

ARKANSAS DEPARTMENT OF EDUCATION
RULES GOVERNING THE CODE OF ETHICS FOR ARKANSAS EDUCATORS

June 9, 2008

June _____, 2010

1.00 Title

- 1.01 These rules shall be known as the Arkansas State Board of Education Rules Governing the Code of Ethics for Arkansas Educators.

2.00 Regulatory Authority

- 2.01 These rules are promulgated pursuant to the State Board of Education's authority under Ark. Code Ann. §§ 6-11-105, 6-17-401, 6-17-410, 6-17-422 (~~Act 846 of 2007~~), 6-17-425, 6-17-426 and 25-15-201 et seq.

3.00 Purpose

- 3.01 The purpose of the Rules Governing the Code of Ethics for Arkansas Educators (Code) is to define sStandards of professional conduct and to outline procedures for investigations and enforcement of the Code of Ethics.
- 3.02 The professional, ethical educator contributes to the development and maintenance of a supportive student-centered learning community that values and promotes human dignity, fairness, care, the greater good and individual rights. These values are the ethical premises for the sStandards of professional behavior and ethical decision-making established in this *Code of Ethics for Arkansas Educators*. By establishing Standards of ethical conduct, this code promotes the health, safety, and general welfare of students and educators and ensures the citizens of Arkansas a degree of accountability within the education profession.

4.00 Definitions

For the purposes of these rules, the following terms mean:

- 4.01 **Allegation** is any written and signed statement filed by any person with the Arkansas Department of Education (ADE), local school board, the Arkansas State Board of Education (State Board), or public school superintendent of this state and subsequently filed with the Professional Licensure Standards Board (PLSB) claiming that an educator has breached one or more of the Standards of Professional Conduct as set forth in these rules. An allegation may also include a finding made in an audit report forwarded to the ADE by the Arkansas Legislative Joint Auditing Committee pursuant to Ark. Code Ann. § 6-17-426.
- 4.042 **Complaint** is an allegation that has been: (1) verified by the Chief Investigator of the PLSB as being submitted by an identifiable person; and (2) is based upon reasonable belief by the Ethics Sub-Committee of the PLSB that if the allegation is true, it would constitute a violation of the Standards of Professional Conduct as set forth in

these rules committed by an Arkansas educator after September 1, 2008. The Ethics Sub-Committee of the PLSB shall approve the investigation of any complaint meeting this definition.

- 4.034 **Conviction** includes a plea of guilty or a plea of *nolo contendere*, or a finding or verdict of guilty, regardless of whether an appeal of the conviction has been sought, or a criminal conviction has been sealed or expunged; a situation where first offender treatment without adjudication of guilt pursuant to the charge was granted; and a situation where an adjudication of guilt or sentence was otherwise withheld or not entered on the charge or the charge was otherwise disposed of in a similar manner in any jurisdiction.
- 4.045 **Denial** is the refusal to grant a teaching license to an applicant for a teaching license.
- 4.056 **Dispositions** are the values, commitments, and professional ethics that influence behaviors toward students, families, colleagues and communities and affect student learning, motivation, and development as well as the educator's own professional growth. Dispositions are guided by beliefs and attitudes related to values such as caring, fairness, honesty, responsibility and social justice.
- 4.067 **Educator** is a teacher, school or school system administrator or other education personnel who has been issued a teaching license by the State Board of Education ~~Arkansas State Board of Education~~. For the purposes of the Code, *educator* also refers to a licensed student intern.
- 4.08 **Ethical Violation** is one involving acts or omissions on the part of an educator, when the educator knew, or reasonably should have known, that such acts or omissions were in violation of the Standards of Professional Conduct as set forth in these rules. An ethical violation does not include a reasonable mistake made in good faith, or acts or omissions undertaken in reasonable reliance upon the advice of a supervisor.
- 4.09 **Letter of Concern** is a non-punitive communication from the Ethics Sub-Committee of the PLSB to an educator in response to a complaint against the educator. Letters of Concern may be provided to an educator by the Ethics Sub-Committee of the PLSB in lieu of imposing a sanction such as a warning or reprimand. Letters of concern remain in the files retained by the PLSB Staff, but are not placed in an educator's licensure file at the ADE. A letter of concern does not constitute a sanction for the purposes of the Code of Ethics for Arkansas Educators. As such, letters of concern are not appealable to the Ethics Sub-Committee of the PLSB or the State Board.
- 4.0610 **Monitoring** is at a minimum a semi-annual appraisal of the educator's conduct by the PLSB ~~Professional Licensure Standards Board~~ through contact with the educator and his or her employer. As a condition of monitoring, an educator may be required to submit a criminal background check or other requested information. The ~~Arkansas State Board of Education~~ specifies the length of the monitoring period.

- 4.11 **Preponderance of Evidence** is the greater weight of the relevant evidence. A preponderance of evidence is found when an allegation against an educator is more likely true than not true. It is determined by considering all of the relevant evidence and deciding which evidence is more believable. A preponderance of the evidence is not necessarily determined by the greater number of witnesses or documents presented. If, on any allegation against an educator, it cannot be determined whether the allegation is more likely true than not true, the allegation cannot be considered to have been proved.
- ~~4.07~~12 **Probation** is the placing of conditions, requirements or circumstances on the status of a teaching license for a period of time established by the ~~Arkansas~~ State Board of Education. Generally, an educator whose license is under probation must sufficiently satisfy such conditions, requirements or circumstances in order to maintain or be reinstated to the original non-probationary teaching license status.
- 4.13 **Reasonable belief** is a belief based upon knowledge of facts and circumstances that are reasonably trustworthy, and that would justify a reasonable person's belief that: (1) a violation of the Standards of Professional Conduct as set forth in these rules has been committed; and (2) that the accused educator committed such a violation. A reasonable belief is not based upon mere suspicion or conjecture.
- 4.14 **Relevant evidence** (or material evidence) is evidence having any tendency to make the existence of any fact that is of consequence to the determination of the matter more probable or less probable than it would be without the evidence.
- ~~4.08~~15 **Reprimand** is a written admonishment from the ~~Arkansas~~ State Board of Education to the license holder for his or her conduct. The written reprimand cautions that further unethical conduct will lead to a more severe action and shall become a permanent entry in the licensure file of the educator and is associated with a monetary fine of the educator. In the absence of further unethical conduct, a reprimand will remain in the licensure file of the educator for a period of two (2) years from the date the reprimand is imposed by the State Board. The reprimand will remain permanently in the files retained by PLSB staff.
- ~~4.09~~16 **Revocation** is the permanent invalidation of any teaching license held by the educator.
- ~~4.10~~17 **School-sponsored activity** is any event or activity sponsored by the school or school system which includes but is not limited to athletic events, booster clubs, parent-teacher organizations, or any activity designed to enhance the school curriculum (i.e., foreign language trips, etc.) whether on school-campus or not.
- ~~4.11~~18 **Student** is any individual enrolled in the state's public or private schools from pre-kindergarten through grade 12.
- ~~4.12~~19 **Suspension** is the temporary invalidation of any teaching license for a period of time specified by the ~~Arkansas~~ State Board of Education.

4.1320 **Teaching License** refers to any teaching, service, or leadership certificate, license, or permit issued by authority of the ~~Arkansas State Board of Education~~.

4.1421 **Warning** is a written communication from the ~~Arkansas State Board of Education~~ to the license holder that his or her conduct is unethical. The warning cautions that further unethical conduct will lead to a more severe action and shall become a permanent entry in the licensure file of the educator. In the absence of further unethical conduct, a warning will remain in the licensure file of the educator for a period of two (2) years from the date the warning is imposed by the State Board. The warning will remain permanently in the files retained by PLSB staff.

5.00 Standards of Professional Conduct

The Standards of Professional Conduct are set forth as follows:

- 5.01 **Standard 1: An educator maintains a professional relationship with each student, both in and outside the classroom.**
- 5.02 **Standard 2: An educator maintains competence regarding skills, knowledge, and dispositions relating to his/her organizational position, subject matter, and/or pedagogical practice.**
- 5.03 **Standard 3: An educator honestly fulfills reporting obligations associated with professional practices.**
- 5.04 **Standard 4: An educator entrusted with public funds and property honors that trust with honest, responsible stewardship.**
- 5.05 **Standard 5: An educator maintains integrity regarding the acceptance of any gratuity, gift, compensation or favor that might impair or appear to influence professional decisions or actions and shall refrain from using the educator's position for personal gain.**
- 5.06 **Standard 6: An educator keeps in confidence secure standardized test material as well as information about students and colleagues obtained in the course of professional service unless disclosure serves a professional purpose or is allowed or required by law.**
- 5.07 **Standard 7: An educator refrains from using, possessing and/or being under the influence of alcohol, tobacco, or unauthorized drugs while on school premises or at school-sponsored activities involving students.**

6.00 Disciplinary Action.

- 6.01 The PLSB Professional Licensure Standards Board (Board) is authorized to recommend to the State Board probation, suspension, revocation or denial of a teaching license or the issuance of a reprimand or warning after an investigation is held after notice and an opportunity for a hearing are provided to the license holder.

The PLSB Board is also authorized to recommend other avenues to assist the educator via training, coursework or rehabilitative treatment. (All costs would be assumed by the educator.) The State Board of Education may direct the ADE Arkansas Department of Education to monitor progress toward the completion of any corrective action. Any of the following shall be considered cause for recommendation of disciplinary action against the holder of a teaching license:

- An initial determination by the Ethics Sub-Committee of the PLSB that there is ~~probable cause~~ a reasonable belief that to believe a breach of any of the Standards of Professional Conduct as set forth in these rules ~~Standards of the Code of Ethics in Section 5.00~~ or any conduct described in the offenses set forth in Ark. Code Ann. A.C.A. §§ 6-17-410(c)(1)-(34) has occurred.
- Following an evidentiary hearing before the Ethics Sub-Committee of the PLSB, the Sub-Committee finds, by a preponderance of the evidence, that an educator breached any of the Standards of Professional Conduct as set forth in these rules or any conduct described in the offenses set forth in Ark. Code Ann. § 6-17-410 (c)(1)-(34) has occurred.
- A failure to comply with the payment of any imposed fines.
- Audit reports forwarded to the ADE by the Arkansas Legislative Joint Auditing Committee pursuant to Ark. Code Ann. § 6-17-426.
- Disciplinary action against a teaching license/certificate in another state on grounds consistent with unethical conduct specified in Section 5.00 or as stated in this section. ~~the bullets above in 6.01 of these rules.~~

6.02 An individual whose license has been revoked, denied or suspended may not serve as a volunteer or be employed as an educator, paraprofessional, aide, substitute teacher, official and/or judge of a school-sponsored activity or be employed or in any other position during the period of his or her revocation, suspension or denial for a violation of the Arkansas Code of Ethics for Educators.

6.03 The ~~Arkansas State Board of Education~~ shall notify local and state officials of all disciplinary actions. In addition, suspensions and revocations are reported by the ADE Arkansas Department of Education to national officials, including the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse.

6.04 In lieu of imposing a disciplinary action as set forth above, the PLSB Ethics Subcommittee may provide the accused educator with a letter of concern.

7.00 Procedures for the Investigative Process and Final Determination of Alleged Ethics Violations

7.01 In considering and investigating complaints brought before it, the PLSB Professional Licensure Standards Board shall follow the procedures set forth in *Appendix A* to these rules, which are hereby fully incorporated into these rules as if fully set forth herein.

8.00 Fines and Fees

8.01 The State Board of Education, for violations of these Standards of Professional Conduct in all areas and as authorized by Ark. Code Ann. § 6-17-422 (~~Act 846 of 2007~~):

- a. May impose fines up the amounts listed in *Appendix B* to these rules, which is attached and is hereby fully incorporated into these rules as if fully set forth herein.
- b. Shall impose fees for action taken pertaining to an educator's license as set forth in the attachment *Appendix B*.
- c. Shall use the revenue collected by the State Board of Education from the fees and fines imposed per *Appendix B* of these Rules for the operation of the Professional Licensure Standards Board.

**Procedures for the Investigative Process
and Final Determination of Alleged Ethics Violations**

1. Applicability of the Administrative Procedure Act

All rules, procedures, hearings and appeals relating to the Code of Ethics are subject to the Arkansas Administrative Procedure Act, Ark. Code Ann. § 25-15-201 et seq.

24. Freedom of Information Act (FOIA):

All records, hearings, meetings, and deliberations of the PLSB relating to an ethics complaint against an administrator or teacher are confidential and exempt from the Freedom of Information Act. All records pertaining to an ethics complaint are open for inspection and copying by the person against whom the complaint is lodged. The person against whom the complaint is lodged and his or her representative are entitled to be present during all hearings. A hearing before the State Board to consider the possible revocation, suspension, or other sanction of an administrator's or a teacher's license based on a recommendation of the PLSB for enforcement of an alleged ethics violation, including without limitation an informal disposition by the State Board of an ethics complaint by stipulation, settlement, consent order, or default is open to the public. All records on which the State Board relies during such a hearing to make its decision are subject to public disclosure under the Freedom of Information Act.

32. Allegations:

Any person or party wishing to submit an allegation must use the appropriate allegation form as developed by the PLSB.

43. Allegations Received by the PLSB:

An allegation will become a complaint once it has been: (1) verified by the Chief Investigator of the PLSB as being submitted by an identifiable person; and (2) is based upon a reasonable belief by the PLSB Ethics Subcommittee that if true, would constitute a violation of the Standards of Professional Conduct, as set forth in these rules, committed by an Arkansas educator after September 1, 2008. An allegation shall be processed as follows:

1. Complaint Received by the PLSB:

~~A complaint will be deemed a request to investigate. Except as provided in section iv. below, a request for investigation may be a written and validated signed statement of allegations filed with the Arkansas Department of Education, local school board, the Arkansas State Board of Education, or public school superintendent of this state which may be filed with the Professional Licensure Standards Board (PLSB). The request for investigation will be validated (i.e., verified as actually being submitted by the requestor) by the agency listed above with which it is filed and forwarded as a complaint by that agency to the PLSB. When appropriate, the PLSB will provide a copy of the complaint to the superintendent or the president of the local school board (if the educator in question is the superintendent of the district) where the educator is employed.~~

- i. Initial Review: The Chief Investigator of the PLSB will thoroughly review the allegation and verify that the allegation has been submitted by an identifiable person.

- ii. Authority to Investigate: The Ethics Sub-Committee of the PLSB will determine whether to grant authority to investigate the allegation to the PLSB Staff. Authority to investigate the allegation will be based upon a reasonable belief that the allegation, if true, constitutes a violation of the Standards of Professional Conduct as set forth in these rules and was committed by the alleged educator after September 1, 2008. Any member of the Ethics Sub-Committee of the PLSB who works with or for the educator against whom the allegation is submitted shall recuse himself/herself from any discussion, hearing, or deliberations concerning the accused educator.
- a) Authority to Investigate Denied: If the Ethics Sub-Committee of the PLSB decides not to grant authority to investigate the allegation to the PLSB Staff, the allegation shall be dismissed and the matter shall be closed without further action against the educator.
- b) Authority to Investigate Granted: If the Ethics Sub-Committee of the PLSB grants authority to investigate the allegation, the allegation becomes a complaint. The PLSB Staff shall notify the accused educator in writing concerning the initiation of the investigation and provide the educator with a copy of the complaint. The PLSB Staff shall notify the accused educator in writing that he or she may provide statements or other documents to be included in the final report of investigation.
- c) Automatic Investigation: The following will automatically go to the Ethics Sub-Committee of the PLSB for the opening of an investigation:
- (1) An affirmative answer concerning criminal or ethical violations on a licensure application.
 - (2) Confirmation from the Arkansas State Police or Federal Bureau of Investigation regarding a criminal conviction possessed by the educator.
 - (3) Audit reports forwarded to the ADE by the Arkansas Joint Auditing Committee pursuant to Ark. Code Ann. § 6-17-426.
- iii. Completion of the Investigation: Upon completion of the investigation and final report of investigation, the PLSB staff will send the final report of investigation to the accused educator or his/her attorney. The accused educator or his/her attorney will be allowed fourteen (14) calendar days from receipt of the final report of investigation to submit any further response in writing. At the conclusion of the fourteen (14) calendar days or upon receiving the written response from the educator, the PLSB staff will send the final report of investigation and educator's response to the members of the Ethics Sub-Committee of the PLSB.
- iv. Initial Recommendation of the Ethics Sub-Committee: At the next scheduled meeting of the Ethics Sub-Committee of the PLSB, the Sub-Committee shall review the final report of investigation and any statements or materials provided by the accused educator. Following such a review, if the Ethics Sub-Committee of the

PLSB finds that a reasonable belief exists that the educator violated the Standards of Professional Conduct as set forth in these rules, the Sub-Committee may recommend any appropriate action as set forth in Appendix B.

- a) Notification of the Educator: The PLSB Staff will notify the accused educator in writing of the recommendation of the Ethics Sub-Committee of the PLSB. The accused educator may accept in writing the recommendation of the Ethics Sub-Committee of the PLSB or request in writing an evidentiary hearing before the Ethics Sub-Committee of the PLSB. The PLSB Staff will inform the educator that following an evidentiary hearing, the Ethics Sub-Committee of the PLSB may find that no violation of the Standards of Conduct exists, or could find that a violation of the Standards of Conduct exists and recommend any appropriate action as set forth in Appendix B.
- b) Letter of Concern: The Ethics Sub-Committee of the PLSB may also issue a letter of concern in lieu of recommending an action set forth in Appendix B.
- v. Waiver of Evidentiary Hearing: If an educator fails to respond to notification of the initial recommendation of the Ethics Sub-Committee of the PLSB within thirty (30) days, the initial recommendation will become a final recommendation without an evidentiary hearing and will be forwarded to the State Board for consideration.
 - i. ~~The Ethics Review Sub-Committee determines whether to investigate.~~
 - ii. ~~Letter sent to complainant about disposition of complaint.~~
 - iii. ~~Letter sent to Superintendent or President of the local school board if appropriate about disposition of complaint.~~
 - iv. ~~The following will automatically go to the sub-committee to open an investigation:~~
 - a) ~~An affirmative answer concerning criminal or ethical violations on a licensure application.~~
 - b) ~~Confirmation from the Arkansas State Police or the FBI, regarding criminal convictions.~~

2. ~~Investigation Initiated by Professional Licensure Standards Board (PLSB)~~

- ~~i. A letter will be sent to the educator requesting information/statement.~~
- ~~ii. An Investigation is conducted.~~
- ~~iii. An Investigative Summary will be sent to the Ethics Sub-Committee.~~

3. ~~Probable Cause Determination Made~~

- ~~i. The Ethics Sub-Committee determines if *probable cause* exists to take a recommendation to the State Board of Education for disciplinary action and, if so, what action.~~

4. ~~Proposed Action or Hearing Offered~~

- ~~i. A letter sent notifying the educator and the school district, if appropriate, of proposed PLSB action and the reason for the proposed action.~~

- ii. ~~Educator may consent to the proposed action or may request a hearing before the Ethic Sub-Committee of the PLSB.~~
- iii. ~~If an educator does not respond in thirty (30) days, the proposed action becomes a final decision recommended for Arkansas State Board of Education (SBE) action.~~

5. Subpoena Power:

- i. At the request of a party to a proceeding pending before the PLSB or the State Board, the Chair of the PLSB or the State Board may, as appropriate, issue a subpoena and bring before the PLSB or the State Board as a witness any person in this state. The PLSB or the State Board may, on their own motion, issue a subpoena at any time.
- ii. A party requesting a subpoena must make the request in writing to either the PLSB or the State Board, as appropriate. Requests for subpoenas made to the PLSB shall be delivered to the Office of the PLSB Attorney no later than ten (10) calendar days prior to the PLSB hearing for which the subpoena is requested. Requests for subpoenas made to the State Board shall be delivered to the Office of General Counsel of the ADE no later than ten (10) calendar days prior to the State Board hearing for which the subpoena is requested.
- iii. The subpoena shall:
 - a) Be in the name of either the PLSB or the State Board;
 - b) State the name of the board hearing the proceeding and the name of the proceeding; and
 - c) Command each person to whom it is directed to give testimony at the time and place specified in the subpoena in one (1) of the following ways:
 - (i) In person;
 - (ii) Before a certified court reporter under oath at the place of the witness' residence or employment;
 - (iii) By video-taped deposition at the place of the witness' residence or employment; or
 - (iv) By live video communications from the witness' residence, place of employment, or a nearby facility capable of providing video transmission to the board hearing the proceeding that has subpoenaed the witness.
 - d) The manner of providing testimony under the subpoena shall be conducted by video conference testimony unless another manner is agreed upon by the board or commission and the person who is the subject of the subpoena.

- iv. The subpoena may require the witness to bring with him or her any book, writing, or other thing under his or her control that he or she is bound by law to produce in evidence.
- v. Service of the subpoena shall be in the manner as provided by law or rule for the service of subpoenas in civil cases.
- vi. A witness who has been served by subpoena and who appears in person to testify at the trial or case pending before the PLSB or the State Board shall be reimbursed for travel and attendance as provided by law.
- vii. If a witness is served with a subpoena and fails to provide testimony in obedience to the subpoena, the PLSB or the State Board may apply to the circuit court of the county in which the PLSB or the State Board is holding the proceeding for an order causing the arrest of the witness and directing that the witness be brought before the court.
- viii. The court will have the power to punish the disobedient witness for contempt as provided by the Arkansas Rules of Civil Procedure.
- ix. A witness who has been served with a subpoena may challenge the validity of the subpoena in the circuit court of the county in which the witness resides or is employed.

56. PLSB Evidentiary Hearing

- i. If the educator requests a hearing, an evidentiary hearing will be held before the Ethics Sub-Committee of the PLSB within ninety (90) days, but no earlier than thirty (30) days, from the date that the PLSB receives the educator's hearing request. Either party may request additional time. Such a request shall be in writing and shall set forth the reason(s) for which additional time is needed. Upon good cause shown and upon the request of either party, the chairperson of the Ethics Sub-Committee of the PLSB may grant the party or parties additional time. ~~subject to the subcommittee's approval.~~
- ii. A decision by the Ethics Sub-Committee of the PLSB will be made.
- iii. Within fourteen (14) calendar days following the decision of the Ethics Sub-Committee of the PLSB, the PLSB staff will notify the educator in writing of the decision. ~~The educator will be notified in writing of the Sub-Committee's decision.~~ The educator may accept the initial decision in writing or request a hearing before the SBE State Board.

67. Evidentiary Hearing Procedures of the PLSB Ethics Sub-Committee

- i. The educator shall be notified in writing of the date, time and location of the Ethics Sub-Committee of the Professional Licensure Standards Board (PLSB) meeting at

which his/her case will be considered. The notice will also state a deadline by which the educator must submit items to the sub-committee for consideration.

- ii. A representative of the PLSB and the educator (or his/her attorney) shall have up to twenty-five (25) minutes each to present their cases to the sub-committee. The chairperson of the sub-committee, may grant additional time to either or both parties, if necessary.
- iii. Each party will have the opportunity, should it so choose, to make an opening statement. The statement shall be no longer than five (5) minutes in length; ~~any such times used for an opening statement shall be deducted from the time allowed for case presentation listed in ii. above.~~ The chairperson of the sub-committee may grant additional time to either or both parties, if necessary.
- iv. The representative of the PLSB shall present its case (and opening statement, if it so chooses) to the ~~hearing~~ sub-committee ~~of the Board~~ first.
- v. Any written documents, photographs or any other items of evidence may be presented to the hearing sub-committee with the permission of the Chairperson. The items of evidence shall be marked as either "PLSB Exhibit Number 1(et seq.)" or "Educator's Exhibit Number 1 (et seq.)." After an item of evidence has been allowed to be presented to the ~~hearing~~ sub-committee by the Chairperson, the introducing party shall give one (1) copy to the court reporter for the record and one (1) copy to the Chairperson.
- vi. After one party has questioned a witness, the other party shall have the same opportunity.
- vii. Members of the hearing sub-committee shall also have the opportunity to ask questions of any witness or any party at any time.
- viii. While the scope of each party's presentation ultimately lies within the chairperson's discretion, case presentation should be arranged in such a way as to avoid redundant testimony.
- ix. After the educator has presented his/her case, the chairperson may allow each party to present limited rebuttal testimony.
- x. After the rebuttal evidence has been presented, the educator shall have up to five (5) minutes to present a closing statement, if desired. The chairperson of the sub-committee may grant additional time if necessary.
- xi. After the educator has made a closing statement, or waived the opportunity for the same, the representative of the PLSB shall have up to five (5) minutes to make his/her closing statement, if desired. The chairperson of the sub-committee may grant additional time if necessary.

- xii. After closing statements have been made (or the opportunity to make them has been waived), the hearing subcommittee may orally announce its decision. Alternatively, the hearing subcommittee may take the case under advisement and render a written decision at a later time.
- xiii. During an evidentiary hearing, the “preponderance of the evidence” standard shall be used by the Ethics Sub-Committee of the PLSB to determine whether a violation of the Standards of Professional Conduct occurred. If the Ethics Sub-Committee of the PLSB finds that a violation occurred, it may issue a recommendation for appropriate sanction to the Arkansas State Board of Education. The representative of the PLSB will have the burden of proving each fact of consequence to the determination by a preponderance of the evidence. The Ethics Sub-Committee of the PLSB may also approve a non-punitive letter of concern.
- xiv. xiii. A written decision reflecting the hearing subcommittee’s final decision and recommendation shall be promptly prepared by the PLSB for the chairperson of the hearing sub-committee’s signature. A copy of the decision and recommendation shall be timely transmitted to the educator, the PLSB and the SBE State Board.
- xv. xiv. The educator shall have thirty (30) days from the receipt of the decision and recommendation to appeal the sub-committee’s decision to the SBE State Board. Should the educator not file an appeal to the SBE within the above-referenced thirty (30) day time period, the decision of the sub-committee shall become non-appealable.

8. Hearing Procedures of the Arkansas State Board of Education

- i. The agenda item will be introduced by staff of the PLSB or the ADE, as appropriate.
- ii. The representative of the PLSB staff will present an opening statement.
- iii. The educator or the educator’s representative will present an opening statement.
- iv. The representative of the PLSB staff will present its case-in-chief.
- v. The educator or the educator’s representative will present its case-in-chief.
- vi. The representative of the PLSB staff will present a closing argument.
- vii. The educator or the educator’s representative will present a closing argument.
- vii. The State Board will discuss the matter. During the discussion phase, any member of the State Board may question any party, any party’s representative, any witness, or any other person whose testimony may be found useful by the State Board in determining an appropriate resolution of the case.
- viii. The State Board will vote on whether to accept, reject, or modify the recommendation of the PLSB. The State Board may vote to approve no sanction at

all, the same sanction recommended by the PLSB, a lesser sanction than that recommended by the PLSB, or a more severe sanction than that recommended by the PLSB. The State Board may also approve a letter of concern. Any vote of the State Board must be by a majority of the quorum present.

ix. Other Procedures Applicable to the State Board Hearing

- a) The Chair of the State Board shall serve as presiding officer for the hearing.
- b) All members of the State Board shall conduct themselves in an impartial manner and may at any time withdraw from the proceedings if they deem themselves disqualified.
- c) The representative of the PLSB staff will have the burden of proving each fact of consequence to the determination by a preponderance of the evidence.
- d) Irrelevant, immaterial, and unduly repetitious evidence shall be excluded.
- e) Any other oral or documentary evidence, not privileged, may be received if it is of a type commonly relied upon by reasonably prudent people in the conduct of their affairs.
- f) Objections to evidentiary offers may be made and shall be noted of record. When a hearing will be expedited and the interests of the parties will not be substantially prejudiced, any part of the evidence may be received in written form.
- g) Parties shall have the right to conduct such cross examination as may be required for a full and true disclosure of the facts.
- h) Official notice may be taken of judicially cognizable facts and of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties must be notified of material so noticed, including any staff memoranda or data, and shall be afforded a reasonable opportunity to show the contrary.

LIST OF APPLICABLE FINES

Action Taken	Maximum Fine Amount
Permanent Revocation of License	\$0
Suspension of License	\$100
Probation of License	\$75
Written Reprimand by State Board of Education	\$50
Written Warning by State Board of Education	\$0

Action Taken	Maximum Fine Amount
<u>Complaint is not substantiated – No action taken; Case closed.</u>	<u>\$0</u>
<u>Educators who violate testing procedures of the state and for whom the Ethics Sub-Committee of the PLSB believes the violation does not rise to the level of an ethical violation may be recommended for additional training in the approved testing procedures by the state in lieu of any licensure action recommended to the State Board.</u>	<u>All expenses paid by the educator.</u>
<u>Recommended treatment or rehabilitation with periodic monitoring.</u>	<u>All expenses paid by the educator.</u>
<u>Written Warning</u>	<u>\$0</u>
<u>Written Reprimand</u>	<u>\$50</u>
<u>Probation of License</u>	<u>\$75</u>
<u>Suspension of License</u>	<u>\$100</u>
<u>Permanent Revocation of License</u>	<u>\$0</u>

* The Ethics Sub-Committee of the PLSB or the State Board may also approve a non-punitive letter of concern.

LIST OF APPLICABLE FEES

License Issued	New or Renewal	Fee Amount
One-Year Provisional Teacher's License	New	\$0.00
	Renewal	\$0.00
Three-Year Initial Teacher's License	New	\$0.00
Five-Year Standard <u>or Professional</u> Teacher's License	New	\$100.00
	Renewal	\$100.00
Five-Year Vocational Permit	New	\$100.00
	Renewal	\$100.00
One-Year Professional Teaching Permit	New	\$35.00
Lifetime Teacher's License (Must be 65 <u>62</u> years of age.)	New	\$0.00
Adding Area or Level to Existing License	Not Applicable	\$0.00
Adding Degrees to Existing License (If not occurring at the time of renewal)	Not Applicable	\$50.00
Duplicate License	Not Applicable	\$50.00

Explanations and Guidelines to Clarify the Intent of The Standards of Professional Conduct

The purpose of Appendix C is to provide greater clarity and intent of each professional standard listed in Section 5.00 of this rule. Therefore, Appendix C is not designed to supersede the required standard of professional conduct but rather to provide some rationale of the intent and purpose and thus the proper application of each professional standard of conduct. It is recognized that Appendix C is a general application of the intent and purpose of each professional standard and is considered a guide and not all inclusive of each and every interpretation and application of a professional standard of conduct as required in Section 5.00.

Furthermore, it is recognized that unless specifically stated in a professional standard of conduct listed in Section 5.00 of this rule or specifically required in Appendix C's interpretation of a particular standard of conduct, the alleged unethical conduct by a licensed educator may be considered by the Professional Licensure Standards Board regardless of the mental intent related to the alleged unethical action or omission. However, the Professional Licensure Standards Board may consider the mental intent or capacity of the licensed educator, along with other relevant factors, when determining whether a violation exists and what, if any, disciplinary action to recommend to the Arkansas State Board of Education for alleged violations of this code of ethics.

Standard 1 An educator maintains a professional relationship with each student, both in and outside the classroom.

This standard goes to the core of a professional educator's expected conduct and relationship with all students and transcends criminal behavior or other actions which violate law. The professional relationship with students is such behavior and action which promotes at all times the mental, emotional, and physical health and safety of students. An educator should show respect for and not demean, embarrass, or harass students absent some reasonable educational or disciplinary purpose and never as prohibited by law. A professional relationship is one where the educator maintains a position of teacher/student authority with students even while expressing concern, empathy, and encouragement for students. In that position of authority, an educator may nurture the student's intellectual, physical, emotional, social and civic potential. An educator may display concern and compassion for a student's personal problems and, when appropriate, refer the student for school counseling or other help.

Standard 2 An educator maintains competence regarding skills, knowledge, and dispositions relating to his/her organizational position, subject matter, and/or pedagogical practice.

This standard addresses the professional educator's obligation to implement best practices and maintain competence in skills and knowledge. An educator has many dispositions that are required in the course of instruction such as ensuring that students have access to varying points of view and that instruction reflects current subject matter.

Standard 3 An educator honestly fulfills reporting obligations associated with professional practices.

This standard covers those situations where there is an intentional or knowing attempt to deceive or mislead an educational entity. Honest errors or mistakes or inaccuracies are not intended to be encompassed by this standard. To uphold this standard an educator should be honest when reporting data and information to the Arkansas Department of Education, the Arkansas Bureau of Legislative Audit, the Arkansas State Board of Education, and other state and federal governmental agencies. Honestly reporting grades is also a part of this standard. It is also important that an educator honor this standard when giving information to recommend an individual for employment promotion or licensure as well as when reporting professional qualifications, criminal history, college credits and degrees, awards, and employment history. Similarly the failure to timely submit information covers those situations where there is a knowing failure to submit or provide information. This standard covers those situations described in Ark. Code Ann. § 6-17-410(d) (1) (A) (vii) and (viii) that involve knowingly submitted false or misleading information or knowingly falsifying or directing another to falsify a grade.

Standard 4 An educator entrusted with public funds and property honors that trust with honest, responsible stewardship.

An educator must be a good steward of public funds, personnel and property dedicated to school related purposes. The use and accounting for these resources under the educator's control must comply with state and federal laws that regulate the use of public funds and property. The use of such resources for personal gain, other than incidental personal benefit for which there is no public education purpose would not be in keeping with the intent of this standard.

Standard 5 An educator maintains integrity regarding acceptance of any gratuity, gifts, compensation or favor that might impair or appear to influence professional decision or actions and shall refrain from using the educator's position for personal gain.

The standard is intended to prohibit that conduct which is solely for personal gain and creates an appearance of a conflict of interest in the role as an educator. The standard of conduct called for by this section involves an examination of the total circumstances surrounding the gratuity, gift, compensation, or favor. Factors to consider include the value of the gratuity, gift or favor, the reasonableness of any compensation; the timing of the gratuity, gift, compensation, or favor; and the relationship between the educator and the person from whom the gratuity, gift, compensation, or favor comes. Pursuant to Ark. Code Ann. § 6-24-113 an educator may accept awards and grants as provided for therein. Ark. Code Ann. § 6-24-112 contains some specific prohibited transactions involving gratuities or offers of employment. The second part of this standard requires that the educator does not use the position for personal gain.

Standard 6 An educator keeps in confidence secure standardized test material as well as information about students and colleagues obtained in the course of professional service unless disclosure serves a professional purpose or is allowed or required by law.

At times educators are entitled to and/or for professional reasons need access to certain student records, other educators' records, and standardized testing materials. Much of this information is confidential, and the educator should maintain that confidence unless the disclosure serves some legitimate educational purpose as allowed or required by law. The Federal Education Rights and Privacy Act (FERPA) addresses the confidentiality of certain student records. Such federal and state laws permit disclosure of some student information and restrict the disclosure of other student information. Educators should respect and comply with these and other similar confidentiality laws. Confidential student information may include student academic and disciplinary records, health and medical information, family status and/or income, assessment/testing results, and Social Security information. When standardized tests are administered, educators should maintain the confidentiality of those parts of the standardized test materials that are to remain confidential such as actual test items and test booklets in accordance with state law, regulation, and testing policy. Supervisors may be entitled to access to other educators' personnel records and should maintain the confidentiality of those records.

Standard 7 An educator refrains from using, possessing and/or being under the influence of alcohol, tobacco, or unauthorized drugs while on school premises or at school-sponsored activities involving students.

This standard sets forth the expectation of the professional educator concerning using, possessing, or being under the influence of the listed substances while on school premises or at school-sponsored activities involving students or being in violation of state law governing the using, possessing or being under the influence of alcohol, tobacco, or unauthorized/illegal drugs while on school property or at school-sponsored activities involving students.