



## Educator Ethics

### **What standards of ethical conduct are established for Florida educators?**

The State Board of Education has adopted a *Code of Ethics* for the education profession, which expresses the state's expectations for the ethical conduct of educators:

- ❖ The educator values the worth and dignity of every person, the pursuit of truth, devotion to excellence, acquisition of knowledge, and the nurture of democratic citizenship. Essential to the achievement of these standards are the freedom to learn and to teach and the guarantee of equal opportunity for all.
- ❖ The educator's primary professional concern will always be for the student and for the development of the student's potential. The educator will therefore strive for professional growth and will seek to exercise the best professional judgment and integrity.
- ❖ Aware of the importance of maintaining the respect and confidence of one's colleagues, of students, of parents, and of other members of the community, the educator strives to achieve and sustain the highest degree of ethical conduct.<sup>1</sup>

The state board has also adopted *Principles of Professional Conduct for the Education Profession in Florida*, which describe 31 specific grounds for the revocation or suspension of an individual's educator certificate.<sup>2</sup> The grounds are grouped into violations of nine obligations to students, five obligations to the public, and 17 obligations to the education profession.<sup>3</sup>

Each district school board, charter school, and private school participating in an educational choice scholarship program<sup>4</sup> must adopt standards of ethical conduct for instructional personnel<sup>5</sup>

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<sup>1</sup> Rule 6B-1.001, F.A.C.; Florida Department of Education, *Code of Ethics and Principles of Professional Conduct of the Education Profession in Florida: Professionalism through Integrity*, brochure (2007), available at <http://www.fldoe.org/edstandards/pdfs/ethics.pdf> [hereinafter *Ethics Brochure*].

<sup>2</sup> Section 1012.795(1)(j), F.S.; rule 6B-1.006, F.A.C.; *Ethics Brochure*, *supra* note 1.

<sup>3</sup> Rule 6B-1.006(3)-(5), F.A.C. Generally, the grounds for discipline obligate educators to protect the health, safety, and emotional wellbeing of students; refrain from distorting subject matter taught to students with personal viewpoints and opinions; protect confidential student information; refrain from discrimination or harassment of students and colleagues; refrain from accepting gifts, gratuities, or using his or her position for personal gain; and otherwise behave in a manner becoming the education profession. *Id.*

<sup>4</sup> Educational choice scholarship programs include the Florida Tax Scholarship Program (s. 1002.395,, F.S.) and the John M. McKay Scholarships for Students with Disabilities Program (s. 1002.39, F.S.). Section 1002.421(1), F.S.

<sup>5</sup> Instructional personnel include classroom teachers; staff who provide student personnel services (e.g., guidance counselors, social workers, career specialists, and school psychologists); librarians and media specialists; other instructional staff (e.g., learning resource specialists); and education paraprofessionals. Section 1012.01(2), F.S.

and school administrators and must require all instructional personnel and school administrators to complete training on the standards.<sup>6</sup>

### ***What are the background screening requirements for school employees?***

***Criminal Background Checks.*** Each person who seeks educator certification in Florida must be fingerprinted and undergo a state and national criminal history background screening by a district school board or the Department of Education (DOE).<sup>7</sup> If a background screening reveals a criminal history, or if an applicant for certification acknowledges a criminal history, the applicant's records must be assigned to DOE's Office of Professional Practices Services (OPPS) for review and determination of eligibility for certification.<sup>8</sup>

In addition, the following personnel must be fingerprinted and undergo screening:

- ❖ Instructional and noninstructional personnel hired or contracted to fill positions that require direct contact with students in any district school system, university lab school, charter school, or alternative school operating under contract with a district school system;<sup>9,10</sup> and
- ❖ Employees and contracted personnel with direct student contact who are employed by, or engaged to provide services, at a private school participating in an educational choice scholarship program.<sup>11</sup>

Fingerprints must be submitted to the Florida Department of Law Enforcement (FDLE) for statewide criminal and juvenile records checks. FDLE is responsible for forwarding the fingerprints to the Federal Bureau of Investigation (FBI) for federal criminal records checks.<sup>12,13</sup> FDLE is required to retain the fingerprints in the statewide automated fingerprint identification system

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<sup>6</sup> Sections 1001.42(6) (school districts), 1002.33(12)(g)3. (charter schools), 1002.421(4)(b) (private schools), and 1012.796(1)(d), F.S. The Florida School for the Deaf and the Blind must comply with many provisions of law concerning educator ethics as if it were a school district. Section 1002.36(7)(g), F.S.

<sup>7</sup> Section 1012.56(10)(a), F.S.; see also Teacher Certification Fact Sheet.

<sup>8</sup> Section 1012.56(2)(d), F.S. The DOE's "investigative section" reviews and determines an applicant's eligibility for certification. *Id.* This function is currently performed by OPPS. See Florida Department of Education, Office of Professional Practices Services, <http://www.fldoe.org/edstandards> (last visited May 25, 2010).

<sup>9</sup> Sections 1012.32(2), 1002.33(12)(g)1., and 1012.465(1), F.S.

<sup>10</sup> A district school board must exempt certain noninstructional contractors from background screening. Section 1012.468(2), F.S. Exempted contractors are subject to a search of their names and identifying information against the Florida Department of Law Enforcement's registry of sexual predators and sexual offenders (see s. 943.043, F.S.; see also Florida Department of Law Enforcement, *Florida Sexual Offenders and Predators*, <http://offender.fdle.state.fl.us> (last visited May 25, 2010)) and against the National Sex Offender Public Registry maintained by the U.S. Department of Justice (see U.S. Department of Justice, *Dru Sjodin National Sex Offender Public Website*, <http://www.nsopr.gov> (last visited May 25, 2010)). Section 1012.468(3)(a), F.S. A noninstructional contractor identified as a sexual predator or sexual offender is not permitted on school grounds when students are present. Section 1012.468(3)(b), F.S.

<sup>11</sup> Section 1002.421(2)(i), F.S.

<sup>12</sup> *Id.*; ss. 1012.32(2), 1012.465(2), and 1012.467(2)(a), F.S.

<sup>13</sup> Private schools participating in educational choice scholarship programs must submit fingerprints of employees and contracted personnel with direct student contact to FDLE through the department's Volunteer and Employee Criminal History System (VECHS). See ss. 943.0542 and 1002.421(2)(i), F.S.; Florida Department of Law Enforcement, *Volunteer and Employee Background Checks*, <http://www.fdle.state.fl.us/BackgroundChecks> (last visited May 25, 2010).

and search all arrest fingerprint cards received against the fingerprints retained in the system.<sup>14</sup> Personnel must be rescreened at least every five years.<sup>15</sup>

**Employment History Checks.** Before employing instructional personnel or school administrators in any position that requires direct contact with students, school districts, charter schools, and private schools participating in an educational choice scholarship program must:

- ❖ Conduct an employment history check of the personnel's or administrators' previous employer. If unable to contact a previous employer, efforts to contact the employer must be documented;
- ❖ Screen the personnel or administrators through use of DOE's Professional Practices' Database of Disciplinary Actions Against Educators and Teacher Certification Database;<sup>16</sup> and
- ❖ Document the findings.<sup>17</sup>

### ***Which offenses disqualify instructional personnel or school administrators from certification or employment?***

Instructional personnel and school administrators are ineligible for employment in any position that requires direct contact with students in a district school system, charter school, or private school participating in an educational choice scholarship program, if convicted of any:

- ❖ Felony offense prohibited in 46 criminal statutes, which relate to a range of crimes (*e.g.*, murder, sexual battery, prostitution, arson, robbery, child abuse);<sup>18</sup>
- ❖ Felony offense relating to drug abuse prevention and control, if the offense was a felony of the second degree or greater severity;<sup>19</sup>
- ❖ Misdemeanor offense prohibited in two criminal statutes, which relate to battery (if the victim was a minor) and luring or enticing a child;<sup>20</sup> and
- ❖ Delinquent act qualifying an individual for inclusion on the Registered Juvenile Sex Offender List.<sup>21</sup>

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<sup>14</sup> Sections 1002.421(3)(a)-(b), 1012.32(3)(a)-(b), and 1012.467(2)(b)-(c), F.S.

<sup>15</sup> Sections 1002.421(3)(d), 1012.465(2), 1012.467(2)(a), and 1012.56(10)(b), F.S.

<sup>16</sup> See s. 1001.10(5), F.S.; see also Florida Department of Education, *Employment Screening Tools*, <http://www.fldoe.org/edstandards/est.asp> (last visited May 25, 2010) (includes links to the Professional Practices' Database of Disciplinary Actions Against Educators and the Teacher Certification Database). The Teacher Certification Database is also known as the Bureau of Educator Certification's Partnership Access and Services System (BEC-PASS). Florida Department of Education, *Technical Assistance Paper, Senate Bill 1712, No. K12: 2008-129*, at 4 (July 31, 2008), available at <http://www.fldoe.org/edstandards/pdfs/SB1712TAP.pdf>.

<sup>17</sup> Sections 1002.33(12)(g)4. (charter schools), 1002.421(4)(c) (private schools), and 1012.27(6), F.S.

<sup>18</sup> See s. 1012.315(1)(a)-(pp) and (rr)-(uu), F.S.

<sup>19</sup> The employment disqualification applies to felony offenses of the second degree or greater severity prohibited under ch. 893, F.S. Section 1012.315(1)(qq), F.S.

<sup>20</sup> The employment disqualification applies to misdemeanor offenses prohibited under ss. 784.03 and 787.025, F.S. Section 1012.315(2), F.S.

<sup>21</sup> Section 1012.315(4), F.S.; see also s. 943.0435(1)(a)1.d., F.S. (list of criminal offenses requiring a juvenile who is 14 years of age or older to be designated as a "sexual predator").

These disqualifications from employment apply to delinquent and criminal acts committed in Florida or in another state.<sup>22</sup> In addition, any person is ineligible for educator certification in Florida if convicted of any of these criminal or delinquent acts.<sup>23</sup>

Instructional and noninstructional personnel of any district school system, university lab school, charter school, or alternative school operating under contract with a district school system are ineligible for any position that requires direct contact with students if convicted of any crime involving moral turpitude as defined by state board rule.<sup>24</sup>

### ***Which offenses are subject to forfeiture of retirement benefits?***

Current law requires a public officer or employee in any publicly funded retirement plan, including the Florida Retirement System, to forfeit his or her retirement benefits if the officer or employee is convicted of using or attempting to use his or her power, rights, privileges, duties, or position as a public officer or employee to commit:

- ❖ A felony sexual battery against a victim younger than age 18; or
- ❖ A felony lewd and lascivious offense against or in the presence of a victim younger than age 16.<sup>25</sup>

This forfeiture of retirement benefits applies to felony offenses committed on or after October 1, 2008.<sup>26</sup> A public officer or employee whose retirement benefits are forfeited under these provisions is eligible for a return of his or her accumulated contributions.<sup>27</sup>

### ***How is misconduct by instructional personnel or school administrators reported, investigated, and disciplined?***

**Reporting Misconduct.** Instructional personnel and school administrators have a duty to report the alleged misconduct of other instructional personnel and school administrators which affects the health, safety, or welfare of a student.<sup>28</sup> District school boards, charter schools, and private schools participating in an educational choice scholarship program must:

- ❖ Prohibit confidentiality agreements that conceal the misconduct of instructional personnel or school administrators who are fired or resign for misconduct; and
- ❖ Refrain from giving an employment reference, for instructional personnel or school administrators who are fired or resign for misconduct, without disclosing the misconduct.<sup>29</sup>

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<sup>22</sup> Section 1012.315(3)-(4), F.S.

<sup>23</sup> Sections 1012.315 and 1012.56(10)(a) and (c), F.S.

<sup>24</sup> Section 1012.32(2), F.S. (flush-left provisions at end of subsection). State board rule defines “moral turpitude” as “a crime that is evidenced by an act of baseness, vileness, or depravity in the private and social duties, which, according to the accepted standards of the time a man owes to his or her fellow man or to society in general, and the doing of the act itself and not its prohibition by statute fixes the moral turpitude.” Rule 6B-4.009(6), F.A.C.

<sup>25</sup> Sections 112.3173(2)(e)7., 121.091(5)(i), 794.09, and 800.05, F.S.; see also s. 800.04 and ch. 794, F.S.

<sup>26</sup> Sections 112.3173(2)(e)7. and 121.091(5)(i), F.S.

<sup>27</sup> Sections 112.3173(3) and 121.091(5)(i), F.S.

<sup>28</sup> Sections 1001.42(6), 1002.33(12)(g)3., 1002.421(4)(b), and 1012.795(1)(b), F.S.

<sup>29</sup> Sections 1001.42(6), 1002.33(12)(g)3., and 1002.421(4)(b), F.S.

If allegations arise against an employee in an educator-certificated position in a public school, charter school, or private school participating in an educational choice scholarship program, the school must submit all legally sufficient<sup>30</sup> complaints to DOE within 30 days after the allegations come to the district or school's attention. District school superintendents must also report instructional personnel and school administrator misconduct that affects the health, safety or welfare of a student and warrants termination to DOE, which, in turn, must maintain each report of misconduct as a public record in the instructional personnel's or school administrators' certification files.<sup>31</sup>

**Temporary Suspensions Pending Disciplinary Proceedings.** The district school superintendent in consultation with the school principal, or upon the request of the Commissioner of Education, must immediately suspend instructional personnel or school administrators from regularly assigned duties, with pay, and reassign the suspended personnel or administrators to positions that do not require direct contact with students in the district school system, if:

- ❖ An allegation of misconduct by the instructional personnel or school administrators is received; and
- ❖ The alleged misconduct affects the health, safety, or welfare of a student.

The suspension continues until the completion of the disciplinary proceedings and determination of sanctions, if any.<sup>32</sup>

**Investigating Misconduct.** After a complaint is submitted to DOE, the department determines whether the complaint is "legally sufficient," i.e, contains ultimate facts which show that a violation involving one or more of the grounds for disciplining a certified educator has occurred.<sup>33</sup> DOE's OPSS investigates all legally sufficient complaints.<sup>34</sup> OPSS must give priority to and immediately investigate any legally sufficient complaint that involves misconduct by any certified personnel which affects the health, safety, or welfare of a student.<sup>35</sup> OPSS advises the Commissioner of Education on its investigative findings.<sup>36</sup> DOE's legal counsel reviews the investigation and advises the commissioner whether probable cause exists to proceed with the complaint.<sup>37</sup>

**Disciplining Misconduct.** If the Commissioner of Education determines that probable cause exists to suspend, revoke, or otherwise take disciplinary action against an individual's educator certificate, the commissioner files a formal complaint under the Administrative Procedure Act.<sup>38</sup> Educators have various ways to appeal a formal complaint. All disciplinary actions are issued by the Education Practices Commission (EPC). If there are disputed issues of material fact, the

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<sup>30</sup> See *infra* text accompanying notes 33-37 (description of investigations of legally sufficient complaints).

<sup>31</sup> Section 1012.796(1)(d)-(e), F.S.

<sup>32</sup> Section 1012.796(5), F.S.

<sup>33</sup> Section 1012.796(1)(a) and (d), F.S.

<sup>34</sup> See s. 1012.796(1)(a), F.S.; see also Florida Department of Education, *Role of Professional Practices Services*, [http://www.fldoe.org/edstandards/role\\_of\\_pps.asp](http://www.fldoe.org/edstandards/role_of_pps.asp) (last visited May 25, 2010).

<sup>35</sup> Section 1012.796(1)(b), F.S.

<sup>36</sup> Section 1012.796(3), F.S.

<sup>37</sup> *Id.*

<sup>38</sup> Section 1012.796(6), F.S.; see also ch. 120, F.S. (Administrative Procedure Act).

Division of Administrative Hearings assigns an administrative law judge to conduct an administrative hearing and make recommendations to the EPC on the appropriate disciplinary action.<sup>39</sup> After the administrative law judge issues his or her recommendations, the EPC assigns the complaint to a hearing panel which issues a final order either dismissing the complaint or imposing an appropriate penalty.<sup>40</sup> Final orders are subject to judicial review by a district court of appeal.<sup>41</sup>

### **What is the Education Practices Commission?**

The EPC is responsible for interpreting and applying the *Principles of Professional Conduct for the Education Profession in Florida* adopted by the state board.<sup>42</sup> The EPC is composed of 25 members appointed by the state board from nominations submitted by the Commissioner of Education, and commission members are subject to confirmation by the Senate.<sup>43</sup> The EPC's membership includes:

- ❖ Eight teachers;
- ❖ Five administrators (at least one of whom represents a private school);
- ❖ Seven lay citizens (five of whom are parents of public school students and are unrelated to public school employees and two of whom are former district school board members); and
- ❖ Five sworn law enforcement officers.<sup>44</sup>

The EPC designates hearing panels to review and issue final orders in educator misconduct cases presented to the commission. Cases concerning teachers must be reviewed by a hearing panel composed of five commission members, at least one of whom must be a parent or a sworn law enforcement officer and at least three of whom must be teachers. Cases concerning school administrators must be reviewed by a hearing panel composed of five commission members, at least one of whom must be a parent or a sworn law enforcement officer and at least three of whom must be administrators.<sup>45</sup>

The EPC is authorized to suspend or revoke the educator certificate of any person who has violated the laws, rules, and ethical standards governing the education profession.<sup>46</sup> An educator's certificate may be suspended for a period of up to five years, revoked for a period of up to 10 years, or revoked permanently. An educator whose certificate has been suspended or revoked may not be employed by a school district or public school in any capacity requiring direct contact with students during the suspension or revocation period.<sup>47</sup>

In the 2008-09 academic year, the DOE received 3,305 new cases of alleged educator misconduct-- 1484 were certificate-holders, 1,749 were applicants for certification, and 72 were

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<sup>39</sup> Sections 120.57(1) and 1012.796(6), F.S.

<sup>40</sup> Section 1012.796(7), F.S.; *see also infra* text accompany note 44 (description of the EPC's hearing panels).

<sup>41</sup> Section 120.68(1) and (2), F.S.

<sup>42</sup> Section 1012.79(7)(a), F.S.; rule 6B-1.006, F.A.C.

<sup>43</sup> Section 1012.79(1), F.S.

<sup>44</sup> *Id.*

<sup>45</sup> Section 1012.79(8)(a), F.S.

<sup>46</sup> Sections 1012.79(7)(b) and 1012.795(1), F.S.

<sup>47</sup> Section 1012.795(1), F.S.

non-certificated personnel. In that same year, the EPC issued 664 final orders, including 62 permanent revocations and 19 time-specific revocations.<sup>48</sup>

***Where can I get additional information?***

***Florida Department of Education***

Office of Professional Practices Services  
(850) 245-0438  
<http://www.fldoe.org/edstandards>

***Florida House of Representatives***

Education Committee  
(850) 488-7451  
<http://www.myfloridahouse.gov>

***Florida House of Representatives***

Appropriations Committee  
(850) 488-6204  
<http://www.myfloridahouse.gov>

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<sup>48</sup> Presentation by Florida Department of Education, *Teacher Quality Overview: Hearing Before the Florida House of Representatives PreK-12 Policy Committee* (March 3, 2010). Because a misconduct case may remain open beyond the year in which it is first reported, not all of the 664 final orders issued by the EPC involve cases that were first reported to DOE, or referred to the EPC, in the 2008-09 academic year. Email, Florida Department of Education, Office of Professional Practices Services (July 8, 2010).

