

LEGISLATIVE BILL 375

Approved by the Governor April 20, 1978

Introduced by Boughn, 21; Maxey, 46

AN ACT relating to schools; to require certain boards to adopt a reduction of force policy; to provide procedures for reduction and reappointment; to provide an operative date; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Prior to January 1, 1979, every board of education or governing board of any educational institution in Nebraska covered by the provisions of sections 79-1254 to 79-1262, Reissue Revised Statutes of Nebraska, 1943, and amendments thereto, shall adopt a reduction in force policy covering employees subject to such statutory provisions to carry out the intent of this act. No such policy shall allow the reduction of a permanent or tenured employee while a probationary employee is retained to render a service which such permanent employee is qualified by reason of certification and endorsement to perform or where certification is not applicable, by reason of college credits in the teaching area. If employee evaluation is to be included as a criterion to be used for reduction in force, specific criteria, such as frequency of evaluation, evaluation forms, and number and length of classroom observations shall be included as part of the reduction in force policy.

Sec. 2. Before a reduction in force shall occur, it shall be the responsibility of the board of education and school district administration to present competent evidence demonstrating that a change in circumstances has occurred necessitating a reduction in force. Any alleged change in circumstances must be specifically related to the teacher or teachers to be reduced in force, and the board, based upon evidence produced at the hearing required by sections 79-1254 to 79-1262, Reissue Revised Statutes of Nebraska, 1943, and amendments thereto, shall be required to specifically find that there are no other vacancies on the staff for which the employee to be reduced is qualified by endorsement or professional training to perform.

Sec. 3. Any employee whose contract shall be terminated because of reduction in force shall be considered to have been dismissed with honor and shall

upon request be provided a letter to that effect. Such employee shall have preferred rights to reemployment for a period of twenty-four months commencing at the end of the contract year and the employee shall be recalled on the basis of length of service to the school to any position for which he or she is qualified by endorsement or college preparation to teach. The employee shall, upon reappointment, retain any benefits which had accrued to said employee prior to termination, but such leave of absence shall not be considered as a year of employment by the district. An employee under contract to another educational institution may waive recall but such waiver shall not deprive the employee of his or her right to subsequent recall.

Sec. 4. Notwithstanding sections 1 to 3 of this act, if the reduction of an employee based upon the provisions of this act would place a district in noncompliance of any federal or state law or regulations requiring affirmative action employment practices, the district may vary from these provisions as necessary to comply with such laws or regulations.

Sec. 5. This act shall become operative on January 1, 1979.

Sec. 6. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.

LEGISLATIVE BILL 380

Approved by the Governor February 21, 1978

Introduced by Burrows, 30

AN ACT to amend sections 71-3818 and 71-3823, Reissue Revised Statutes of Nebraska, 1943, and section 71-3829, Revised Statutes Supplement, 1977, relating to the practice of psychology: to provide for certification to practice clinical psychology as prescribed; to provide duties of the board; to provide for fees; to provide for appeal from actions of the board; to provide penalties; to provide severability; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. As used in this act, unless the context otherwise requires:

(1) Clinical psychology shall mean that branch of psychology concerned with the assessment, diagnosis, and treatment of mental, emotional, and behavioral disorders;

(2) Clinical psychologist shall mean a licensed psychologist who is certified by the State Board of Examiners of Psychologists as qualified to practice clinical psychology;

(3) Clinical experience shall mean experience in assessment, diagnostic, and treatment skills, compatible with current standards accepted by the profession, in populations in which individuals are suffering from mental, emotional, and behavioral disorders; and

(4) Application to the board shall mean applying to the board on forms provided by the board, submitting materials to support credentials, and attaching certification fees to the application.

Sec. 2. (1) The board shall certify as qualified to practice clinical psychology, by review of credentials and without examination, any person (a) who holds a doctoral degree from an accredited institution of higher education, as defined in section 71-3811, in a program of training in clinical psychology approved by the Department of Health upon recommendation of the State Board of Examiners of Psychologists, and (b) who has completed at least one year of postdoctoral clinical experience.

(2) Such training program shall include an internship in a setting in which a portion of the clients served are suffering from mental, emotional, and behavioral disorders and shall provide students with (a) training in assessment and intervention techniques and combine theory and practice throughout such training, (b) values of professional and scientific responsibility, integrity, and identification with the profession, (c) research training and experience, and (d) familiarity with the related fields of anthropology, biology, education, genetics, neurology, psychiatry, and sociology.

Sec. 3. (1) Any person holding a doctoral degree in psychology who does not meet the requirements provided in section 2 of this act shall qualify for certification without examination if such person (a) has completed a clinical internship approved by the Department of Health upon the recommendation of the board, and (b) has completed the equivalent of at least two additional years of clinical experience.

(2) For purposes of this section, approved internship shall mean an internship in which (a) a psychologist with experience in professional training as well as professional practice is responsible for the integrity and quality of the training program, (b) interaction of interns with other professions is encouraged, (c) the internship provides a range of supervised experience in assessment, intervention, and research into the applications of psychology, (d) adequate facilities and training staff is provided, and (e) the internship comprises at least one year of full-time experience or two years of half-time experience.

Sec. 4. Any licensed psychologist with training or experience in clinical psychology which does not meet the requirements of section 2 or 3 of this act shall, upon application to the board, be examined by three licensed psychologists who have been certified as qualified to practice clinical psychology and have been appointed by the board to determine the candidate's qualification. Such examination shall include evaluation of work samples and oral and written questions to determine the candidate's familiarity with and judgment in using a broad range of clinical skills. A psychologist failing such examination may appeal to the board for a hearing and review of the examination. After such hearing and review, the board may grant certification, appoint another examination committee, or affirm the judgment of the original examiners. A psychologist shall be certified by the board upon

recommendation of at least two of the examiners. A psychologist failing such examination may, after one year, be reexamined upon application to the board and payment of another certification fee.

Sec. 5. After July 1, 1979, no licensed psychologist shall represent himself or herself as qualified to practice clinical psychology unless such psychologist has been certified by the board as so qualified. Any licensed psychologist who was engaged in the full-time practice of clinical psychology as of December 1, 1976, and who has had two years of full-time clinical experience may apply not later than July 1, 1979, for certification without examination on the basis of his or her previous experience and licensure.

Sec. 6. That section 71-3818, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-3818. The licensing fee and certification fee, and the annual renewal fee for each, shall be an amount fixed by the board. The board shall fix the amount of the fee so that the total fees collected will be sufficient to meet the expenses of administering sections 71-3801 to 71-3831 and so that unnecessary surpluses in the Psychologists Licensing Fund are avoided. The board may not fix a license fee or certification fee in excess of one hundred dollars or a renewal fee in excess of fifty dollars. The fee for the issuance of a license or certificate issued to replace one which was lost, destroyed, mutilated, or revoked shall be ten dollars. The fee shall accompany the application for replacement.

Sec. 7. That section 71-3823, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-3823. Any person who feels aggrieved by reason of the suspension or revocation of his or her license, the denial of certification, or of the reprimand may file suit within thirty days after receiving notice of the board's order in the district court of the county of his residence, to annul or vacate the order of the board. The suit shall be filed against the board as defendant, and service of process shall be upon either the chairman or the secretary of the board. The suit shall be tried by the court without a jury and shall be a trial de novo, but the burden of proof shall be upon the plaintiff assailing the order of the board. The judgment of the district court may be appealed to the Supreme Court of Nebraska in the same manner as other civil

cases.

Sec. 8. That section 71-3829, Revised Statutes Supplement, 1977, be amended to read as follows:

71-3829. Any person who, after January 1, 1968, represents himself or herself to be a psychologist or engages in the practice of psychology within this state without being licensed or exempted in accordance with the provisions of sections 71-3801 to 71-3831, or after July 1, 1979, represents himself or herself as qualified to practice clinical psychology without being certified, shall be guilty of a Class II misdemeanor. Each day of violation shall be a separate offense.

Sec. 9. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 10. That original sections 71-3818 and 71-3823, Reissue Revised Statutes of Nebraska, 1943, and section 71-3829, Revised Statutes Supplement, 1977, are repealed.

Sec. 11. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.