

MISSOURI STATE BOARD OF EDUCATION AGENDA ITEM:**December 2015**

CONSIDERATION OF A NOTICE OF PROPOSED RULEMAKING TO AMEND RULE
5 CSR 20-400.125 ACTIONS OF THE STATE BOARD OF EDUCATION RELATNG TO
APPLICATIONS FOR EDUCATOR CERTIFICATES

STATUTORY AUTHORITY:

Sections 161.092, 168.011, & 168.021, RSMo

Consent
ItemAction
ItemReport
Item**DEPARTMENT GOAL NO. 3:**

Missouri will prepare, develop, and support effective educators.

SUMMARY:

The State Board of Education establishes requirements and qualifications for all areas of certification. Rule 5 CSR 20-400.125 outlines the procedures reviewing applications of individuals convicted of a felony or crime involving moral turpitude, whether or not sentence is imposed; applicants whose license has been revoked in Missouri or in another jurisdiction; and applicants seeking to appeal a denial of license by the Office of Educator Quality. The amendments to the rule will provide alignment with current statute, as well as clarify the application process for educators.

PRESENTERS:

Paul Katnik, Assistant Commissioner, Office of Educator Quality; and William R. Thornton, General Counsel, will participate in the presentation and discussion of this item.

RECOMMENDATION:

The Department recommends that the State Board of Education authorize publication in the *Missouri Register* of a notice of proposed rulemaking to amend Rule 5 CSR 20-400.125 Actions of the State Board of Education Relating to Applications for Educator Certificates, and that the State Board finds the proposed amendment necessary to carry out the purposes of Sections 161.092, 168.011, and 168.021, RSMo.

**Title 5 – DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 20 – Division of Learning Services
Chapter 400 – Office of Educator Quality**

PROPOSED AMENDMENT

5 CSR 20-400.125 Actions of the State Board of Education Relating to Applications for Educator Certificates. The State Board of Education is proposing to amend the purpose, sections (1) – (3), and adding a new section (4).

PURPOSE: This amendment clarifies procedures for the review of applications of individuals convicted of a felony or crime involving moral turpitude, whether or not sentence is imposed; applicants whose certificate has been revoked in Missouri or in another jurisdiction; and applicants seeking to appeal a denial of a certificate by the Office of Educator Quality.

*PURPOSE: The State Board of Education is authorized to grant educator certification in any of the public schools of the state and to establish requirements and qualifications for those certificates. This rule establishes procedures for review of applications of individuals convicted of a felony or crime involving moral turpitude, whether or not sentence is imposed; applicants whose [license] **certificate of license to teach** has been revoked in Missouri or in another jurisdiction; and applicants seeking to appeal a denial of [license] **a certificate of license to teach** by the Office of Educator Quality.*

(1) Any application for a[n educator] certificate **of license to teach (certificate)** for an individual who has [been convicted] **pleaded to or has been found guilty** of a felony or crime involving moral turpitude, whether or not sentence is imposed, including candidates for a Missouri educator certificate who are currently enrolled in professional education courses in conjunction with state-approved teacher preparation programs, shall be reviewed by the Office of Educator Quality within the Department of Elementary and Secondary Education (department) and recommendations made to the State Board of Education (board). [However, certificates may only be issued upon motion of the board adopted by a unanimous affirmative vote of those members present and voting.]

[(A) Conviction for purposes of this rule does not include offenses, other than those listed in section 168.071.6, RSMo, for which the applicant has successfully completed a suspended imposition of sentence.]

*[(B)] (A) **If requested**, [Applicants] **applicants** [with a criminal conviction] shall provide the following:*

1. Information relating to being found guilty, a plea of guilty which includes **an Alford plea**, receipt of a suspended imposition of sentence, receipt of a suspended execution of sentence, or entering a plea of *nolo contendere* for any violation of any laws of a state, the United States, or any other country, other than a traffic violation; including information [on] **about** the date of the court action, the applicant's age at the time of the underlying offense, the facts of the crime, and whether the conduct that was the basis for the conviction was in the scope of the applicant's duties while employed by a public or private school or school district; **and**

2. A statement *[by affidavit or under oath]* or **other related documentation** as to rehabilitative steps completed by the applicant relating to applicant's criminal conduct; and

[3. A completed background check processed by the Missouri State Highway Patrol (Highway Patrol) and/or the Federal Bureau of Investigation (FBI)].

(B) The Office of Educator Quality shall review all applications.

1. A complete application shall include:

- A. Information regarding teaching certificates or similar titles and/or other professional licenses or similar titles held, including but not limited to disciplinary actions, denials, restrictions, revocations, voluntary surrenders, suspensions, reprimands, and/or investigations;**
- B. A consent authorizing the department, as it deems necessary or appropriate, to make contact with, interview, consult, obtain documentation and verification from other persons and sources within or without Missouri with respect to the applicant and the applicant's request for certification;**
- C. Transcripts and other evidence necessary to show compliance with all the requirements for certification that are in effect at the time application for certification or recertification is made;**
- D. Other information including recent employment and references requested by the department that may be deemed relevant to the request for recertification;**
- E. A completed background check processed by the Missouri State Highway Patrol (MSHP) and/or the Federal Bureau of Investigation (FBI);**
- F. Information relating to any criminal history including being found guilty, a plea of guilty, receipt of a suspended imposition of sentence, receipt of a suspended execution of sentence, or entering a plea of *nolo contendere* for any violation of any laws of a state, the United States, or any other country, other than a traffic violation; including information about the date of the court action, the applicant's age at the time of the underlying offense, the facts of the crime, and whether the conduct that was the basis for the conviction was in the scope of the applicant's duties while employed by a public or private school or school district; and**
- G. A statement as to rehabilitative steps completed by the applicant relating to applicant's criminal conduct;**

2. The Office of Educator Quality may issue a certificate based on standards adopted by the board; or

3. The Office of Educator Quality may deny an application. If the application is denied, the applicant may appeal to the commissioner; or

- 4. Applicants who have been convicted of a felony or crime involving moral turpitude, whether or not sentence is imposed, who have neither been denied nor issued a certificate by the Office of Educator Quality, shall be placed on the agenda of the board as soon as reasonably possible after submitting a complete application. The applicant will be notified of the date, time, and place of the board meeting. Consideration by the board will consist of a review of the application and additional documents. The applicant will not have the opportunity to present additional evidence or testify. The applicant will be notified in writing of the decision of the board. Certification may only be issued upon motion of the board adopted by an unanimous affirmative vote of those members present and voting.**

[(C) The application shall be placed on the agenda of the board as soon as reasonably possible. The applicant will be notified of the date, time, and place of the board meeting. Consideration by the board will consist of a record review of the application and additional documents. The applicant will not have the opportunity to present additional evidence or testify. The applicant will be notified in writing of the decision of the board.]

(2) Any application for an educator certificate submitted by an individual who has been subject to previous disciplinary action by the board or by a licensing authority in another state or political jurisdiction shall only be granted by affirmative vote of the board.

[(A) Applicants for a Missouri educator certificate who have had an educator certificate revoked by another certifying authority will not be eligible to be considered for Missouri certification until such time as they have the revocation cleared by the certifying authority and the applicant holds a valid certificate from that authority.]

[(B) Recommendation to the board by the commissioner of education for certification under this section shall be based only on a]

(A) An application must be complete to go to the board. A completed application [which] shall include:

1. Information regarding teaching certificates or similar titles and/or other professional licenses or similar titles held, including but not limited to disciplinary actions, denials, restrictions, revocations, voluntary surrenders, suspensions, reprimands, and/or investigations;
2. A consent authorizing the department, as it deems necessary or appropriate, to make contact with, interview, consult, obtain documentation and verification from other persons and sources within or without Missouri with respect to the applicant and the applicant's request for certification;
3. Transcripts and other evidence necessary to show compliance with all the requirements for certification that are in effect at the time application for **certification or** recertification is made; *[and]*

4. Other information including recent employment and references requested by the [board] **department** that may be deemed relevant to the request for **certification or** recertification[.]; **and**

5. A completed background check processed by the MSHP and/or the FBI.

[(C)] **(B)** The **completed** application shall be placed on the agenda of the board as soon as reasonably possible. The applicant will be notified of the date, time, and place of the board meeting. Consideration by the board will consist of a record review of the application and related documents. The applicant will not have the opportunity to present additional evidence or testify. The applicant will be notified in writing of the decision of the board.

(3) *[Issuance of certificates not otherwise addressed under sections (1) and (2) of this rule shall be made by the Office of Educator Quality based upon the standards adopted by the board.]* Applicants *[that]* **who** are denied **by the Office of Educator Quality** will be advised in writing of the reason(s) why certification is denied and at the same time will receive notice of the process for appeal.

(A) The applicant, within thirty (30) days of receipt of written notice of denial, may request the commissioner of education to review the decision of the Office of Educator Quality. The applicant shall provide all documentation to be considered by the commissioner of education or a designee in reviewing the application.

(B) The commissioner of education will notify the applicant in writing of the decision.

(C) If the commissioner of education approves the decision of the Office of Educator Quality in denying certification, the applicant, within thirty (30) days from the date the commissioner sends written notice of the decision, may file a written notice of appeal with the board by addressing the notice to the secretary of the State Board of Education, PO Box 480, Jefferson City, MO 65102-0480. In addition to stating the applicant's desire to appeal the denial of certification, the notice shall include a statement of each reason the applicant relies upon to demonstrate support for the reversal of denial.

(D) The applicant's appeal shall be placed on the agenda of the board as soon as reasonably possible. The applicant will be notified of the date, time, and place of the board meeting.

(E) The appeal will consist of a record review of the application, related materials reviewed by the commissioner of education, and the applicant's additional statements. The applicant will not have the opportunity to present additional evidence or testify. The applicant will be notified in writing of the decision of the board.

(4) Applications denied by the board are subject to judicial review by the circuit court.

AUTHORITY: sections 161.092 and 168.021, RSMo Supp. [2012] 2014, and section 168.011, RSMo 2000. Original rule filed Feb. 27, 2013, effective Sept. 30, 2013.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Elementary and Secondary Education, attention: Paul Katnik, Assistant Commissioner, Office of Educator Quality, PO Box 480, Jefferson City, MO 65102-0480 or by email at educatorquality@dese.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*