

CRITERIA FOR REVIEW OF FINGERPRINT EXAMINATION OF APPLICANTS FOR INITIAL EDUCATOR CERTIFICATION

Code: **BBCDA**

Issued: **8/11/99**

Revised: **07/11/01;01/09/07;09/10/08**

Constitutional and Statutory Provisions:

S. C. Code Ann. Sections:

59-25-115 (2004)	Notice to enrollee in teacher education program regarding effect of prior criminal record; criminal records check and fingerprinting requirements
59-25-280 (2004)	Crimes warranting revocation, refusal to issue or nonrenewal of certificate

24 S.C. Code Ann. Regulations:

R 43-58	Disciplinary Action on Educator Certificates
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State Board Rule:

A. Policy/Procedure:

When evidence of prior criminal activity of an applicant for educator certification is reported by the State Law Enforcement Division (SLED) and/or the Federal Bureau of Investigation (FBI) as a result of a fingerprint examination, a South Carolina Department of Education Certification Review Committee (CRC) will be convened by the Office of General Counsel. The CRC will apply the criteria in Section B of this rule to determine whether a prospective educator can be cleared to receive initial certification.

If the prospective educator cannot be cleared by the CRC, the prospective educator will be referred to the State Board of Education (Board). Except in the case where there is a felony conviction, the Board may delegate to a committee of the Board the authority to grant or deny a prospective educator a certificate. The prospective educator may appear before the Board or the committee, if delegated, when his or her application is considered. The educator will be given five minutes to make a personal statement to the Board or committee, if delegated. Additionally, the educator may submit documents for the Board or committee, if delegated, to consider. Documents must be received by the SCDE two weeks prior to the meeting in order to be included in the materials that will be considered by the Board or committee. The Board or committee will apply the factors in Section C of this rule to the criminal conduct when considering whether the prospective educator will receive or be denied initial certification. If the committee does not clear the prospective educator, the prospective educator has the right to file an exception to the decision of the committee to the State Board. Notice of exception and any briefs must be sent in writing within thirty days of the committee action. Educators who appear before the State Board on appeal may make a five minute personal statement. The State Board will consider the same documents reviewed by the committee, in addition to a brief filed by the educator. No new

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evidence will be submitted on appeal. If an educator does not file an exception within 30 days the committee's decision is final.

B. Criteria for Clearance of Prior Criminal Activity by the CRC:

The Board delegates the authority to the CRC to determine whether to approve the certification application of a prospective educator whose FBI fingerprint review reveals the following:

1. Arrests, where criminal charges were dropped or dismissed (as evidenced by an expungement order or an entry of nolle prosequi by a solicitor).
2. Up to two DUI incidents, three years or older.
3. Single misdemeanor.
4. Multiple misdemeanors, *all* three years or older (excluding cases involving violence, drugs, sexual misconduct, breach of public trust, and minors).
5. Convictions for which a full pardon has been granted.

C. The Board will consider the following factors when reviewing a prospective educator's application that was not cleared by the CRC:

1. Failure to report or attempt to conceal misconduct.
2. Age of the applicant at the time of arrest.
3. A clear relationship between the offense and the duties and responsibilities of the education profession.
4. Deliberate or willful nature of the misconduct.
5. A pattern of misconduct.
6. Indicators of a likelihood of present harm or potential for continuing harm to students, parents of students, school personnel, or school district officials.
7. Indicators of a likelihood of future misconduct of a similar or related nature.
8. Successful completion or discharge of any sentence, incarceration, fine, parole, mandatory supervision, probation, community supervision, community service, restitution, or other requirement or condition judicially imposed in connection with a criminal offense.
9. Offers of employment in the education profession.
10. Involvement in public service activities in the community.
11. Any other factors the Board deems appropriate to a particular situation.

D. The Board shall refuse to issue a certificate to any prospective educator who has pled guilty, pled nolo contendere, or is found guilty of any crime specified in S.C. Code Ann. § 59-25-280 (2005) and the educator shall not be entitled to a hearing.