Educator Professional Conduct FAQs

Listed below are Frequently Asked Questions related to Educator Professional Conduct in Ohio, beginning with a list of the questions that will be answered:

- For how long is a Bureau of Criminal Identification and Investigation (BCII) criminal background check valid?
- Do I have to indicate an OMVI or DUI conviction on my application?
- Do I only have to report recent convictions?
- What does it mean if my file has been "flagged"?
- How do I get certified copies of my records?
- Do I have to tell if it doesn't have anything to do with children, drugs or sex offenses?
- How do I answer the conviction question if I have had my conviction expunged?
- What if I pled "no contest."
- If I have a letter from BCII stating that I have no criminal record, does that mean I can answer "no" to the question of whether I have a conviction even though I know I have been convicted?
- What does "minor misdemeanor" mean?
- What are unemployable offenses? What does unemployable mean?
- What is a Voluntary Surrender?
- What is a Consent Agreement?
- What is disciplinary action?
- What is the Office of Professional Conduct (OPC) hearing process?
- What is a withdraw?
- Is the district aware of OPC involvement?
- What if I do not report a conviction on my application?
- Why are expunged/sealed records available to ODE?
- What if I have been previously revoked/denied? How do I reapply?
- What is a broken contract?
- What is the proficiency test misconduct that OPC would investigate?
- How do I make a complaint about a teacher?
- How long does it take for OPC to receive any relevant records (ie. court records, police records)?
- What is available for public records requests?

For how long is a BCII criminal background check valid?

A BCII criminal background check remains valid for one year after the date the report was completed.

Do I have to indicate an OMVI or DUI conviction on my application?

A conviction for operating a motor vehicle while intoxicated (OMVI) or driving under the influence (DUI) is a traffic offense and therefore does not have to be reported on an application.
(DUI) is a traffic offense and therefore does not have to be reported on an application.

**Do I only have to report recent convictions?**

The application asks whether an applicant has EVER been convicted of an offense and sets no time limit as to the age of the offense. Criminal background checks sometimes contain information about arrests and convictions that are 20 or more years old. Convictions do not just "drop off" of a person's record or disappear after a period of time. The Office of Professional Conduct investigates criminal records regardless of the length of time since the offense.

**What does it mean if my file has been "flagged"?**

When the Department of Education receives information indicating there may be reason to investigate an applicant or certificate holder, the individual's case is "flagged" so that no action can be taken to issue or renew a certificate until the matter is resolved.

**How do I get certified copies of my court records?**

Certified records or records that are stamped by the clerk of court as being authentic, may be obtained by contacting the Clerk of Courts in the court which rendered the conviction.

**Do I have to report a conviction if it does not have anything to do with children, drugs or sex offenses?**

All convictions must be reported regardless of the nature of the conviction. Note that the question reads "any" misdemeanor other than traffic offenses and "any" felony.

**How do I answer the conviction question if I have had my conviction expunged?**

It is permissible to answer "no" to the question of whether you have ever been convicted but you must still answer "yes" to the question of whether you have ever had a conviction sealed or expunged. You must also provide an explanation even though the conviction was expunged.

**What if I pled "no contest"?**

A pleading of "no contest" results in a finding of guilty and a conviction by the court. Therefore, an individual must answer "yes" to the question of whether he/she has ever been convicted.

**If I have a letter from BCII stating that I have no criminal record, does that mean I can answer "no" to the question of whether I have a conviction even though I know I have been convicted?**
BCII sometimes issues a letter stating the individual has "no disqualifying record." However, that refers to having no conviction that by law would prevent a school district from hiring the individual. That letter in no way fully addresses the question of whether you have EVER been convicted.

**What does "minor misdemeanor" mean?**

A minor misdemeanor is a level of a criminal offense. Other examples of offense levels include first degree misdemeanor and third degree felony.

**What are unemployable offenses? What does unemployable mean?**

ORC 3319.39 says that no board of education of a school district, no governing board of an educational service center, and no governing authority of a chartered nonpublic school shall employ a person as a person responsible for the care, custody or control of a child is the person has previously been convicted of or pleaded guilty to any of the offenses listed.

**Criminal Offenses Listed in Ohio Revised Code §3319.39 (“Unemployable Offenses”)**

**Homicide and Assault**

- 2903.01 - Aggravated murder
- 2903.02 - Murder
- 2903.03 - Voluntary manslaughter
- 2903.04 - Involuntary manslaughter
- 2903.11 - Felonious assault
- 2903.12 - Aggravated assault
- 2903.13 - Assault
- 2903.16 - Not providing for impaired person
- 2903.21 - Aggravated menacing
- 2903.34 - Patient abuse; neglect

**Kidnapping and extortion**

- 2905.01 - Kidnapping
- 2905.02 - Abduction
- 2905.05 - Criminal child enticement

**Sex offenses**

- 2907.02 - Rape
- 2907.03 - Sexual battery
- 2907.04 - Unlawful sexual conduct with a minor
- 2907.05 - Gross sexual imposition

2907.06 - Sexual imposition
2907.07 - Importuning
2907.08 - Voyeurism
2907.09 - Public indecency
2907.21 - Compelling prostitution
2907.22 - Promoting prostitution
2907.23 - Procuring
2907.25 - Prostitution
2907.31 - Disseminating matter harmful to a juvenile
2907.32 - Pandering obscenity
2907.321 - Pandering obscenity involving a minor
2907.322 - Pandering sexually oriented matter involving a minor
2907.323 - Illegal use of a minor in nudity-oriented material of performance

**Robbery, burglary, trespassing and safecracking**

2911.01 - Aggravated robbery
2911.02 - Robbery
2911.11 - Aggravated burglary
2911.12 - Burglary

**Crimes against family**

2919.12 - Unlawful abortion
2919.22 - Endangering children
2919.24 - Contributing to unruliness or delinquency of a child
2919.25 - Domestic violence

**Conspiracy, attempt and complicity; weapons control; corrupt**

2923.12 - CCW
2923.13 - Having weapon while under disability
2923.161 - Improperly discharging firearm at or in habitation; school related offenses

**Drug offenses**

2925.02 - Corrupting another with drugs
2925.03 - Trafficking in drugs
2925.04 - Illegal manufacture of drugs or cultivation of marijuana
2925.05 - Funding of drug or marijuana trafficking
2925.06 - Illegal administration or distribution of anabolic steroids
2925.11 - Possession of drugs – any violation that is not a minor drug possession offense
Labeling of hazardous substances

3716.11 - Placing harmful objects in food/confection

Former criminal statutes (pre 07/01/1996)

2905.04 - Child stealing (before 07/01/96)
2919.23 - Interference of custody (if a violation of this statute would have been a violation of section 2905.04 as it existed prior to 07/01/1996 had the violation been committed prior to that date)
2907.12 - Felonious sexual penetration (former section)

Reference to R.C. 3319.31

No board and no governing authority of a chartered nonpublic school shall employ a teacher who previously has been convicted of or pleaded guilty to any of the offenses listed in section 3319.31 of the Revised Code.

What is a Voluntary Surrender?

When a licensed/certified educator voluntarily, knowingly and intelligently agrees in writing to permanently give up a license or certificate and gives up all rights to hold a position which requires a license or certificate issued by the state board. OAC 3301-73-22(B)

What is a Consent Agreement?

(ORC 3319.311(D) – a contract between an educator/pre-service educator who is subject to discipline under ORC 3319.31 and the SBOE. The purpose of a consent agreement is to formulate a mutually agreeable disposition of a disciplinary matter without going through a formal administrative hearing (link to hearing brochure). The consent agreement establishes the terms and conditions upon which the educator/pre-service educator’s disciplinary matter will be resolved. The terms may include periodic reports from the employing school district regarding professional conduct of an educator, completion of continuing education classes, random drug screenings, community service or a period of time that the license is suspended. For specific terms of a consent agreement see OAC 3301-73-23(A)

What is disciplinary action?

ORC 3319.31 grants the state board of education authority to deny an application for a teaching license or to suspend, limit or revoke an existing teaching license. The grounds for the State Board of Education to pursue disciplinary action are listed in 3319.31. There are several types of disciplinary actions that the SBOE can pursue to eliminate unprofessional conduct from the teaching profession. The Board can issue a warning letter, a letter of reprimand/admonishment, negotiate a consent agreement or initiate formal disciplinary proceedings. The disciplinary action
pursued is based upon the nature of the allegations/criminal conviction and the information gathered during an investigation.

**What is the Office of Professional Conduct (OPC) hearing process?**

If the nature of the allegation or criminal conviction warrant formal disciplinary proceedings or if a consent agreement cannot be reached, OPC recommends to the state board of education that it deny an educator/pre-service educator’s application, or suspend, revoke or limit and educator’s license. To initiate a formal disciplinary action OPC on behalf of the state superintendent of instruction sends a letter to the educator notifying him/her of the SBOE’s intent to deny the application or to suspend, limit or revoke the educator’s license or certificate. Pursuant to ORC Chapter 119, the educator may request an administrative hearing within 30 days from the date the letter of intent was mailed to the educator (via certified mail.) Rules governing filings with regard to administrative hearings are contained in OAC 3301-73-06(A)-(K).

**What is a withdraw?**

When a sponsoring school district withdraws its endorsement of an applicant, OPC removes the application from any further consideration.

**Is the district aware of OPC involvement?**

Current and former employing school districts may be contacted during the course of an investigation, however all information that is learned by OPC throughout the entirety of the investigation will remain confidential. This information will only be known by OPC, the individual, and the source of information. Any disciplinary action taken pursuant to the investigation is not confidential.

**What if I do not report a conviction on my application?**

Falsification is the reporting of information to OPC that is not true and meant to deceive OPC from knowing/learning the truth. This can be an omission of fact or a statement that has no truth. Falsification on an application can result in disciplinary action on the certificate/license.

**Why are expunged/sealed records available to ODE?**

ODE has statutory authority to ask questions about sealed and expunged records in order to determine whether the conviction bears a direct and substantial relationship to the teaching profession. ORC 3319.31 and 2953.33(B)

**What if I have been previously revoked/denied? How do I reapply?**
Unless otherwise specified in a prior board resolution, a respondent may apply for a new license at any time. If a respondent requests to be licensed by the state board after any disciplinary action is taken by any professional licensing entity, respondent shall provide evidence that a change in circumstance exists that would permit a license. The superintendent will weigh the evidence submitted to establish a change in circumstance against the need of the state board to protect the integrity of the profession, ensure the safety and welfare of the students and the school community. OAC 3301-73-24.

**What is a broken contract?**

A teacher may terminate a contract any time between the end of the school year session and July 10th by giving five days’ written notice to the employing school board. A teacher shall not terminate a contract before the end of the school year or after July 10th without the consent of the board of education. If a teacher terminates a contract in any manner other than as provided for above, the employing school board may file a complaint with the State Board of Education. After an investigation by the State Board of Education, the license of the teacher who terminated their contract may be suspended for not more than one year. ORC 3319.15

**What is the proficiency test misconduct that OPC would investigate?**

OPC will investigate allegations that a teacher assisted a student in cheating on a proficiency test in any way, including revealing any specific question that the teacher knows is part of the proficiency test. If, after the investigation, OPC finds that the licensed teacher has aided a student in cheating on the proficiency test in any way, the teacher’s license shall be suspended for one year. Helping a student to cheat on a proficiency exam in any way is also grounds for contract termination. ORC 3319.151

**How do I make a complaint about a teacher?**

A formal, written complaint should be forwarded to the school district; follow-up with the district, and go up the chain of command – principal, superintendent, school board.

If all the options have not worked, the parent can send the complaint with specific details in writing to our office. OPC will then review the information to determine if we will open a case and investigate the allegations based our grounds for disciplinary action ORC 3319.31

**How long does it take for OPC to receive any relevant records (ie. court records, police records)?**

With OPC receiving records it can take an average of a few weeks to a couple of months depending on the sources from where the records are requested. For a more timely turn around it is advised for the respondent to request their own court and police records in person.
What is available for public records requests?

Records kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, and records pertaining to the delivery of educational services by an alternative school in Ohio kept by a nonprofit or for profit entity operating such alternative school pursuant to 3313.533 of the Revised Code. ORC 149.43  For State Board and Department of Education purposes, the following are public records: consent agreement; letter of admonishment; notice of opportunity of administrative hearing; exhibits offered into evidence in an administrative hearing; administrative hearing transcript; superintendent’s proposed resolution; report and recommendation of a hearing officer; objections to the hearing officer’s report and recommendation; state board’s final resolution. All other information obtained in the course of an investigation, including but not limited to all offers of settlement, proposals of adjustment and proposed stipulations not agreed to are not public records and shall remain confidential.  OAC 3301-73-04(A) – (G)

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