

**PROMOTION OF STUDENT SAFETY BY
THE WEST VIRGINIA DEPARTMENT OF EDUCATION**

West Virginia State Board Policy 4373 sets the requirements for the development of safe and supportive schools that provide optimum learning conditions for both students and staff. Educators who violate Policy 4373 are subject to disciplinary licensure action under West Virginia Code §§ 18A-2-8, 18A-3-2a, 18A-3-3 and 18A-3-6.

The Offices of Legal Services and Certification of the West Virginia Department of Education (WVDE) pursue student safety via several mechanisms:

- Character evaluation and criminal history checks of initial applicants;
- Investigations into allegations of misconduct and criminal activity of educators; and
- Proactive outreach and guidance to promote awareness and compliance.

Character and Criminal History Checks of Initial Applicants:

Under West Virginia Code § 18A-3-1(i), initial applicants must be of good moral character. West Virginia Code § 18A-3-10 requires comprehensive criminal history checks for all initial certification applicants. Additional criminal history checks are authorized if the licensee has lived outside of West Virginia for a period of one year or more since being licensed, if the applicant is returning from a licensure suspension or revocation, or if the WVDE or a school administrator has a reasonable belief that the licensee has not notified the school administrator of a felony conviction, a sexual assault or abuse conviction, or a conviction of a similar nature in any other state or the United States.

In the employment context, West Virginia Code § 18-5-15c requires county boards of education to obtain a state criminal history check from the West Virginia State Police for all of its future employees. In addition, contractors or service providers or their employees may not make direct, unaccompanied contact with students or access school grounds unaccompanied when students are present if they have been convicted of an offense requiring registration as a sex offender.

Scope and Applicability of Criminal History Checks

A criminal history check provides a snapshot of reported law enforcement data at a specific point in time. It is not necessarily the same as what may colloquially be referred to as a background check. A criminal history check results in a criminal history report, which shows arrests, convictions, charges, incarcerations, dispositions, and other criminal history records.

Criminal history checks obtained for educator licensure in West Virginia result in both a West Virginia criminal history report (a “CIB” report) and a federal criminal history report (an “III” report). But this will only reveal a person’s arrests or convictions if they have been reported to the West Virginia State Police or the FBI, and only up to the date that the check is performed. For example, if a person has their fingerprints scanned for purposes of a criminal history check

on July 1, 2026, then only arrests and convictions before that date will appear in the resulting criminal history report. Future arrests and convictions would not be known unless subsequent checks are performed.

A state criminal history check is distinct from a federal criminal history check. If a federal law enforcement agency arrests a person in West Virginia, that arrest will not appear on a West Virginia state criminal history report. Rather, it will appear only on a federal criminal history report.

Criminal history checks are jurisdictionally specific. An arrest or charge in another state will not appear on a West Virginia state criminal history report—only on a report generated by the jurisdiction of the arrest or charge, or on a federal criminal history report. Criminal history checks performed for educator licensure in West Virginia do not return results from other jurisdictions, regardless of the person's state of residence.

Assessment of an Applicant's Character

While a criminal history check can give raw information about a person's criminal history, the WVDE must determine whether to approve an application based on the relevant law and policy, including the character requirement in West Virginia Code § 18A-3-1(i). Approval decisions are made on a case-by-case basis and typically take into account the nature of any offenses as well as the severity, recency, and the applicant's age at the time of the offenses.

If the WVDE deems the applicant's character to be unsatisfactory, the WVDE may issue a recommended denial, from which the applicant may appeal. If the applicant does not appeal, the denial is automatically adopted by the state superintendent. Appeals are set for hearing before the Licensure Appeal Panel (LAP) of the West Virginia Commission for Professional Teaching Standards (WVCPTS). The LAP makes recommendations to the state superintendent, who has the authority to uphold or reverse the recommended decision of the LAP.

WVDE Investigations Into Alleged Misconduct

The WVDE is authorized to investigate allegations of misconduct by educators. Alleged misconduct can come to the attention of the WVDE in several ways. Under West Virginia Code § 18A-3-6(g), county officials who know of any acts on the part of any teacher for which a certificate may be revoked, or for which other license action may be taken, are required to report that, together with all the facts and evidence, to the state superintendent. Also, West Virginia Code § 18A-2-8(f) requires county superintendents to report to the state superintendent any employee suspended or dismissed, or resigned during the course of an investigation of the employee's alleged misconduct within seven business days of the suspension, dismissal, or resignation. The same law requires the state superintendent to maintain a confidential database of all individuals suspended or dismissed for jeopardizing the health, safety, or welfare of students, or for impacting the learning environment of other students. In addition,

educators submitting applications subsequent to initial certification, such as when applying for renewal, are required to disclose criminal charges, adverse personnel actions, and resignation during a personnel investigation. WVDE may also become aware of misconduct through other means, such as media reporting or the direct reports of members of the public.

After the WVDE makes an initial decision to begin an investigation, staff seek out all available relevant facts, including collecting information from the school system, interviewing relevant individuals, and gathering information from any other sources. Staff makes a thorough examination of the available facts, with the aim of making fair and targeted decisions on how to act in each case. Some cases are able to be dismissed with no action taken if the WVDE determines that discipline is not merited. If WVDE believes that action against an educator's certificate is warranted, the matter may be set for a hearing before the Professional Practice Panel (PPP) of the WVCPTS, which is a separate panel from that which hears denials of applications. The PPP may recommend that the educator's certificate be suspended or revoked, limited, or admonished. As with application denials, the state superintendent has the authority to uphold or reverse the recommended decision of the PPP.

Often, the WVDE can dispose of a case without a hearing by entering into a consent agreement with the educator. The educator may agree to an action against his or her license, to take certain professional training, or to settle the WVDE's investigation under some other terms.

Any action against an educator's certification is required to be reported to the national clearinghouse operated by the National Association of State Directors of Teacher Education and Certification (NASDTEC). This database permits other states to be aware of license actions taken by West Virginia, and by the same token allows WVDE to be aware of licensure actions taken by other states. This clearinghouse is a vital tool in preventing unqualified educators from gaining licensure across state lines.

In addition, all licensure actions are listed in a public database on the WVDE's website.

Outreach by the Office of Legal Services

Upon request, the WVDE may provide presentations or professional development to school systems or other groups with the aim of equipping the local school systems to better identify, respond to, and investigate allegations of misconduct.

Additionally, the Office of Legal Services enjoys positive working relationships with many law enforcement agencies and county prosecutors. WVDE personnel have delivered presentations at the West Virginia annual in-service sessions, for the West Virginia Sheriff's Association, and for the West Virginia Prosecuting Attorneys Institute. Relationships are nurtured through regular networking and contact with investigators and prosecutors.