

Chapter 9. Actions Related to Criminal Offenses and/or the Submission of Fraudulent Documentation

§901. Overview

A. Teaching certificates can be denied, suspended, or revoked for certain criminal offenses and/or for the submission of fraudulent documentation. This Chapter presents those circumstances plus the circumstances under which certificates can possibly be reinstated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1830 (October 2006).

§903. Definitions

A. For the purposes of this policy:

Applicant—any person applying for a Louisiana teaching authorization of any kind.

Board—the Board of Elementary and Secondary Education as a whole and/or any of its standing committees.

Convicted or *Conviction*—any proceedings in which the accused person pleads guilty or no contest, and those proceedings that are tried and result in a judgment of guilty.

Department—the Louisiana Department of Education.

Fraudulent Document—any paper, instrument, or other form of writing that is false, altered, or counterfeit and that is used as a subterfuge or device to induce the issuance of a certificate.

Offense or *Crime*—those listed in R.S. 15.587.1(C) and any felony offense whatsoever.

Teaching Certificate or *Certificate*—any license, permit, or certificate issued by the Division of Teacher Certification and Higher Education of the Department of Education.

B. The following crimes are reported under R.S.15:587.1:

1. R.S. 14:30, R.S. 14:30.1, R.S. 14:31, R.S. 14:41 through R.S.14:45, R.S. 14:74, R.S. 14:78, R.S. 14:79.1, R.S. 14:80 through R.S. 14:86, R.S. 14:89, R.S. 4:89.1, R.S. 14:92, R.S. 14:93, R.S. 14:93.2.1, R.S. 14:93.3, R.S. 14:106, R.S. 14:282, R.S. 14:286, R.S. 40:966(A), R.S. 40:967(A), R.S. 40:968(A), R.S. 40:969(A), and R.S. 40:970(A) or convictions for attempt or conspiracy to commit any of those offenses;

2. those of a jurisdiction other than Louisiana which, in the judgment of the bureau employee charged with responsibility for responding to the request, would constitute a crime under the provisions cited in this Subsection, and Those under the *Federal Criminal Code* having analogous elements of criminal and moral turpitude. (Federal Criminal Code provisions are in Title 18 of U.S.C.A.) Specifically:

R.S. 14:283.1	Voyeurism
R.S. 14:282	Peeping Tom
*R.S. 14:30	First degree murder
*R.S. 14:30.1	Second degree murder
R.S. 14:31	Manslaughter
*R.S. 14:41	Rape
*R.S. 14:42	Aggravated rape
*R.S. 14:42.1	Forcible rape

*R.S. 14:43	Simple rape
*R.S. 14:43.1	Sexual battery
*R.S. 14:43.2	Aggravated sexual battery
*R.S. 14:43.3	Oral sexual battery
*R.S. 14:43.4	Aggravated oral sexual battery
*R.S. 14:43.5	Intentional exposure to the AIDS virus
*R.S. 14:44	Aggravated kidnapping
*R.S. 14:44.1	Second degree kidnapping
*R.S. 14:45	Simple kidnapping
R.S. 14:74	Criminal neglect of family
*R.S. 14:78	Incest
*R.S. 14:79.1	Criminal abandonment
*R.S. 14:80	Carnal knowledge of a juvenile
*R.S. 14:81	Indecent behavior with a juvenile
*R.S. 14:81.1	Pornography involving juveniles
*R.S. 14:81.2	Molestation of a juvenile
R.S. 14:82	Prostitution
*R.S. 14:82.1	Prostitution; Persons under seventeen; Additional offenses
R.S. 14:83	Soliciting for prostitutes
R.S. 14:83.1	Inciting prostitution
R.S. 14:83.2	Promoting prostitution
R.S. 14:83.3	Prostitution by massage
R.S. 14:83.4	Massage; sexual content prohibited
R.S. 14:84	Pandering
R.S. 14:85	Letting premises for prostitution
R.S. 14:85.1	Letting premises for obscenity
*R.S. 14:86	Enticing persons into prostitution
*R.S. 14:89	Crime against nature
*R.S. 14:89.1	Aggravated crime against nature
R.S. 14:92	Contributing to the delinquency of juveniles
*R.S. 14:93	Cruelty to juveniles
*R.S. 14:93.2.1	Child desertion
R.S. 14:93.3	Cruelty to the infirm
R.S. 14:106	Obscenity
R.S. 14:282	Operation of places of prostitution
*R.S. 14:286	Sale of minor children
R.S. 40:966(A)	Penalty for distribution or possession with intent to distribute narcotic drugs listed in Schedule I; Manufacture; Distribution
R.S. 40:967(A)	Prohibited acts; Schedule II, penalties; Manufacture; Distribution
R.S. 40:968(A)	Prohibited acts; Schedule III; penalties; Manufacture; Distribution
R.S. 40:969(A)	Prohibited acts; Schedule IV; penalties; Manufacture; Distribution
R.S. 40:970(A)	Prohibited acts; Schedule V; penalties; Manufacture; Distribution

*Certificate issuance/reinstatement will never be considered for crimes marked with an asterisk.

C. Convictions that are set aside pursuant to Articles 893 or 894 of the *Louisiana Code of Criminal Procedures*, expunged, or which are pardoned subject to Louisiana first offender pardon laws nonetheless, shall be treated as convictions for the purpose of denial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1830 (October 2006)., amended LR 34:2559 (December 2008).

§905. Denial of Certificates for Criminal Offenses and/or for the Submission of Fraudulent Documentation

A. An application for a Louisiana teaching certificate shall be denied if the individual applying for the certificate has been convicted of any offense listed in R.S. 15:587.1(C) or any felony offense whatsoever and/or has submitted fraudulent documentation as determined by the department. A person convicted of an offense as defined herein and/or has submitted fraudulent documentation as determined by the department may apply for a certificate after three years have elapsed from date of entry of final conviction or from date of the submission of fraudulent documentation.

B. The applicant shall be notified by certified mail and by any other appropriate means of notice that his/her certificate has been denied. The applicant shall provide copies of any documents that verify his/her identity, refute the existence of a criminal conviction, and/or verify the accuracy of documentation as submitted. If a conviction upon which the certificate has been denied is reversed, such action should be communicated to the department through documentation provided by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1830 (October 2006).

§906. Procedures and Rules for Issuance of a Denied Certificate

A. Issuance will never be considered for teachers convicted of the following crimes: 14:30, 14:30.1, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.2, 14:43.3, 14:43.4, 14:43.5, 14:44, 14:44.1, 14:45, 14:78, 14:79.1, 14:80, 14:81, 14:81.1, 14:81.2, 14:82.1, 14:86, 14:89, 14:89.1, 14:93, 14:93.2.1, and 14:286.

B. Issuances of certificates shall not be considered until at least three years have elapsed from the date of entry of final conviction.

C. An applicant may apply to the board for issuance of his/her teaching certificate after the lapse of time indicated above and under the following conditions.

1. There have been no further convictions. The applicant must provide a current state and FBI criminal history background check from state police that is clean and clear.

2. There has been successful completion of all conditions/requirements of any parole and/or probation. The applicant must provide relevant documentation.

D. Applicant Responsibilities

1. Contact the office of the Board of Elementary and Secondary Education and request a hearing for issuance of the certificate.

2. Provide each applicable item identified above in Section C, evidence that all requirements for certification have been successfully completed, and further documentation evidencing rehabilitation. The applicant is recommended to provide letters of support from past/present employers, school board employees and officials, faculty, and administrative staff from the college education department, law enforcement officials and/or from other community leaders.

E. State Board Responsibilities

1. The board will consider the request for issuance and documentation provided. The board is not required to conduct a hearing and may summarily deny a request for issuance of certificate.

2. If the board or its designees decide to conduct an issuance hearing, board staff shall notify the applicant of a date, time, and place when a committee of the board shall consider the applicant's request. The applicant may be represented and/or accompanied by legal counsel. In addition to the applicant and his/her legal counsel, a maximum of three witnesses may be called to provide testimony regarding the applicant's rehabilitation. Testimony and information considered will be limited to evidence of rehabilitation. Any conviction will be given full faith and credit, and no testimony will be taken to refute the finding of the court. The written documentation provided prior to the hearing will also be considered.

3. The Board of Elementary and Secondary Education reserves the right to accept or reject any document or testimony offered as evidence of rehabilitation and the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible for issuance of a teaching certificate. The board further reserves the right to deny a request for issuance based upon the applicant's dishonesty in failing to disclose a prior criminal conviction and/or for falsifying academic records. (If the board denies issuance, the applicant must wait one year to re-apply.)

4. The committee of the board shall make a recommendation to the full Board regarding whether the applicant's teaching certificate should be issued. Board staff shall notify the applicant of the board's action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1830 (October 2006).

§907. Suspension and Revocation of Certificates for Criminal Offenses

A. A Louisiana teaching certificate shall be suspended and revoked if the individual holding the certificate has been convicted of any offense listed in R.S. 15:587.1(C) (See Section I.B) or any felony offense whatsoever.

B. When the Department is Notified that any Teacher has been Convicted of a Specific Crime

1. Department staff shall attempt to contact the teacher to inform him/her that the department has information regarding a criminal conviction and is proceeding under this policy to suspend the certificate.

2. The teacher shall have 10 working days from the date of notification to provide verification that he/she has not been convicted of a criminal offense. This opportunity for response is intended as a check against mistaken identity or other incorrect information and the requested verification may be provided through a telephone conversation or written correspondence.

3. If the teacher cannot be reached and/or if his/her employment status cannot be determined, suspension of the certificate shall proceed, as will all other steps in the process outlined in this policy.

4. If the department determines that there is evidence that a teacher has been convicted of a criminal offense, that teacher's certificate shall be suspended. The board, the teacher, and the employing school system shall be notified that the teacher's certificate has been suspended pending official board action.

5. The teacher shall be notified by certified mail and by any other appropriate means of notice that his/her certificate has been suspended and that the certificate will be revoked unless the teacher can provide documentation that he/she was not convicted of the crime. The teacher shall provide copies of any documentation that verifies his/her identity and refutes the existence of a criminal conviction.

6. If the conviction upon which a teacher's certificate has been suspended and/or revoked is reversed, such action shall be communicated to the board through documentation provided by the applicant. The board may receive such information and order reinstatement of the teacher's certificate

7. Upon official action by the board, any teacher whose certificate has been revoked shall be notified of such action by certified mail. The correspondence shall include instructions for and identification of the date when the individual may apply to the board for reinstatement of his/her certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1831 (October 2006).

§909. Suspension and Revocation of Certificates due to Fraudulent Documentation Pertaining to Certification

A. A Louisiana teaching certificate may be suspended and/or revoked if a teacher presents fraudulent documentation pertaining to his/her certificate to the State Board of Elementary and Secondary Education or the Department of Education.

B. The department shall investigate prior to determining that a teacher has submitted fraudulent documentation pertaining to his/her teaching certificate. Upon confirmation of the information investigated, the department shall notify the teacher by certified mail that his/her certificate has been suspended pending official board action and that a hearing will be conducted by the board to consider revocation.

C. Such hearing will be limited to the issue of whether or not the document submitted was fraudulent. The teacher shall provide the board with documentation that will refute the fraudulent nature of the document.

D. The Due Process Committee shall make a recommendation to the full board, based on documentation received from the department and the teacher, whether the teaching certificate should be revoked. The decision of the board shall be transmitted to the local school board and to the teacher affected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1831 (October 2006).

§911. Procedures and Rules for Issuance or Reinstatement of Certificates Suspended or Revoked due to Criminal Convictions and/or Submission of Fraudulent Documents

A. Reinstatement will never be considered for teachers convicted of the following crimes: 14:30, 14:30.1, 14:41, 14:42, 14:42.1, 14:43, 14:43.1, 14:43.2, 14:43.3, 14:43.4, 14:43.5, 14:44, 14:44.1, 14:45, 14:78, 14:79.1, 14:80, 14:81, 14:81.1, 14:81.2, 14:82.1, 14:86, 14:89, 14:89.1, 14:93, 14:93.2.1, and 14:286.

B. Reinstatements of certificates shall not be considered until at least three years have elapsed from the date of entry of final conviction or from date of the submission of fraudulent documentation.

C. An applicant may apply to the board for reinstatement of his/her teaching certificate after the lapse of time indicated above and under the following conditions.

1. There have been no further convictions and/or submissions of fraudulent documentation. The applicant must provide a current state and FBI criminal history background check from state police that is clean and clear.

2. There has been successful completion of all conditions/requirements of any parole and/or probation. The applicant must provide relevant documentation.

D. Applicant Responsibilities

1. Contact the office of the Board of Elementary and Secondary Education and request a hearing for reinstatement of the certificate.

2. Provide each applicable item identified above in Section C, evidence that all requirements for certification have been successfully completed, and further documentation evidencing rehabilitation. The applicant is recommended to provide letters of support from past/present employers, school board employees and officials, faculty, and administrative staff from the college education department, law enforcement officials and/or from other community leaders.

E. State Board Responsibilities

1. The board will consider the request for reinstatement and documentation provided. The board is not required to conduct an reinstatement hearing and may summarily deny a request for issuance/reinstatement.

2. If the board or its designees decide to conduct an reinstatement hearing, board staff shall notify the applicant of a date, time, and place when a committee of the board shall consider the applicant's request. The applicant may be represented and/or accompanied by legal counsel. In addition to the applicant and his/her legal counsel, a maximum of three witnesses may be called to provide testimony regarding the applicant's rehabilitation. Testimony and information considered will be limited to evidence of rehabilitation. Any conviction will be given full faith and credit, and no testimony will be taken to refute the finding of the court. The written documentation provided prior to the hearing will also be considered.

3. The Board of Elementary and Secondary Education reserves the right to accept or reject any document or testimony offered as evidence of rehabilitation and the right to determine if adequate rehabilitation has occurred and will itself determine if and when an applicant is eligible for reinstatement of a teaching certificate. The board further reserves the right to deny a request for reinstatement based upon the applicant's dishonesty in failing to disclose a prior criminal conviction and/or for falsifying academic records. (If the board denies reinstatement, the applicant must wait one year prior to re-application.)

4. The committee of the board shall make a recommendation to the full Board regarding whether the applicant's teaching certificate should be issued, reinstated, suspended for an additional period of time, or remain revoked. Board staff shall notify the applicant of the board's action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

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