

RCW 28A.410.090 Revocation or suspension of certificate or permit to teach—Reprimand—Criminal basis—Complaints—Investigation—Process.

(1) (a) Any certificate or permit authorized under the provisions of this chapter, chapter 28A.405 RCW, or rules promulgated thereunder may be revoked or suspended by the authority authorized to grant the same based upon a criminal records report authorized by law, or upon the complaint of the professional educator standards board or any school district superintendent, educational service district superintendent, or private school administrator for lack of good moral character or personal fitness, violation of written contract, unprofessional conduct, intemperance, or crime against the law of the state. A reprimand may be issued as an alternative to suspension or revocation of a certificate or permit. School district superintendents, educational service district superintendents, the professional educator standards board, or private school administrators may file a complaint concerning any certificated employee of a school district, educational service district, or private school and this filing authority is not limited to employees of the complaining superintendent or administrator. Such written complaint shall state the grounds and summarize the factual basis upon which a determination has been made that an investigation by the superintendent of public instruction is warranted.

(b) If the superintendent of public instruction has reasonable cause to believe that an alleged violation of this chapter or rules adopted under it has occurred based on a written complaint alleging physical abuse or sexual misconduct by a certificated school employee filed by a parent or another person, but no complaint has been forwarded to the superintendent by a school district superintendent, educational service district superintendent, or private school administrator, and that a school district superintendent, educational service district superintendent, or private school administrator has sufficient notice of the alleged violation and opportunity to file a complaint, the superintendent of public instruction may cause an investigation to be made of the alleged violation, together with such other matters that may be disclosed in the course of the investigation related to certificated personnel.

(2) A parent or another person may file a written complaint with the superintendent of public instruction alleging physical abuse or sexual misconduct by a certificated school employee if:

(a) The parent or other person has already filed a written complaint with the educational service district superintendent concerning that employee;

(b) The educational service district superintendent has not caused an investigation of the allegations and has not forwarded the complaint to the superintendent of public instruction for investigation; and

(c) The written complaint states the grounds and factual basis upon which the parent or other person believes an investigation should be conducted.

(3) Any certificate or permit authorized under the provisions of this chapter, chapter 28A.405 RCW, or rules adopted thereunder may be revoked or suspended by the authority authorized to grant the same upon complaint from the professional educator standards board alleging unprofessional conduct in the form of a fraudulent submission of a test for educators. A reprimand may be issued as an alternative to suspension or revocation of a certificate or permit. The professional

educator standards board must issue to the superintendent of public instruction a written complaint stating the grounds and factual basis upon which the professional educator standards board believes an investigation should be conducted pursuant to this section. In all cases under this subsection, the person whose certificate is in question shall be given an opportunity to be heard and has the right to appeal as established in *RCW 28A.410.100.

(4) (a) Any such certificate or permit authorized under this chapter or chapter 28A.405 RCW shall be revoked by the authority authorized to grant the certificate upon a guilty plea or the conviction of any felony crime specified under RCW 28A.400.322, in accordance with this section. The person whose certificate is in question shall be given an opportunity to be heard.

(b) Mandatory permanent revocation upon a guilty plea or the conviction of felony crimes specified under RCW 28A.400.322(1) shall apply to such convictions or guilty pleas which occur after July 23, 1989, and before July 26, 2009.

(c) Mandatory permanent revocation upon a guilty plea or conviction of felony crimes specified under RCW 28A.400.322(2) shall apply to such convictions or guilty pleas that occur on or after July 26, 2009.

(d) Revocation of any certificate or permit authorized under this chapter or chapter 28A.405 RCW for a guilty plea or criminal conviction of a crime specified under RCW 28A.400.322 occurring prior to July 23, 1989, shall be subject to the provisions of subsection (1) of this section.

(5) (a) Any such certificate or permit authorized under this chapter or chapter 28A.405 RCW shall be suspended or revoked, according to the provisions of this subsection, by the authority authorized to grant the certificate upon a finding that an employee has engaged in an unauthorized use of school equipment to intentionally access material depicting sexually explicit conduct or has intentionally possessed on school grounds any material depicting sexually explicit conduct; except for material used in conjunction with established curriculum. A first time violation of this subsection shall result in either suspension or revocation of the employee's certificate or permit as determined by the office of the superintendent of public instruction. A second violation shall result in a mandatory revocation of the certificate or permit.

(b) In all cases under this subsection (5), the person whose certificate is in question shall be given an opportunity to be heard and has the right to appeal as established in *RCW 28A.410.100. Certificates or permits shall be suspended or revoked under this subsection only if findings are made on or after July 24, 2005. For the purposes of this subsection, "sexually explicit conduct" has the same definition as provided in RCW 9.68A.011.

(6) Any such certificate or permit authorized under this chapter or chapter 28A.405 RCW shall be revoked by the authority authorized to grant the certificate upon a finding that the certificate holder obtained the certificate through fraudulent means, including fraudulent misrepresentation of required academic credentials or prior criminal record. In all cases under this subsection, the person whose certificate is in question shall be given an opportunity to be heard and has the right to appeal as established in *RCW 28A.410.100. Certificates or permits shall be revoked under this subsection only if findings are made on or after July 26, 2009.

(7) (a) In determining whether an individual lacks good moral character or personal fitness under this chapter, the superintendent of public instruction may consider founded reports of child abuse or neglect made by the **department of social and health services pursuant to RCW 26.44.030.

(b) The **department of social and health services shall furnish the superintendent with reports of founded findings of child abuse or neglect in a timely fashion, but shall not disclose to the superintendent screened-out, inconclusive, or unfounded reports as defined in RCW 26.44.020.

(c) If the **department of social and health services inadvertently furnishes the superintendent with a screened-out, inconclusive, or unfounded report in violation of this section, the superintendent shall:

(i) Not consider the information contained in the reports for any purpose;

(ii) Notify the **department of social and health services of the violation of this section;

(iii) Notify the subject of the reports at his or her last known address of the department of social and health service's violation; and

(iv) Destroy the improperly disclosed reports. [2017 3rd sp.s. c 33 s 4; 2013 c 163 s 1; 2009 c 396 s 5; 2005 c 461 s 2; 2004 c 134 s 2; 1996 c 126 s 2; 1992 c 159 s 4; 1990 c 33 s 408; 1989 c 320 s 1; 1975 1st ex.s. c 275 s 137; 1974 ex.s. c 55 s 2; 1971 c 48 s 51; 1969 ex.s. c 223 s 28A.70.160. Prior: 1909 c 97 p 345 s 1; RRS s 4992; prior: 1897 c 118 s 148. Formerly RCW 28A.70.160, 28.70.160.]

Reviser's note: *(1) The right to appeal was eliminated from RCW 28A.410.100 by 2009 c 531 s 3.

** (2) The powers, duties, and functions of the department of social and health services pertaining to child welfare services under chapter 26.44 RCW were transferred to the department of children, youth, and families by 2017 3rd sp.s. c 6 s 803, effective July 1, 2018.

Effective date—1996 c 126: See note following RCW 28A.400.305.

Findings—1992 c 159: See note following RCW 28A.400.303.

Severability—1989 c 320: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 320 s 7.]

Severability—1971 c 48: See note following RCW 28A.310.250.

Notification of conviction or guilty plea of certain felony crimes:
RCW 43.43.845.