

From: Admin and Rules <DOEAdminRules@state.sd.us>
Sent: Friday, June 23, 2023 7:00 AM
To: DOE Admin Rules <DOEAdminRules@state.sd.us>
Subject: Comment on : ARSD 24:08:01:01, 24:08:02:04, and 24:08:03:03

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Comment: The South Dakota Education Association (SDEA) expresses the following concerns regarding the proposed revisions to ARSD 24:08:03:03. Obligations to the Profession. The proposed changes would require teachers to report non-privileged knowledge regarding another teacher violating the code of ethics or face charges that they themselves have violated the code of ethics, running the risk of action being taken against their teaching certificate. As written, the proposed change to ARSD 24:08:03:03 can be viewed as redundant, i.e., the proposed change requires educators to report already existing code of ethics violations to the entity which determined the violations being reported existed. SDCL 13-42-9(2), and the statutory scheme of SDCL 13-43-17 et seq, makes it clear that only the Professional Teachers Standards and Practices Commission has the authority to determine that violations of the code of ethics exist. Teachers do not have that authority; the only way a teacher would have such knowledge is after the Commission has made such a determination. It makes no logical sense to require a teacher to report something after the fact to the Commission that made the determination in the first place. Perhaps the intent of the proposed change to ARSD 24:08:03:03 is to require teachers to report alleged violations of the code of ethics to the Commission. SDEA views such an intent as potentially creating unintended consequences for teachers and for the Commission itself. Such an intent requires teachers to become informants against the colleagues and administrators. Such a role would have the effect of undermining the collaborative environment schools need to create the conducive educational setting students require. Such a role as it relates to administrators would put teachers in a precarious position: either comply with the code of ethics or potentially alienate the person who holds the teacher's continued employment in his/her hands. Such a role could exacerbate the growing teacher shortage, creating one more potential obligation on already overworked and overburdened educators who may then decide enough is enough and leave the profession. Such a reporting requirement would more than likely lead to an increased workload for the Commission itself. In order to protect their own teaching certificates, it is not out of the realm to see teachers erring on the side of caution and reporting any little information they might consider a code of ethics violation. Some teachers may use the obligation to report as a method of retaliation or bullying. As the system is currently set up, the person or entity making the complaint to the Commission is the one who "prosecutes" the complaint. Will this continue or will the Commission hire someone to "prosecute" these types of claims? While there is no question teachers need to be cognizant of their code of ethics, such a reporting requirement would require teachers to be versed in the code of ethics to an extent that probably has not heretofore existed. Will the Department of Education become obligated to provide training/education in the code of ethics? Would school districts become obligated to do so? The proposed change to ARSD 24:08:03:03 does not distinguish the type of knowledge needed to trigger the reporting requirement. As written, any knowledge, whether large or miniscule, reasonable or unreasonable, would trigger the reporting requirement. Many reporting requirements contain a reasonable knowledge standard. If the Commission believes a reporting requirement is necessary, SDEA suggests the requirement be on a reasonable knowledge basis. For all the reasons above, SDEA respectfully requests the Commission to reconsider the need for the proposed change to ARSD 24:08:03:03. Anne Plooster General Counsel South Dakota Education Association