

TASK FORCE ON TEACHER ETHICS AND LICENSURE
REPORT

RAISING THE BAR FOR NORTH CAROLINA TEACHERS

February 25, 2010

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TABLE OF CONTENTS

Introduction.....4

Part I: PROPOSED AMENDMENTS TO THE LICENSURE APPLICATION.....8

PART II: EXPANDED BACKGROUND CHECKS FOR TEACHING LICENSE APPLICANTS.....10

Part III: LICENSING SUBSTITUTE TEACHERS AND TEACHER ASSISTANTS.....13

PART IV: BUILDING AND MAINTAINING EDUCATOR ETHICS14

PART V: DISCIPLINARY ACTIONS AGAINST A LICENSE FOR ETHICAL MISCONDUCT.....18

PART VI: INVESTIGATING AND REPORTING EDUCATOR MISCONDUCT.....20

PART VII: STAFFING NEEDS.....21

Conclusion.....22

APPENDICES

Appendix I: 16 N.C.A.C. 6C.0312 License Suspension and Revocation.....24

Appendix II: Code of Professional Practice and Conduct for North Carolina Educators.....26

Appendix III: North Carolina Testing Code of Ethics.....29

Appendix IV: N.C.G.S. §115C-296(d)(2)32

Appendix V: Current Superintendent’s Ethics Advisory Committee Procedures.....33

Appendix VI: Proposed Teacher Licensure Character and Fitness Application.....34

Appendix VII: Multi-State Comparison of Criminal Background Fingerprinting Policies.....38

Appendix VIII: Multi-State Comparison of License/Permit Requirements for Substitutes and Teacher Assistants.....38

INTRODUCTION

Teachers are intended by parents, citizenry and lawmakers alike to serve as good examples for their young charges. Their character and conduct may be expected to be above those of the average individual not working in so sensitive a relationship as that of teacher to pupil. It is not inappropriate or unreasonable to hold our teachers to a higher standard of personal conduct, given the youthful ideals they are supposed to foster and elevate.

Faulkner v. New Bern-Craven County Bd. of Educ., 311 N.C. 42, 59, 316 S.E.2d 281, 291 (1984).

As the State Supreme Court clearly wrote in *Faulkner*, North Carolina's teachers are held to a high standard of ethical conduct because of their influential role in the lives of our children. To this end, the Task Force on Teacher Ethics and Licensure ("Task Force") was established to review the ethical requirements for North Carolina teachers, administrators, substitute teachers, and teacher assistants.

The Task Force used the following three questions as guidelines for analyzing current ethical standards and proposing improvements:

- What are the needs and expectations of the education community, the public, and especially parents and students?
- What does the education profession expect of its members?
- What State policies and procedures should be adopted or amended in order to strengthen the process for licensing and disciplining teachers?

The Task Force's recommendations originated from the shared goal of the North Carolina Superintendent of Public Instruction ("Superintendent") and the State Board of Education ("Board"): *to ensure that the children of North Carolina have a safe and productive learning environment by placing in every classroom only the most qualified teacher whose character is beyond reproach.*

The Task Force would especially like to thank the State Superintendent, Dr. June Atkinson, for her support in this endeavor.

A. HISTORICAL PERSPECTIVE

Pursuant to Article IX, sec. 5 of the North Carolina Constitution the State Board of Education is vested with the authority to license teachers and other professionals. Guthrie v. Taylor, 279 N.C. 703, 185 S.E.2d 193 (1971), cert. denied, 406 U.S. 920 (1972) Consistent with that constitutional authority, the General Statutes provide that "State Board of Education shall have entire control of certifying all applicants for teaching positions in all public elementary and high schools of North Carolina" N.C.G.S. §115C-296(a).

The State Board of Education exercises its plenary authority with respect to the licensing of teachers in several ways. First, it has adopted a Rule, codified as 16 N.C.A.C. 6C.0312, that outlines the grounds for denying a license, or in appropriate cases, revoking or suspending a license. That Rule also sets out the procedures to be followed in revoking a teaching license. A copy of the Rule is attached in Appendix I.

Second, the State Board has delegated to the State Superintendent and to the Department of Public Instruction the responsibility for the day-to-day administration of State Board policies and legislation governing the licensing of professional educators. Staff at the Department, in particular, oversee the immense paperwork and other ministerial duties associated with reviewing applications for licensure. In addition, the State Board legal staff participate in investigating allegations of misconduct and initiating revocation proceedings with the approval of the State Superintendent.

The State Superintendent has appointed an Advisory Committee on Teacher Ethics which consists of members of the profession, including central office administrators, principals, teachers, and representatives from the Institutions of High Education. (IHEs) The Ethics Advisory Committee interviews applicants for licensure where the applicant indicates a past criminal conviction, and then makes a recommendation to the Superintendent as to whether the teacher should receive a license. The Committee follows a similar process when allegations arise that could lead to disciplinary action against an educator's license.

The State Board of Education has also adopted a Code of Ethics for Professional Educators as well as a Testing Code of Ethics applicable in the context of test administration. A copy of each is attached in Appendices II and III, respectively.

Prior to 1993, no policy existed that required that employers, LEAs or individual supervisors report any teacher misconduct to the State Department. In that year, the State Board adopted a mandatory reporting rule that required school administrators to report to the State Department any misconduct of a licensed educator that would amount to sexual or physical abuse of a student, with the definition of sexual abuse being broad enough to encompass sexual misconduct on the part of a licensed educator.

Since the adoption of this mandatory reporting rule, the number of teacher misconduct cases reported to the State has increased significantly, resulting in many more revocations of teacher licenses. Many local districts report all potentially revocable offenses to the State. Consequently, the incidence of "secret" settlement agreements at the local level has decreased significantly, thus reducing the potential for "passing the trash," the term frequently used to describe the situation where an employee and school system enter into a confidential agreement permitting the teacher to resign without further negative impact to the teacher's license or reputation.

The staff available at the State level to investigate and prosecute the teacher misconduct cases is very limited. The legal department consists of one attorney and a paralegal that both have extensive legal responsibilities outside of the licensure area. Staff in the Licensure Section primarily deal with intake issues and ensuring that educational qualifications are met.

Upon receipt of a report of educator misconduct from a local school district (or any other reliable source), the legal staff at DPI undertake to collect all relevant materials and follow up with any necessary investigation. However, with limited staff, the legal department relies heavily on the investigation that took place at the local level, either by school authorities or by law enforcement. Legal staff compile all available information and take the information to the Ethics Committee for review and recommendation to the State Superintendent for disciplinary action.

Notably, some instances of misconduct warrant automatic revocation of a teacher's license. N.C.G.S. §115C-296(d)(2), sets forth a list of offenses that, upon conviction, results in automatic revocation of a license. A copy of the relevant section of the statute is attached in Appendix IV.

B. ABOUT THE TASK FORCE ON TEACHER ETHICS AND LICENSURE

The Task Force, appointed by the State Superintendent, consists of school board attorneys, human resource directors, and members of various educational organizations such as Personnel Administrators of NC (PANC), North Carolina Association of Educators (NCAE), Professional Educators of NC (PENC), and the North Carolina School Boards Association (NCSBA). With the assistance of the Department of Public Instruction (DPI) staff, the Task Force members reviewed State laws and policies regarding ethics requirements for professional educators, giving special attention to the licensure application and certification process. The Task Force has identified several critical needs areas in education and has made recommendations to ensure a productive and safe school environment for students and teachers.

In order to address these critical needs areas, the Task Force makes the following recommendations:

Recommendation 1: Revise the current licensure application to include additional questions regarding the applicant's background to make the self-reporting process a more comprehensive and effective evaluation tool.

Recommendation 2: Support legislation to create confidentiality protections to encourage full disclosure and to ensure that the information disclosed on the expanded teacher application is protected.

Recommendation 3: Recommend legislation to authorize the State Board of Education to conduct fingerprint background checks as part of the application for initial licensure and license renewal.

Recommendation 4: Support legislation allowing the State Board to share background check information with an applicant's educational employers, and requiring local school boards to report to the State their findings from any local background checks.

Recommendation 5: Require teachers and administrators to report any criminal arrests or charges within a certain time period to the LEA in which they are employed, and also to report any such arrests to the Department of Public Instruction.

Recommendation 6: Require teacher assistants and substitutes to be subject to a licensing or permitting process in order to ensure consistent oversight at the State level.

Recommendation 7: Establish initial and continuing ethics training for all education professionals, including teachers, administrators, substitutes, and teacher assistants. Specifically, the Institutions of Higher Education should require at least a semester-hour course in ethics prior to recommending a teacher for a license. Teachers should have to take a certain number of ethics hours during each 5-year renewal cycle.

Recommendation 8: Update and distribute the Code of Ethics for professional educators and include on the back of every license that is issued. All new and beginning teachers should be given an orientation at the local level, during which the Code is discussed. In addition, local school boards should adopt and disseminate policies and procedures governing not only teacher misconduct, but the reporting and investigation of such misconduct. Teachers should be required to sign a form prior to employment acknowledging receipt of a copy of the Code and promising to abide by its provisions.

Recommendation 9: Adopt rules by the State Board of Education detailing appropriate online behavior for teachers and teacher assistants.

Recommendation 10: Revise the list of behaviors for which discipline against a license is warranted to include other conduct, such as revocation by another professional licensing agency. In addition, the list of conduct, which must be reported to the State should be expanded. Finally, the State should be given a broader range of disciplinary actions to take against a license.

Recommendation 11: Require local school officials and local board attorneys to communicate with local law enforcement and District Attorneys to ensure the exchange of information when necessary. There should be an effort by local and state officials to encourage judges to order a teacher to surrender his or her license as part of sentencing.

Recommendation No. 12: Maintain and improve the Department of Public Instruction's Web site, which lists all teachers who have been disciplined and the grounds for the discipline, including the charges filed and the ultimate disposition (order of revocation, settlement order, etc.).

Recommendation 13: Require school administrators, including both central office and school building administrators to participate in ongoing training and education regarding the investigation and reporting of ethical misconduct by employees.

Recommendation 14: Encourage local school systems to provide education for students on recognizing and reporting teacher misconduct.

Recommendation 15: Increase the Department of Public Instruction's/State Board of Education's resources dedicated to the investigation and prosecution of teacher misconduct cases and to the implementation of the recommendations proposed by the Superintendent's Task Force on Teacher Ethics and Licensure.

PART I: PROPOSED AMENDMENTS TO THE LICENSURE APPLICATION

A. COMPREHENSIVE CHARACTER AND FITNESS QUESTIONS

Recommendation 1: Revise the current licensure application to include additional questions regarding the applicant’s background to make the self-reporting process a more comprehensive and effective evaluation tool.

The State Board of Education, unlike many licensing boards in the state, is not authorized to perform fingerprint checks on applicants for teacher licensing. The Board relies solely upon the information reported on the application for licensure.

Under the current application for a teaching license or the renewal of a license, an applicant is asked only two character and fitness questions:

1. Have you ever had a certificate or license revoked or suspended by another state or other governing body?
2. Have you ever been convicted of a crime (other than a minor traffic offense)?

If the applicant answers either question affirmatively, DPI staff review the applicant’s supporting documentation and written explanation. Based on this review, staff will determine whether further information and a face-to-face interview is needed, and, if so, will invite the applicant to an interview with the State Superintendent’s Ethics Advisory Committee. The purpose of the interview is to determine what, if any, action the Superintendent should take against the applicant’s license. Disciplinary action includes denial or nonrenewal of a license, revocation, or suspension, or the issuance of a probationary license. Ultimately, the State Superintendent notifies the applicant of her decision and, if applicable, notifies the applicant of his or her right to appeal. A more detailed summary of the Ethics Committee review process is available in Appendix V.

After reviewing teacher licensure requirements in other states as well as other professional licensure requirements in North Carolina, the Task Force has determined that the current application questions are deficient in both scope and depth. For instance, the first question is unclear as to what *kinds* of license revocations should be reported and also fails to inquire about less severe disciplinary actions taken against a license or any pending investigations. The second question is too narrow because it only covers fully adjudicated convictions; thus, an applicant is not required to include pending charges or other relevant criminal history (e.g. arrests, indictments, plea deals, etc.). There is also no explicit requirement to inform the Superintendent of incarceration or probation. As a result, applicants have demonstrated confusion regarding the nature and extent of answers required. Furthermore, because the State does not currently conduct criminal background checks on any licensure applicant, the State is compelled to rely solely on the applicant’s responses to the self-reporting questions. Whether through confusion, or intentionally, applicants often are not forthcoming in

their responses. As a result, the State often does not receive accurate information. Asking more questions, and particularly more probing questions, will hopefully result in more accurate information.

The current licensure application fails to provide significant, meaningful information about an applicant's character and fitness. A more comprehensive line of questioning is necessary in order to obtain complete and honest answers about prior alleged or actual misconduct.

Accordingly, the Task Force has drafted and proposed an updated set of questions for the character and fitness section of the NC Teaching Licensure application (a final draft of the proposed questions is provided in Appendix VI). The proposed application should provide a more in-depth and thorough survey of an applicant's history and capacity to be an effective teacher and role model. The proposed changes include: (1) New questions regarding the applicant's criminal background, including alleged or actual child abuse or neglect, as well as any past arrests, criminal charges, indictments, guilty or no contest pleas, and probation; (2) Expanded questions regarding professional licensing, including the denial, revocation, or suspension of a license and any pending adverse actions or past disciplinary action; (3) New questions regarding employment history, including actual or alleged misconduct; and (4) New questions regarding prior military service, discipline, and discharge.

The Task Force strongly urges the Superintendent to adopt and implement the proposed changes to the teacher licensure application.

B. STATUTORY CONFIDENTIALITY PROTECTIONS

Recommendation 2: Support legislation to create confidentiality protections to encourage honesty and to ensure that the information disclosed on the expanded teacher application is protected.

The legislature should enact legislation exempting licensure applications from the Public Records Act. The Task Force recommends confidentiality protections to ensure that the applicant's expanded character and fitness responses are protected from disclosure. All information short of a final disposition should be confidential. At present the licensure documents in the possession of the State Board or the Department are public records and not protected from disclosure. In order to encourage honesty, and hence accuracy, a teacher's responses to questions about prior employment actions should enjoy the same protection those records would have if part of the personnel file. See G.S. §115C-319.

PART II: EXPANDED BACKGROUND CHECKS FOR TEACHING LICENSE APPLICANTS

A. STATE FINGERPRINT BACKGROUND CHECKS FOR TEACHER LICENSING

Recommendation 3: Recommend legislation to authorize the State Board of Education to conduct fingerprint background checks as part of the application for initial licensure and license renewal.

State law requires each board of education to adopt a policy on criminal history checks as a part of the *employment* application process for school personnel.¹ Some school districts conduct database checks, while others conduct fingerprint criminal background checks, all at no cost to the applicant. However, in deciding whether or not to *license* an applicant, the State Board, unlike numerous other licensing boards, does not currently have the authority to conduct fingerprint background checks. This lack of information limits the State Board's ability to make a well-informed decision as to the applicant's fitness to be a licensed North Carolina teacher or administrator.

Other licensing boards in our State have the authority to conduct such criminal background checks. For example, G.S. § 90-11 allows the Medical Board to receive a fingerprint criminal record check from the Department of Justice for an applicant seeking a medical license.² Given that teachers are entrusted to work closely with students, they should be subject to similarly rigorous background checks. Furthermore, many other states require fingerprint background checks before issuing a license. The Task Force thus recommends similar legislation which would give the State the authority to conduct fingerprint background checks as part of the licensing or licensing renewal procedures.

B. INFORMATION SHARING PROCEDURES

Recommendation 4: Support legislation allowing the State Board to share background check information with an applicant's educational employers, and requiring local school boards to report to the State their findings from any local background checks.

If the State Board is allowed to conduct fingerprint criminal history checks, the Task Force recommends that laws or policies be enacted to allow the sharing of confidential criminal history information between the State and each Local Education Agency (LEA) or charter school. Results from any criminal background checks, whether conducted by the State for the purpose of licensure or by the LEA for the purpose of employment, should be shared between the Department of Public Instruction ("DPI") and the LEA. DPI will use the results to determine whether to issue, revoke, or suspend licenses, and the LEAs may use the information to make hiring decisions. The Task Force also discussed requiring LEAs to conduct an updated criminal background check whenever a teacher moves from one district to another (which many LEAs already do voluntarily).

Currently, the General Statutes require an LEA to provide any criminal history information it receives on a licensed professional to the SBE. G.S. §115C-332(e). Most LEAs are not complying with this requirement. State officials should make every effort to communicate the requirement to LEAs to report background checks to the SBE. In addition, the SBE should undertake to enforce this requirement to the extent possible.

C. OTHER SUGGESTIONS/CONCERNS

COST TO APPLICANTS

Current law prohibits LEAs from charging applicants for the cost of general database criminal history checks or the more expensive fingerprint checks.³ Typically most other states do require applicants to pay the fees for the criminal background checks. The Task Force discussed potential ways to cover the costs of the more rigorous criminal history checks (fees include a \$10.00 charge for the fingerprinting service and a separate \$38.00 processing charge by the State Bureau of Investigation). The fees could be subsidized from a State fund or added entirely to the license application fee at the State Board's discretion.

CONFIDENTIALITY

Any criminal history information obtained and/or shared by the State and the LEAs needs to be exempted from public records laws and subject to a confidentiality provision.⁴

NONCERTIFIED PERSONNEL

Finally, the State may want to consider expanding background checks to include noncertified employees such as teacher assistants, student teachers, volunteers, substitutes, etc.

Teachers and licensed administrators are not the only personnel who have daily, unsupervised contact with students. In particular, teacher assistants and substitutes are afforded unlimited and often unsupervised access to children in our schools. As discussed more fully in Part III, the Task Force believes that legislation should be adopted that requires these non-certified personnel to be licensed.

D. CONTINUED SELF-REPORTING

Recommendation 5: Require teachers and administrators to report any criminal arrests or charges within a certain time period to the LEA in which they are employed, and also to report any such arrests to the Department of Public Instruction.

The Task Force recommends that teachers and administrators be required to report any criminal arrests or charges within a certain time period to the LEA, which would then forward the report to the DPI. DPI should also include a requirement on the license application that the licensee has an obligation to report any subsequent arrests immediately to the Department.

E. DATA AND EXAMPLES

MULTI-STATE COMPARISON

The Task Force researched laws and policies from fifteen other states to determine whether they have implemented the use of fingerprinting for background checks. The results are summarized below, and a full report is available in Appendix VII.

- Eleven states out of fifteen require fingerprints and conduct fingerprint background checks.
- Three states out of fifteen do not perform fingerprint background checks but they do conduct name-based criminal background checks.
- Most of the states require the applicant, especially a first-time applicant, to pay the background check fee either partially or entirely.

CASE STUDY: CHARLOTTE-MECKLENBERG SCHOOLS

In order to better understand the process of fingerprinting school employees, the Task Force reviewed the hiring practices of Charlotte-Mecklenburg Schools (CMS) as a model in North Carolina. The Charlotte-Mecklenburg school district has been fingerprinting all “new hires” since the early 1990’s. Following is a summary of an interview with Ms. Ellen Seth, Charlotte-Mecklenburg’s Employee Relations Compliance Information Supervisor:

CMS works with a private vendor to fingerprint an average of 3,000 applicants per year. The fingerprints are then mailed to the SBI, which conducts its search before sending the information on to the FBI. Approximately one out of one hundred applicants are excluded due to the information provided from the fingerprints. CMS enacted the fingerprinting background check program because fingerprints are conclusive as to identity, whereas background checks by name can return erroneous results if the applicant’s name is shared by another individual.

The entire process takes approximately two weeks. The fingerprints are currently sent to the SBI by mail, but CMS is prepared to use electronic fingerprinting, which should shorten the length of time for receiving results from the SBI/FBI.

The cost of the program is about \$233,000 per year, with \$42,000 and \$191,000 going to the private vendor and SBI/FBI respectively. There is one CMS staff member who completes the process in coordination with the private fingerprinting business.

CASE STUDY: CALIFORNIA PUBLIC SCHOOLS

California law requires all public school employers to secure criminal background clearance for each new employee.⁵ In addition, all first-time California Credential Applicants are required to submit fingerprints to the California Commission on Teacher Credentialing (CTC).⁶ California employs a credentials analyst and a credentials technician to evaluate the fingerprints taken of new employees. The state uses a service called LiveScan, which is open to the public on an appointment-only basis. LiveScan fingerprints for numerous agencies, not only

the school district. It takes approximately two weeks for the results to be processed but it can take as long as several months to clear.⁷

A teacher, new to the profession, will typically pay: (1) A \$55 Credential application fee to CTC; and (2) A \$71 fee (\$20 rolling fee (variable) + \$32 state clearance +\$19 FBI clearance), paid at the time of the LiveScan, for Criminal Background clearance, which is automatically reported to the CTC.⁸

CASE STUDY: TEXAS PUBLIC SCHOOLS

In 2007, the Texas General Assembly passed legislation requiring all school employees to submit fingerprints for national criminal background checks.⁹ Pursuant to that legislation, the State Board for Educator Certification has been reviewing the national criminal history record information of employees who had not previously submitted fingerprints to the department. During its implementation of the law, the Texas Education Agency reports that it has identified felony records for about 1,000 certified educators and 4,000 noncertified employees.¹⁰

PART III: LICENSING SUBSTITUTE TEACHERS AND TEACHER ASSISTANTS

Recommendation 6: Require teacher assistants and substitutes to be subject to a licensing or permitting process in order to ensure consistent oversight at the State level.

Teachers are not the only school employees who have unlimited and often unsupervised access to school children. Teacher assistants and substitutes also have frequent unsupervised contact with students. Yet those paraprofessionals are not subject to any uniform or standardized credentialing standards. Most professions recognize the need to monitor and oversee the quality of their paraprofessionals, particularly when the duties to be performed by them mirror or substantially support duties performed by the licensed professional. In light of the incredible one-on-one contact, often unsupervised, that these paraprofessionals have with students, the Task Force strongly supports further inquiry into the feasibility of licensing or certifying teacher assistants and substitutes.

Presently, the State can monitor only licensed educators, in terms of the power to revoke or suspend licenses. Thus, the Task Force recommends creating a certification process for substitutes and teacher assistants in order to better police those school employees who interact closely with children but are not State-certified. While many, if not all, local school systems do their own background checks on these employees, nevertheless there is no uniformity with regard to those background checks and there is also no standardized method of communication between and among school systems. For example, a teacher assistant or substitute who engages in unethical or criminal conduct in one district may be subject to dismissal in that district but may, in fact, end up obtaining employment in another district through a simple lack of communication between districts. A State repository of information, maintained as part of a licensing process, would serve to remedy the typical situation in which a teacher assistant or

substitute is dismissed for engaging in questionable conduct in one county only to resurface in another. A central licensing agency at the State level would ensure a central repository for records as well as a centralized monitoring unit which could receive and investigate complaints against teacher assistants and substitutes. The State agency would then be in a position to take disciplinary action, effective statewide, against these employees' licenses or permits.

MULTI-STATE COMPARISON

The Task Force researched policies from fourteen states to determine whether other states require any kind of licensing for substitute teachers and paraprofessionals. The results are summarized below, and a full report is available in Appendix VIII.

- Seven out of the fourteen states require some type of license or permit for substitute teachers.
- Seven out of the fourteen states do not require a substitute teacher to have a license or permit.
- Five states out of the fourteen have some licensing or permit procedure for paraprofessionals and teacher assistants (though Wisconsin licenses only Special Education assistants).

PART IV: BUILDING AND MAINTAINING EDUCATOR ETHICS

Teachers are role models for their students. This heightened responsibility not only applies to the classroom, but extends to teachers' personal lives as well. In order to protect and educate the impressionable youth with whom they interact almost daily, teachers and administrators must demonstrate not only the right behavior but also the critical decision-making skills required to prepare students for ethics in the classroom as well as outside of it.

It is critical that North Carolina's educators and administrators demonstrate a strong understanding and practice of ethical behavior. In 2008, the Josephson Institute Center for Youth Ethics conducted a survey about the moral standards of nearly 30,000 high school students in America.¹¹ The troubling report revealed that 30 percent of young people reported stealing an item from a store during the previous year, while 64 percent admitted to cheating on an exam during the previous year.¹² The Josephson Institute study shows that many of today's students lack a strong sense of ethics and morality. Therefore, in addition to purely scholastic development, our schools need to be beacons of ethical standards and character development.

A. ESTABLISHING EDUCATOR ETHICS

Recommendation 7: Establish initial and continuing ethics training for all education professionals, including teachers, administrators, substitutes, and teacher assistants. Specifically, the Institutions of Higher Education should require at least a semester-hour course in ethics prior to recommending a teacher for a license. Teachers should have to complete a certain number of ethics hours during each 5-year renewal cycle.

Recommendation 8: The Code of Ethics for professional educators should be updated and widely distributed. It should be placed on the back of every license that is issued. All new and beginning teachers should be given an orientation at the local level, during which the Code is discussed. In addition, local school boards should adopt and disseminate policies and procedures governing not only teacher misconduct, but the reporting and investigation of such misconduct. Teachers should be required to sign a form prior to employment acknowledging receipt of a copy of the Code and promising to abide by its provisions.

Enforcing ethical standards in education creates a strong foundation for the teaching profession – a foundation based upon care, respect, trust, and integrity. In North Carolina, the current process of addressing ethical issues for educators tends to be reactive rather than proactive. While it is certainly imperative to have a strong policy in place to deal with teachers who violate ethical commitments, it is equally important to address the issue *before* teachers ever enter the classroom.

Accordingly, the Task Force proposes that the State Board, in coordination with education stakeholders, develop initial and continuing ethics training for new and experienced teachers. While emphasizing that teachers are to be role models for their students at all times, the training program should provide teachers with guidelines and standards for maintaining an appropriate and professional persona both at school and in their personal lives.

The ethics training for teachers should cover a wide spectrum of issues, such as:

- Use of physical force with children (within the limits of state law¹³ and local policy);
- Inappropriate relations with student(s);
- Misuse of school funds and property;
- Violations of state and district testing ethics;
- Illegal use of firearms and controlled substances;
- Inappropriate use of computers and other electronic devices;
- Convictions of crimes;
- Setting appropriate boundaries with students;
- Reporting professional misconduct to appropriate authorities.

The ethics training should be incorporated into the licensure programs for all teachers, administrators, teacher assistants, and substitute teachers. Additionally, the Task Force proposes that a class on ethics should be required as part of every five-year renewal cycle of a license. The Task Force recognizes that incorporating ethics training into teacher education programs and requiring such training for renewal credits could result in some additional costs; nevertheless, the continued failure to adequately train North Carolina's teachers on these worthwhile issues could ultimately lead to an even higher social cost to the public.

B. EXAMPLE: STATE AND INTEREST GROUP INITIATIVES

Many education departments, legislatures and interest groups in other states are recognizing the importance of ethics education by encouraging or mandating the teaching of educator ethics, and by creating structured training materials and programs for education professionals.

STATE INITIATIVES

Incidences of reported teacher misconduct are on the rise nationwide. In response to this increased activity, many states have established educator professional practices committees, commissions, or boards to oversee educator discipline. These governing bodies have several purposes, including:

- Establishing standards and requirements for obtaining and maintaining teaching licenses;
- Issuing, renewing, suspending, and revoking licenses;
- Hearing appeals regarding actions taken against licenses;
- Setting standards for examinations to ensure eligibility for licenses;
- Creating plans for attracting qualified candidates to the profession.

Nebraska: The Nebraska Professional Practices Commission¹⁴ has produced six topic-specific videos dealing with teacher ethics,¹⁵ accompanied by a teaching guide that is available online regarding teacher ethics.¹⁶

Oregon: The Teacher Standards and Practices Commission of Oregon¹⁷ requires all teachers to complete an online ethics program. The program is a 2.5 hour internet course that addresses student rights, ethical standards and boundaries, consequences of abuse, state reporting laws, and prevention.

Florida: The Florida legislature recently passed the “Ethics in Education Act” (SB1712) that requires all local school boards to train employees on ethics.¹⁸ Florida has also banned secret or confidential agreements that conceal the reason for a resignation from employment by a teacher.¹⁹

St. Petersburg College in Florida has designed an eight-week course that trains educators to become better teachers and to learn strategies that can help protect their careers and reputations.²⁰ The course focuses on the State Board of Education rules, critical thinking skills, Florida statutes, professional conduct, and the history of ethical thought. The course is a practical approach to recognizing, understanding, and solving ethical problems facing today’s teachers. Additionally, the course fulfills the Florida Department of Education’s requirement that educators who have been disciplined by the licensing board pass a three-credit college level course prior to being reinstated as an educator. New teachers are also required to pass an approved ethics course before teaching in Florida’s schools.

C. CYBER ETHICS

Recommendation 9: The State Board of Education should adopt rules detailing appropriate online behavior for teachers and teacher assistants.

Educators often do not realize the extent to which personal internet usage can jeopardize one's ethical commitment to teaching. Therefore, teachers must be keenly aware of the potential for ethical and even legal violations when communicating and posting personal information on sites such as MySpace, Facebook, and Twitter. The problems with teacher online usage arise in two situations.

First, in the most extreme cases, teachers are using social networking sites and other modern chatting forums to initiate or encourage sexual encounters with their students. For example, police recently arrested a 36-year-old eighth-grade teacher in Arizona for allegedly having a sexual encounter with a student on school property.²¹ The mother of the student informed local police when she found suspicious conversations on Facebook.²² In a similar situation, a 37-year-old high school teacher in Philadelphia, who was accused of having sex with one of her students, allegedly sent sexually explicit messages via an online social network and cell phone.²³ The sexual relationship reportedly developed after the teacher initially sent the student a "friend" request on Facebook.²⁴

Second, teachers seriously misjudge the nature and extent of personal information posted on their own social network profiles. Not only can these personal websites send a detrimental message to students, but in some cases, states have denied teachers licenses because of inappropriate drug or sexual content appearing in online profiles. For instance, a 27-year-old teacher filed a federal lawsuit against Millersville University in Pennsylvania when the state denied her a teaching credential after seeing a photo of her on MySpace labeled "drunken pirate."²⁵ The school accused her of encouraging underage drinking and informed her that she was ineligible for a teaching certificate.²⁶ Furthermore, ABC News recently conducted a random review of teachers' personal MySpace and Facebook pages and found many examples of inappropriate content including a first-grade teacher who listed "dancing like an a**hole" among her favorite activities; a teacher who posted pictures of herself drinking with friends; and a teacher who posted a picture of herself in a bikini.²⁷

Thousands of new young teachers grew up with their lives displayed online via these common social networking sites. School districts should not unrealistically assume that these novice educators can understand and appreciate the complexity of virtual ethics simply because they have obtained a teaching degree. Specifically, teachers must realize that being "friends" with students online is inappropriate regardless of whether the teacher's personal webpage is entirely "clean." Thus, the Task Force recommends that the State Board of Education adopt a policy detailing appropriate online behavior for teachers and teacher assistants.

CASE STUDY: LEE COUNTY SCHOOLS

Through its ongoing research, the Task Force became aware of one particular LEA in North Carolina that has taken a strong stand towards preventing inappropriate or unethical teacher-student online interactions.

Lee County Schools in North Carolina has recently “adopted a policy prohibiting teachers from communicating with students on public social networking sites and through text messages.”²⁸

Superintendent Jeff Moss explained that the schools took action in response to multiple accounts of teachers becoming sexually involved with students. He feels that it is the school’s responsibility to protect students online as well as in the classroom, and that social network communication makes the student-teacher relationship less defined.

However, the LEA recognizes that networking websites can in fact be valuable resources for students to contact their teachers online after school hours. Thus, in place of Facebook and MySpace, the LEA is building its own online networking site to facilitate valuable after-hour educational activities and to encourage responsible, professional teacher-student interaction. The site will be monitored by District staff for any inappropriate or unethical communications.²⁹

PART V: DISCIPLINARY ACTIONS AGAINST A LICENSE FOR ETHICAL MISCONDUCT

Recommendation 10: The list of behaviors for which discipline against a license is warranted should be revised to include other conduct, such as revocation by another professional licensing agency. In addition, the list of conduct which must be reported to the State should be expanded. Finally, the State should be given a broader range of disciplinary actions to take against a license.

At the present time, the State Board has a Rule, codified at 16 N.C.A.C. 6C.0312, which outlines the specific misconduct that can lead to denial, suspension, or revocation of a professional educator’s license. The list is fairly comprehensive but could use updating in order to more adequately capture offenses not specifically set out. For example, more and more teachers are engaged in misconduct involving the use of computers or cell phones. In addition, a significant number of offenses involve a violation of the testing code of ethics. Adding those specific offenses to the list will strengthen the ability of State officials to take appropriate disciplinary action against educators. Other suggested changes include expanding “revocation of a license by another state” to include revocation or suspension of any professional licensing by any state agency.

Of particular importance is the need to add a category of offenses to include the failure or refusal of a teacher to cooperate with an investigation. In order to fulfill its duty to monitor misconduct and to investigate allegations of misconduct, the State Board, the State Superintendent, and the Ethics Committee need to have authority to sanction those professionals who do not cooperate with the investigation into alleged misconduct. Thus the Task Force specifically recommends that the list of revocable offenses be amended to add as a ground the failure or refusal to cooperate with an investigation.

The Task Force also recommends that the requirement to report to the State Board outlined in 16 N.C.A.C. 6C.0312(b) be enlarged to include the mandatory reporting of any behavior on the part of a licensed educator that could lead to disciplinary action.

The Task Force recommends that the Rule specifically authorize the State Board to issue reprimands, in addition to the authority to revoke or suspend. While the inherent authority to reprimand no doubt exists, the explicit authority would reinforce the broad range of the State Board's disciplinary authority and give notice of the option of the Board to reprimand as well as revoke or suspend. Notably, also, the use of reprimand encourages compliance with ethical standards without resorting to the more serious sanctions of revocation and suspension. Finally, a reprimand is submitted to the national database established by NASDTEC the same way that revocations and suspensions are, thus putting other states on notice of this disciplinary action taken against the teacher.

Finally, the present rule permits a teacher whose license has been revoked to apply for reinstatement after six months. This period of time is entirely too short. The period should be lengthened to at least two years so that a teacher would not be able to apply for reinstatement until at least two years had passed.

Recommendation 11: Local school officials and local board attorneys need to communicate with local law enforcement and District Attorneys to ensure the exchange of information when necessary. There should be an effort by local and state officials to encourage judges to order a teacher to surrender his or her license as part of sentencing.

In many instances, misconduct on the part of a teacher ends up in the hands of law enforcement, including local police and the district attorney's office. Often the criminal investigation parallels the investigation by school officials, but sometimes the criminal investigation supplants the school investigation. Regardless of the progress of the investigation, it is critical that all parties share information necessary to the proper administration of justice and the proper administration of the education system.

It is recommended that school attorneys and district attorneys create active working relationships in order to enhance and increase communication. Finally, local and state officials should encourage judges to require a teacher to surrender his or her license as a part of sentencing or a plea agreement.

Recommendation 12: The Department of Public Instruction should maintain an improved website which lists all teachers who have been disciplined and the grounds for the discipline, including the charges filed and the ultimate disposition (order of revocation, settlement order, etc.).

The list of disciplinary actions currently located on the State Board’s Legal Affairs web site is an insufficient instrument for tracking and recording disciplinary actions taken against teachers. The online disciplinary action list³⁰ is accessible on the State Board’s website but difficult to locate. Further, it does not provide a copy of DPI’s or the State Board of Education’s findings. The inadequacy of the website currently makes it difficult for local school administrators, members of the public, and other states to know if and when a teacher’s license has been revoked or suspended.

Accordingly, the Task Force recommends that the current website content and accessibility be reviewed and continue to be updated in ways that improve communication to all interested persons. It will be helpful to study the websites used by other professional licensing boards within the state, as well as websites used in other states in the education profession.

In addition, in an effort to curtail the practice of “passing the trash” (e.g., teachers resigning in a school district and moving to another district before any disciplinary action can be taken), the Task Force recommends researching a “red flag” system accessible only to personnel administrators at the LEA level (and DPI licensure staff) that could alert potential employers as to whether an individual is eligible for rehire within the former system and whether a teacher is being investigated for any action taken on his or her license. The specific reasons for the red flag would not be disclosed, but such a system could at least alert local officials to make further inquiries prior to any hiring decision.

PART VI: INVESTIGATING AND REPORTING EDUCATOR MISCONDUCT

Recommendation 13: School administrators, including both central office and school building administrators, should be required to participate in ongoing training and education regarding reporting ethical misconduct by employees.

Recommendation 14: Local school systems should also provide education for students on recognizing and reporting teacher misconduct.

A. Training for Educators as First Responders

It is imperative that all educators be trained to recognize misconduct among their peers, their subordinates, and their superiors. It is important that educators be aware of their duty to participate and cooperate in any investigation of misconduct on the part of co-workers or colleagues. The State depends in large part on investigation by local authorities to enable the State to move forward to discipline teachers and other professionals.

B. Sexual Misconduct

Nowhere is training more important than in the area of sexual misconduct. Reports of sexual abuse in schools are rapidly increasing across the nation. A 2004 study conducted by the U.S. Department of Education found that “sexual misconduct by educators occurs in the school, in classrooms, in hallways, in offices, on buses, in cars, in the educator’s home, and in outdoor secluded areas.”³¹ In addition, the report cites a 2003 analysis done by the American Association of University Women (AAUW) which concluded that nearly ten percent of all students “are targets of educator sexual misconduct sometime during their school career.”³²

Because of the frequency of educator sexual misconduct and the secrecy surrounding sexual abuse, school districts often have difficulty targeting the perpetrators and counseling the student victims.

Numerous difficulties arise in the area of educator sexual misconduct. First, the acts of a classroom predator are often conducted under the guise of acceptable educator duties, such as counseling, tutoring, or coaching. A teacher predator is also often the “best teacher,” “best coach,” or a pillar of the community. Many times the student victim is afraid to report because of negative repercussions from peers or the community. Many times the victim is threatened with physical harm or negative academic consequences. Often the student is ashamed or embarrassed. Ironically, many times the student is “in love” with the perpetrator and does not want to ruin the teacher’s reputation. In addition, many times others are involved: other student victims; the teacher’s family; the community at large; a winning sports team. Suffice it to say that cases involving sexual misconduct are difficult to recognize, difficult to investigate, and difficult to bring to resolution without enormous collateral damage. The cases also frequently impact or involve the criminal justice system. All of these factors warrant heightened attention and emphasis on this area of teacher misconduct.

Accordingly, the Task Force recommends that, in addition to requiring training in recognizing, investigating and reporting educator misconduct generally, the State Board should require all educators, administrators, and students to receive appropriate training in recognizing and investigating sexual misconduct by educators. The State Board should review and recommend appropriate training programs for use at the local level and should encourage the use of investigative models such as the CLEAR training.

PART VII: STAFFING NEEDS

Recommendation No. 15: The Department of Public Instruction/State Board of Education should have additional staff dedicated to the investigation and prosecution of teacher misconduct cases.

It is imperative that the State of North Carolina, the General Assembly, and the State Board create and encourage an atmosphere that expects the highest standards for educators in our public schools, not just academically but morally as well. The State Department of Public Instruction must have the resources, both financially and in staffing, to aggressively pursue educators who offend these high moral standards. Most states and indeed, most licensing boards

within our own state, have investigators and staff members whose primary, if not sole, responsibility is to investigate and prosecute offenders of the moral codes. Additionally, in order to assure uniformity throughout the State, and to comply with Leandro's³³ mandate of providing a sound basic education, the State Board should have staff available to help train, or oversee training, throughout the state, of teachers and others in the areas of teacher ethics and proper investigatory practices.

At present, allegations of teacher misconduct comes to the attention of the Department in various ways: (1) Reports by LEA officials; (2) News reports concerning criminal charges or convictions; (3) Teacher self-reporting on application for licenses; (4) Letters or phone calls from concerned parents or citizens; and (5) Reports from other states. The level of investigation required in each case varies tremendously. Where there has already been a conviction, little additional investigation is needed. However, where there is merely a report from a citizen, or where a teacher has simply resigned amid a cloud of suspicion, much more is needed. Currently there is no staff at the State department level dedicated to this function. While the Ethics Committee has some ability to serve as gatekeeper, its authority is limited and its members are volunteers. It usually limits its inquiries to its very basic, face-to-face interview with a teacher.

In the event the State Department moves towards a system of fingerprint checks, the amount of staff time needed to follow up on those background checks will increase substantially. Having fingerprint checks is critical; however, the reports received from those checks require significant follow-up in order to ascertain the facts underlying the reported arrests and convictions. This follow-up process entails contacts with courts and law enforcement from multiple states and jurisdictions.

Even without fingerprint checks, the amount of legwork necessary to follow up on allegations and reports of teacher misconduct is substantial, including phone calls and correspondence with LEAs and other states, interviews with victims, and communication with law enforcement officials. The paperwork generated can also be immense. Significant investigation and preparation is necessary prior to taking a case to the Ethics Committee or to court. Every effort should be made to support the Department both financially and with the staff necessary to fulfill this responsibility of keeping schools safe and ensuring the highest caliber of educator personnel possible.

CONCLUSION: RAISING THE BAR FOR NORTH CAROLINA EDUCATORS

The State Superintendent convened the Task Force on Teacher Ethics and Licensure to reflect upon the State's current operations and suggest improvements. Despite the severe effects of the recession and limited resources, this Task Force Report was produced. The Task Force Report recommends ways for North Carolina to improve the current licensure application and disciplinary process and to enhance safeguards that will promote ethical conduct for teachers statewide. It bears repeating that the ultimate goal of the teaching profession is to ensure that

each child has a safe and productive learning environment. All agree that only the most qualified teacher, whose character is beyond reproach, be allowed to teach in North Carolina.

Appendix I: 16 N.C.A.C. 6C.0312 License Suspension and Revocation

16 NCAC 06C .0312 LICENSE SUSPENSION AND REVOCATION

(a) Except for automatic revocations taken pursuant to G.S. 115C-296(d)(2), the SBE may deny an application for a license or may suspend or revoke a license issued by the department only for the following reasons:

- (1) fraud, material misrepresentation or concealment in the application for the license;
- (2) changes in or corrections of the license documentation that make the individual ineligible to hold a license;
- (3) conviction or entry of a plea of no contest, as an adult, of a crime if there is a reasonable and adverse relationship between the underlying crime and the continuing ability of the person to perform any of his/her professional functions in an effective manner;
- (4) final dismissal of a person by a local board pursuant to G.S. 115C-325(e)(1)b., if there is a reasonable and adverse relationship between the underlying misconduct and the continuing ability of the person to perform any of his/her professional functions effectively;
- (5) final dismissal of a person by a LEA under G.S. 115C-325(e)(1)e.;
- (6) resignation from employment with a LEA without thirty work days' notice, except with the prior consent of the local superintendent;
- (7) revocation of a license by another state;
- (8) any other illegal, unethical or lascivious conduct by a person, if there is a reasonable and adverse relationship between the underlying conduct and the continuing ability of the person to perform any of his/her professional functions in an effective manner; and
- (9) failure to report revocable conduct as required under Paragraph (b) of this Rule.

(b) In addition to any duty to report suspected child abuse under G.S. 7B-301, any superintendent, assistant superintendent, associate superintendent, personnel administrator or principal who knows or has reason to believe that a licensed employee of the LEA has engaged in behavior that would justify revocation of the employee's license under Subparagraphs (3), (4) or (8) of Paragraph (a) of this Rule and which behavior involves physical or sexual abuse of a child shall report that information to the Superintendent of Public Instruction no later than five working days after the date of a dismissal or other disciplinary action or the acceptance of a resignation based upon that conduct. For purposes of this section, the term "physical abuse" shall mean the infliction of physical injury other than by accidental means and other than in self-defense. The term "sexual abuse" shall mean the commission of any sexual act upon a student or causing a student to commit a sexual act, regardless of the age of the student and regardless of the presence or absence of consent. This paragraph shall apply to acts that occur on or after October 1, 1993.

(c) Upon the receipt of a written request and substantiating information from any LEA, local superintendent or other person in a position to present information as a basis for the suspension or revocation of a person's license, the Superintendent of Public Instruction shall conduct an investigation sufficient to determine whether reasonable cause exists to believe that the person's license should be suspended or revoked. If the Superintendent determines that reasonable cause exists to believe that the person's license should be suspended or revoked on one or more of the

grounds specified in Paragraph (a) of this Rule, the Superintendent shall prepare and file written charges with the SBE. The SBE shall review the written charges and determine whether the person's license should be suspended or revoked based on the information contained in the written charges. If the SBE determines that the written charges constitute grounds for suspension or revocation, it shall provide the person with a copy of the written charges, and notify the person that it shall revoke the person's license unless the person, within 60 days of receipt of notice, initiates administrative proceedings under G.S. 150B-3. The notice shall be sent certified mail, return receipt requested. If the person initiates administrative proceedings the SBE shall defer final action on the matter until receipt of a proposed decision as provided for in G.S. 150B-34. If the person does not initiate administrative proceedings within 60 days of receipt of notice, the SBE may suspend or revoke the person's license at its next meeting.

(d) The SBE may suspend an individual's license for a stated period of time or may permanently revoke the license, except as limited by G.S. 115C-325(o).

(e) The SBE may accept the voluntary surrender of a license in lieu of seeking revocation of the license. Before it accepts a voluntary surrender the SBE shall make findings of fact regarding the circumstances surrounding the voluntary surrender to demonstrate that grounds existed under which the SBE could have initiated license revocation proceedings. The SBE shall treat a voluntary surrender the same as a revocation.

(f) The SBE may reinstate a suspended or revoked license or may grant a new license after denial of a license under Paragraph (a) of this Rule upon an individual's application submitted no sooner than six months after the suspension, revocation, or denial, and a showing that:

- (1) the action that resulted in suspension, revocation or denial of the license did not involve abuse of minors; moral turpitude or grounds listed in G.S. 115C-325(e)(1)b;
- (2) the person has no record of subsequent behavior that could have resulted in license revocation; and
- (3) there is no court order or judicial determination that would prohibit the person from returning to or holding a licensed position.

(g) The SBE shall notify all other states of all actions which involve the, suspension, revocation, surrender, or reinstatement of a certificate.

Appendix II: Code of Professional Practice and Conduct for North Carolina Educators

16 NCAC 06C .0601 PURPOSE AND APPLICABILITY

The purpose of these Rules is to establish and uphold uniform standards of professional conduct for licensed professional educators throughout the State. These Rules shall be binding on every person licensed by the SBE, hereinafter referred to as "educator" or "professional educator," and the possible consequences of any willful breach shall include license suspension or revocation. The prohibition of certain conduct in these Rules shall not be interpreted as approval of conduct not specifically cited.

16 NCAC 06C .0602 STANDARDS OF PROFESSIONAL CONDUCT

(a) The standards listed in this Section shall be generally accepted for the education profession and shall be the basis for State Board review of performance of professional educators. These standards shall establish mandatory prohibitions and requirements for educators. Violation of these standards shall subject an educator to investigation and disciplinary action by the SBE or LEA.

(b) Professional educators shall adhere to the standards of professional conduct contained in this Rule. Any intentional act or omission that violates these standards is prohibited.

- (1) Generally recognized professional standards. The educator shall practice the professional standards of federal, state, and local governing bodies.
- (2) Personal conduct. The educator shall serve as a positive role model for students, parents, and the community. Because the educator is entrusted with the care and education of small children and adolescents, the educator shall demonstrate a high standard of personal character and conduct.
- (3) Honesty. The educator shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation in the performance of professional duties including the following:
 - (A) statement of professional qualifications;
 - (B) application or recommendation for professional employment, promotion, or licensure;
 - (C) application or recommendation for college or university admission, scholarship, grant, academic award, or similar benefit;
 - (D) representation of completion of college or staff development credit;
 - (E) evaluation or grading of students or personnel;
 - (F) submission of financial or program compliance reports submitted to state, federal, or other governmental agencies;
 - (G) submission of information in the course of an official inquiry by the employing LEA or the SBE related to facts of unprofessional conduct, provided, however, that an educator shall be given adequate notice of the allegations and may be represented by legal counsel; and
 - (H) submission of information in the course of an investigation by a law enforcement agency, child protective services, or any other agency with the right to investigate, regarding school related criminal activity; provided, however, that an educator shall be entitled to decline to give evidence to law enforcement if such evidence may tend to incriminate the

educator as that term is defined by the Fifth Amendment to the U.S. Constitution.

- (4) Proper remunerative conduct. The educator shall not solicit current students or parents of students to purchase equipment, supplies, or services from the educator in a private remunerative capacity. An educator shall not tutor for remuneration students currently assigned to the educator's classes, unless approved by the local superintendent. An educator shall not accept any compensation, benefit, or thing of value other than the educator's regular compensation for the performance of any service that the educator is required to render in the course and scope of the educator's employment. This Rule shall not restrict performance of any overtime or supplemental services at the request of the LEA; nor shall it apply to or restrict the acceptance of gifts or tokens of minimal value offered and accepted openly from students, parents, or other persons in recognition or appreciation of service.
- (5) Conduct with students. The educator shall treat all students with respect. The educator shall not commit any abusive act or sexual exploitation with, to, or in the presence of a student, whether or not that student is or has been under the care or supervision of that educator, as defined below:
 - (A) any use of language that is considered profane, vulgar, or demeaning;
 - (B) any sexual act;
 - (C) any solicitation of a sexual act, whether written, verbal, or physical;
 - (D) any act of child abuse, as defined by law;
 - (E) any act of sexual harassment, as defined by law; and
 - (F) any intentional solicitation, encouragement, or consummation of a romantic or physical relationship with a student, or any sexual contact with a student. The term "romantic relationship" shall include dating any student.
- (6) Confidential information. The educator shall keep in confidence personally identifiable information regarding students or their family members that has been obtained in the course of professional service, unless disclosure is required or permitted by law or professional standards, or is necessary for the personal safety of the student or others.
- (7) Rights of others. The educator shall not willfully or maliciously violate the constitutional or civil rights of a student, parent/legal guardian, or colleague.
- (8) Required reports. The educator shall make all reports required by G.S. 115C.
- (9) Alcohol or controlled substance abuse. The educator shall not:
 - (A) be under the influence of, possess, use, or consume on school premises or at a school-sponsored activity a controlled substance as defined by G.S. 90-95, the Controlled Substances Act, without a prescription authorizing such use;
 - (B) be under the influence of, possess, use, or consume an alcoholic beverage or a controlled substance on school premises or at a school-sponsored activity involving students; or
 - (C) furnish alcohol or a controlled substance to any student except as indicated in the professional duties of administering legally prescribed medications.

- (10) Compliance with criminal laws. The educator shall not commit any act referred to in G.S. 115C-332 and any felony under the laws of the United States or of any state.
- (11) Public funds and property. The educator shall not misuse public funds or property, funds of a school-related organization, or colleague's funds. The educator shall account for funds collected from students, colleagues, or parents/legal guardians. The educator shall not submit fraudulent requests for reimbursement, expenses, or pay.
- (12) Scope of professional practice. The educator shall not perform any act as an employee in a position for which licensure is required by the rules of the SBE or by G.S. 115C or the North Carolina General Statutes during any period in which the educator's license has been suspended or revoked.
- (13) Conduct related to ethical violations. The educator shall not directly or indirectly use or threaten to use any official authority or influence in any manner that tends to discourage, restrain, interfere with, coerce, or discriminate against any subordinate or any licensee who in good faith reports, discloses, divulges, or otherwise brings to the attention of an LEA, the SBE, or any other public agency authorized to take remedial action, any facts or information relative to actual or suspected violation of any law regulating the duties of persons serving in the public school system, including but not limited to these Rules.

Appendix III: North Carolina Testing Code of Ethics

16 NCAC 06D .0306 TESTING CODE OF ETHICS

(a) This Rule shall apply to all public school employees who are involved in the state testing program.

(b) The superintendent or superintendent's designee shall develop local policies and procedures to ensure maximum test security in coordination with the policies and procedures developed by the test publisher. The principal shall ensure test security within the school building.

- (1) The principal shall store test materials in a secure, locked area. The principal shall allow test materials to be distributed immediately prior to the test administration. Before each test administration, the building level test coordinator shall accurately count and distribute test materials. Immediately after each test administration, the building level test coordinator shall collect, count, and return all test materials to the secure, locked storage area.
- (2) "Access" to test materials by school personnel means handling the materials but does not include reviewing tests or analyzing test items. The superintendent or superintendent's designee shall designate the personnel who are authorized to have access to test materials.
- (3) Persons who have access to secure test materials shall not use those materials for personal gain.
- (4) No person may copy, reproduce, or paraphrase in any manner or for any reason the test materials without the express written consent of the test publisher.
- (5) The superintendent or superintendent's designee shall instruct personnel who are responsible for the testing program in testing administration procedures. This instruction shall include test administrations that require procedural modifications and shall emphasize the need to follow the directions outlined by the test publisher.
- (6) Any person who learns of any breach of security, loss of materials, failure to account for materials, or any other deviation from required security procedures shall immediately report that information to the principal, building level test coordinator, school system test coordinator, and state level test coordinator.

(c) Preparation for testing.

- (1) The superintendent shall ensure that school system test coordinators:
 - (A) secure necessary materials;
 - (B) plan and implement training for building level test coordinators, test administrators, and proctors;
 - (C) ensure that each building level test coordinator and test administrator is trained in the implementation of procedural modifications used during test administrations; and
 - (D) in conjunction with program administrators, ensure that the need for test modifications is documented and that modifications are limited to the specific need.
- (2) The principal shall ensure that building level test coordinators:
 - (A) maintain test material security and accountability of test materials;
 - (B) identify and train personnel, proctors, and backup personnel for test administrations; and

- (C) encourage a positive atmosphere for testing.
 - (3) Test administrators shall be school personnel who have professional training in education and the state testing program.
 - (4) Teachers shall provide instruction that meets or exceeds the standard course of study to meet the needs of the specific students in the class. Teachers may help students improve test-taking skills by:
 - (A) helping students become familiar with test formats using curricular content;
 - (B) teaching students test-taking strategies and providing practice sessions;
 - (C) helping students learn ways of preparing to take tests; and
 - (D) using resource materials such as test questions from test item banks, testlets and linking documents in instruction and test preparation.
- (d) Test administration.
- (1) The superintendent or superintendent's designee shall:
 - (A) assure that each school establishes procedures to ensure that all test administrators comply with test publisher guidelines;
 - (B) inform the local board of education of any breach of this code of ethics; and
 - (C) inform building level administrators of their responsibilities.
 - (2) The principal shall:
 - (A) assure that school personnel know the content of state and local testing policies;
 - (B) implement the school system's testing policies and procedures and establish any needed school policies and procedures to assure that all eligible students are tested fairly;
 - (C) assign trained proctors to test administrations; and
 - (D) report all testing irregularities to the school system test coordinator.
 - (3) Test administrators and proctors shall:
 - (A) administer tests according to the directions in the administration manual and any subsequent updates developed by the test publisher;
 - (B) administer tests to all eligible students;
 - (C) report all testing irregularities to the school system test coordinator; and
 - (D) provide a positive test-taking climate.
 - (4) Proctors shall serve as additional monitors to help the test administrator assure that testing occurs fairly.
- (e) Scoring. The school system test coordinator shall:
- (1) ensure that each test is scored according to the procedures and guidelines defined for the test by the test publisher;
 - (2) maintain quality control during the entire scoring process, which consists of handling and editing documents, scanning answer documents, and producing electronic files and reports. Quality control shall address at a minimum accuracy and scoring consistency;
 - (3) maintain security of tests and data files at all times, including:
 - (A) protecting the confidentiality of students at all times when publicizing test results; and
 - (B) maintaining test security of answer keys and item-specific scoring rubrics.

(f) Analysis and reporting. Educators shall use test scores appropriately. This means that the educator recognizes that a test score is only one piece of information and must be interpreted together with other scores and indicators. Test data help educators understand educational patterns and practices. The superintendent shall ensure that school personnel analyze and report test data ethically and within the limitations described in this Paragraph.

- (1) Educators shall release test scores to students, parents, legal guardians, teachers, and the media with interpretive materials as needed.
- (2) Staff development relating to testing must enable personnel to respond knowledgeably to questions related to testing, including the tests, scores, scoring procedures, and other interpretive materials.
- (3) Items and associated materials on a secure test shall not be in the public domain. Only items that are within the public domain may be used for item analysis.
- (4) Educators shall maintain the confidentiality of individual students. Publicizing test scores that contain the names of individual students is unethical.
- (5) Data analysis of test scores for decision-making purposes shall be based upon:
 - (A) disaggregation of data based upon student demographics and other collected variables;
 - (B) examination of grading practices in relation to test scores; and
 - (C) examination of growth trends and goal summary reports for state-mandated tests.

(g) Unethical testing practices include, but are not limited to, the following practices:

- (1) encouraging students to be absent the day of testing;
- (2) encouraging students not to do their best because of the purpose of the test;
- (3) using secure test items or modified secure test items for instruction;
- (4) changing student responses at any time;
- (5) interpreting, explaining, or paraphrasing the test directions or the test items;
- (6) reclassifying students solely for the purpose of avoiding state testing;
- (7) not testing all eligible students;
- (8) failing to provide needed modifications during testing, if available;
- (9) modifying scoring programs including answer keys, equating files, and lookup tables;
- (10) modifying student records solely for the purpose of raising test scores;
- (11) using a single test score to make individual decisions; and
- (12) misleading the public concerning the results and interpretations of test data.

(h) In the event of a violation of this Rule, the SBE may, in accordance with the contested case provisions of G.S. 150B, impose any one or more of the following sanctions:

- (1) withhold ABCs incentive awards from individuals or from all eligible staff in a school;
- (2) file a civil action against the person or persons responsible for the violation for copyright infringement or for any other available cause of action;
- (3) seek criminal prosecution of the person or persons responsible for the violation; and
- (4) in accordance with the provisions of 16 NCAC 6C .0312, suspend or revoke the professional license of the person or persons responsible for the violation.

Appendix IV: N.C.G.S. §115C-296(d)(2)

§ 115C-296. Board sets certification requirements

(d) The State Board shall adopt rules to establish the reasons and procedures for the suspension and revocation of certificates. The State Board shall revoke the certificate of a teacher or school administrator if the State Board receives notification from a local board or the Secretary of Health and Human Services that a teacher or school administrator has received an unsatisfactory or below standard rating under G.S. 115C-333(d). In addition, the State Board may revoke or refuse to renew a teacher's certificate when:

(2) The State Board shall automatically revoke the certificate of a teacher or school administrator without the right to a hearing upon receiving verification of the identity of the teacher or school administrator together with a certified copy of a criminal record showing that the teacher or school administrator has entered a plea of guilty or nolo contendere to or has been finally convicted of any of the following crimes: Murder in the first or second degree, G.S. 14-17; Conspiracy or solicitation to commit murder, G.S. 14-18.1; Rape or sexual offense as defined in Article 7A of Chapter 14 of the General Statutes. Felonious assault with deadly weapon with intent to kill or inflicting serious injury, G.S. 14-32; Kidnapping, G.S. 14-39; Abduction of children, G.S. 14-41; Crime against nature, G.S. 14-177; Incest, G.S. 14-178 or G.S. 14-179; Employing or permitting minor to assist in offense against public morality and decency, G.S. 14-190.6; Dissemination to minors under the age of 16 years, G.S. 14-190.7; Dissemination to minors under the age of 13 years, G.S. 14-190.8; Displaying material harmful to minors, G.S. 14-190.14; Disseminating harmful material to minors, G.S. 14-190.15; First degree sexual exploitation of a minor, G.S. 14-190.16; Second degree sexual exploitation of a minor, G.S. 14-190.17; Third degree sexual exploitation of a minor, G.S. 14-190.17A; Promoting prostitution of a minor, G.S. 14-190.18; Participating in prostitution of a minor, G.S. 14-190.19; Taking indecent liberties with children, G.S. 14-202.1; Solicitation of child by computer to commit an unlawful sex act, G.S. 14-202.3; Taking indecent liberties with a student, G.S. 14-202.4; Prostitution, G.S. 14-204; and child abuse under G.S. 14-318.4. The Board shall mail notice of its intent to act pursuant to this subdivision by certified mail, return receipt requested, directed to the teacher or school administrator at their last known address. The notice shall inform the teacher or school administrator that it will revoke the person's certificate unless the teacher or school administrator notifies the Board in writing within 10 days after receipt of the notice that the defendant identified in the criminal record is not the same person as the teacher or school administrator. If the teacher or school administrator provides this written notice to the Board, the Board shall not revoke the certificate unless it can establish as a fact that the defendant and the teacher or school administrator are the same person.

APPENDIX V: CURRENT SUPERINTENDENT'S ETHICS ADVISORY COMMITTEE PROCEDURES

- Each applicant is allowed to present additional documentation to the committee during the interview. Family members, school personnel, clergy, etc. may also accompany the applicant. However, remarks from others are to be limited to let the committee hear from the applicant.
- Interviews are closed to the public. Only committee members and State Board and DPI staff are present during the interview. Minutes taken during the interview are confidential.
- The applicant explains the circumstances that led to the charge(s), conviction(s), suspension, revocation, etc.
- The committee asks questions of the applicant based on the documentation submitted. If additional documentation is required, the applicant is given 30 days from the interview date to submit to licensure.
- After the applicant departs, the committee deliberates and records a recommendation to the State Superintendent based on the applicant's documentation and interview. The State Superintendent makes a final determination on whether or not to license an applicant.

APPENDIX VI: PROPOSED TEACHER CHARACTER AND FITNESS APPLICATION

NOTICE: Please answer each question regarding your past conduct. Any false statement or omission made in this application may be grounds for denial, suspension or revocation of your license, or other disciplinary action. If in doubt, disclose and explain rather than conceal. All questions apply not only to North Carolina, but to any other state or country.

If you answer “yes” to any question, attach a detailed written explanation. If you answer “yes” to any question relating to a court proceeding, a certified true copy of the court record must accompany this application.

CRIMINAL

1. Are you on a child abuse registry or a sex offender registry of any kind?
2. Have you ever been, or are you currently being, investigated for alleged or suspected child abuse or neglect by any governmental agency? (If yes, provide explanation and documentation.)
3. Have you ever been convicted, pled guilty, or pled nolo contendere (no contest) to any criminal offense other than a minor traffic violation (criminal offense includes, but is not limited to a felony, a misdemeanor, or Driving While Impaired). Please include any conviction, regardless of pardon. You must explain relevant circumstances in detail. NOTE: In response to this question, include all offenses other than minor traffic offenses. The following are not minor traffic offenses and must be listed: DWI, DUI, Failure to Stop in the Event of An Accident (hit and run) and Driving While License Revoked or Suspended (DWLR). (If yes, provide explanation and documentation.)
4. Have you ever received probation, deferred prosecution, or any type of pre-trial adjudication, including a PJC (prayer for judgment) other than for a minor traffic offense? [Note: This question does not seek information about matters for which the records have been expunged by a court order.] (If yes, provide explanation and documentation.)
5. Have you ever participated in a diversion program in lieu of prosecution? [Note: This question does not seek information about matters for which the records have been expunged by a court order.] (If yes, provide explanation and documentation.)
6. Have you ever been arrested, indicted or otherwise charged with a crime other than for a minor traffic offense regardless of whether you were convicted or whether the charges were dropped? [Note: This question does not seek information about matters for which the records have been expunged by a court order.] (If yes, provide explanation and documentation.)

7. Are you currently named in a pending criminal charge, indictment or special presentment of any offense other than for a minor traffic violation? [Special Presentment is used in some jurisdictions to charge an individual with a crime.] (If yes, provide explanation and documentation.)

PROFESSIONAL LICENSING

8. Have you ever had a professional certificate, credential, or license of any kind revoked or suspended, or surrendered one prior to its expiration? (If yes, provide explanation and documentation.)
9. Have you ever been reprimanded, censured, placed on probationary status or suspended by a licensing board, commission or agency for any alleged misconduct or alleged violation of professional standards of conduct? (If yes, provide explanation and documentation.)
10. Are there any pending adverse actions or investigations against you relating to a professional certificate, credential, or license in North Carolina, any other state or country? (If yes, provide explanation and documentation.)
11. Have you ever been denied a professional license for which you applied? (If yes, provide explanation and documentation.)
12. Have you ever been granted a professional license on a conditional or probationary basis for any alleged misconduct or alleged violation of professional standards of conduct? (If yes, provide explanation and documentation.)
13. Have you ever been disciplined by any board, commission or agency responsible for licensure of any kind including, but not limited to, educational licensure? (If yes, provide explanation and documentation.)

EMPLOYMENT

For purposes of this application, “misconduct” means the following:

- conviction of a crime other than a minor traffic offense
- use of excessive or inappropriate force against a minor that causes an observable physical injury;
- inappropriate interaction with a student of a sexual or romantic nature;
- theft, embezzlement or fraud related to school funds or property;
- illegal use of weapons or firearms on school property or at school-sponsored events;
- use of drugs or alcohol involving students;
- violation of the State Testing Code of Ethics; and
- excessive use of alcohol or nonmedical use of a controlled substance as defined in Article 5 of Chapter 90 of the General Statutes, provided that there is a reasonable and adverse relationship between the underlying conduct and the continuing ability of the person to perform any of his/her professional functions in an effective manner.

14. Have you ever been dismissed from employment by a school or school system for any reason, or been dismissed or had a contract non-renewed or non-extended by any employer for reasons of misconduct as defined in this application? [Non-extended means a contract or term of employment was not renewed.] (If yes, provide explanation and documentation.)
15. To your knowledge, have you ever had a disciplinary suspension, resigned, or been non-renewed or dismissed following allegations of behavior for misconduct related to your employment or arising out of your employment? [Note: This question does not seek information about any suspension with pay or administrative leave for which the records have been removed from your Central Office personnel file.] (If yes, provide explanation and documentation.)
16. Have you ever been, or are you currently being, investigated or charged by a licensing board, commission or agency with a violation of a Professional Code of Ethics or any similar code of conduct? (If yes, provide explanation and documentation.)

MILITARY SERVICE

17. Have you ever served in the armed services?

If yes, indicate dates of service: From _____ To _____ DD/MM/YYYY

18. Was your discharge honorable?

If yes, provide documentation. If not, state what your service characterization was and why.

19. Were you ever the subject of court martial charges, non-judicial punishment or otherwise disciplined while in the armed forces? (If yes, provide explanation and documentation.)

OATH

False statements or omissions are cause for denial, suspension or revocation of licensure.

I hereby certify that the information submitted on or relating to this application is true and correct. I grant the Department permission to check civil or criminal records to verify a statement made on this application. I give the Department permission to request and obtain previous employment records to verify any of the above statements. I understand that any misstatement or omission of information may subject me to disqualification, revocation and/or any other disciplinary action.

Signature of the Applicant (seal)

Date

ETHICS STATEMENT

I hereby acknowledge that I have read, understand and agree to abide by the Code of Ethics for North Carolina Professional Educators and North Carolina Standards of Professional Conduct. 16 NCAC 6C.0601 and 16 NCAC 6C.0602.

Signature of the Applicant (seal)

Date

APPENDIX VII: MULTI-STATE COMPARISON OF CRIMINAL BACKGROUND FINGERPRINTING POLICIES

STATE	Fingerprint?	Who pays cost?
California	Yes.	All first-time applicants must pay.
Georgia	Yes. All licensed employees fingerprinted.	Employee pays.
Illinois	No.	n/a
Indiana	No. Only criminal background checks conducted. May fingerprint after reviewing.	n/a
Iowa	Yes. Required for all initial applicants since 2006.	Applicant pays.
Nebraska	Yes.	All first-time applicants must pay.
New York	Yes.	All first-time applicants must pay.
Massachusetts	Probably. Proposed legislation has been introduced.	Applicant will likely be required to pay.
Missouri	No. Only criminal background checks conducted.	n/a
Montana	Yes.	Applicant pays.
South Carolina	Yes.	Applicant pays.
Texas	Yes. All teacher applicants, substitutes and charter school employees must be fingerprinted.	Paid either by State or applicant depending on when applicant was hired.
Utah	Yes.	Applicant pays unless the district absorbs the cost.
Washington	Yes.	Applicant pays.
Wisconsin	Yes. Out-of-state applicants only.	Applicant pays.

APPENDIX VIII: MULTI-STATE POLICIES ON LICENSING SUBSTITUTES AND TEACHER ASSISTANTS

STATE	License Subs/Paraprofessionals?
Georgia	Substitutes are not licensed. Paraprofessionals are licensed.
Illinois	Substitutes, paraprofessionals and teacher aides are licensed
Indiana	No license for teacher assistants. Permits are issued to substitutes.
Iowa	Substitutes must have license. Teacher aides are not required.
Nebraska	No license for substitutes, paraprofessionals or aides
New York	Substitutes have some licensing requirements. Administrators, assistants and other personnel are required to hold a license.
Massachusetts	No license required for substitutes or teacher assistants.
Missouri	Substitutes must be licensed. Teacher aides have specialized requirements.
Montana	No licensing of substitutes. Most locals conduct background checks.
South Carolina	No.
Texas	No.
Utah	No substitute or aides licensing.
Washington	Substitutes are licensed.
Wisconsin	Substitutes and Special Education aides are licensed.

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- ¹ N.C.G.S. § 115C-332 (2009); 16 N.C.A.C. 6C.0313
- ² N.C.G.S. § 90-11(b) (2009)
- ³ N.C.G.S. §115C-332(b) and (c) (2009)
- ⁴ See e.g. N.C.G.S. §115C-332(f): “All the information received by the local board of education through the checking of the criminal history or by the State Board of Education in accordance with this section is privileged information and is not a public record but is for the exclusive use of the local board of education or the State Board of Education. The local board of education or the State Board of Education may destroy the information after it is used for the purposes authorized by this section after one calendar year.”
- ⁵ Cal Ed. Code § 44332.6 (2009)
- ⁶ Cal Ed. Code §§ 44340-44341 (2009). See also State of California, (2007). Welcome to the commission on teacher credentialing. Retrieved July 27, 2009, from California Commission on Teacher Credentialing Web site: <http://www.ctc.ca.gov/>
- ⁷ *Id.*
- ⁸ *Id.*
- ⁹ Tex. Educ. Code §§ 22.081 through 22.087 (2009)
- ¹⁰ Peterson, M. (2009, July 27). Teacher fingerprinting moves along to 2011 deadline. *The Dallas Morning News*, Retrieved August 4, 2009, from <http://www.dallasnews.com/sharedcontent/dws/dn/education/stories/072709dnmetskulfingerprints.3e563ee.html>.
- ¹¹ Josephson Institute, (2009). The ethics of American youth - 2008 summary. Retrieved July 27, 2009, from Josephson Institute: Center for Youth Ethics Web site: <http://charactercounts.org/programs/reportcard/>
- ¹² *Id.*
- ¹³ N.C.G.S. § 115C-390 (2009)
- ¹⁴ State of Nebraska. Retrieved July 27, 2009, from Nebraska Professional Practices Commission Web site: <http://nppc.nol.org/>
- ¹⁵ State of Nebraska. Retrieved July 27, 2009, from Nebraska Professional Practices Commission Web site: <http://nppc.nol.org/video.htm>
- ¹⁶ State of Nebraska. Code of ethics. Video. Retrieved July 27, 2009, from Nebraska Professional Practices Commission Web site: <http://nppc.nol.org/ethics.pdf>
- ¹⁷ State of Oregon. Teacher standards and practices commission. Retrieved July 27, 2009, from Oregon.gov Web site: <http://www.oregon.gov/TSPC/>
- ¹⁸ Ethics in Education Act, 2008 Fla. SB 1712. See also, Florida Department of Education. (2008). *Technical assistance paper related to the Ethics in Education Act of the 2008 Florida legislative session* Tallahassee, Florida: The Florida Department of Education. Available online at: <http://www.fldoe.org/edstandards/pdfs/SB1712TAP.pdf>
- ¹⁹ *Id.* at 9; Fla. Stat. § 1001.42(6) (2009).
- ²⁰ Ethics for educators. Retrieved July 27, 2009, from St. Petersburg College Course Descriptions Web site: <http://www.spcollege.edu/course/PHI-2623>
- ²¹ Bodfield, R. (2009, May 29). What ethics should teachers follow with Facebook, social sites? *WCFCourier.com*, Retrieved July 27, 2009, from http://www.wcfcourier.com/articles/2009/05/24/news/breaking_news/doc4a199d68e6c4f153832546.txt
- ²² *Id.*
- ²³ *Id.*
- ²⁴ *Id.*
- ²⁵ Michels, S. (2008, May 6). Teachers' virtual lives conflict with classroom. *ABC News*, Retrieved August 4, 2009, from <http://abcnews.go.com/TheLaw/story?id=4791295&page=1>
- ²⁶ *Id.*
- ²⁷ *Id.*
- ²⁸ Hartness, E. (2009, July 7). Lee County bars teachers from contacting students on social networking sites. *WRAL.com*, Retrieved August 4, 2009, from <http://www.wral.com/news/local/story/5523284/>
- ²⁹ *Id.*
- ³⁰ NC Department of Public Instruction, (2009). SBE legal affairs revoked license. Retrieved August 5, 2009, from North Carolina State Board of Education Web site: <http://www.ncpublicschools.org/stateboard/legal/revoked>
- ³¹ U.S. Department of Education, Office of the Under Secretary, *Educator Sexual Misconduct: A Synthesis of Existing Literature*, Washington, D.C., 2004.
- ³² *Id.* at 20 (citing American Association of University Women (2001). *Hostile Hallways*, Washington, D.C.: AAUW Educational Foundation).

³³ Leandro v. State of North Carolina, 346 N.C. 336, 488 S.E.2d 249 (1997), Hoke County Bd. Of Educ v. State of North Carolina, 358 NC 605, 599 S.E.2d 365 (2004).