintendent of Public Instruction
Old Capitol Building, PO Box 47200
Olympia, WA 98504-7200

WAC 180-86-013 Good moral character and personal fitness -- Definition. As used in this chapter, the terms "good moral character and personal fitness" means character and personal fitness necessary to serve as a certificated employee in schools in the state of Washington, including character and personal fitness to have contact with, to teach, and to perform supervision of children. Good moral character and personal fitness includes, but is not limited to, the following:

- (1) No conviction of any felony crime involving:
 - (a) The physical neglect of a child under chapter [9A.42](#) RCW;
 - (b) The physical injury or death of a child under chapter [9A.32](#) or [9A.36](#) RCW, excepting motor vehicle violations under chapter [46.61](#) RCW;
 - (c) The sexual exploitation of a child under chapter [9.68A](#) RCW;
 - (d) Sexual offenses where a child is the victim under chapter [9A.44](#) RCW;
 - (e) The promotion of prostitution of a child under chapter [9A.88](#) RCW;
 - (f) The sale or purchase of a child under RCW [9A.64.030](#);
 - (g) Provided, That the general classes of felony crimes referenced within this subsection shall include equivalent federal and crimes in other states committed against a child;
 - (h) Provided further, That for the purpose of this subsection "child" means a minor as defined by the applicable state or federal law;
 - (i) Provided further, That for the purpose of this subsection "conviction" shall include a guilty plea.
- (2) No conviction of any crime within the last ten years, including motor vehicle violations, which would materially and substantially impair the individual's worthiness and ability to serve as a professional within the public and private schools of the state. In determining whether a particular conviction would materially and substantially impair the individual's worthiness and ability to practice, the following and any other relevant considerations shall be weighed:
 - (a) Age and maturity at the time the criminal act was committed;
 - (b) The degree of culpability required for conviction of the crime and any mitigating factors, including motive for commission of the crime;
 - (c) The classification of the criminal act and the seriousness of the actual and potential harm to persons or property;
 - (d) Criminal history and the likelihood that criminal conduct will be repeated;
 - (e) The permissibility of service as a professional educator within the terms of any parole or probation;
 - (f) Proximity or remoteness in time of the criminal conviction;
 - (g) Any evidence offered which would support good moral character and personal fitness;
 - (h) If this subsection is applied to a person certified under the laws of the state of Washington in a suspension or revocation action, the effect on the education profession, including any chilling effect, shall be weighed; and
 - (i) In order to establish good moral character and personal fitness despite the criminal conviction, the applicant or certificate holder has the duty to provide available evidence relative to the above considerations. The superintendent of public instruction has the right to gather and present additional evidence which may corroborate or negate that provided by the applicant or certificate holder.

(3) No behavioral problem which endangers the educational welfare or personal safety of students, teachers, or other colleagues within the educational setting.

(4) No practice within the state of Washington within the previous five school years with an expired, lapsed, suspended, surrendered, or revoked certificate in a professional position for which certification is required under the rules of the state board of education.

[Statutory Authority: RCW [28A.150.290](#)(1). 02-19-050, § 180-86-013, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW [28A.410.010](#). 97-04-082, recodified as § 180-86-013, filed 2/5/97, effective 3/8/97. Statutory Authority: RCW [18A.410.010](#) [[28A.410.010](#)] and [28A.70.005](#). 92-01-127, § 180-75-081, filed 12/19/91, effective 1/19/92. Statutory Authority: RCW [28A.70.005](#). 90-02-073, § 180-75-081, filed 1/2/90, effective 2/2/90. Statutory Authority: RCW [34.05.220](#)(A) [[34.05.220](#) (1)(a)] and [34.05.250](#). 89-22-010, § 180-75-081, filed 10/20/89, effective 11/20/89. Statutory Authority: RCW [28A.70.005](#). 87-09-010 (Order 2-87), § 180-75-081, filed 4/3/87.]

WAC 180-86-116 Investigative priorities -- Levels of acts or omissions of misconduct.(1)

The superintendent of public instruction or designee shall prioritize the investigation of alleged certificated individual misconduct, lack of fitness or unprofessional conduct in the following descending order:

(a) Level I. Level I actions shall have the highest investigative priority and are those allegations, if proven true, for which permanent mandatory revocation shall be the appropriate disciplinary action. They include the following convictions for which permanent revocation of a certificate is mandatory under RCW [28A.410.090](#):

- (i) Physical neglect of a child under chapter [9A.42](#) RCW;
- (ii) The physical injury or death of a child under chapter [9A.32](#) or [9A.36](#) RCW (excepting motor vehicle violations under chapter [46.61](#) RCW);
- (iii) Sexual exploitation of a child under chapter [9.68A](#) RCW;
- (iv) Sexual offenses under chapter [9A.44](#) RCW where a minor is the victim;
- (v) Promoting prostitution of a minor under chapter [9A.88](#) RCW;
- (vi) The sale or purchase of a minor child under RCW [9A.64.030](#); or
- (vii) Violation of similar laws of another jurisdiction.

(b) Level II. Level II actions shall have the next investigative priority and are those allegations, if proven true, for which revocation may be the appropriate disciplinary action. They include, but are not limited to the following:

- (i) Sexual activity with children and/or students;
- (ii) Engaging in acts of violence leading to bodily injury;
- (iii) Selling and/or manufacturing illegal drugs; or
- (iv) Other activity that if convicted would result in a felony conviction.

(c) Level III. Level III actions shall have the next investigative priority and are those allegations, if proven true, for which suspension may be the appropriate disciplinary action. They include, but are not limited to the following:

- (i) Illegal drug possession and/or use;
- (ii) Threats related to persons or property;
- (iii) Alcohol abuse;
- (iv) Reckless conduct where no bodily injury results;
- (v) Engaging in unauthorized corporal punishment;
- (vi) Verbal or physical sexual harassment of students;

- (vii) Engaging in activity that demonstrates poor professional judgment; or
 - (viii) Other activity that if convicted would result in a misdemeanor conviction.
- (d) Level IV. Level IV actions shall have the next investigative priority and are those allegations, if proven true, for which a reprimand may be the appropriate disciplinary action. They include, but are not limited to the following:
- (i) Practicing with a lapsed or expired certificate, or a certificate not valid for the position;
 - (ii) Isolated failure to timely evaluate certificated personnel; or
 - (iii) Intentionally hiring a person for a certificated role who does not possess a valid certificate.
- (2) All cases shall be monitored periodically to determine if their priority level should change as a result of information uncovered during the investigation.
- (3) Notwithstanding any provision of this section to the contrary, the office of professional practices reserves the right to reprioritize the investigation of complaints based upon the efficient use of available resources and/or the relative urgency or lack of urgency in resolving various complaints in the public interest, and the right to recommend forms of discipline appropriate to the offenses committed.

[Statutory Authority: RCW [28A.150.290](#)(1). 02-19-050, § 180-86-116, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW [28A.410.010](#). 97-05-008, § 180-86-116, filed 2/7/97, effective 3/10/97.]