
James O. Sales
Restoration

The Background:

Prior History: In January 2016, the Board revoked Mr. Sales's educator license effective June 13, 2011 after he pleaded guilty to three counts of Misuse of Social Security Number and Aiding and Abetting, pursuant to 42 U.S.C. 408(a)(7)(b). His conviction was the result of Mr. Sales having a surrogate take the PRAXIS exam on his behalf.

Facts: On July 13, 2021, Mr. Sales submitted an application to restore his Tennessee educator license. As part of his application, Mr. Sales submitted a personal statement, proof that he has completed the terms of his probation related to the above referenced crimes, proof that he has taken and passed the required PRAXIS exam on his own, his resume, and several letters of recommendation.

Applicable Rule

/Law: 0520-02-03-.09(1)(a), (d) provides that the Board may revoke, suspend, formally reprimand, or refuse to issue or renew an educator's license for conviction of a felony, or falsification or altering of a license or documentation required for licensure. (January, 2016)

0520-02-03-.09(7)(b)(1) provides that an individual whose license has been revoked under this rule may apply to the State Board to have the license restored upon application showing that the cause for revocation no longer exists and that the person has complied with any terms imposed in the order of revocation. To show the cause no longer exists, the individual shall show cause why the license should be restored despite the misconduct that resulted in the individual's license being revoked. The individual shall provide evidence of rehabilitation and fitness to perform the duties authorized and required by the license sought. In the case of a felony conviction, the individual shall also show that any sentence imposed, including any pre-trial diversion or probationary period, has been completed. Application for such restoration shall be made to State Board counsel.

0520-02-03-.09(7)(b)(3) provides that in any deliberation by the Board of Education to restore a license that has been revoked, there shall be a rebuttable presumption that an individual whose license has been revoked is unfit for licensure. Nothing in this rule is intended to guarantee restoration of a license.

0520-02-03-.09(7)(b)(4) provides Restoration of an educator license is considered on a case-by-case basis. The burden of proof rests with the individual applying for restoration of the license. An application for restoration may be denied if an action against the individual's educator license has been taken or is pending in another state.

Board Policy 5.500 License Restoration.
Guidelines for Consideration of License Restoration Applications

Restoration after Revocation of License:

- a. Board Rule 0520-02-03-.09 allows an individual whose educator license was revoked under paragraphs (3), (4), or (5) of that Rule, except those individuals whose licenses have been permanently revoked or whose licenses have expired, to apply to the State Board to have the license restored. Individuals applying for restoration shall submit the restoration application contained in Appendix A to this policy. Before the application is considered, the applicant must show that the cause for revocation no longer exists and that the person has complied with any terms imposed in the order of revocation. Additionally, in the case of a felony conviction, the individual shall also show that any sentence imposed, including any pre-trial diversion or probationary period, has been completed. Applications also may not be considered if an action against the individual's educator license has been taken or is pending in another state.
- b. Restoration of a revoked license is considered on a case-by-case basis. The burden of proof rests with the individual applying for the license. To show that the cause no longer exists, the individual must show why the license should be restored despite the misconduct that led to the individual's license being revoked. The individual shall provide evidence of rehabilitation and fitness to perform the duties authorized and required by the license sought.
- c. When Board counsel receives an application for restoration, the Board staff case review committee reviews the application and the file to make a recommendation regarding whether restoration should be granted, or if additional investigation is necessary. This committee consists of the Executive Director of the State Board or his/her designee, counsel for the Board, and at least one (1) other staff member.
 - i. The applicant may submit to Board counsel a personal statement and any other mitigating information that he or she would like the case review committee to consider in making its recommendation. This information will also be provided to Board members for their consideration when voting on a proposed licensure action.

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The case review committee and/or the Board may consider (but is not limited to) the following in reviewing restoration applications:

- i. Likelihood of present harm or potential for continuing harm to students, parents of students or school personnel.
- ii. Details of the offense(s) which led to the disciplinary action:
 1. Terms of any sentence imposed, including probation, community service, etc.;

2. Amount of time that has passed since the arrest;
 3. The relationship between the offense and the duties and responsibilities of the education profession; and
 4. Likelihood of recurrence (as shown, for example, by lack of remorse or lack of rehabilitative motivation or potential).
- iii. Attempted concealment of misconduct, including failure to report any criminal charges on an initial license application.
 - iv. Prior misconduct of a similar or related nature (including prior criminal history).
 - v. Compliance with any terms imposed in a voluntary withdrawal of a license application, voluntary surrender of a license or suspension.
 - vi. Rulings on restoration applications under similar circumstances.*
 - vii. Evidence of rehabilitation relevant to the conduct that resulted in disciplinary action, such as:
 1. Completion of any sentence imposed, including probation;
 2. Participation in counseling, self-help support groups, community service;
 3. Gainful employment subsequent to the conduct; and
 4. Family and community support (shown, for example, through affidavits or letters of character from leaders of community or religious organizations).
 - viii. Fitness for practice as an educator:
 1. Continuing education since the discipline was imposed;
 2. Offers of employment for educational positions; and
 3. Letters of recommendation for educational positions.
 - ix. Any other relevant factors.

* To assist in deliberations, Board staff shall maintain a list of all restoration requests, along with the following information:

- i. Grounds for disciplinary action;
- ii. Time elapsed since denial or revocation;
- iii. Supporting material provided by applicant; and
- iv. Whether the application was granted or denied.

Status: Respondent was notified by electronic mail of the Board's intent to restore his educator license based upon these findings. Respondent received said notice.

Board Action Consistency Considerations:

November 2019 – Board restored an educator's license after being revoked due to involvement in PRAXIS exam conspiracy. The educator took the PRAXIS exam on behalf of applicants for a Tennessee educator license and pleaded guilty to Conspiracy to Defraud the United States in 2012.

May 2019 - Board restored an educator's license after being revoked due to involvement in PRAXIS exam conspiracy. The educator paid a surrogate to take the PRAXIS exam, but prior to applying for restoration took and passed the exam on his own.

February 2019 - Board restored an educator's license after being revoked due to involvement in PRAXIS exam conspiracy. The educator took the PRAXIS exam on behalf of applicants for a Tennessee educator license and pleaded guilty to Conspiracy to Defraud the United States in 2012.

May 2020 – Board restored an individual's license after being revoked due to involvement in the PRAXIS scheme. The educator paid a surrogate to take the PRAXIS exam, but prior to applying for restoration took and passed the exam on his own.

May 2021 – Board restored an individual's license after being revoked due to involvement in leading a PRAXIS testing scheme that assisted at least 40 educators in the unauthorized practice of teaching by hiring surrogates to sit for the PRAXIS exams. Educator pled guilty to multiple counts of fraud and conspiracy to in 2013.

The Recommendation:

Pursuant to Board Policy 5.500, the Board staff recommends that Educator's license be restored based upon the policy considerations deemed relevant by the Board to show that an educator has been sufficiently rehabilitated to warrant license restoration.