

Proposed Amendment to SB 39

**Section 1.** That chapter 13-10 be amended with a NEW SECTION:

~~If the board of a school district, governing board of an accredited school, a superintendent, or chief administrator has reasonable cause to suspect an employee has violated the code of professional ethics adopted by the Professional Educators Practices and Standards Commission pursuant to § 13-43-25, the superintendent or chief administrator shall, within fifteen days, report the alleged violation and the name of the employee to the director of certification within the Department of Education. Any information reported is not a public record under chapter 1-27 superintendent or chief administrator who fails to report under this section is subject to sanctions found in § 13-8-48.~~

**Section 5.** That § 13-42-14 be AMENDED:

The ~~At the~~ hearing referenced in § 13-42-12 ~~may be either private or public,~~ as the certificate holder may ~~elect,~~ and the certificate holder may appear in person or by counsel and produce evidence at the hearing. Each witness shall be sworn before testifying, and the official conducting the hearing may administer the oath prescribed by law for witnesses in judicial proceedings. ~~A~~ The Professional Educators Practices and Standards Commission shall make a record, in writing, shall be made of the proceedings and ~~of all~~ evidence produced at the hearing and ~~shall be filed~~ shall file the record with the department upon conclusion of the hearing. The hearing ~~shall~~ must be held in Pierre unless good cause is shown to justify moving the hearing to another location for the convenience of the parties and witnesses.

**Section 7.** That § 13-42-17 be AMENDED:

Each complaint and answer referenced in § 13-42-12, and ~~all~~ any other investigative information regarding potential discipline of an applicant or certificate holder in the possession of the department, or the Professional Teachers Educators Practices and Standards Commission, and the Professional Administrators Practices and Standards Commission is confidential and not a public record under chapter 1-27 ~~until the commission votes in favor of conducting a contested case hearing.~~

~~This~~ The complaint, answer, and any investigative information may be discovered and disclosed as part of a disciplinary proceeding initiated pursuant to this ~~chapter 13-42 or chapter 13-43~~. In addition, if disciplinary action is imposed by the secretary or a the commission pursuant to this ~~chapter 13-42 or chapter 13-43~~, ~~this~~ the complaint, answer, and any investigative information may be disclosed to authorities within this state, another state, the District of Columbia, or a territory or country in which the applicant or certificate holder holds a certificate or has applied for a certificate.

**Section 8.** That § 13-42-17.1 be AMENDED:

The final decision of the secretary regarding a certificate, along with the findings of fact and conclusions of law, is a public record. ~~If the certificate holder requests a private hearing pursuant to § 13-42-14, the written record and evidence from the hearing, including the findings of fact and conclusions of law, are confidential unless adopted by the secretary as part of the final decision. However, if disciplinary action is imposed by the secretary or a commission pursuant to this ~~chapter 13-42 or chapter 13-43~~, the written record and evidence from the hearing may be disclosed to authorities within this state, another state, the District~~

of Columbia, or a territory or country in which the applicant or certificate holder holds a certificate or has applied for a certificate.

**Section 9.** That § 13-43-17 be AMENDED:

There is hereby created the South Dakota Professional ~~Teachers~~ Educators Practices and Standards Commission, which ~~shall consist~~ consists of ~~seven~~ nine members:

- (1) ~~Six representative~~ Four ~~three~~ three members who are employed as full-time teachers hold an active teaching certificate, at least four one of whom shall be classroom teachers.  
~~None of the six representatives may be school administrators holds an educational specialist certificate as a school counselor or school psychologist; and~~
- (2) Four ~~three~~ three members who hold an active administrator certificate, at least one of whom holds a school business official permit; and
- (3) One ~~representative from the general public member~~ who is neither teacher nor school board member does not hold a teaching or administrator certificate, and who is either a member of a board of a school district or a parent of a pupil student attending an approved twelve-year program of education a school district in this state, or both.

**Section 15.** That § 13-43-21 be AMENDED:

The Professional ~~Teachers~~ Educators Practices and Standards Commission shall meet ~~on~~ at the call of the chairperson ~~who, however,~~. The chairperson shall call a meeting upon request of four if requested by at least five of the members.