

# Wakulla County Schools

*Committed to Success*

2008 Ethics in Education Act

Senate Bill 1712



# Ethics in Education Act

- The 2008 Florida Legislature passed and the governor signed Senate Bill 1712, the Ethics in Education Act that became effective **July 1, 2008.**
- It requires Florida School Boards to adopt policies establishing standards of ethical conduct for instructional personnel and school administrators as defined in s. 1012.01. F.S.
- Changes have a significant impact on Florida schools.

## More...

- This legislation establishes a set of requirements for employment and certification of educators, disciplinary actions, and reporting of educator misconduct.
- The implementation of this Act requires districts and schools to review employment procedures and policies and procedures for compliance.

# Major Changes

- Employment Screenings
- Employment Qualifications
- Terminations for Cause
- Public Notification of Reporting and Requirements
- Discipline of Educators and Administrators
- Penalties for Violation
- Summary of Basic Provisions

# Who is Impacted

## As defined in Section 1012.01

- “Instructional Personnel”
  - Classroom Teachers
  - Student Personnel Services
  - Librarians/Media Specialists
  - Other Instructional Staff
  - Education Paraprofessionals
  - Substitute Teachers
- School Administrators
  - School Principals/Directors
  - Assistant Principals

# Highlights of the New Law

- Those convicted of certain crimes will be disqualified from certification and employment in an instructional or administrative position.
- Professional development on standards is required.
- Confidentiality or concealment of misconduct by instructional/school administrative personnel is prohibited.

## More...

- Requires more pre-screening of prior incidents/cases.
- Demands forfeiture of retirement benefits if convicted of sexual battery.
- Gives more authority to pursue sanctions against certificates for failure to report arrests.
- Allows Wakulla access to the DOE/PPS database.

# Employment Screening

- Employment screenings for instructional or administrative positions that have direct contact with students **must include contact with the candidate's previous employer and use of educator screening tools** provided for in s. 1001.10 F.S.
  - Professional Practices Database of Disciplinary Actions
  - Teacher Certification Database
  - Reference check from candidate's previous employer

# Employment Screening

- Managers and any person acting as a hiring authority are required to check an applicant's previous employment reference.
- When unable to connect with the candidate's previous employer, the district must document the efforts to contact the employer.
- The district must document the results from each step in the employment screening process.

# Employment Screenings - Who?

- Who must perform screenings?
  - School districts
  - Charter schools
  - Florida School for the Deaf and Blind
  - Private schools participating in McKay and Corporate Tax Credit scholarship programs
- Who is to be screened?
  - Instructional personnel
  - School administrators

# Reference Questions

- Is this the past supervisor of the applicant?
- How long was the applicant employed at your work site?
- What were the primary duties of the applicant?
- What were the outstanding strengths of the applicant?
- What were the notable weaknesses of the applicant?
- Why did the applicant leave?
- Would you hire this applicant again?

# Employment Disqualification

- Individuals are disqualified from employment and are ineligible for certification in any positions that require direct contact with students if convicted of:
  - *Any one of 47 felony offenses under s. 1012.315(1), Florida Statutes to include but not be limited to the following:*
    - Aggravated assault
    - Prostitution
    - Sexual misconduct
    - Voyeurism
    - Obscenity
    - Robbery
    - Lewdness and indecent exposure
    - Resisting arrest with violence, etc.

## More...

- Any criminal act from another state or under federal law if it constitutes a disqualifying offense under Florida law.
- Any delinquent act in state or out of state which qualifies a person for inclusion on the Registered Juvenile Sex Offender List.
- Misdemeanor battery, if the victim was a minor, or luring or enticing a child.
- A “crime of moral turpitude” as defined by State Board Rule.

# Moral Turpitude

## As Defined in SBR 6B-4.009(6)

- “...a crime that is evidenced by an act of baseness, vileness or depravity in the private and social duties, which, according to the accepted standards of the time a man owes to his or her fellow man or to society in general, and the doing of the act itself and not its prohibition by statute fixes the moral turpitude.”

# Termination for Cause

## Crimes of Moral Turpitude

- Where the statute previously indicated that “conviction of a crime involving moral turpitude” was just cause for termination, that statute is now amended to read, “being convicted or found guilty of, or entering a plea of guilty to, regardless of adjudication of guilt, any crime involving moral turpitude.” Note that adjudication of guilt is not required, and a finding of guilt may be made even where there is a plea of no contest (nolo contendere).

## More...

Unless a person is tried and found not guilty, the individual is considered guilty. Findings of guilt include the following conclusions:

- Withholding adjudication
- Pleading no contest
- Agreeing to go through a pre-trial diversion program
- Pleading anything other than “not guilty.”

# Termination for Cause

## Immorality

- Grounds for termination of instructional AC and PSC personnel now includes “immorality” and joins:
  - ✓ misconduct in office
  - ✓ willful neglect of duty
  - ✓ incompetence
  - ✓ gross insubordination
  - ✓ being convicted or found guilty of, or entering a plea of guilty to, regardless of adjudication of guilt, any crime involving moral turpitude.
- “Immorality” is defined as “conduct that is inconsistent with the standards of public conscience and good morals. It is conduct sufficiently notorious to bring the individual concerned or the education profession into public disgrace or disrespect and impair the individual’s service in the community.” FAC 6B-4.009(2)

# Child Abuse Reporting

- Schools Must Post Notice:

Previous requirement: District school boards to post a notice that all employees have a duty to report all actual or suspected cases of child abuse, abandonment or neglect to DCF. The notice is to include the statewide toll-free telephone number of the central abuse hotline.

# Child Abuse Reporting

- Provisions now apply to public schools, charter schools, Florida School for the Deaf and the Blind, and private schools that participate in the McKay and Corporate Tax Credit scholarship programs.
- The district school superintendent, the superintendent's designee, the principal of a charter school or the principal of a private school is required, when requested, to act as a liaison to DCF.

# Reporting Child Abuse

- Signs of physical abuse
- Signs of sexual abuse
- Signs of neglect
- Significant patterns of behavioral or physical signs
- Call 1-800-96-ABUSE or
- E-mail: [www.dcf.state.fl.us/abuse/report](http://www.dcf.state.fl.us/abuse/report)

# Examples of What to Report for Professional Misconduct

- Obscene language
- Drug and alcohol use
- Disparaging, degrading, discrediting comments or remarks
- Prejudice or bigotry
- Sexual innuendo
- Cheating or testing violations
- Physical aggression
- Acceptance or offer of favors

# Educator Discipline

## Immediate Suspension

- If alleged misconduct affects the **health, safety or welfare of a student**, the district school superintendent must IMMEDIATELY SUSPEND the accused WITH PAY and assign the employee to a position not requiring direct contact with students until further information and dispositions have been established.

# Education Practices Commission

## EPC Educator Discipline

EPC discipline may include, but is not limited to:

- Letter of reprimand in district and state certification file
- Fine of up to \$2,000 per count or offense
- Limit scope of practice
- Denial of issuance of certificate or endorsement
- Conditional issuance of appropriate certification
- Require college course work
- Participation in employee assistance/recovery program
- Placement on probation
- Stipulation or settlement agreement

# EPC Revocation/Suspension of Certificate

- Obtain/attempt to obtain certificate by fraudulent means.
- Knowingly failing to report child abuse and/or instructional/administrative misconduct which affects health, safety, or welfare of student.
- Incompetent to teach or perform duties.
- Guilty of gross immorality or act of moral turpitude.
- Certificate sanctioned by suspension, revocation or surrender in another state
- Convicted or found guilty of or entered a plea of guilty to, regardless of adjudication of guilt to a misdemeanor, felony or other criminal charge other than a minor traffic violation.

# EPC – More...

- Found guilty of personal conduct that seriously reduces effectiveness.
- Breach of contract.
- Court order to suspend due to delinquent child support.
- Violation of the Principles of Professional Conduct of Education Profession.
- Violated any order of the EPC.
- Subject to a court order to surrender certificate.
- Disqualified from certification under offenses in s. 1012.315 F.S.

# Forfeiture of Retirement Benefits

Requires the forfeiture of retirement benefits for the conviction of a felony as defined in s.800.04 F.S. (lewd and lascivious offenses committed upon or in the presence of persons under 16), or chapter 794, Florida Statutes (unlawful sexual activity with certain minors), when committed on or after October 1, 2008. For the forfeiture of benefits:

- The person must be a public officer or employee when the offense occurred.
- The person must have committed the offense through the use or attempted use of power, rights, privileges, duties or position of the person's public office or employment position.
- The victim was younger than 18 years of age when the offense occurred.

## More...

- Note that as it applies to forfeiture of retirement benefits, “conviction” is defined in s. 112.3173(2)(a) F.S. to include “an adjudication of guilt by a court of competent jurisdiction, a plea of guilty or of nolo contendere; a jury verdict of guilty, when adjudication of guilt is withheld, and the accused is placed on probation; or a conviction by the Senate of an impeachable offense.”

# Notice of Reporting Misconduct

- Each school must post on its web site and at a prominent place at each school site the policies and procedures for reporting misconduct, the contact person to whom a report should be made, and the penalties for failure to report misconduct or abuse.
- All employees and agents of a public school district, charter school or private school have an obligation and legal responsibility to report misconduct by instructional personnel and school administrators which affects the health, safety, or welfare of a student.

# Duties of Superintendent

- s. 1001.51 F.S. Each superintendent has an affirmative duty to:
  - Investigate alleged misconduct by instructional personnel for school administrators;
  - Report legally sufficient allegations of misconduct by certified educators to the Office of Professional Practices Services; and
  - Submit true and accurate reports.
- If a superintendent knowingly fails in this duty, he or she forfeits salary provisions for one year.

# Summary Basic Provisions

## Requirements:

- Each district shall develop and adopt policies of ethical conduct.
- Each district must conduct an employment history and use FDOE data.
- Each district must post policies for reporting abuse and misconduct.
- Misconduct must be reported within 30 days to the DOE.

# More...

## Requirements:

- Immediate suspension with pay of instructional and administrative personnel upon allegations of misconduct.
- Penalties assessed for failure to investigate reports of misconduct.
- State retirement benefits will be forfeited for certain crimes against children.
- Confidentiality agreements with dismissed or terminated staff is prohibited.