

WAC 181-86-116 Investigative priorities—Levels of acts or omissions of misconduct. (1) In prioritizing the investigation of alleged misconduct, lack of fitness, or unprofessional conduct by an education practitioner, the superintendent of public instruction or designee may consider the following in order from Level I of higher priority to Level IV of lower priority.

In determining priority for investigation, the superintendent of public instruction or designee may also consider the efficient use of available resources, the relative urgency or lack of urgency in resolving various complaints in the public interest, the provisional contract status of the education practitioner, and the right to recommend forms of discipline appropriate to the offenses committed.

(a) **Level I.** Level I actions are those allegations, if proven true, for which permanent mandatory revocation is the appropriate disciplinary action. They include the following convictions for which permanent revocation of a certificate is mandatory under RCW 28A.410.090. The following convictions are as described under RCW 28A.400.322.

(i) Guilty plea or conviction occurring after July 23, 1989, and before July 26, 2009, for any of the following felony crimes:

(A) Any felony crime involving the physical neglect of a child under chapter 9A.42 RCW;

(B) The physical injury or death of a child under chapter 9A.32 or 9A.36 RCW, except motor vehicle violations under chapter 46.61 RCW;

(C) Sexual exploitation of a child under chapter 9.68A RCW;

(D) Sexual offenses under chapter 9A.44 RCW where a minor is the victim;

(E) Promoting prostitution of a minor under chapter 9A.88 RCW;

(F) The sale or purchase of a minor child under RCW 9A.64.030;

(G) Violation of laws of another jurisdiction that are similar to those specified in (a)(i)(A) through (F) of this subsection.

(ii) Guilty plea or conviction for any felony crime, including attempts, conspiracies, or solicitations to commit a felony crime, occurring on or after July 26, 2009, involving:

(A) A felony violation of RCW 9A.88.010, indecent exposure;

(B) A felony violation of chapter 9A.42 RCW involving physical neglect;

(C) A felony violation of chapter 9A.32 RCW;

(D) A violation of RCW 9A.36.011, assault 1; RCW 9A.36.021, assault 2; RCW 9A.36.120, assault of a child 1; RCW 9A.36.130, assault of a child 2; or any other felony violation of chapter 9A.36 RCW involving physical injury except assault 3 where the victim is eighteen years of age or older;

(E) A sex offense as defined in RCW 9.94A.030;

(F) A violation of RCW 9A.40.020, kidnapping 1; or RCW 9A.40.030, kidnapping 2;

(G) A violation of RCW 9A.64.030, child selling or child buying;

(H) A violation of RCW 9A.88.070, promoting prostitution 1;

(I) A violation of RCW 9A.56.200, robbery 1; or

(J) A violation of laws of another jurisdiction that are similar to those specified in (a)(ii)(A) through (I) of this subsection.

(b) **Level II.** Level II actions are those allegations, if proven true, for which revocation may be the appropriate disciplinary action. They include, but are not limited to the following:

(i) Sexual activity with children and/or students;

(ii) Engaging in acts of violence leading to bodily injury;

(iii) Selling and/or manufacturing illegal drugs; or
(iv) Other activity that if convicted would result in a felony conviction.

(c) **Level III.** Level III actions are those allegations, if proven true, for which suspension may be the appropriate disciplinary action. They include, but are not limited to the following:

(i) Illegal drug possession and/or use;
(ii) Threats related to persons or property;
(iii) Alcohol abuse;
(iv) Reckless conduct where no bodily injury results;
(v) Engaging in unauthorized corporal punishment;
(vi) Verbal or physical sexual harassment of students;
(vii) Engaging in activity that demonstrates poor professional judgment; or

(viii) Other activity that if convicted would result in a misdemeanor conviction.

(d) **Level IV.** Level IV actions are those allegations, if proven true, for which a reprimand may be the appropriate disciplinary action. They include, but are not limited to the following:

(i) Practicing with a lapsed or expired certificate, or a certificate not valid for the position;
(ii) Isolated failure to timely evaluate certificated personnel;
or

(iii) Intentionally hiring a person for a certificated role who does not possess a valid certificate.

(2) All cases shall be monitored periodically to determine if their priority level should change as a result of information uncovered during the investigation.

[Statutory Authority: Chapter 28A.410 RCW. WSR 21-08-022, § 181-86-116, filed 3/29/21, effective 4/29/21. WSR 06-02-051, recodified as § 181-86-116, filed 12/29/05, effective 1/1/06. Statutory Authority: RCW 28A.150.290(1). WSR 02-19-050, § 180-86-116, filed 9/11/02, effective 10/12/02. Statutory Authority: RCW 28A.410.010. WSR 97-05-008, § 180-86-116, filed 2/7/97, effective 3/10/97.]