



Arizona State Board of Education
Certification Enforcement Advisory Ad Hoc Committee

NOTICE OF PUBLIC MEETING

Pursuant to Arizona Revised Statutes (A.R.S.) 38-431.02, notice is hereby given to members of the State Board of Education Certification Enforcement Advisory Ad Hoc Committee, and to the general public, that the Committee will hold a meeting open to the public on **Wednesday, November 9, 2016 at 11:30 a.m. at Arizona Department of Education, Room 122**, 1535 W. Jefferson, Phoenix, Arizona 85007. A copy of the agenda is attached. The Committee reserves the right to change the order of items on the agenda, with the exception of public hearings. One or more Committee members may participate telephonically.

Pursuant to A.R.S. §38-431.02 (H), the Committee may discuss and take action concerning any matter listed on the agenda.

Pursuant to A.R.S. § 38-431.03(A)(3), the Committee may vote to convene in executive session, which will not be open to the public, for legal advice concerning any item on the agenda.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting the State Board Office at (602) 542-5057. Requests should be made as early as possible to allow time to arrange the accommodation.

DATED AND POSTED this 8th day of November, 2016.

By: _____

A handwritten signature in black ink, appearing to read "K Schmidt", written over a horizontal line.

Dr. Karol Schmidt
Executive Director
(602) 542-5057

AGENDA

CERTIFICATION ENFORCEMENT ADVISORY AD HOC COMMITTEE
November 9, 2016
11:30 a.m.
Arizona Department of Education, Room 122
1535 W. Jefferson
Phoenix, AZ 85007

11:30 a.m. CALL TO ORDER AND ROLL CALL

1. CALL TO THE PUBLIC: This is the time for the public to comment. Members of the Committee may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to A.R.S. 38-431.01(H), action taken as a result of public comment will be limited to directing staff to study the matter, responding to any criticism or scheduling the matter for further consideration and decision at a later date.
2. Presentation, discussion and consideration to recommend changes to Board rule R7-2-705 regarding hearings and evidence
3. Presentation, discussion and consideration to recommend changes to Board rule R7-2-1308 regarding professional and moral conduct
4. Presentation, discussion and consideration to recommend educational materials regarding professional and moral conduct
5. Presentation, discussion and consideration to recommend provisions regarding reciprocal imposition of discipline for educator certificates
6. Presentation, discussion and consideration to recommend provisions regarding revocation of educator certificates for a felony conviction
7. FUTURE MEETING DATES AND ITEMS FOR FUTURE AGENDAS. The executive director or a member of the Committee may discuss future meeting dates and direct staff to place matters on a future agenda.

Adjourn

A.A.C. R7-2-705. Hearings and evidence

A. Parties may participate in the hearing in person or through an attorney.

B. ~~Upon request of either party, t~~The presiding officer may schedule a prehearing conference. The purpose of a prehearing conference shall be to narrow issues, attempt settlement, address evidentiary issues or for any other purpose deemed necessary by the presiding officer. The presiding officer or hearing body may require that the parties submit proposed findings of fact and conclusion of law prior to the hearing or at the close of evidence.

C. A hearing in a contested case shall be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings. Irrelevant, immaterial or unduly repetitious evidence shall be excluded. A party to such proceedings may be represented by counsel and shall have the right to submit evidence in open hearing and conduct cross examination. Hearings may be held in any location determined by the hearing body.

D. Copies of documentary evidence may be received in the discretion of the presiding officer. Upon request, the parties shall be given an opportunity to compare the copy with the original.

E. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the specialized knowledge of the hearing body. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed including any staff memoranda or data and they shall be afforded an opportunity to contest the material so noticed. The hearing body's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.

R7-2-1308. Unprofessional and Immoral Conduct

A. Individuals holding certificates issued by the Board pursuant to R7-2-601 et seq. and individuals applying for certificates issued by the Board pursuant to R7-2-601 et seq. shall:

1. Make reasonable efforts to protect pupils from conditions harmful to learning, health, or safety;
2. Account for all funds collected from pupils, parents, or school personnel;
3. Adhere to provisions of the Uniform System of Financial Records related to use of school property, resources, or equipment; and
4. Abide by copyright restrictions, security, or administration procedures for a test or assessment.

B. Individuals holding certificates issued by the Board pursuant to R7-2-601 et seq. and individuals applying for certificates issued by the Board pursuant to R7-2-601 et seq. shall not:

1. Discriminate against or harass any pupil or school employee on the basis of race, national origin, religion, sex, including sexual orientation, disability, color or age;
2. Deliberately suppress or distort information or facts relevant to a pupil's academic progress;
3. Misrepresent or falsify pupil, classroom, school, or district-level data from the administration of a test or assessment;
4. Engage in a pattern of conduct for the sole purpose or with the sole intent of embarrassing or disparaging a pupil;
5. Use professional position or relationships with pupils, parents, or colleagues for improper personal gain or advantage;
6. Falsify or misrepresent documents, records, or facts related to professional qualifications or educational history or character;
7. Assist in the professional certification or employment of a person the certificate holder knows to be unqualified to hold a position;
8. Accept gratuities or gifts that influence judgment in the exercise of professional duties;
9. Possess, consume, or be under the influence of alcohol on school premises or at school-sponsored activities;
10. Illegally possess, use, or be under the influence of marijuana, dangerous drugs, or narcotic drugs, as each is defined in A.R.S. § 13-3401;

11. Make any sexual advance towards a pupil or child, either verbal, written, or physical;
12. Engage in sexual activity, a romantic relationship, or dating of a pupil or child;
13. Submit fraudulent requests for reimbursement of expenses or for pay;
14. Use school equipment to access pornographic, obscene, or illegal materials; or
15. Engage in conduct which would discredit the teaching profession.

C. Individuals found to have engaged in unprofessional or immoral conduct shall be subject to, and may be disciplined by, the Board.

D. Procedures for making allegations, complaints, and investigation of unprofessional or immoral conduct shall be as set forth in this Article.

E. Applications forms that are provided by the Board shall include the rules and statutes related to professional and moral conduct, including resignation from a contracted position without authorization and duties to report as required by law.

F. Applicants shall certify on forms that are provided by the Board that they have read the rules and statutes related to professional and moral conduct, including resignation from a contracted position without authorization and duties to report as required by law.

Arizona State Board of Education

Professional Practices for Certificate Holders

Standards for Imposing Certificated Educator Sanctions

Consistent with A.R.S. §15-203(20), the State Board of Education may impose disciplinary action upon a certified individual, including a letter of censure, suspension, suspension with conditions or revocation of a certificate upon a finding of immoral or unprofessional conduct.

Criminal Offenses

Pursuant to administrative code R7-2-1307 and ARS § 15-550, the Board shall revoke the certification of a person who has been convicted of or admitted in open court or pursuant to a plea agreement any of the following criminal offenses in this state or similar offenses in another jurisdiction:

1. Sexual abuse of a minor
2. Incest
3. First-degree murder
4. Sexual assault
5. Sexual exploitation of a minor
6. Commercial sexual exploitation of a minor
7. A dangerous crime against children as defined in A.R.S. §13-604.01
8. Armed robbery
9. Sexual conduct with a minor
10. Molestation of a child
11. Exploitation of minors involving drug offenses

Upon notification that a certificated individual has been convicted of a nonrenewable offense, the Board shall revoke the certificate.

Unprofessional and Immoral Conduct

Individuals holding certificates issued by the Board pursuant to R7-2-601 and individuals applying for certificates issued by the Board pursuant to R7-2-601 shall:

1. Make reasonable efforts to protect pupils from conditions harmful to learning, health, or safety;
2. Account for all funds collected from pupils, parents, or school personnel;
3. Adhere to provisions of the Uniform System of Financial Records related to use of school property, resources, or equipment; and
4. Abide by copyright restrictions, security, or administration procedures for a test or assessment.

Individuals holding certificates issued by the Board pursuant to R7-2-601 and individuals applying for certificates issued by the Board pursuant to R7-2-601 shall not:

1. Discriminate against or harass any pupil or school employee on the basis of race, national origin, religion, sex, including sexual orientation, disability, color or age;
2. Deliberately suppress or distort information or facts relevant to a pupil's academic progress;
3. Misrepresent or falsify pupil, classroom, school, or district-level data from the administration of a test or assessment;
4. Engage in a pattern of conduct for the sole purpose or with the sole intent of embarrassing or disparaging a pupil;
5. Use professional position or relationships with pupils, parents, or colleagues for improper personal gain or advantage;
6. Falsify or misrepresent documents, records, or facts related to professional qualifications or educational history or character;
7. Assist in the professional certification or employment of a person the certificate holder knows to be unqualified to hold a position;

8. Accept gratuities or gifts that influence judgment in the exercise of professional duties;
9. Possess, consume, or be under the influence of alcohol on school premises or at school-sponsored activities;
10. Illegally possess, use, or be under the influence of marijuana, dangerous drugs, or narcotic drugs, as each is defined in A.R.S. § 13-3401;
11. Make any sexual advance towards a pupil or child, either verbal, written, or physical;
12. Engage in sexual activity, a romantic relationship, or dating of a pupil or child;
13. Submit fraudulent requests for reimbursement of expenses or for pay;
14. Use school equipment to access pornographic, obscene, or illegal materials;
15. Engage in conduct which would discredit the teaching profession.

Individuals found to have engaged in unprofessional or immoral conduct shall be subject to, and may be disciplined by, the Board.

Resignation as an Unprofessional Act and Penalty: ARS §15-545

A certificated teacher shall not resign after signing and returning his contract, unless the resignation is first approved by the governing board. A teacher who resigns contrary to this section shall be deemed to commit an unprofessional act and, upon request of the governing board, shall be subject to such disciplinary action, including suspension and revocation of certificate, as the state board of education deems appropriate.

Failing to Report of Immoral or Unprofessional Conduct

Pursuant to ARS §15-514, any certificated person or governing board member who reasonably suspects or receives a reasonable allegation that a person certificated by the state board of education has engaged in conduct involving minors that would be subject to the reporting requirements of section 13-3620 (mandatory reporting) shall report or cause reports to be made to the department of education in writing as soon as reasonably practicable but not later than three business days after the person first suspects or receives allegation of the conduct.

The superintendent of a school district or the chief administrator of a charter school who reasonably suspects or receives a reasonable allegation that an act of immoral or unprofessional conduct that would constitute grounds for dismissal or criminal charges by a certificated person has occurred shall report the conduct to the department of education.

Failure to report information as required in ARS §15-514 by a certificated person constitutes grounds for disciplinary action by the state board of education.

A governing board member or school district employee who has control over personnel decisions and who reasonably suspects or receives a reasonable allegation that a person certificated by the state board of education has engaged in conduct involving minors that would be subject to the reporting requirements of ARS §§ 13-3620 and 15-514 shall not accept the resignation of the certificate holder until these suspicions or allegations have been reported to the State Board of Education.

Filing a Complaint against a Certificate Holder

The Investigative Unit may be reached at (602) 542-2972.

For Further Information: Call or Email

State Board of Education
(602) 542-5057 inbox@azsbe.az.gov

Updated 10/28/16

Standards for Imposing Certificated Educator Sanctions

Consistent with A.R.S. §15-203(20), the State Board of Education may impose disciplinary action upon a certified individual, including a letter of censure, suspension, suspension with conditions or revocation of a certificate upon a finding of immoral or unprofessional conduct.

This document helps to identify unprofessional and immoral conduct, aggravating and mitigating factors, statutory requirements for contract breaks and reporting unprofessional or immoral conduct, as well as providing the process of investigation of a disciplinary report.

The included discipline guidelines chart was approved by the State Board of Education at the August 1, 2016 Board meeting as a tool for educators based upon the most common offenses and discipline actions of the Investigation Unit.

Process of Filing Allegations Adopted from Board Rule

1. Statement of Allegations

Any person may file, with the Investigative Unit, a statement of allegations against a certificated individual.

See pages 4-6 for examples of criminal offenses, unprofessional and immoral conduct, resignation as an unprofessional act and penalty, and reporting of immoral or unprofessional conduct.

A statement of allegation must include the following or risk being returned to the alleging party:

- Be legible
- Shall state the facts of the alleged immoral or unprofessional conduct
 - All facts shall clearly state the details of the alleged immoral or unprofessional conduct
- Be signed and notarized
- Contain the names, addresses and telephone numbers of individuals who can provide information regarding the allegations
 - The list of individuals should also include a brief summary of the substance and extent of each individual's knowledge regarding the allegations in the statement.
- Written or other evidence may be attached to a statement at the time it is filed
- If the statement is being submitted by a school district, the statement shall be accompanied by a certified copy of a school board resolution authorizing the statement of allegations to be filed.

<https://azsbe.az.gov/resources/reporting-immoral-or-unprofessional-conduct-educators>

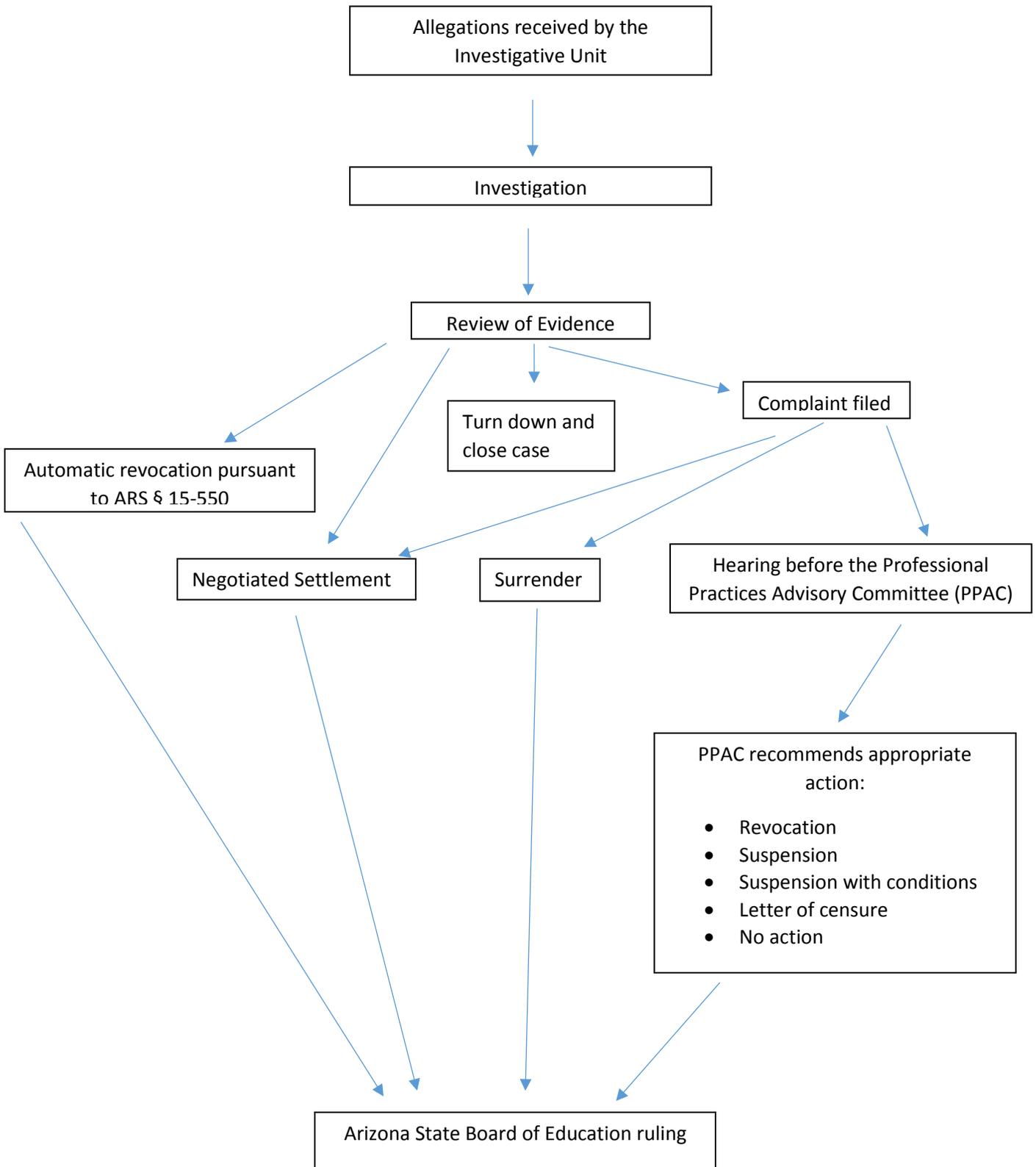
2. The Investigation Unit shall conduct an investigation of all statements of allegations.

3. Upon completion of an investigation resulting from a statement of allegations, the Board may file a complaint against a certificated individual.

4. A hearing shall be held on a complaint before the Professional Practices Advisory Committee (PPAC).

5. The certificated individual shall have 15 days from receipt of the complaint to file a response with the Board.

Investigation of Allegations



Criminal Offenses

Pursuant to administrative code R7-2-1307, the Board shall revoke the certification of a person who has been convicted of or admitted in open court or pursuant to a plea agreement any of the following criminal offenses in this state of similar offenses in another jurisdiction:

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8. Accept gratuities or gifts that influence judgment in the exercise of professional duties;
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Resignation as an Unprofessional Act and Penalty: ARS §15-545

A certificated teacher shall not resign after signing and returning his contract, unless the resignation is first approved by the governing board. A teacher who resigns contrary to this section shall be deemed to commit an unprofessional act and, upon request of the governing board, shall be subject to such disciplinary action, including suspension and revocation of certificate, as the state board of education deems appropriate.

Failing to Report of Immoral or Unprofessional Conduct

Pursuant to ARS §15-514, any certificated person or governing board member who reasonably suspects or receives a reasonable allegation that a person certificated by the state board of education has engaged in conduct involving minors that would be subject to the reporting requirements of section 13-3620 (mandatory reporting) shall report or cause reports to be made to the department of education in writing as soon as reasonably practicable but not later than three business days after the person first suspects or receives allegation of the conduct.

The superintendent of a school district or the chief administrator of a charter school who reasonably suspects or receives a reasonable allegation that an act of immoral or unprofessional conduct that would constitute grounds for dismissal or criminal charges by a certificated person has occurred shall report the conduct to the department of education.

Failure to report information as required in ARS §15-514 by a certificated person constitutes grounds for disciplinary action by the state board of education.

A governing board member or school district employee who has control over personnel decisions and who reasonably suspects or receives a reasonable allegation that a person certificated by the state board of education has engaged in conduct involving minors that would be subject to the reporting requirements of section 13-3620 and 15-514 shall not accept the resignation of the certificate holder until these suspicions or allegations have been reported to the state board of education.

Discipline Guidelines Chart
Board approved on August 1, 2016

Immoral or unprofessional conduct	Settlement Agreement	Contested Action
Contract break	Presumptive recommended discipline: 1 year suspension Minimum recommended discipline: 6 month suspension based on mitigating factors	Presumptive recommended discipline: 2 year suspension Minimum recommended discipline: 1 year suspension based on mitigating factors Maximum recommended discipline: Up to revocation based on aggravating factors
Under the influence at work - alcohol	Presumptive recommended discipline: 2 year suspension with conditions Minimum recommended discipline: 1 year suspension with conditions based on mitigating factors	Presumptive recommended discipline: 3 year suspension with conditions Minimum recommended discipline: 2 year suspension with conditions based on mitigating factors Maximum recommended discipline: Up to revocation based on aggravating factors
Under the influence at work - drugs	Presumptive recommended discipline: 3 year suspension with conditions Minimum recommended discipline: 2 year suspension with conditions based on mitigating factors	Presumptive recommended discipline: 3 year suspension with conditions Minimum recommended discipline: 2 year suspension based on mitigating factors Maximum recommended discipline: Up to revocation based on aggravating factors
Criminal offenses - drugs	Presumptive recommended discipline: 2 year suspension with conditions	Presumptive recommended discipline: 3 year suspension with conditions Minimum recommended discipline: 2 year suspension with conditions based on mitigating factors Maximum recommended discipline: Up to revocation based on aggravating factors
Criminal offenses - theft	Presumptive recommended discipline: 2 year suspension Minimum recommended discipline: 1 year suspension based on mitigating factors	Presumptive recommended discipline: 2 year suspension Minimum recommended discipline: 1 year suspension based on mitigating factors Maximum recommended discipline: Up to revocation based on aggravating factors

Aggravating Circumstances
Adopted from “Standards for Imposing Lawyer Sanctions”

Aggravating circumstances are any considerations or factors that may justify an increase in the degree of discipline to be imposed.

Aggravating factors that may be considered include:

1. Prior discipline records
2. Multiple offenses
3. Obstruction of disciplinary proceedings by failing to follow rules or orders of the disciplinary agency
4. Submission of false evidence, false statements or other deceptive practices during the disciplinary process
5. Refusal to acknowledge wrongful nature of conduct
6. Vulnerability of the victim
7. Substantial experience in the field
8. Illegal conduct

Mitigating Circumstances
Adopted from “Standards for Imposing Lawyer Sanctions”

Mitigating circumstances are any considerations or factors that may justify a decrease in the degree of discipline to be imposed.

Mitigating factors that may be considered include:

1. Absence of a prior discipline record
2. Personal or emotional problems
3. Timely good faith effort to rectify consequences of misconduct
4. Full and free disclosure or cooperative attitude toward disciplinary agency
5. Inexperience in the field
6. Physical disability
7. Mental disability as determined by medical evidence

Reciprocal Discipline.

A. Upon notification that a certificated individual has been disciplined in another jurisdiction, the PPAC shall recommend the identical or substantially similar discipline be imposed, unless the certificated individual establishes by a preponderance of evidence or the PPAC finds on the face of the record from which the discipline is predicated that:

1. The procedure in the other jurisdiction was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or
2. The imposition of the same discipline would result in grave injustice; or
3. The misconduct established warrants substantially different discipline in this state.

B. Upon a determination that any of the circumstances in subsection A exist, the PPAC shall prepare a different recommendation for the Board's consideration.

C. A final adjudication in another jurisdiction that a certificated individual has been found guilty of misconduct shall establish conclusively the misconduct for purposes of a discipline proceeding in this state.

A.R.S. §41-1758.03. [Fingerprint clearance cards; issuance; immunity](#)

A. On receiving the state and federal criminal history record of a person, the division shall compare the record with the list of criminal offenses that preclude the person from receiving a fingerprint clearance card. If the person's criminal history record does not contain any of the offenses listed in subsections B and C of this section, the division shall issue the person a fingerprint clearance card.

B. A person who is subject to registration as a sex offender in this state or any other jurisdiction or who is awaiting trial on or who has been convicted of committing or attempting, soliciting, facilitating or conspiring to commit one or more of the following offenses in this state or the same or similar offenses in another state or jurisdiction is precluded from receiving a fingerprint clearance card pursuant to this section:

1. Sexual abuse of a vulnerable adult.
2. Incest.
3. First or second degree murder.
4. Sexual assault.
5. Sexual exploitation of a minor.
6. Sexual exploitation of a vulnerable adult.
7. Commercial sexual exploitation of a minor.
8. Commercial sexual exploitation of a vulnerable adult.
9. Child prostitution as prescribed in section 13-3212.
10. Child abuse.
11. Abuse of a vulnerable adult.
12. Sexual conduct with a minor.
13. Molestation of a child.
14. Molestation of a vulnerable adult.
15. A dangerous crime against children as defined in section 13-705.
16. Exploitation of minors involving drug offenses.

17. Taking a child for the purpose of prostitution as prescribed in section 13-3206.
18. Neglect or abuse of a vulnerable adult.
19. Sex trafficking.
20. Sexual abuse.
21. Production, publication, sale, possession and presentation of obscene items as prescribed in section 13-3502.
22. Furnishing harmful items to minors as prescribed in section 13-3506.
23. Furnishing harmful items to minors by internet activity as prescribed in section 13-3506.01.
24. Obscene or indecent telephone communications to minors for commercial purposes as prescribed in section 13-3512.
25. Luring a minor for sexual exploitation.
26. Enticement of persons for purposes of prostitution.
27. Procurement by false pretenses of person for purposes of prostitution.
28. Procuring or placing persons in a house of prostitution.
29. Receiving earnings of a prostitute.
30. Causing one's spouse to become a prostitute.
31. Detention of persons in a house of prostitution for debt.
32. Keeping or residing in a house of prostitution or employment in prostitution.
33. Pandering.
34. Transporting persons for the purpose of prostitution, polygamy and concubinage.
35. Portraying adult as a minor as prescribed in section 13-3555.
36. Admitting minors to public displays of sexual conduct as prescribed in section 13-3558.
37. Unlawful sale or purchase of children.

38. Child bigamy.

39. Trafficking of persons for forced labor or services.

C. A person who is awaiting trial on or who has been convicted of committing or attempting, soliciting, facilitating or conspiring to commit one or more of the following offenses in this state or the same or similar offenses in another state or jurisdiction is precluded from receiving a fingerprint clearance card, except that the person may petition the board of fingerprinting for a good cause exception pursuant to section 41-619.55:

1. Manslaughter.

2. Endangerment.

3. Threatening or intimidating.

4. Assault.

5. Unlawfully administering intoxicating liquors, narcotic drugs or dangerous drugs.

6. Assault by vicious animals.

7. Drive by shooting.

8. Assaults on officers or fire fighters.

9. Discharging a firearm at a structure.

10. Indecent exposure.

11. Public sexual indecency.

12. Aggravated criminal damage.

13. Theft.

14. Theft by extortion.

15. Shoplifting.

16. Forgery.

17. Criminal possession of a forgery device.

18. Obtaining a signature by deception.

19. Criminal impersonation.
20. Theft of a credit card or obtaining a credit card by fraudulent means.
21. Receipt of anything of value obtained by fraudulent use of a credit card.
22. Forgery of a credit card.
23. Fraudulent use of a credit card.
24. Possession of any machinery, plate or other contrivance or incomplete credit card.
25. False statement as to financial condition or identity to obtain a credit card.
26. Fraud by persons authorized to provide goods or services.
27. Credit card transaction record theft.
28. Misconduct involving weapons.
29. Misconduct involving explosives.
30. Depositing explosives.
31. Misconduct involving simulated explosive devices.
32. Concealed weapon violation.
33. Possession and sale of peyote.
34. Possession and sale of a vapor-releasing substance containing a toxic substance.
35. Sale of precursor chemicals.
36. Possession, use or sale of marijuana, dangerous drugs or narcotic drugs.
37. Manufacture or distribution of an imitation controlled substance.
38. Manufacture or distribution of an imitation prescription-only drug.
39. Manufacture or distribution of an imitation over-the-counter drug.
40. Possession or possession with intent to use an imitation controlled substance.
41. Possession or possession with intent to use an imitation prescription-only drug.

42. Possession or possession with intent to use an imitation over-the-counter drug.
43. Manufacture of certain substances and drugs by certain means.
44. Adding poison or other harmful substance to food, drink or medicine.
45. A criminal offense involving criminal trespass under title 13, chapter 15.
46. A criminal offense involving burglary under title 13, chapter 15.
47. A criminal offense under title 13, chapter 23.
48. Child neglect.
49. Misdemeanor offenses involving contributing to the delinquency of a minor.
50. Offenses involving domestic violence.
51. Arson.
52. Kidnapping.
53. Felony offenses involving sale, distribution or transportation of, offer to sell, transport or distribute or conspiracy to sell, transport or distribute marijuana, dangerous drugs or narcotic drugs.
54. Robbery.
55. Aggravated assault.
56. Felony offenses involving contributing to the delinquency of a minor.
57. Negligent homicide.
58. Criminal damage.
59. Misappropriation of charter school monies as prescribed in section 13-1818.
60. Taking identity of another person or entity.
61. Aggravated taking identity of another person or entity.
62. Trafficking in the identity of another person or entity.
63. Cruelty to animals.

64. Prostitution.

65. Sale or distribution of material harmful to minors through vending machines as prescribed in section 13-3513.

66. Welfare fraud.

D. A person who is awaiting trial on or who has been convicted of committing or attempting to commit a misdemeanor or felony violation of section 28-1381, 28-1382 or 28-1383 in this state or the same or similar offense in another state or jurisdiction within five years from the date of applying for a fingerprint clearance card is precluded from driving any vehicle to transport employees or clients of the employing agency as part of the person's employment. The division shall place a notation on the fingerprint clearance card that indicates this driving restriction. This subsection does not preclude a person from driving a vehicle alone as part of the person's employment. This subsection does not apply to a person who is licensed pursuant to title 32, chapter 20, except if the person is employed by an agency as defined in section 41-1758.

E. Notwithstanding subsection C of this section, on receiving written notice from the board of fingerprinting that a good cause exception was granted pursuant to section 41-619.55, the division shall issue a fingerprint clearance card to the person.

F. If the division denies a person's application for a fingerprint clearance card pursuant to subsection C of this section and a good cause exception is requested pursuant to section 41-619.55, the division shall release, on request by the board of fingerprinting, the person's criminal history record to the board of fingerprinting.

G. A person shall be granted a fingerprint clearance card if either of the following applies:

1. An agency granted a good cause exception before August 16, 1999 and no new precluding offense is identified. The fingerprint clearance card shall specify only the program that granted the good cause exception. On the request of the applicant, the agency that granted the prior good cause exception shall notify the division in writing of the date on which the prior good cause exception was granted and the date of the conviction and the name of the offense for which the good cause exception was granted.

2. The board granted a good cause exception and no new precluding offense is identified.

H. The licensee or contract provider shall assume the costs of fingerprint checks and may charge these costs to persons who are required to be fingerprinted.

I. A person who is under eighteen years of age or who is at least ninety-nine years of age is exempt from the fingerprint clearance card requirements of this section. At all

times the person shall be under the direct visual supervision of personnel who have valid fingerprint clearance cards.

J. The division shall conduct periodic state criminal history records checks and may conduct federal criminal history records checks when authorized pursuant to federal law for the purpose of updating the clearance status of current fingerprint clearance card holders and may notify the board of fingerprinting and the agency employing the person of the results of the records check.

K. The division shall revoke a person's fingerprint clearance card on receipt of a written request for revocation from the board of fingerprinting pursuant to section 41-619.55.

L. If a person's criminal history record contains an offense listed in subsection B or C of this section and the final disposition is not recorded on the record, the division shall conduct research to obtain the disposition within thirty business days after receipt of the record. If the division cannot determine, within thirty business days after receipt of the person's state and federal criminal history record information, whether the person is awaiting trial on or has been convicted of committing or attempting, soliciting, facilitating or conspiring to commit any of the offenses listed in subsection B or C of this section in this state or the same or a similar offense in another state or jurisdiction, the division shall not issue a fingerprint clearance card to the person. If the division is unable to make the determination required by this section and does not issue a fingerprint clearance card to a person, the person may request a good cause exception pursuant to section 41-619.55.

M. Except as provided in subsection N of this section, if after conducting a state and federal criminal history records check the division determines that it is not authorized to issue a fingerprint clearance card to a person, the division shall notify the agency that licenses or employs the person that the division is not authorized to issue a fingerprint clearance card. This notice shall include the criminal history information on which the denial was based. This criminal history information is subject to dissemination restrictions pursuant to section 41-1750 and Public Law 92-544.

N. If, after conducting a state and federal criminal history records check on a person who requests a fingerprint clearance card pursuant to section 15-1881, the division determines that it is not authorized to issue a fingerprint clearance card to the person, the division shall not notify the agency. The division shall notify the person who requested the card that the division is not authorized to issue a fingerprint clearance card. The notice shall include the criminal history information on which the denial was based. This criminal history information is subject to dissemination restrictions pursuant to section 41-1750 and Public Law 92-544.

O. The division is not liable for damages resulting from:

1. The issuance of a fingerprint clearance card to a person who is later found to have been ineligible to receive a fingerprint clearance card at the time the card was issued.

2. The denial of a fingerprint clearance card to a person who is later found to have been eligible to receive a fingerprint clearance card at the time issuance of the card was denied.

P. The issuance of a fingerprint clearance card does not entitle a person to employment.

Q. Notwithstanding any law to the contrary, a person may apply for and receive a level I fingerprint clearance card pursuant to section 41-1758.07 to satisfy a requirement that the person have a valid fingerprint clearance card issued pursuant to this section.

A.A.C. R7-2-1307. Criminal Offenses; Nonreviewable

A. The Board shall revoke, not issue, or not renew the certification of a person who has been convicted of or admitted in open court or pursuant to a plea agreement committing any of the following criminal offenses in this state or similar offenses in another jurisdiction:

1. Sexual abuse of a minor;
2. Incest;
3. First-degree murder;
4. Sexual assault;
5. Sexual exploitation of a minor;
6. Commercial sexual exploitation of a minor;
7. A dangerous crime against children as defined in A.R.S. § 13-604.01;
8. Armed robbery;
9. Sexual conduct with a minor;
10. Molestation of a child;
11. Exploitation of minors involving drug offenses.

B. Upon notification that a certificated individual has been convicted of a nonreviewable offense, the Board shall revoke the certificate.