

Rule 3302-73-26 | Action after overturned appeal of conviction, unconditional pardon, or certificate of qualification for employment

(A) Convictions overturned on appeal will be processed as follows:

(1) The superintendent is required to take action pursuant to division (E) of section 3319.31 of the Revised Code only after receiving notice from the clerk of court or a properly filed petition for reconsideration verifying that the plea, finding, or conviction that was the basis of an action taken under division (B)(2) of section 3319.31 of the Revised Code, division (C) of section 3319.31 of the Revised Code or division (F) of section 3319.31 was overturned.

A petition for reconsideration is "properly filed" when it is made in writing, and includes a certified copy of the court records demonstrating that the plea, finding, or conviction has been overturned.

(2B) If the superintendent determines, pursuant to division (E) of section 3319.31 of the Revised Code, that the respondent's license should be reinstated or granted without limitations after receiving a notice from the clerk of courts or properly filed petition for reconsideration, the superintendent will notify the respondent and any former, current, or reporting school district through a written order. The reinstatement or granting of the license will be effective immediately upon the date of the written order, but is not necessarily an adjudication on the merits of the case.

(3G) The written order issued pursuant to paragraph (AB) of this rule ~~shall be sent by registered mail to the respondent will be served in accordance with section 119.05 of the Revised Code.~~

~~(1) If the written order is returned because the respondent failed to claim or refused delivery of the written order, the superintendent shall send the written order by first class mail to the respondent at the respondent's last known address, and obtain a certificate of mailing. Service by first class mail is complete when the certificate of mailing is obtained, unless the notice is returned showing failure of delivery.~~

~~(2) If the written order sent by registered or first class mail is returned for failure of delivery, the superintendent shall make personal delivery of the notice by an employee, agent of the agency, or agent hired by the agency, or cause a summary of the substantive provisions of the written order to be published in the educator conduct database and the educator's electronic credential history, which can be accessed through the department's website (education.ohio.gov) for a period of thirty days. After the thirty calendar days have expired, the superintendent shall remove the initial written order revoking or denying the respondent's license and the~~

~~subsequent written order granting or reinstating the respondent's license from the educator database. The written orders shall be maintained with the department's official records.~~

(4D) If after thirty days, the superintendent cannot make a determination as to whether the respondent committed the act in question in the prior criminal action against the respondent, the superintendent will reinstate or grant the respondent's license, and reserves the right to continue the investigation and initiate disciplinary proceedings as warranted. The reinstatement or granting of the respondent's license is not an adjudication on the merits of the case; however, if the superintendent determines the results of the investigation warrant the initiation of an action to limit, suspend, revoke or deny a license, the superintendent will give notice of an opportunity for a hearing in accordance with sections 119.01 to 119.13 of the Revised Code, and comply with the provisions governing notices for opportunity for hearing as listed in rule 3301-73-05 of the Administrative Code.

**(B) Unconditional pardons will be processed as follows:**

(1) An individual who received disciplinary action pursuant to divisions (B)(2), (C), or (F) of section 3319.31 of the Revised Code may submit a written request for review of disciplinary action by the state board upon receipt of an unconditional pardon pursuant to section 2967.04 of the Revised Code for the conviction(s) listed in the disciplinary action.

(2) The petition for review of disciplinary action in paragraph (B)(1) of this rule needs to include the following to be considered properly filed:

(a) appropriate documents from the office of the governor of the state issuing the pardon;

(b) the name of the respondent and the disciplinary action determining petitioner to be ineligible based on criminal convictions; and

(c) a request for rescission of the disciplinary action listed.

(3) After receipt of a properly filed petition for review of disciplinary action after pardon, the Superintendent of Public Instruction will determine whether the petition is sufficient to issue an order rescinding the initial order that took action against the respondent's license pursuant to section 3319.31 of the Revised Code and will notify the respondent and any known employing or prospectively employing school district of the rescinded order. The reinstatement or granting of the respondent's license is not an adjudication on the merits of the case. However, if the

superintendent determines the results of an investigation warrant the initiation of an action to limit, suspend, revoke or deny a license, the superintendent will give notice of an opportunity for a hearing in accordance with sections 119.01 to 119.13 of the Revised Code, and comply with the provisions governing notices for opportunity for hearing as listed in rule 3301-73-05 of the Administrative Code.

(4) The written order issued pursuant to paragraph (B) of this rule will be served in accordance with section 119.05 of the Revised Code.

(5) Upon rescission of the order that took action against the respondent's license pursuant to section 3319.31 of the Revised Code, the requestor may apply for licensure. Applications will be processed in accordance with applicable rules under Division 3302 of the Administrative Code and Chapter 3319 of the Revised Code.

**(C) Certificates of qualification for employment will be processed as follows:**

(1) An individual who has obtained a certificate of qualification for employment pursuant to section 2953.25 of the Revised Code may include the certificate in his or her application for educator licensure if he or she meets the following:

(a) The individual has entered plea of guilty to, has been found guilty of, or a has been convicted of an offense set forth in division (C) of section 3319.31 of the Revised Code;

(b) The individual has obtained a certificate of qualification for employment under section 2953.25 of the Revised Code specifically pertaining to educator licensure; and

(c) The individual is applying for a license for the first time.

(2) With consideration given to the certificate of qualification for employment, the Superintendent of Public Instruction will determine whether the individual is to remain prohibited from being issued a license. This determination will be made on a case-by-case basis.

Supplemental Information

Authorized By: 3319.311, 3319.31, ~~3301.07~~

Amplifies: 3319.311, 3319.31

Five Year Review Date: 7/27/2028