



DRAFT

OPI Bill Draft – 2025 Legislature

Provide privacy protections for active licensure discipline investigations by providing a public records request exception for materials obtained by OPI and BPE during the course of an active licensure discipline investigation under [§ 20-4-110, MCA](#). Similar to an active criminal investigation or other licensure investigations, active teacher and administrator license investigations are sensitive actions which rely on the cooperation of witnesses and victims to provide relevant evidence in making a determination for licensure discipline. Currently, no such exception exists and OPI has received multiple public records requests for materials pertaining to active licensure discipline investigations in recent months which have, at times, risked the integrity of those ongoing investigations. OPI has encountered challenges in obtaining cooperation from witnesses and victims of events which have resulted in licensure discipline actions which have hindered the ability of OPI to successfully and efficiently perform investigations. Both BPE and OPI perform investigations during the course of licensure discipline actions so BPE should be granted this exemption for active investigations as well. Draft amendment language could be as follows:

20-4-110. Letter of reprimand, suspension, revocation, and denial of certificate. (1) The board of public education may issue a letter of reprimand or may suspend or revoke the teacher, administrator, or specialist certificate of any person for the following reasons:

- (a) making any statement of material fact in applying for a certificate that the applicant knows to be false;
 - (b) any reason that would have required or authorized the denial of the teacher, administrator, or specialist certificate to the person if it had been known at the time the certificate was issued;
 - (c) incompetency;
 - (d) gross neglect of duty;
 - (e) conviction of, entry of a guilty verdict, a plea of guilty, or a plea of no contest to a criminal offense involving moral turpitude in this state or any other state or country;
 - (f) immoral conduct related to the teaching profession;
 - (g) substantial and material nonperformance of the employment contract between the teacher, administrator, or specialist and the trustees of a school or school district without good cause or the written consent of the trustees; or
 - (h) denial, revocation, suspension, or surrender of a teacher, administrator, or specialist certificate in another state for any reason constituting grounds for similar action in this state.
- (2) The board may initiate proceedings under this section if a request for the suspension or revocation of the teacher, administrator, or specialist certificate of any person is made to it by:

(a) the trustees of a district as to a teacher, administrator, or specialist employed by that school or school district within the 12 months immediately preceding receipt of the request by the board of public education; or

(b) the superintendent of public instruction.

(3) (a) If the employment relationship between a school district and a teacher, administrator, or specialist is terminated or not renewed or if a teacher, administrator, or specialist resigns to prevent termination or nonrenewal because the trustees have reason to believe that the teacher, administrator, or specialist engaged in conduct described in subsection (1)(e) or (1)(f), the trustees shall make a written report to the superintendent of public instruction describing the circumstances of the termination, nonrenewal, or resignation.

(b) The superintendent shall review the report and any supporting evidence included in the report and may conduct further investigation. If the superintendent is satisfied that sufficient grounds exist, the superintendent may request action by the board of public education under subsection (1). The request must be brought within 1 year after discovery of the events that gave rise to the report.

(c) The trustees and the superintendent shall ensure the confidentiality of the report.

(d) Dissemination of information from an active licensure discipline investigation, under this part, is restricted to criminal justice agencies, to the Office of Public Instruction, to the Board of Public Education, and to those authorized to receive it by a district court upon a written finding that the demands of individual privacy and the protection of the integrity of the active investigation do not clearly exceed the merits of public disclosure.

(e) If the Superintendent of Public Instruction determines that dissemination of information from an active licensure discipline investigation would not jeopardize the investigation or related criminal proceeding, the information may be disseminated to a victim of the offense allegedly committed by the licensee or to a prosecutor who is prosecuting a crime resulting from the offense or by an investigating law enforcement agency after consultation with the Superintendent of Public Instruction.

~~(d)(f)~~ (f) The trustees and the superintendent and their agents and employees are immune from suit for actions taken in good faith under this section with respect to the report.

(4) The board shall give a 30-day written notification to any person when the board intends to consider a letter of reprimand or the suspension or revocation of a certificate. Service of the notice must be accomplished by sending the notification by registered mail to the last address that the person has provided to the school district or the superintendent of public instruction.

(5) The board shall conduct an investigation of the reasons for the suspension or revocation charge and then, if the investigation warrants further action, conduct a hearing in the manner provided by board policies. At the hearing, the board shall afford the person an opportunity for defense against the charge.

(6) After a hearing, the board may place a written reprimand in the person's certification file or may suspend or revoke the person's teacher, administrator, or specialist certificate, except that in the case of a first violation under subsection (1)(g), the maximum penalty is a 2-year suspension of the person's certificate. The board may, upon a request by a school district, inform the school district that a person's certification file includes a letter of reprimand, but the board may not provide a copy of the letter without first determining that the public's right to know outweighs the person's right to privacy.

(7) Whenever the superintendent of public instruction denies the issuance or the renewal of a teacher, administrator, or specialist certificate, the applicant may appeal the denial to the board

of public education. The board shall hear the appeal in the same manner provided in this section for suspension or revocation and in accordance with the policies of the board. The decision of the board is final