

PART Ed 511 INVESTIGATIONS AND DISCIPLINARY PROCEEDINGS

REVISION NOTE:

Document #12661, effective 11-9-18, adopted some new rules, repealed some existing rules, and readopted with amendment, and often renumbered, other existing rules in Chapter Ed 500, especially in Part Ed 510 through Ed 512. The source notes in the existing rules that were readopted with amendment and renumbered, or simply renumbered, by Document #12661 indicate the former rule number.

Document #12661 adopted Ed 510.01 through Ed 510.04 in a new Part Ed 510 titled “Code of Conduct.” Document #12661 also readopted with amendment and renumbered the existing Ed 510.01 as Ed 510.05. The existing Ed 510.05, titled “Voluntary Surrender of a Document”, was repealed.

The prior filings for the former Ed 510.05 included the following documents:

#6349, effective 10-5-96, EXPIRED, 10-5-04
#8194, effective 10-26-04
#10089, effective 2-23-12

Document #12661 also adopted Ed 511.01 titled “Complaints, Cases, and Investigations” in Part Ed 511 titled “Investigations and Disciplinary Proceedings”, which was formerly numbered Part Ed 510 and titled “Proceedings.” Document #12661 readopted with amendment the existing Ed 510.02, Ed 510.03, and Ed 510.04 and renumbered them as, respectively, Ed 511.03, Ed 511.02, and Ed 511.04.

Document #12661 also readopted with amendment and renumbered the existing Ed 508.07, formerly titled “Denial of Initial Application”, as Ed 512.01 titled “Denial of Credential” in Part Ed 512 titled “Denial of Certification”. Part Ed 512 had formerly been numbered as Part Ed 511 and titled “Denial, Suspension, or Revocation for Certified Personnel.” Document #12661 renumbered, but did not readopt, the existing Part Ed 512 and Part Ed 513 as, respectively, Part Ed 513 and Part Ed 514.

Document #12661 repealed the following existing rules in Part Ed 511:

Ed 511.01 Grounds for Denial of License for Educator Certification.
Ed 511.02 Grounds for Suspension or Revocation of Educator’s Certification.
Ed 511.04 Effects of Certificate Surrender.
Ed 511.05 Investigations.
Ed 511.06 Due Process for Denial of Licensure for an Educator or Endorsement or Renewal or Reinstatement.

The prior filings for Ed 511.01 and Ed 511.02 through Ed 511.06 included the following documents:

#2055, effective 6-16-82	#6822, effective 9-1-98
#2714, effective 5-16-84	#7091, effective 9-4-99
#4851, effective 6-25-90, EXPIRED 6-25-96	#8194, effective 10-26-04
#6349, effective 10-5-96	#10089, effective 2-23-12

Ed 511.01 Complaints, Cases and Investigations.

(a) A case shall be opened when a complaint of possible misconduct against a credential holder has come to the attention of the department either through direct reporting or other means.

(b) After an initial review, if the department determines that a possible violation of the code of conduct, as specified in Ed 510.01 through 510.04, has occurred, an investigation shall be opened.

(c) Investigations into allegations of unprofessional conduct, as specified in Ed 510.01 to Ed 510.04, shall not constitute a disciplinary hearing and shall not constitute a finding of misconduct against a credential holder.

(d) Credential holders shall be notified in writing, via certified mail, that an investigation has been opened and the nature of the investigation and the status of the credential holder's credential pending the investigation.

(e) The credential holder's current superintendent shall be notified in writing by the department that an investigation has been opened, unless the notification compromises, or has the appearance of compromising, the investigation.

(f) Investigations shall be handled by the department.

(g) The department shall make every attempt to interview all people, including the credential holder, who might have information which might be relevant to the investigation.

(h) Investigations, including those based upon allegations in a complaint, shall be conducted on an ex parte basis.

(i) The department shall make every attempt to obtain any and all documentation which might be relevant to the investigation.

(j) Once the investigation is complete, the following procedures shall apply:

(1) The department shall create a report which documents the results of the investigation;

(2) If the investigation finds a credential holder in violation of a rule of the code of conduct as specified in Ed 510.01 through Ed 510.04, the department shall propose a form of discipline as follows:

- a. Suspension;
- b. Revocation; or
- c. Reprimand; and

(3) The department shall determine the sanctions to be imposed after considering the presence of aggravating or mitigating circumstances as specified in Ed 511.01(j)(4)-(5);

(4) The following shall be considered aggravating circumstances:

- a. The seriousness of the offense;
- b. The credential holder's prior disciplinary record;
- c. The credential holder's lack of willingness to cooperate with the department during an investigation;
- d. Potential harm to public health and safety; and
- e. The purpose of the rule violated;

(5) The following shall be considered mitigating circumstances:

- a. Absence of a prior disciplinary record;

b. The credential holder's willingness to cooperate with the department during an investigation;

c. The credential holder's acknowledgment of his or her wrongdoing; and

d. The purpose of the rule or statute violated;

(6) The credential holder shall be notified in writing of any proposed discipline;

(7) If no disciplinary sanction is proposed, the department shall notify the credential holder in writing that the investigation is closed.

(k) Investigatory reports and all information gathered during the course of an investigation shall be confidential, with the following exceptions:

(1) The report shall be made available to the parties in any adjudicatory proceedings resulting therefrom; and

(2) If further disciplinary proceedings are to be conducted as a result of the investigation, the department shall provide information gathered in the disciplinary investigation to the following:

a. A law enforcement agency when the agency is conducting a criminal investigation of the credential holder;

b. A certifying agency of another jurisdiction for:

1. Purposes of certification of the credential holder in the other jurisdiction; or

2. An investigation of the credential holder by the other jurisdiction when:

(i) The credential holder was the subject of a formal investigation under Ed 511; or

(ii) Disciplinary action was taken against the credential holder by the board pursuant to Ed 511;

c. Other states' licensing board investigators or prosecutors; and

d. Expert witnesses or assistants retained by a prosecutor or investigator in the same related disciplinary matters.

[Source.](#) #12661, eff 11-9-18 (See Revision Note at part heading for Ed 511)

Ed 511.02 Reprimand, Suspension, or Revocation.

(a) If the department determines that a credential holder has violated the code of conduct as specified in Ed 510.01 through Ed 510.04, and the credential holder agrees to the proposed disciplinary finding, the credential holder shall agree to a reprimand, suspension, or revocation.

(b) All reprimands, suspensions, or revocations shall be documented in writing, and shall set out the terms of the discipline. The credential holder shall receive a copy of the discipline in writing and a copy shall be placed in the credential holder's electronic credentialing file at the department once it is signed by all required parties, to include the credential holder.

(c) Any credential holder whose credential is revoked or who voluntarily agrees to a revocation shall be prohibited from applying or reapplying for any other credential issued by the New Hampshire state board of education.

Source. #2055, eff 6-16-82; ss by #2714, eff 5-16-84; ss by #4851, eff 6-25-90; EXPIRED 6-25-96

New. #6349, eff 10-5-96; ss by #6822, eff 9-1-98; ss by #8194, eff 10-26-04; ss by #10089, eff 2-23-12; ss and renumbered by #12661, eff 11-9-18 (formerly Ed 510.03)

Ed 511.03 Disciplinary Hearings.

(a) If a credential holder does not agree with the proposed disciplinary finding as a result of an investigation as specified in Ed 511.01, a credential holder may request an adjudicatory hearing which shall commence pursuant to Ed 200 after the following:

- (1) Completion of an informal or formal investigation; and
- (2) Filing of a written report and recommendation pursuant to Ed 511.01(j).

(b) The provisions of Ed 200 shall apply to all disciplinary hearings and such hearings shall commence not more than 15 days after the disciplinary finding.

Source. #2055, eff 6-16-82; ss by #2714, eff 5-16-84; ss by #4851, eff 6-25-90; EXPIRED 6-25-96

New. #6349, eff 10-5-96

New. #8194, eff 10-26-04; ss by #10089, eff 2-23-12; ss and renumbered by #12661, eff 11-9-18 (formerly Ed 510.02) (See Revision Note at part heading for Ed 511)

Ed 511.04 Status of a Credential Pending Completion of Disciplinary Proceeding.

(a) When the department receives information indicating that a credential holder has been arrested for one of the offenses enumerated in RSA 189:13-a, V, the credential holder's credential and any and all endorsements shall be immediately suspended pursuant to RSA 541-A:30, III.

(b) The department shall notify the credential holder and the employing school district that the credential holder's credential has been suspended pending an investigation by the department.

(c) In accordance with RSA 541-A:30, III, unless waived, an adjudicatory hearing shall commence within 10 working days after the suspension of the credential. Such hearings shall be governed by the process set forth in Ed 200.

Source. #2055, eff 6-16-82; ss by #2714, eff 5-16-84; ss by #4851, eff 6-25-90; EXPIRED 6-25-96

New. #6349, eff 10-5-96, EXPIRED: 10-5-04

New. #8194, eff 10-26-04; ss by #10089, eff 2-23-12; ss and renumbered by #12661, eff 11-9-18 (See Revision Note at part heading for Ed 511)

Ed 511.05 Grounds for Reinstatement After Suspension.

(a) A credential which has been suspended shall be reinstated for one of the following reasons:

(1) The period of the suspension has passed and any and all terms and conditions regarding possible reinstatement have been satisfied; and

(2) A credential holder whose credential has been suspended demonstrates by clear and convincing evidence that he or she has corrected the deficiencies or conduct which led to the original suspension.

(b) Upon reinstatement, the department may issue a credential which is limited in time, level, or scope, or subject to other terms as the department deems necessary, to include a reinstatement fee. If the credential is so limited, then the credential holder may appeal that decision using the process specified in Ed 200.

Source. #2055, eff 6-16-82; ss by #2714, eff 5-16-84; ss by #4851, eff 6-25-90; EXPIRED 6-25-96

New. #6349, eff 10-5-96; ss by #6822, eff 9-1-98; ss by #8194, eff 10-26-04; ss by #10089, eff 2-23-12; ss and renumbered by #12661, eff 11-9-18 (See Revision Note at part heading for Ed 511)