

House Bill 198

By: Representatives Buckner of the 82nd, Dodson of the 84th, Post 1, Barnes of the 84th, Post 2, Jamieson of the 22nd, Coleman of the 65th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 10 of Article 17 of Chapter 2 of Title 20 of the Official Code of Georgia
2 Annotated, the "Georgia Professional Standards Act," so as to revise provisions relating to
3 the Professional Standards Commission and its powers and duties; to provide that members
4 of local boards of education shall be subject to the jurisdiction of the commission; to revise
5 the statement of legislative purpose; to provide for the commission to adopt a code of ethics
6 for local board members; to provide for receipt of information by the commission and
7 investigations and findings by the commission; to provide for administrative hearings; to
8 provide for related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Part 10 of Article 17 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, the
12 "Georgia Professional Standards Act," is amended by striking paragraphs (5), (6), and (7) of
13 Code Section 20-2-982, relating to purposes of the part, and inserting in their place new
14 paragraphs to read as follows:

15 "(5) To adopt standards of professional performance and a code of professional ethics for
16 educators, both of which shall represent standards of performance and conduct which are
17 generally accepted by educators of this state and to adopt a code of ethics for local board
18 members;

19 (6) To investigate reports of specified criminal conduct, violations of professional or
20 ethical codes of conduct, and violations of certain rules, regulations, and policies by
21 school system educators and local board members;

22 (7) To enforce the requirement that local school systems promptly report specified
23 criminal conduct of school system educators and local board members to the commission;
24 and".

1

SECTION 2.

2 Said part is further amended by striking subsection (g) of Code Section 20-2-984, relating
3 to powers and duties of the Professional Standards Commission, and inserting in its place a
4 new subsection to read as follows:

5 "(g) The commission shall have the authority to issue formal warnings, reprimands,
6 monitoring, or any combination thereof to educators and local board members as provided
7 for in Code Section 20-2-984.5."

8

SECTION 3.

9 Said part is further amended by striking Code Section 20-2-984.1, relating to standards of
10 performance and code of ethics, Code Section 20-2-984.2, relating to reports of criminal
11 offenses, Code Section 20-2-984.3, relating to authorization of preliminary investigations,
12 Code Section 20-2-984.4, relating to conduct of preliminary investigations, and Code Section
13 20-2-984.5, relating to further disciplinary proceedings, and inserting in their respective
14 places new Code sections to read as follows:

15 "20-2-984.1.

16 (a) It shall be the duty of the commission, by regulation, to adopt standards of performance
17 and a code of ethics for educators. The commission shall also adopt, by regulation, a code
18 of ethics for local board members. The standards of performance and code of ethics for
19 educators shall represent standards of performance and conduct which are generally
20 accepted by educators of this state. In adopting regulations as provided in this Code
21 section, the commission shall seek the advice of educators and local board members of this
22 state. The standards of performance and code of ethics adopted by the commission shall
23 be limited to professional performance and professional ethics.

24 (b) Upon the adoption by the commission of standards of performance and a code of ethics
25 for educators as provided in subsection (a) of this Code section, educators of this state shall
26 be obliged to meet and comply with such standards of performance and to abide by such
27 code of ethics. Upon the adoption by the commission of a code of ethics for local board
28 members as provided in subsection (a) of this Code section, local board members shall be
29 obliged to abide by such code of ethics.

30 20-2-984.2.

31 (a) Superintendents, associate or assistant superintendents, or directors of personnel shall
32 make an immediate written report to the local board of education upon receiving a written
33 report from any identified school system personnel or parent or custodian of a child
34 enrolled in the school system that any school system educator employed by the local unit

1 of administration or any local board member has committed any of the following
 2 specifically identified crimes:

3 (1) Murder, voluntary manslaughter, aggravated assault, aggravated battery, or
 4 kidnapping, as defined in Chapter 5 of Title 16;

5 (2) Any sexual offense, as provided for in Code Sections 16-6-1 through 16-6-17 or
 6 Code Sections 16-6-20 through 16-6-22.2;

7 (3) Any sexual exploitation of a minor as provided for in Code Section 16-12-100;

8 (4) Any offense involving marijuana or a controlled substance, as provided for in
 9 Chapter 13 of Title 16;

10 (5) Any offense involving theft, as provided for in Articles 1 and 2 of Chapter 8 of Title
 11 16; or

12 (6) Unlawfully operating a motor vehicle after being declared a habitual violator for
 13 violating Code Section 40-5-54, 40-6-391, 40-6-392, or 40-6-394 or any combination of
 14 such Code sections.

15 (b) If the local board of education determines that the matters reported under subsection
 16 (a) of this Code section warrant investigation, then the local board of education shall,
 17 within a reasonable period of time but not later than 30 days from receipt of the report,
 18 transmit such report to the commission with a request for investigation. The reporting
 19 administrator and the local board of education shall have a good faith, reasonable basis to
 20 believe that the incident occurred or evidence exists and shall, in the written report, set
 21 forth such basis and detail the nature of the incident, evidence, and names of any and all
 22 known witnesses; and in so reporting the administrator and the local board shall be immune
 23 from any civil or criminal liability that might otherwise be incurred or imposed.

24 (c) The willful failure of any such local school system administrator to comply with
 25 subsection (a) of this Code section shall be grounds for the commission's recommending
 26 to the local board of education or the State Board of Education, or both, imposition on the
 27 administrator of any of the disciplinary actions set forth in Code Section 20-2-984.5.

28 (d) The reporting requirements set forth in this Code section are in addition to and not a
 29 substitute for any and all other reporting requirements related to child abuse which exist
 30 under Georgia law.

31 20-2-984.3.

32 (a) Upon receipt of a written request from a local board, the state board, or one or more
 33 individual residents of this state, the commission shall be authorized to investigate:

34 (1) Alleged violations by an educator or a local board member of any law of this state
 35 pertaining to educators or the profession of education;

1 (2) Alleged violations by an educator of the code of ethics ~~of the commission~~ for
2 educators or alleged violations by a local board member of the code of ethics for local
3 board members;

4 (3) Alleged violations by an educator of rules, regulations, or policies of the state board
5 or the commission;

6 (4) Complaints alleging a failure by an educator to meet or comply with standards of
7 performance of the commission or the state board; or

8 (5) Complaints alleging that an educator or a local board member has been convicted of
9 any felony or of any crime involving moral turpitude in the courts of this state or any
10 other state, territory, or country or in the courts of the United States. As used in this
11 paragraph, the term 'convicted' shall include a finding or verdict of guilty or a plea of
12 nolo contendere, regardless of whether an appeal of the conviction has been sought; a
13 situation where first offender treatment without adjudication of guilt pursuant to the
14 charge was granted; and a situation where an adjudication of guilt or sentence was
15 otherwise withheld or not entered on the charge or the charge was otherwise disposed of
16 in a similar manner in any jurisdiction.

17 (b) The commission shall decide whether to conduct a preliminary investigation pursuant
18 to this Code section within 30 days of the request unless an extension is granted pursuant
19 to the procedure outlined in subsection (b) of Code Section 20-2-984.5. The commission
20 may appoint a committee of its membership with the power to transact and carry out the
21 business and duties of the commission when deciding whether to conduct a preliminary
22 investigation.

23 (c) When an educator admits on a Professional Standards Commission application to
24 having resigned or being discharged for committing a felony or misdemeanor involving
25 moral turpitude or being under investigation by law enforcement authorities for such
26 conduct or for committing a breach of the code of ethics or for a violation of state
27 education laws or having a criminal history or having had a surrender, denial, revocation,
28 or suspension of a certificate or being the subject of an investigation or adverse action
29 regarding a certificate, an investigation will automatically open without notification to the
30 commission and with written notification to the educator.

31 20-2-984.4.

32 (a) If the commission agrees to investigate matters reported under Code Section
33 20-2-984.2 or Code Section 20-2-984.3, an investigator of the commission shall conduct
34 a preliminary investigation of the reported matters to determine if probable cause exists to
35 recommend disciplinary action. Prior to beginning such investigation, the commission shall

1 send written notification to the local board employing the educators or the local board
2 whose member is the subject of the proceedings of the following:

3 (1) The names and addresses of the parties making the complaint that gave rise to the
4 proposed investigation;

5 (2) The names of the educators employed by the local board who are proposed to be
6 investigated or the local board member who is proposed to be investigated; and

7 (3) An explanation of the complaint made against the local board member or the
8 educators employed by the local board.

9 (b) In conducting an investigation authorized by this Code section, the commission shall:

10 (1) Be authorized to conduct plenary hearings;

11 (2) Have the power to administer oaths and affirmations;

12 (3) Have the power to issue subpoenas in the name of the commission to compel the
13 attendance of witnesses and the production of documents and any other things to be used
14 as evidence. Such subpoenas shall be served in any manner now or hereafter provided for
15 service of subpoenas issued by the superior courts. In the event any person fails or refuses
16 to obey a subpoena issued under this paragraph, such failure or refusal shall constitute
17 contempt of the commission. Upon application by the commission to the superior court
18 of the county wherein such person resides or is found, the superior court shall have
19 power, after notice and hearing, to adjudge such person in contempt and to punish such
20 person by a fine not exceeding \$300.00 or by imprisonment not exceeding 20 days or by
21 both such fine and imprisonment and to enter such other orders and take such other action
22 as may be necessary to enforce compliance with and obedience to the subpoena. At such
23 hearing, the person subpoenaed shall be entitled to make any defense and to show any
24 valid reason why he or she failed or refused to comply with the subpoena; and

25 (4) Have the power to access criminal histories of educators and local board members
26 through the Georgia Crime Information Center and the National Crime Information
27 Center. This access shall include a GCIC terminal. Information provided by GCIC or
28 NCIC shall be used in accordance with Code Section 35-3-35 and with applicable federal
29 and state laws, rules, or regulations.

30 (c) The investigation conducted pursuant to this Code section is limited to the matters
31 asserted in the written complaint unless additional written complaints are filed. The
32 commission shall be authorized to investigate any matters raised in any such additional
33 complaints while investigating the original complaint.

34 (d) Prior to being contacted by an investigator, but in no event later than the completion
35 of the investigation conducted pursuant to this Code section, the educator or local board
36 member shall receive written notification that he or she is the subject of an investigation
37 and shall also receive written notification of the allegations against him or her. In addition,

1 the educator or local board member shall be notified that the investigation shall be limited
 2 to those allegations unless additional written allegations are filed.

3 (d.1) Upon the local board member's or educator's receipt of written notification that an
 4 ~~educator~~ such person is the subject of such investigation, it shall be the duty of ~~the educator~~
 5 such person to notify the commission in writing of any change in the ~~educator's~~ such
 6 person's home or employment address until the commission issues a final decision in the
 7 matter. During this period, the mailing by certified mail of any notice, correspondence, or
 8 order regarding an investigation or disciplinary action to the last address specified by the
 9 local board member or educator after receiving written notice of the investigation or, if the
 10 commission has not received a change of address from ~~the educator~~ such person, the
 11 address at which ~~the educator~~ such person received written notification of an investigation,
 12 shall constitute proper notice to ~~the educator~~ such person. If the commission has been
 13 notified in writing that the local board member or educator is represented by legal counsel,
 14 the commission shall also send a copy of any notice to ~~the educator's~~ such person's legal
 15 counsel. Notice by certified mail pursuant to this subsection shall be complete upon
 16 mailing.

17 (e) In no event shall a preliminary investigation take longer than 60 days without written
 18 permission from the commission, at which time a written finding of probable cause, or that
 19 no probable cause exists, must be made to the commission.

20 (f) No applicant who is under investigation by the commission shall be allowed to
 21 withdraw his or her application for a certificate, permit, or other certification document
 22 without the written consent of the commission. The commission shall retain its authority
 23 over those applicants to proceed with the denial of the certificate, permit, or other
 24 certification document upon any ground provided by law. The suspension or expiration of
 25 any certificate, permit, or certification document, or its surrender without the written
 26 consent of the commission, shall not deprive the commission of its authority to do any of
 27 the following:

- 28 (1) Institute or continue an investigation or a disciplinary proceeding against the holder
- 29 of a certificate, permit, or other certification document upon any ground provided by law;
- 30 (2) Enter an order denying, suspending, or revoking the certificate, permit, or other
- 31 certification document; or
- 32 (3) Issue an admonition to the holder of a certificate, permit, or other certification
- 33 document.

34 20-2-984.5.

35 (a) After a preliminary investigation authorized by Code Section 20-2-984.4, the
 36 commission shall review the report of the investigator and either determine that no further

1 action need be taken or recommend that a particular disciplinary action be imposed. This
 2 determination shall be made no later than the commission's regularly scheduled meeting
 3 next occurring after 60 days from receipt of the findings of the preliminary investigation.

4 (b) Prior to the expiration of that period referred to in subsection (a) of this Code section,
 5 the commission may extend the review period if unusual and compelling circumstances
 6 render it impracticable for the commission to complete its review within such period. Any
 7 such order shall recite with particularity the circumstances which render it impracticable
 8 for the commission to complete its review within such period. Any such extension by the
 9 commission shall be for a period of time not to exceed 30 days. Prior to the expiration of
 10 the extended review period, the review period may be further extended by further order of
 11 the commission for one additional period not to exceed 30 days if unusual and compelling
 12 circumstances render it impracticable to complete the review within the extended review
 13 period. Such further order further extending the review period shall likewise recite with
 14 particularity the circumstances which render it impracticable for the commission to
 15 complete its review within the review period as previously extended. Notwithstanding any
 16 provision of this subsection to the contrary, in cases where there are pending criminal
 17 charges against an educator or local board member, the commission, on its own motion or
 18 in response to a request by an educator or local board member, may enter an order
 19 extending the review period until the criminal charges have been fully resolved.

20 (c) If the commission finds that there is probable cause for imposing a sanction against the
 21 local board member or educator, it may recommend any combination of the following:

22 (1) That the local board member or educator be warned, reprimanded, monitored, or any
 23 combination thereof; or

24 (2) That the certificate of ~~the~~ an educator be suspended, revoked, or denied.

25 The commission shall provide to the local board member or educator, at the time of the
 26 initial probable cause finding, a written summary statement of the findings of fact upon
 27 which the probable cause was determined.

28 (d) In a contested case, if the commission determines that probable cause exists to impose
 29 a sanction against an educator or local board member or to deny a certificate to an
 30 applicant, an opportunity for a hearing shall be provided to ~~the educator or applicant~~ such
 31 person pursuant to Code Section 50-13-41. Based on the findings of fact and conclusions
 32 of law of the administrative law judge as provided in that Code section, the commission
 33 may take any combination of the actions referred to in subsection (c) of this Code section.

34 (e) If after reviewing the findings of the preliminary investigation the commission finds
 35 that no probable cause exists to recommend disciplinary action or the educator or local
 36 board member investigated is exonerated after a hearing, then all records of the
 37 commission's investigation and of any hearing by the Department of Education or the State

1 Board of Education, including all reports received pursuant to this subsection, made
2 pursuant to this Code section and pertaining to the ~~educator~~ person investigated shall be
3 completely expunged.

4 (f) In addition to making recommendations pursuant to subsection (c) of this Code section,
5 the commission may provide consultative services pertaining to the teaching profession to
6 anyone who has a vested interest in education and make recommendations to the state
7 board or to local boards which will promote an improvement in the teaching profession.
8 The commission shall be authorized to hold meetings for the purposes of determining
9 recommendations pursuant to this subsection; and, at such meetings, the commission may
10 receive testimony from educators or other persons interested in the improvement of the
11 teaching profession; but the powers provided by subsection (d) of this Code section may
12 not be exercised pursuant to the authority of this subsection."

13

SECTION 2.

14 All laws and parts of laws in conflict with this Act are repealed.