

ARKANSAS DEPARTMENT OF EDUCATION
RULES GOVERNING THE CODE OF ETHICS FOR ARKANSAS EDUCATORS
July, 2014

1.00 Title

- 1.01 These rules shall be known as the Arkansas Department 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, 6-17-425, 6-17-426, 6-17-428, 25-15-201 et seq., and Acts 454 and 1323 of 2013.
- 2.02 All rules, procedures, hearings and appeals relating to the Code of Ethics complaints shall be promulgated and implemented under the Arkansas Administrative Procedures Act, Ark. Code Ann. § 25-15-201 et seq.

3.00 Purpose

- 3.01 The purpose of the Rules Governing the Code of Ethics for Arkansas Educators is to define standards of ethical conduct and to outline procedures for receiving complaints, authorizing and conducting investigations, and recommending 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 standards of professional behavior and ethical decision-making established in this *Code of Ethics for Arkansas Educators*. By establishing standards of ethical conduct, the Code of Ethics 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 Applicability

- 4.01 The valid Arkansas teaching license of any person shall be subject to the conditions, requirements, and mandates of the Code of Ethics, procedures, and recommendations for enforcement.
- 4.02 A building-level administrator in an Arkansas public school shall file an ethics complaint if he or she observes or has reasonable cause to suspect that an

educator has violated Standard 1 of the Code of Ethics involving the sexual abuse of a student.

- 4.03 The failure to submit an ethics complaint under Section 4.02 of these rules is a violation of the Code of Ethics.

5.00 Definitions

- 5.01 **Acted upon** means that the State Board of Education has taken an action to address an ethics complaint by revoking, suspending, or imposing another sanction upon an educator's license.
- 5.02 **An Authorized Ethics Complaint Investigation** is an ethics complaint that has been: (1) verified by the Chief Investigator of the Professional Licensure Standards Board as being submitted by an identifiable person; and (2) authorized for investigation based upon reasonable belief by the Ethics Subcommittee of the PLSB that if the allegation is true, it would constitute a violation of the Code of Ethics as set forth in these rules committed by an Arkansas educator after September 1, 2008. The Ethics Subcommittee of the PLSB shall investigate an ethics complaint that it determines is credible. (Ark. Code Ann. § 6-17-428)
- 5.03 **Code of Ethics** means the Code of Ethics for Arkansas Educators established by the Professional Licensure Standards Board under Ark. Code. Ann. § 6-17-422.
- 5.04 **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.
- 5.05 **Denial** is the refusal to grant a teaching license to an applicant for a teaching license.
- 5.06 **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.
- 5.07 **Educator** means a person holding a valid license issued by the State Board of Education.
- 5.08 **Educator in a supervisory role in an Arkansas school** means an educator, as defined in these rules, who as a part of his or her primary employment duties is

responsible for the supervision of other licensed educators employed in any public school, open enrollment public charter school, virtual school, education service cooperative, or private school in Arkansas serving students in any of grades pre-K through 12.

- 5.09 **Ethics Complaint** means a document that states facts constituting an alleged ethics violation of the Code of Ethics and is signed under penalty of perjury by the person filing the ethics complaint. An ethics complaint may also be a finding made in an audit report forwarded to the ADE by the Arkansas Joint Legislative Auditing Committee under Ark. Code Ann. § 6-17-426.
- 5.10 **Ethics Subcommittee** means the subcommittee established by the Professional Licensure Standards Board to receive and investigate ethics complaints, enforce the Code of Ethics, including making recommendations to the State Board of Education for a written warning, a written reprimand, or the placement of conditions or restrictions on the activities of the educator or the revocation, suspension, or probation or nonrenewal of a license. The Ethics Subcommittee may issue a Private Letter of Caution. The Ethics Subcommittee may also dismiss an ethics complaint if it finds there is no ethics violation.
- 5.11 **Ethics Violation** is an act or omission 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 Code of Ethics as set forth in these rules. An ethics violation does not include a reasonable mistake made in good faith, or acts or omissions taken in accordance with the reasonable instructions of a supervisor or, an act or omission under circumstances in which the educator had a reasonable belief that failure to follow the instructions of a supervisor would result in an adverse job action against the educator.
- 5.12 **Filed** means the document has been stamped with a date acknowledging when the document arrived at the offices of the PLSB staff.
- 5.13 **Monitoring Conditions or Restrictions** may include any actions or alternative sanctions allowed under the Administrative Procedures Act, including at a minimum a semi-annual appraisal of the educator's conduct by the PLSB staff through contact with the educator and his or her employer or other appropriate persons. Such conditions or restrictions may include, but are not limited to requiring that an educator, at the educator's expense, submit a new criminal background check or submit other requested information such as current employment, compliance with recommended counseling, treatment, education or training. The Ethics Subcommittee may recommend the length of the monitoring period to the State Board of Education.
- 5.14 **Pre-kindergarten** means an early childhood education program that serves students from birth to enrollment in kindergarten.

- 5.15 **Preponderance of Evidence** is the greater weight of the relevant evidence; superior evidentiary weight that, though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient to include a fair and impartial mind to one side of the issue rather than the other. It is determined by considering all of the relevant evidence and deciding which evidence is more credible. 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.
- 5.16 **Private Letter of Caution** is a non-punitive communication from the Ethics Subcommittee to an educator in response to an ethics complaint against the educator. Private Letters of Caution may be provided to an educator by the Ethics Subcommittee of the PLSB in lieu of recommending other discipline. Private Letters of Caution do not make any factual findings but inform the educator that the conduct alleged in the complaint or its investigation falls within the broad range of the Code of Ethics but that the circumstances and mitigating factors do not warrant disciplinary action. Private Letters of Caution remain in the files retained by the PLSB staff, but are not placed in an educator's licensure file at the ADE. A Private Letter of Caution is not submitted to the State Board of Education for approval and it does not constitute a sanction for the purposes of the Code of Ethics for Arkansas Educators. As a result, Private Letters of Caution cannot be basis for a request for an evidentiary hearing before the Ethics Subcommittee or the State Board of Education.
- 5.17 **Probation** is the placing of conditions, requirements or circumstances on the status of a teaching license for a period of time established by the State Board. 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.
- 5.18 **Public Information** for the purpose of these rules is information coming from news media or public record.
- 5.19 **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 Code of Ethics as set forth in these rules has been committed; and (2) that the named educator committed such a violation. A reasonable belief is not based upon mere suspicion or conjecture.
- 5.20 **Received** means the date the ethics complaint was presented to the Ethics Subcommittee for authorization of an investigation.
- 5.21 **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.

- 5.22 **Reprimand** is a written admonishment from the State Board to the named educator for his or her conduct. The written reprimand cautions that further unethical conduct will lead to a more severe action 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.
- 5.23 **Revocation** is the permanent invalidation of any teaching or administrator's license held by the educator.
- 5.24 **School hiring** official means the person designated by a school who is responsible for hiring or making final recommendations for the hiring of an educator who holds an Arkansas teaching or administrator's license.
- 5.25 **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.
- 5.26 **Sexual abuse** has the same meaning as given to the term in Ark. Code Ann. § 12-18-103(18)(D) as it applies to a caretaker, but shall include a victim who is younger than twenty-one (21) years of age and is still a student.
- 5.27 **Student** is any individual enrolled in the state's public or private schools from pre-kindergarten through grade 12.
- 5.28 **Supervisor** under these rules mean an administrator authorized by the district or school board to administer professional employee discipline up to and including recommending termination or nonrenewal.
- 5.29 **Suspension** is the temporary invalidation of any teaching license for a period of time specified by the State Board.
- 5.30 **Teaching License** refers to any teaching, service, or leadership certificate, license, or permit issued by the State Board.
- 5.31 **Warning** is a written communication from the State Board to the named educator that his or her conduct is unethical. The warning cautions that further unethical conduct will lead to a more severe action. 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.

6.00 The Code of Ethics for Arkansas Educators

The Standards of Ethical Conduct are set forth as follows:

- 6.01 **Standard 1: An educator maintains a professional relationship with each student, both in and outside the classroom.**
- 6.02 **Standard 2: An educator maintains competence regarding his or her professional practice inclusive of skills, knowledge, dispositions, and responsibilities relating to his or her organizational position.**
- 6.03 **Standard 3: An educator honestly fulfills reporting obligations associated with professional practices.**
- 6.04 **Standard 4: An educator entrusted with public funds and property, including school sponsored activity funds, honors that trust with honest, responsible stewardship.**
- 6.05 **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.**
- 6.06 **Standard 6: An educator keeps in confidence secure standardized test materials and results and maintains integrity regarding test administration procedures.**
- 6.07 **Standard 7: An educator maintains the confidentiality of information about students and colleagues obtained in the course of the educator's professional services that is protected under state law or regulations, federal law or regulations, or the written policies of the educator's school district, unless disclosure serves a professional purpose as allowed or required by law or regulations.**
- 6.08 **Standard 8: An educator refrains from using, possessing and/or being under the influence of alcohol or unauthorized drugs/substances and/or possessing items prohibited by law, or possessing or using tobacco or tobacco-related products while on school premises or at school-sponsored activities involving students.**

7.00 Recommended Disciplinary Action

- 7.01 The Ethics Subcommittee is authorized to recommend to the State Board probation, suspension, revocation or nonrenewal of a teaching license or the issuance of a reprimand or warning. The Ethics Subcommittee is also authorized to recommend the placement of conditions or restrictions on the activities of the

educator that would assist the educator via training, coursework or rehabilitative treatment. (All costs would be paid by the educator.) The State Board may direct the ADE 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 license:

- 7.01.1 An initial determination by the Ethics Subcommittee that there is a reasonable belief that a violation of the Code of Ethics as set forth in these rules has occurred.
- 7.01.2 Following an evidentiary hearing before the Ethics Subcommittee, the Ethics Subcommittee finds, by a preponderance of the evidence, that there is a reasonable belief that an educator violated the Code of Ethics as set forth in these rules.
- 7.01.3 A failure to comply with the payment of any imposed fines, fees, or other conditions or restrictions imposed by the State Board of Education.
- 7.01.4 Audit reports forwarded to the ADE by the Arkansas Legislative Joint Auditing Committee pursuant to Ark. Code Ann. § 6-17-426.
- 7.01.5 Disciplinary action against a teaching license/certificate in another state on grounds inconsistent with ethical conduct specified in Section 6.00 or as stated in this section.
- 7.02 An individual whose license has been revoked, nonrenewed, or suspended may not serve as a volunteer or be employed as an educator, consultant, paraprofessional, aide, substitute teacher, official and/or judge of a school-sponsored activity or be employed in any other position with a school district, open enrollment public charter school, or education service cooperative during the period of his or her revocation, suspension or nonrenewal for a violation of the Arkansas Code of Ethics for Educators.
- 7.03 Suspensions and revocations are reported by the ADE to national officials, including the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse.
- 7.04 In lieu of imposing a disciplinary action as set forth above, the PLSB Ethics Subcommittee may provide the accused educator with a Private Letter of Caution.

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

- 8.01 In considering and investigating complaints brought before it, the Ethics Subcommittee 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.

- 8.02 With the exception of a private letter of caution, all recommendations of the Ethics Subcommittee are presented to the State Board of Education. The State Board of Education may approve, reject, or modify a recommendation of the Ethics Subcommittee, and may refer a case back to the Ethics Subcommittee for further consideration or for an evidentiary hearing.
- 8.03 The State Board, in making its determination on the recommendation of the Ethics Subcommittee, may require the testimony of the educator against whom the Ethics Subcommittee has recommended a sanction.

9.00 Fines and Fees

- 9.01 The State Board, for violations of the Code of Ethics in all areas and as authorized by Ark. Code Ann. §§ 6-17-422(h)(3)(c) and 6-17-428:
 - 9.01.1 May impose fines up to 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.
 - 9.01.2 May impose fees for action taken pertaining to an educator's license as set forth in the attachment *Appendix B*.
 - 9.01.3 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.
- 9.02 An educator shall pay a fine imposed by the State Board within ninety (90) days of the State Board's final order.
- 9.03 Failure to pay fines and fees may result in the Ethics Subcommittee recommending that the State Board suspend the educator's license pursuant to Ark. Code Ann. § 25-15-217. The Department will not renew a license until all fines and fees have been paid.

10.00 Disclosure of Records

- 10.01 When the State Board has disciplined an educator for violation of the Code of Ethics by placing the educator on probation, suspension, or non-renewing, or revoking the educator's license, these actions will be reported by the Office of Educator Licensure and may be posted in its electronic database such that the records are viewable to school districts and other authorized personnel. In addition, these actions may be reported to other national education organizations or agencies such as the NASTDEC clearinghouse.

- 10.02 When the State Board has issued a warning or reprimand for violation of the Code of Ethics, these will be reported to the Office of Educator Licensure but are not posted in its electronic database. The Office of Educator Licensure will report reprimands or warnings if requested.
- 10.03 Records of the PLSB Ethics Subcommittee shall be retained in accordance with the Arkansas General Records Retention Schedule.
- 10.04 In accordance with Ark. Code Ann. § 6-17-428, all records and all hearings, meetings, and deliberations of the Professional Licensure Standards Board and its Ethics Subcommittee relating to an ethics complaint are confidential and exempt from the Freedom of Information Act of 1967, Ark. Code Ann. § 25-19-101 et seq.
- 10.05 In accordance with Ark. Code Ann. § 25-15-208, disclosure shall not be required of the research or records, correspondence, reports, or memoranda to the extent that they contain the opinions, theories, or conclusions of the attorney for the agency or members of his or her staff or other state agents.

11.0 Mandatory Filing of Allegation and Ethics Violations Review

- 11.01 An educator in a supervisory role in an Arkansas school shall file an ethics complaint if he or she observes or has reasonable cause to suspect that an educator has violated Standard 1 involving the sexual abuse of a student.
- 11.02 The failure to submit an ethics complaint under this section is a violation of Standard 3.
- 11.03 Before an educator who holds an Arkansas teaching license or administrator's license may be hired for employment at an Arkansas school, the school hiring officer shall check the Arkansas Educator Licensure System (AELS) of the Department of Education to determine whether the State Board of Education has acted upon a violation of Standard 1 involving the sexual abuse of a student by the applicant.

**Procedures for the Investigative Process
and Final Recommendation for Disposition of an Ethics Complaint**

1. Applicability of the Administrative Procedure Act

All rules, procedures, hearings and appeals relating to the Code of Ethics shall be promulgated and implemented under the Arkansas Administrative Procedure Act, Ark. Code Ann. § 25-15-201 et seq.

2. 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.

3. Allegations:

Any person or party wishing to submit an allegation must use the allegation of violation form developed by the PLSB and attached to these rules as Appendix D. It may be filed with the PLSB through the Department of Education, a public school district, or a public school superintendent. If an allegation form is filed with a public school district or a public school superintendent, the public school district or superintendent must forward all signed allegations directly to the Department of Education. Failure to forward an allegation of violation form may be considered a violation of the Code of Ethics.

4. Allegations Received by the PLSB Ethics Subcommittee:

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 credible and if true, would constitute a violation of the Code as set forth in these rules, committed by an Arkansas educator after September 1, 2008. An allegation shall be processed as follows:

- a. **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 and was signed under penalty of perjury.
- b. **Authority to Investigate:** The Ethics Subcommittee will determine whether to

grant authority to the PLSB investigative staff to investigate the allegation. Authority to investigate the allegation will be based upon a reasonable belief that the allegation, if true, constitutes a violation of the Code 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. The Ethics Subcommittee is not limited to the standard alleged on the form but may consider all of the evidence submitted with the allegation in determining which, if any, standard may have been violated

- i. **Authority to Investigate Denied:** If the Ethics Subcommittee votes not to authorize investigation, the allegation shall be dismissed and the matter shall be closed without further action against the educator.
- ii. **Authority to Investigate Granted:** If the Ethics Subcommittee votes to authorize investigation of the allegation, the allegation becomes an authorized ethics complaint. The PLSB staff shall notify the named educator in writing concerning the initiation of the investigation and provide the educator with a copy of the complaint within ten (10) calendar days of authorization. The PLSB staff shall provide to the educator under investigation 1) written notice of the investigation and nature of the alleged ethics violation and, 2) a copy of the documents and evidence concerning the facts alleged in the ethics complaint, provisions of Ark. Code Ann. § 6-17-428 or other state statutory law applicable to an ethics violation and the applicable rules in effect at the time the ethics complaint is filed.
- iii. **Automatic Investigation:** The following will automatically go to the Ethics Subcommittee of the PLSB for the opening of an investigation:
 - (A) Public information that an educator may have committed a violation the Code of Ethics. In the event that PLSB staff or Ethics Subcommittee members discover public information that an educator may have committed a violation of the Code of Ethics, the PLSB staff or any member of the Ethics Subcommittee may request that the Ethics Subcommittee Chair file an allegation form with the Department. If the Ethics Subcommittee votes that the Chair should file an allegation form, the Chair will recuse herself or himself from any further consideration of the newly filed complaint. If necessary, the PLSB may appoint a board member to the Ethics Subcommittee for the limited purpose of resolving the newly filed complaint.
 - (B) Audit reports forwarded to the ADE by the Arkansas Joint Auditing Committee pursuant to Ark. Code Ann. § 6-17-426.

- c. Requesting additional authority to investigate: If, in the course of an authorized investigation, PLSB staff discovers credible information that the named educator has committed additional violations of the Code, the PLSB staff may request additional authority to investigate from the Ethics Subcommittee. In the event that PLSB staff discovers credible information that another educator has violated the Code of Ethics, the PLSB staff may request that the Ethics Subcommittee Chair file an allegation form with the Department. If the Ethics Subcommittee votes that the Chair should file an allegation form, the Chair will recuse herself or himself from any further consideration of the newly filed complaint. If necessary, the PLSB may appoint a board member to the Ethics Subcommittee for the limited purpose of resolving the newly filed complaint.
- d. Completion of the Investigation: The Ethics Subcommittee shall complete its investigation of an ethics complaint and take action within one hundred fifty (150) days of authorizing the investigation or, if a hearing is conducted, within one hundred eighty (180) days of authorizing 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 via certified and regular mail. The educator shall be provided with:
 - i. A copy of the documents and evidence concerning the investigation of the ethics complaint and,
 - ii. Written notice that the Ethics Subcommittee will consider taking action against the named educator and,
 - iii. A copy of Ark. Code Ann. § 6-17-428 or other state statutory law applicable to the ethics violation authorized for investigation, and
 - iv. A copy of the rules in effect at the time the ethics complaint is filed.
 - v. The named educator or his/her attorney will be allowed thirty (30) calendar days from receipt of the notice, documentation, and evidence from the Ethics Subcommittee or its staff to submit any further response in writing. At the conclusion of the thirty (30) 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.
- e. Initial Recommendation of the Ethics Subcommittee: At the next scheduled meeting of the Ethics Subcommittee, the Ethics Subcommittee shall review the results of the investigation including the PLSB staff's final report of investigation and any written response from the educator who is the subject of the ethics complaint. Following such a review, if the Ethics Subcommittee finds that a reasonable belief exists that the educator violated the Code as set forth in these rules, the Ethics Subcommittee shall issue an initial decision and may

recommend any appropriate action as set forth in *Appendix B*. The initial recommendation shall be considered a proposal for decision under Ark. Code Ann. § 25-15-210 and shall contain a statement of the reasons for the decision and each issue of fact or law necessary for the decision.

- i. Notification of the Educator: The PLSB staff will notify the named educator in writing of the recommendation of the Ethics Subcommittee. The named educator may accept in writing the recommendation of the Ethics Subcommittee of the PLSB or request in writing an evidentiary hearing before the Ethics Subcommittee. The PLSB staff will inform the educator that following an evidentiary hearing, the Ethics Subcommittee may find that no reasonable belief that a violation of the Code exists, or could find that a reasonable belief that violation of the Code exists and recommend any appropriate action as set forth in Appendix B.
 - ii. Private Letter of Caution: The Ethics Subcommittee of the PLSB may also issue a Private Letter of Caution in lieu of recommending an action set forth in Appendix B.
- f. Waiver of Evidentiary Hearing: If an educator fails to respond to notification of the initial recommendation of the Ethics Subcommittee 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.
 - g. If the educator accepts the Ethics Subcommittee's recommendation or waives a response, the PLSB staff shall notify the educator that the final recommendation will be submitted to the State Board as part of its consent agenda.

5. Waiver or Request of an Ethics Subcommittee Evidentiary Hearing

- a. If the educator requests a hearing, an evidentiary hearing will be held before the Ethics Subcommittee within one hundred eighty (180) days of receiving the complaint as is defined in these rules. 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. The time limitations may be waived when reasonable under the circumstances, including without limitation, inclement weather, state or national emergencies, or other unforeseeable events by the:
 - i. Educator if the time limitation is imposed upon the Ethics Subcommittee; or
 - ii. Ethics Subcommittee if the time limitation is imposed upon the educator; or
 - iii. A written stipulation between the educator and the PLSB staff attorney

with the approval of the Ethics Subcommittee.

- b. Within ten (10) calendar days following the findings and recommendation of the Ethics Subcommittee, the PLSB staff will notify the educator in writing of the Ethics Subcommittee's evidentiary hearing findings and recommendations. The educator may accept the evidentiary recommendation or object and request a review by the State Board pursuant to Section 9 of this Appendix. The evidentiary hearing recommendation shall be considered a proposal for decision under Ark. Code Ann. § 25-15-210 and shall contain a statement of the reasons for the decision and each issue of fact or law necessary for the decision.
- c. Waiver of State Board Review: If an educator fails to respond to notification of the Ethics Subcommittee's evidentiary hearing recommendation within fourteen (14) days, the evidentiary hearing recommendation will become a final recommendation and will be forwarded to the State Board.

6. Motions

- a. An educator or his or her representative who has requested an evidentiary hearing may file a motion by serving it on the attorney for the PLSB who shall record the date it is received and promptly transmit the motion(s) to the Ethics Subcommittee for its consideration at the next available Ethics Subcommittee meeting.
- b. Filing a motion that requests that the Ethics Subcommittee take action prior to the requested or scheduled evidentiary hearing tolls the time limits set out in these rules and Ark. Code Ann. § 6-17-428.
- c. Requests regarding procedural matters, including requests for additional time for the hearing or for continuation of a hearing or proposed stipulated settlements, may be considered on the motions or papers submitted. The PLSB attorney and the educator may enter a stipulation to dispose of any procedural or substantive matters at any time subject to final approval by the Ethics Subcommittee.

7. Evidentiary Hearing Procedures of the PLSB Ethics Subcommittee

- a. The educator and the PLSB may be represented by representatives of their choosing.
- b. The educator shall be notified in writing of the date, time and location of the Ethics Subcommittee 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 Ethics Subcommittee for consideration. Items submitted may be rejected if not timely. Educators and PLSB staff are encouraged to submit all documentary evidence by the deadline so that the Ethics Subcommittee will be prepared to

expeditiously address the case at the evidentiary hearing.

- c. 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 Ethics Subcommittee. The chairperson of the Ethics Subcommittee may grant additional time to either or both parties, if necessary.
- d. 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. The chairperson of the Ethics Subcommittee may grant additional time to either or both parties, if necessary.
- e. The representative of the PLSB shall present its case (and opening statement, if it so chooses) to the Ethics Subcommittee first.
- f. Any written documents, photographs or any other items of evidence may be presented to the hearing Ethics Subcommittee 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 Ethics Subcommittee 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.
- g. After one party has questioned a witness, the other party shall have the same opportunity.
- h. Members of the hearing Ethics Subcommittee shall also have the opportunity to ask questions of any witness or any party at any time.
- i. 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.
- j. After the educator has presented his/her case, the chairperson may allow each party to present limited rebuttal testimony.
- k. 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 Ethics Subcommittee may grant additional time if necessary.
- l. 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 Ethics Subcommittee may grant additional time if necessary.
- m. After closing statements have been made (or the opportunity to make them has been waived), the hearing Ethics Subcommittee may orally announce its

decision. Alternatively, the hearing Ethics Subcommittee may take the case under advisement and render a written decision at a later time.

- n. During an evidentiary hearing, the “preponderance of the evidence” standard shall be used by the Ethics Subcommittee to determine whether a violation of the Code occurred. If the Ethics Subcommittee 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 may also issue a non-punitive Private Letter of Caution Letter.
- o. A written decision reflecting the hearing Ethics Subcommittee’s final findings and recommendation shall be promptly prepared by the PLSB staff attorney for the chairperson’s signature. A copy of the findings and recommendation s shall be transmitted in a timely manner to the educator. The evidentiary hearing recommendation shall be considered a proposal for decision under Ark. Code Ann. § 25-15-210 and shall contain a statement of the reasons for the decision and each issue of fact or law necessary for the decision.
- p. The educator shall have fourteen (14) days from the receipt of the final findings and recommendations to object and request a State Board Review pursuant to Section 9 of this Appendix. Should the educator not request a review by the State Board within the above-referenced fourteen (14) day time period, the findings and recommendations of the Ethics Subcommittee shall become final.

8. Subpoena Power:

- a. At the request of a party to a proceeding pending before the PLSB or the Ethics Subcommittee or the State Board of Education, the Chair of the PLSB or the Ethics Subcommittee or the State Board of Education may, as appropriate, issue a subpoena and bring before the PLSB, the Ethics Subcommittee or the State Board as a witness any person in this state. The PLSB, the Ethics Subcommittee or the State Board may, on their own motion, issue a subpoena at any time.
- b. A party requesting a subpoena must make the request in writing to either the PLSB staff attorney or the State Board attorney, 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.
- c. The subpoena shall:

- i. Be in the name of either the PLSB, the Ethics Subcommittee, or the State Board;
 - ii. State the name of the proceeding; and
 - iii. 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:
 - (A) In person;
 - (B) Before a certified court reporter under oath at the place of the witness' residence or employment;
 - (C) By video-taped deposition at the place of the witness' residence or employment; or
 - (D) By live video communications from the witness' residence, place of employment, or a nearby facility capable of providing video transmission to the board that has subpoenaed the witness.
 - iv. 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.
- d. 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.
 - e. Service of the subpoena shall be in the manner as provided by law or rule for the service of subpoenas in civil cases.
 - f. A witness who has been served by subpoena and who appears in person to testify at the trial or case pending before the PLSB, the Ethics Subcommittee or the State Board shall be reimbursed for travel and attendance as provided by law.
 - g. If a witness is served with a subpoena and fails to provide testimony in obedience to the subpoena, the PLSB, the Ethics Subcommittee or the State Board may apply to the circuit court of the county in which the PLSB, the Ethics Subcommittee 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.
 - h. The court will have the power to punish the disobedient witness for contempt as provided by the Arkansas Rules of Civil Procedure.

- i. 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.

9. State Board Review

- a. When an educator objects to the Ethics Subcommittee's evidentiary hearing findings and recommendation, the educator may request a review by the State Board of Education by notifying the attorney for the PLSB in writing within fourteen (14) days.
- b. Within ten (10) days of requesting a review, the educator will have an opportunity to file written exceptions and briefs regarding the Ethics Subcommittee's evidentiary hearing findings and recommendation.
- c. The PLSB attorney may file a written response to the educator's exceptions and brief within ten (10) days of receipt of the educator's exceptions and brief.
- d. The PLSB attorney shall prepare a redacted copy of the Ethics Subcommittee hearing transcript and hearing exhibits to be filed with State Board of Education.
- e. The PLSB's findings and recommendations, the educator's exceptions and brief, and the PLSB's response, and the redacted transcript will be submitted to the State Board of Education at the next available meeting date.
- f. Either the PLSB or the educator may request oral argument. If oral argument is requested, the PLSB attorney shall introduce the item on the agenda, then the educator will then have ten (10) minutes to present an oral argument in opposition to the findings and recommendations. The PLSB's attorney will then have (10) minutes for oral argument in support of the findings and recommendations. Upon good cause shown, the Chairperson of the State Board may grant either party additional time for oral argument.
- g. After consideration of the findings and recommendations, the records, exceptions, briefs, and arguments, the State Board of Education shall issue a final decision or order in writing or stated on the record. The final decision shall include findings of fact and conclusions of law, separately stated. The educator shall be served personally or by mail with a copy of the final decision or order.

LIST OF ACTIONS & APPLICABLE FINES

Action Taken	Maximum Fine Amount
Complaint is not substantiated – No action taken; Case closed.	\$0
Educators who violate testing procedures of the state and for whom the Ethics Subcommittee of the PLSB believes the violation does not rise to the level of an ethics violation may be recommended for additional training in the approved testing procedures by the state.	All expenses paid by the educator.
Compliance with conditions or restrictions or recommended treatment or rehabilitation with periodic monitoring.	All expenses paid by the educator.
Private Letter of Caution	\$0
Written Warning	\$0
Written Reprimand	\$50
Probation of License	\$75
Suspension of License	\$100
Permanent Revocation of License	\$0

**LIST OF APPLICABLE
FEES**

License Issued	New or Renewal	Fee Amount
One-Year Provisional Teacher's License	New	\$0.00
	Renewal	\$0.00
Five-Year Standard Teacher's License	New	\$75.00
	Renewal	\$75.00
Five-Year Vocational Permit	New	\$75.00
	Renewal	\$75.00
One-Year Professional Teaching Permit	New	\$35.00
Lifetime Teacher's License (Must be 62 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	\$0.00
Duplicate License	Not Applicable	\$50.00

Explanations and Guidelines to Clarify the Intent of The Code of Ethics

The purpose of *Appendix C* is to provide greater clarity and intent of each ethical standard listed in Section 6.00 of this rule. Therefore, *Appendix C* is not designed to supersede the required standard of ethical conduct but rather to provide some rationale of the intent and purpose and thus the proper application of each ethical standard of conduct. It is recognized that *Appendix C* is a general application of the intent and purpose of each ethical standard and is considered a guide and not all inclusive of each and every interpretation and application of the Code as required in Section 6.00.

Moreover, it is recognized that unless specifically stated in a standard of conduct listed in Section 6.00 of these rules 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.

Furthermore, it is recognized that the Code of Ethics is designed as a model of minimum standards for maintaining the public's respect for, and support of, those holding a license issued by the State Board of Education. It is not intended to regulate the employer/employee or contract relationship between any public school district and its educators. The Code is an overarching and superior set of standards and rules intended to establish and contribute 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.

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 educator/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 his or her professional practice inclusive of skills, knowledge, dispositions and responsibilities relating to his or her organizational position.

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. The State Board of Education may take direct action to revoke, suspend, or place on probation an educator whose conduct violates Ark. Code Ann. § 6-17-410(d)(1)(A)(vii) and (viii) without submission of an ethics complaint. It is important to note that noncompliance with mandated child abuse reporting laws also falls with this standard.

Standard 4 An educator entrusted with public funds and property, including school sponsored activity funds, 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 materials and results and maintains integrity regarding test administration procedures.

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. Educators should be reminded that this standard is in addition to conduct prohibited under Ark. Code Ann. §§ 6-15-438, 6-17-410(d)(1)(A)(iii) and the Arkansas Department of Education Rules Governing Testing Improprieties. The State Board may take direct action to revoke, suspend, or place on probation, the license of an educator whose conduct violates this section without the filing of an ethics complaint.

Standard 7 An educator maintains the confidentiality of information about students and colleagues obtained in the course of the educator's professional services that is protected under state law or regulations, federal law or regulations, or the written policies of the educator's school district, unless disclosure serves a professional purpose as allowed or required by law or regulations.

At times educators are entitled to and/or for professional reasons need access to certain student records, as well as other educators' records. 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. Similarly, educators should not disclose confidential information about colleagues unless the disclosure serves some legitimate professional purpose as allowed or required by law. Educators shall not knowingly or maliciously disclose confidential information about a student or colleague.

Standard 8 An educator refrains from using, possessing and/or being under the influence of alcohol or unauthorized drugs/substances and/or possessing items prohibited by law, or possessing or using tobacco or tobacco-related products 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/substances while on school property or at school-sponsored activities involving students.

PLSB Case No. _____

Code of Ethics for Arkansas Educators Allegation of Violation Form

Allegation made against:

Name of Licensed Educator _____ Date of Incident _____

Educator's Address _____

Educator's Phone (w) _____ (c) _____ (h) _____ Email _____

Educator's Work/School _____ Phone _____

School Address _____ City _____ Zip _____

Name of School District _____ Phone _____

District Office Address _____ City _____ Zip _____

* If this is a Standard 1 Allegation and you are a mandated reporter who believes suspected child maltreatment has occurred pursuant to A.C.A. § 12-12-501 et. seq, did you report it to the Arkansas State Police Child Abuse Hotline? Yes _____ No _____

(See the attached instruction page for a listing of the each of the Standards of Conduct.)

Brief Statement Describing the Alleged Conduct: (Please be as specific as possible; attach additional pages as needed.)

List the name of any other person, agency, or authority to whom the alleged conduct has been reported:

List the names and contact information of any witnesses and list and **attach** any documents, photographs or other evidence you have to support your allegation(s) _____

Allegation is being made by (check appropriate box) Educator Administrator Parent Other: _____

Complainant's Name _____ E-mail: _____

Address _____ Daytime Phone _____

City, State, Zip _____ Other Phone/Cell _____

BY SIGNING BELOW, I SWEAR OR AFFIRM THAT THE FOREGOING STATEMENTS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF UNDER PENALTY OF PERJURY.

Complainant's Signature: _____ Date _____

Send to: Dr. Karen Cushman Walters, Assistant Commissioner for HR/Licensure
Arkansas Department of Education
Four Capitol Mall, Room 102
Little Rock, AR 72201

Allegation Validated by: _____ Date: _____

DIRECTIONS FOR COMPLETING ALLEGATION FORM

This form should be used to submit an allegation of a violation of the Code of Ethics against a currently licensed Arkansas educator or administrator.

Name of Educator: Means the name of the person whose conduct is alleged to have violated the Code of Ethics.

Date of Incident: Be specific if a date specific is known. If there is a date range/school year/event, list that date range.

- Standard 1:** An educator maintains a professional relationship with each student, both in and outside the classroom.
- Standard 2:** An educator maintains competence regarding skills, knowledge, and dispositions relating to his or her professional practice inclusive of skills, knowledge, disposition, and responsibilities relating to his or her organizational position.
- Standard 3:** An educator honestly fulfills reporting obligations associated with professional practices.
- Standard 4:** An educator entrusted with public funds and property, including school sponsored activity funds, honors that trust with honest, responsible stewardship.
- 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.
- Standard 6:** An educator keeps in confidence secure standardized test materials and results and maintains integrity regarding test administration procedures.
- Standard 7:** An educator maintains the confidentiality of information about students and colleagues obtained in the course of the educator's professional services that is protected under state law or regulations, federal law or regulations, or the written policies of the educator's school district, unless disclosure serves a professional purpose as allowed or required by law or regulations.
- Standard 8:** An educator refrains from using, possessing and/or being under the influence of alcohol or unauthorized drugs or substances and/or possessing items prohibited by law, or possessing or using tobacco or tobacco-related products while on school premises or at school-sponsored activities involving students.

Brief Statement Describing the Alleged Conduct: Please write a short factual description of the events or conduct that you believe violates the Code of Ethics. Be specific with regard to the names of person involved, the names of the students, and the names of any witnesses. Please use dates, even if approximate, wherever appropriate.

Reporting to Other Persons, Agencies, or Authorities: Please identify any other reporting or other steps to resolve the issue that you have undertaken concerning the alleged conduct and the outcome of the reporting.

Witnesses, Documents, and Photographs: List the name and contact information for any person you believe may have additional information regarding the unethical conduct. Please **submit copies** of the documents and/or copies of the photographs with your form and list them.

Complainant's Name: Means the name of the person who is making the allegation. If it is on behalf of a school district, it means the district's contact for this complaint such as the superintendent, or the superintendent's designee.

Perjury: Act 1045 of 2011 requires that complainants sign the allegation form under penalty of perjury. Signing under penalty of perjury means that you believe that the facts and circumstances alleged are true, it does not mean that the information will ultimately be proven to be true.