

Changes to Ohio Rule Regarding Employment of Licensed Individuals with Certain Criminal Convictions in Schools

By Aaron Ross

Major changes have been made to Ohio Administrative Code Rule 3301-20-01 entitled “Employment of individuals in positions that require a license and licensure of individuals with certain criminal convictions or other alternative dispositions,” which is the Rule that governs employment of licensed individuals with certain criminal convictions in Ohio schools.

The changes made in this Rule are a result of the adoption of Ohio Revised Code 9.79. R.C. 9.79 went into effect in April 2021 and created a new licensure standard for first time applicants with criminal convictions. The new licensure standard created by R.C. 9.79 required all licensing agencies to create a list of offenses that could potentially disqualify an initial applicant from obtaining a license. R.C. 9.79 groups convictions into categories and limits the timeframe, based upon the number of years since a conviction, which a licensing agency is permitted to consider each category of offense for purposes of granting or denying an initial license. This new licensure standards created by R.C. 9.79 also eliminated the prohibition on issuing individuals with convictions for absolute bar offenses first time licenses. Lastly, R.C. 9.79 requires that the rules required under Ohio Revised Code 3319.39 be in compliance with R.C. 9.79.

Following the adoption of R.C. 9.79 in April 2021, the Ohio Department of Education drafted changes to Ohio Administrative Code Rule 3301-20-01 to align that Rule with the provisions of R.C. 9.79.

Rule 3301-20-01 establishes the standards for employment of individuals in schools for positions that require a license who have certain criminal convictions. The Rule was first adopted by ODE in October 1994. Proposed changes to the Rule were announced in January 2023. The new Rule provisions, as proposed, will go into effect on July 27, 2023. The new Rule provisions will have significant impact on employment of licensed individuals with certain criminal convictions in Ohio schools. Below is a summary of the changes that will go into effect on July 27, 2023.

Employment of Educators with Criminal Convictions

For educators (that is, individuals who currently hold or who previously held a license issued by the State Board of Education), the new rule provides that for convictions that occur after the educator received an initial license, new rehabilitation standards apply.

The new rehabilitation standards under the new rule are as follows: An educator is rehabilitated as to each offense (and thus is employable in a position in a school that requires a license issued by the State Board of Education) when the educator’s license is in good standing and the educator either:

1. signs a letter of admonishment listing the offense;
2. executes a consent agreement with the State Board of Education listing the offense; or
3. receives a board resolution listing the offense.

No other rehabilitation standards, previously existing in the Rule, apply to educators with criminal convictions post-licensure. Important to note for employing school districts with regards to applying the new rule provisions to educators with criminal convictions post-licensure is the fact that the new rule requires employing school districts to thoroughly document the district's proceedings and decision on employment, and to maintain such documentation in the district's files.

Employment of Initial Licensure Applicants with Criminal Convictions

The new rule also sets forth the standard for employing initial licensure applicants with certain criminal convictions. This standard **prohibits** the employment of initial licensure applicants with certain criminal convictions in a position that requires a license, until the initial license is issued. Specifically, the new rule provides that if the initial licensure applicant has a criminal conviction that appears in section (B)(1) of 3319.39 or in section 3319.31 of the Revised Code, and the conviction is on the list entitled, "[Disqualifying Offenses Pursuant to ORC §9.79](#)" which appears on ODE's website, then the initial licensure applicant may not be employed until the license is issued.

The significance of the new rule with regards to initial licensure applicants is that it will prohibit the employment of initial licensure applicants with these specific convictions when the Revised Code may have otherwise permitted the initial licensure applicant to work for a short period of time while the license application was pending. Individuals with convictions referenced above are not employable until they receive their initial license.

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