

## Legal Issues and Teacher Licensure

October 2019

This handout is designed to inform those students with criminal records or diversions in their past. Feel free to visit with your Education advisor if you have concerns, but **since we are not lawyers, you may want to visit with a professional lawyer if you have specific questions.**

We are sharing this information with students in all Kansas teacher preparation programs. There are essentially two times when your criminal history could limit your ability to become a licensed teacher: first, when we ask K-12 school districts to accept you for field placements/student teaching, and second, when you apply for a teaching license with KSDE or any other state.

**Field Placements:** all local districts in NE Kansas require background clearances from Validity; you may have to do 1-2 of these during your time at KU. **If crimes or diversions related to theft, drugs or children appear on your Validity clearance, it may be difficult or impossible for KU to secure your field experiences, which are required to complete your degree and licensure program.**

**Licensure:** The Kansas State Department of Education (KSDE) requires a fingerprint-based background clearance before they will issue *any* teaching license. Cost is \$50. You must apply for the license within six months of the submission of your fingerprint card; allow at least 4 weeks for the clearance to be completed.

**All teacher education students with ANY prior crime related to KSDE criminal questions (below) should try to get the record officially “expunged” before requesting a background clearance for licensure.** Typically, expungement is allowed 3-5 years after completion of the diversion (varies by court and charge). **Criminal history questions on licensure applications vary from state to state**, and should be read carefully and **answered honestly**. Here are the current KSDE questions from a current application form:

**Please read the following questions very carefully. Failure to accurately answer these questions or submit appropriate documents will delay the issuance of your license. Unless expunged, you are required to disclose both adult and juvenile offenses.**

**12. a. Have you EVER been convicted of a felony?** NO\_\_ YES\_\_ If yes, please attach a certified copy of the charging document and of the journal entry of conviction.

**b. Have you EVER been convicted of ANY crime involving theft, drugs, or a child?** NO\_\_ YES\_\_ If yes, please attach a certified copy of the charging document and of the journal entry of conviction.

**c. Have you EVER entered into a diversion agreement or otherwise had a prosecution diverted after being charged with any felony or any crime involving theft, drugs, or a child?** NO\_\_ YES\_\_ If yes, please attach a certified copy of the charging document, the diversion agreement, and the journal entry closing that case.

**d. Are criminal charges pending against you in any state involving any felony or any crime involving theft, drugs, or a child?** NO\_\_ YES\_\_ If yes, please attach a certified copy of the charging document.

**e. Have you had a teacher’s or school administrator’s certificate or license denied, suspended, revoked or been the subject of other disciplinary action in any state?** NO\_\_ YES\_\_ If yes, please indicate the action taken: denied, suspended or revoked. Which state(s)? \_\_\_\_\_ Please attach a copy of the documents regarding the official action taken.

**f. Is disciplinary action pending against you in any state regarding a teacher’s or administrator’s certificate or license?** NO\_\_ YES\_\_ If yes, please attach a copy of the official documents regarding the action pending against you.

**g. Have you ever been disbarred or had a professional license or state issued certificate denied, suspended, revoked or been the subject of other disciplinary action regarding any profession in Kansas or any other state?**

NO \_\_ YES\_\_ If yes, please indicate the action taken: denied, suspended or revoked. Which state(s)? \_\_\_\_\_ Please attach a copy of the documents regarding the official action taken.

**h. Have you ever been terminated, suspended, or otherwise disciplined by a local Board of Education for falsifying or altering student tests or student test scores?** NO\_\_ YES\_\_ If yes, which district(s)? \_\_\_\_\_ When? \_\_\_\_\_

**i. Have you ever falsified or altered assessment data, documents, or test score reports required for licensure?** NO \_\_ YES\_\_ If yes, what state(s)? \_\_\_\_\_ When? \_\_\_\_\_

As you read these questions, note that alcohol is not indicated above, so you do not have to report alcohol-related incidents like an MIP (minor in possession), MIC (minor in consumption) or misdemeanor DUI due to alcohol. If any of these appear as your only charge/conviction, you can answer all questions on the Kansas licensure application “no”.

(Be aware that in other states, like MO, alcohol crimes may impact licensure, and some school districts may consider alcohol crimes for student teachers and employees.) A DUI for Drugs or any felony DUI should be reported.

“Fake ID” does not need to be reported. Last year, KSDE lawyers were re-considering this crime but we checked recently and they have decided against considering it under the category of “theft”.

**WHEN IN DOUBT, REPORT IT!** (If you answer “yes” to any legal question, you’ll need to contact your Licensure Officer to get a hardcopy Form 1 application so you can attach certified copies of court documents.)

**NOTE: Question 12c refers to ALL diversions you EVER had – including juvenile diversions.**

If you:

- assume or have been told your diversion took the crime off your record – it does not.
- are “not sure” whether you had something expunged, you probably have not.
- assume you don’t have to report it because you were a juvenile – you must report it.
- “forgot” your past record and you don’t reveal it, this is considered dishonesty and creates another issue with KSDE who will aggressively review your case. **Do not lie.**

**If you receive a letter from the KSDE Office of General Counsel:**

- **follow all directions carefully and submit all documents they request.** KSDE will not provide you with advice or help you obtain those documents;
- you will need to **contact the Clerk of the Court to obtain documents related to your case:**
  - **for Convictions-**
    - obtain certified copies of the charging documents (complaint or citation/ticket); and
    - obtain certified copies of the journal entry of conviction.
  - **for Diversions-**
    - obtain certified copies of the charging documents, and
    - certified copy of the diversion agreement; and
    - certified copy of the journal entry of dismissal.
- **KSDE may ask you to appear before the Professional Practices Commission** (a KSDE committee of working teachers and administrators); and
- any decision from the Professional Practices Commission will go before the State Board of Education for final action. This process takes time.
- having an emergency sub license approved does not guarantee a teaching license will be issued.

**Advice about getting a record expunged:**

- it’s often a simple process that may not require a lawyer;
- it can take a 4-8 weeks to complete;
- start by contacting the court (county or municipal) where the conviction/diversion occurred OR look for the paperwork on the court website;
- check to see if the time required for an expungement has been completed;
- if it can be completed before you apply for a license, work on completing the expungement ASAP;
- if it cannot be completed before you apply for licensure, **REPORT** the crime on your hardcopy licensure application and include copies of the court documents.

If your crime happened in Lawrence Municipal Court, requesting expungement may be fairly easy: go online for the forms and instructions. In most courts, the typical cost for expungement would be \$100-200; with more serious cases, you may want to hire a lawyer. KU students can seek advice from KU Legal Services for Students.

**Again, if your criminal history prevents us from being able to place you for a required field experience or student teaching, you would not be able to complete your education degree or licensure program at KU.** Please visit with your advisor if you have any questions or concerns.

We encourage you to read and follow the *Kansas Educator Code of Conduct* as well.