

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

HOUSE BILL

1445

By: Representatives Hatfield, Thicksten, Cunningham,  
Mills, King, Townsend, Lendall and Teague

For An Act To Be Entitled

"AN ACT TO CREATE A PROFESSIONAL EDUCATORS STANDARDS AND  
PRACTICES BOARD."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Purpose. (a) The General Assembly recognizes that teaching, school administration and the rendering of other professional educational services in the schools of this State affect the public interest. The General Assembly further recognizes that in order to achieve the highest possible educational standards in the schools, licensed professional educators must be attracted and retained.

(b) It is hereby declared as the policy of this State to improve continually the quality of preparation programs for professional educators; to involve professional educators directly in establishing and maintaining the standards of their profession; to safeguard the welfare of students by preventing the utilization and continued employment of unlicensed personnel to assure fair treatment to applicants for licensure; and to safeguard the public's interest in effective expenditure of tax dollars for quality education in the public schools. This policy can be accomplished most effectively if the preparation and licensure of professional educators is under the control of an autonomous State agency, composed in substantial part of professional educators.

(c) The General Assembly has determined that the provisions of this Act will advance the policy described in paragraphs (1) and (2) above by allowing persons with relevant expertise to oversee the preparation, certification and recertification of professional educators.

(d) The provisions of this Act shall be liberally construed so as to advance the foregoing policy.

SECTION 2. Board Created. (a) The Arkansas Professional Educators Standards and Practices Board is hereby created. The Board shall be composed of 9 voting members. Five members of the Board shall be licensed classroom teachers or other licensed, non-supervisory professional public school personnel, to be appointed in the following manner: Two appointed by the Governor; three to be elected by the Arkansas Education Association, with at least one of these three positions being reserved for a Non-Caucasian candidate. Candidates for the teacher positions must be licensed for the position to which currently assigned and have at least five years of teaching experience, including two years in Arkansas immediately preceding the election. Two members of the Board shall be school administrators, one administrator shall be elected by the Arkansas Association of Educational Administrators, and one appointed by the Governor. Candidates for the administrator positions must be licensed for the position to which currently assigned and have at least five years of administrative experience, including two years in Arkansas immediately preceding election. One member of the Board shall be from a faculty or teacher education division of Arkansas colleges and universities, to be elected by the Arkansas Association of Teacher Educators. Candidates for the teacher educator positions shall have at least five years of professional experience, including two years in Arkansas immediately preceding election. One member of the Board shall represent the public; this lay member shall be appointed by the Governor. He or she shall not be, or ever have been, employed as a teacher or administrator or in a professional position in any institution of post-secondary education.

(b) The Director of the General Education Division of the Department of Education may appoint one representative to serve as an ex-officio participant. This person will not have voting rights on the Board.

(c) One teacher and one administrator on the initial Board shall serve one-year terms; two teachers and one administrator on the initial Board shall serve two-year terms; three teachers, one teacher educator and the lay representative on the initial Board shall serve three-year terms. The initial terms shall be determined by lot. Thereafter, Board members shall serve three-year terms, provided that no person shall serve more than two full terms. Service for two years or more shall count as a full term.

SECTION 3. Vacancies. (a) Any member of the Board who through change of employment status or residence, or for other reasons, no longer meets the criteria for the position to which he or she was appointed or elected shall no longer be eligible to serve in that position, and the position shall become vacant 30 days following notice to the Board of the member's change in circumstances. Vacancies shall be filled for the remainder of the unexpired term by appointment by the remainder of the Board.

(b) The Board shall establish rules for the removal of any member from the Board for just cause.

SECTION 4. Compensation. (a) All members of the Board shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of Board business.

(b) A member of the Board who is an employee of this State or any of its subdivisions, including a school district, shall be permitted to attend Board meetings and perform other Board business without loss of income or other benefits.

SECTION 5. Officers. The Board shall annually elect from its own number a chairperson and vice-chairperson. They shall hold office for a one-year term and may be re-elected up to two times. No member may serve as Chairperson or Vice-Chairperson for more than three consecutive years.

SECTION 6. Meetings. (a) The Board shall hold at least six meetings annually. The Chairperson may call a special meeting at any time and shall call a special meeting upon the written request of five or more members of the Board.

(b) The presence of a majority of the members of the Board shall constitute a quorum for transaction of business.

(c) Written and oral presentations may be made to the Board in accordance with procedures promulgated by the Board.

(d) No member of the Board shall participate in any matter before the Board in which he or she has a pecuniary interest or other conflict of interest. The Board shall adopt regulations defining what constitutes a conflict of interest.

SECTION 7. Staff. (a) The Board shall employ an Executive Director who shall perform and discharge under the direction and control of the Board those duties and responsibilities vested in the Board and delegated to the Executive Director by the Board. The Executive Director may be dismissed by a majority vote of the members.

(b) The Executive Director, with the approval of the Board, may employ such additional professional and Clerical personnel as may be necessary to carry out his or her duties and responsibilities. The Board shall be an equal opportunity employer.

SECTION 8. Issuance and Revocation of License. (a) The Board shall have the exclusive authority to issue, revoke, or suspend licenses of teachers and administrators. The Board shall adopt regulations setting forth the types and requirements for licensure within one year after the effective date of this Act and shall modify or supplement these regulations as appropriate. The Board's regulations should be responsive to new developments in the field of education. The Board shall establish such rules and regulations for the revocation, suspension and issuance of a license.

(b) A certificate which was issued pursuant to the laws and regulations of this State prior to the effective date of this Act shall remain in force as long as it continues to be valid under the laws and regulations pursuant to which it was issued. Any person who holds such a valid certificate shall, upon proper application, be granted a license of the type most nearly equivalent to the type of certificate held at the time of application, notwithstanding any other provision of this Act.

(c) Any person whose application for the issuance of a license is denied shall be entitled to a hearing before the Board as a whole, in accordance with this Act.

SECTION 9. Grounds for Suspension or Revocation of License. The Board of Professional Education Standards shall have the authority to suspend for a specified period of time or revoke a license granted pursuant to this Act on the following grounds:

(a) Conviction of a crime which renders the person convicted unfit to perform the duties for which he or she has been licensed;

(b) Violation of ethical standards which renders the person unfit to perform the duties for which he or she has been licensed. The Board by resolution shall maintain a published list of ethical standards;

(c) Failure to meet certification requirements; or

(d) Fraud or misrepresentation in obtaining a certificate; or

(e) any other cause.

SECTION 10. Complaint; Investigation; and Notice. (a) This section shall supplement and be an addition to the procedures set out in the Administrative Procedure Act, Ark. Code Ann. 25-15-201 et seq.

(b) A proceeding to suspend or revoke a certificate shall be initiated by filing a complaint with the Executive Director. The complaint shall be in a form prescribed by the Board. It shall specify the nature and character of the charges. It shall be verified under oath by the complaining party.

(c) Upon receipt of the complaint, the Executive Director shall give notice by certified mail return receipt requested to the person against whom the complaint has been lodged and the basis upon which the facts or conduct may result in the suspension or revocation of that person's certificate. The notice shall also require the person against whom the complaint is lodged to forward to the Executive Director a written response to the charges in the complaint within twenty days.

(d) The Executive Director shall then present the complaint and the response to the Board. The Board shall determine whether on the basis of the complaint and response, if a response is provided, whether the Board desires to proceed further and hold a hearing to determine whether grounds for suspension or revocation exist. If the Board determines not to hold a hearing, then it shall inform the party charged that it has decided not to take any action on the complaint. If the Board decides to hold a hearing then it shall follow the procedures set out in the Administrative Procedure Act.

(e) If the Board decides to hold a hearing, the Board may ask the Executive Director or other non-voting representative of the Board to conduct further investigation regarding all of the facts.

(f) The Board is authorized to issue subpoenas for the attendance and testimony of witnesses and the production of documents or other pertinent information.

(g) The hearing shall be closed, unless the affected professional

educator requests that it be open.

(h) If the hearing is not scheduled to take place within 120 days after the time the affected professional educator is first notified of the allegations, the Board shall order the investigation discontinued and the complaint dismissed.

(i) If, after the hearing, the Board determines to take some disciplinary action, it may (1) issue a public reprimand; (2) suspend the license for a period of time to be determined by the Board; and/or (3) revoke the license.

(j) Any person whose certificate has been suspended or revoked may apply to the Board for a lifting of the suspension or a reinstatement of the certificate. The Board may order such a lifting or reinstatement based upon standards prescribed by the Board and regulations.

(k) The person against whom a complaint is lodged shall have the right to representation of his/her choice throughout the hearing process.

(l) A complainant who is found by the Board to have filed a frivolous charge(s) shall bear the cost of expenses relevant to the frivolous charge(s) incurred by the charged.

SECTION 11. Approval of Teacher Preparation Program. (a) The Board shall have the exclusive authority to approve, renew approval, and withdraw approval of teacher preparation programs. The Board shall adopt by regulation the standards governing the approval and withdrawal of approval of teacher preparation programs and shall modify or supplement these regulations as appropriate.

(b) Whenever the Board denies approval to or withdraws approval from a teacher preparation program, the institution of higher education offering said program shall be entitled to appeal such denial or withdrawal in the manner prescribed in this Act. Approval may not be denied to or withdrawn from a teacher preparation program except by a majority vote of the Board.

(c) The Board may enter into agreements with the agencies of other states for reciprocal approval of teacher preparation programs in accordance with resolutions adopted by the Board.

(d) Any approval of a teacher preparation program which was granted pursuant to the laws or regulations of this State prior to the effective date of this Act shall remain in force until the time for renewing approval under this

Act.

(e) Applications for certification from persons who were enrolled and participating in a teacher preparation program when that program lost its approval or who entered an unapproved teacher preparation program that subsequently received its approval while they were still enrolled and participating shall be dealt with individually by the Board in accordance with regulations adopted by the Board.

SECTION 12. Annual Report. The Board shall submit to the State Board of Education and the General Assembly and publish an Annual Report of its activities. Said report shall include specific findings and conclusions with regard to certification and teacher preparation program approval, an official audit of all Board expenditures, and such additional information as the Board deemed appropriate. The Board shall publish, from time to time, such other reports as it deems appropriate. The Board shall develop and recommend to the General Assembly for its consideration any necessary or desirable legislation with regard to the matters covered by this Act. The Board shall appoint such committees as it deemed appropriate to assist it in an advisory capacity.

SECTION 13. Delegation. Except as otherwise provided in this Act, the Board may delegate to one or more of its members, staff, or other agents the authority to perform any of the functions to be performed by the Board itself under this Act, and performance by said delegates shall for purposes of this Act be deemed an action of the Board.

SECTION 14. Transition. (a) All rules, regulations, procedures and practices in effect upon the adoption of this Act shall continue in effect until the Board issues regulations to the contrary.

(b) All powers, duties and functions pertaining to the certification of educators, including but not limited to determining qualifications for certification and suspension and revocation of certificates are transferred from the State Board of Education and the Department of Education at such time as the Board determines that it is prepared and capable of carrying out those functions.

(c) Members of the Board may be appointed or elected any time after the date of enactment of this Act, except that time spent by a member in office

prior to the effective date of this Act shall not be considered as part of the term of such members for purposes of Section 3 of this Act.

SECTION 15. Funding. The Board shall have the authority to establish its operating budget. The Legislature shall provide an annual appropriation which shall be used to pay costs incurred in administering this Act.

SECTION 16. Penalties. The Board may impose fines or other monetary penalty on school districts for employing a nonlicensed person or assigning a licensed educator to perform duties outside the terms of his or her license. The Board shall forward any monies received pursuant to this section to the State Treasurer for deposit in the general Treasury of this State.

SECTION 17. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 18. All laws and parts of laws in conflict with this Act are hereby repealed.



