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ARKANSAS DEPARTMENT OF EDUCATION
DIVISION OF ELEMENTARY AND SECONDARY EDUCATION
RULES GOVERNING THE CODE OF ETHICS
FOR ARKANSAS EDUCATORS

Effective Date: ~~June 2, 2022~~

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1.0 Title

1.1 These rules shall be known as the Arkansas Department of Education Division of Elementary and Secondary Education Rules Governing the Code of Ethics for Arkansas Educators.

2.0 Regulatory Authority

2.1 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 Act 96 of 2021.

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

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3.0 Purpose

3.1 The purpose of the Rules Governing the Code of Ethics for Arkansas Educators (Code of Ethics) is to define standards of ethical conduct for all educators, whether licensed or employed under a legal waiver from licensure, and to outline procedures for receiving complaints, authorizing and conducting investigations, and recommending enforcement of the Code of Ethics.

3.2 The professional, ethical educator contributes to the development and maintenance of a supportive student-focused 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. 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.

4.0 Applicability

4.1 The valid Arkansas educator's license of any person shall be subject to the conditions, requirements, and mandates of the Code of Ethics, procedures, and recommendations for enforcement.

4.2 An educator who is employed under a waiver of licensure granted by the State Board to an educational entity is subject to the conditions, requirements, and mandates of the Code of Ethics, procedures, and recommendations for enforcement, including public notification of violations of the Code of Ethics and fines equivalent to those for licensed educators.

4.3 A preservice teacher who is assigned to a school as a student intern in a supervised field experience or supervised clinical experience is also subject to the Code of Ethics. A sanction adopted by the State Board of Education may be imposed on a license when, and if, it is issued to the sanctioned preservice teacher.

5.0 Definitions

5.1 **Acted upon** means that the State Board has taken an action to address an ethics complaint by revoking, suspending, or imposing another sanction upon an educator's license.

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5.2 **An Authorized Ethics Complaint Investigation** is an ethics complaint that has been: (1) validated by an Investigator of the PLSB as being submitted by an identifiable person; and (2) authorized for investigation based upon reasonable belief by the Ethics Subcommittee 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. The Ethics Subcommittee shall ~~investigate~~ authorize an ethics complaint that it determines is credible. (Ark. Code Ann. § 6-17-428).

5.3 **AELS** means the Arkansas Educator Licensure System.

5.4 **Code of Ethics** means the Code of Ethics for Arkansas Educators established by the PLSB under Ark. Code. Ann. § 6-17-422.

5.5 **Dispositions** are the values, commitments, and professional ethics that influence behaviors toward students, families, colleagues and communities and that contribute to 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.

5.6 **Division** means the Division of Elementary and Secondary Education.

5.7 **Educator** means:

~~5.7.1~~ A person holding a valid educator's license issued by the State Board; even if the license expires during the pendency of the ethics complaint process.

~~5.7.2~~ A person employed under a waiver from licensure;

~~5.7.3~~ A preservice teacher, including a person holding an aspiring teacher permit; ~~or~~

~~5.7.4~~ A person employed under an emergency teaching permit~~.~~; or

5.7.5 A person who is a registered volunteer who will be working with students in an athletic coaching capacity or is in the process of obtaining a coaching certificate through the Arkansas Activities Association and is assisting with students in a coaching capacity in a public school athletic program.

5.8 **Educational Setting** means any public school, open enrollment public charter school, virtual public school, or education service cooperative in Arkansas serving students in any of grades pre-K through 12.

5.9 **Educator's License** means a teaching license, an administrator's license,

lifetime teaching license, ancillary license, provisional license, or any other license or permit issued by the State Board.

5.10 **Ethics Complaint** means an allegation of violation form that states alleged facts that if true would constitute an ethics violation of the Code of Ethics, is signed under penalty of perjury by the person filing the ethics complaint, validated by a PLSB Investigator, and authorized for investigation by the Ethics Subcommittee. An ethics complaint may also be a finding made in an audit report forwarded to the Division by the Arkansas Joint Legislative Auditing Committee under Ark. Code Ann. § 6-17-426.

5.11 **Ethics Subcommittee** means the subcommittee established by the PLSB to receive and investigate ethics complaints, and enforce the Code of Ethics through recommendations to the State Board.

~~5.11.1~~ The Ethics Subcommittee is composed of five (5) members with proportionate representation as the PLSB of public school teachers and administrators ~~plus~~ and may include one (1) member from any other category of representation on the PLSB.

5.12 **Ethics Hearing Subcommittee** means the subcommittee appointed by the PLSB to conduct evidentiary hearings under these rules. The Ethics Hearing Subcommittee is composed of six (6) members, three (3) of whom may be appointed by the PLSB based on educational experience. One (1) of the members shall be appointed to represent non-licensed teachers.

5.13 **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.

~~5.13.1~~ An ethics violation does not include:

5.13.1.1 A reasonable mistake made in good faith;

5.13.1.2 Acts or omissions undertaken in accordance with the reasonable instructions of a supervisor; or

5.13.1.3 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.

5.14 **Filed** means an allegation of violation form, a motion, or other document has been stamped by PLSB staff with a date acknowledging when the document arrived at the offices of the PLSB staff.

5.15 **Hearing Officer** means an impartial Arkansas licensed attorney who serves in a quasi-judicial role, i.e. opening the hearing, introducing the parties, swearing witnesses, and ruling on objections.

5.16 **Impairment** means the state of being mentally or physically diminished, weakened, or damaged, with respect to performing the educator's professional duties.

5.17 **Level 1 Public Notification of Ethics Violation** is a public notification that a nonlicensed educator has violated the Code of Ethics in a manner equivalent to a violation that warrants a written reprimand. The purpose of a Level 1 Public Notification is to publicly admonish the nonlicensed educator;

5.18 **Level 2 Public Notification of Ethics Violation** is a public notification that a nonlicensed educator has violated the Code of Ethics in a manner equivalent to a violation that warrants the probation of a license. The purpose of a Level 2 Public Notification is to publicly admonish the nonlicensed educator and place conditions or requirements on the educator for a specified period of time.

5.19 **Level 3 Public Notification of Ethics Violation** is a public notification that a nonlicensed educator has violated the Code of Ethics in a manner equivalent to a violation that warrants the suspension of a license. The purpose~~s~~ of a Level 3 Public Notification is to publicly admonish the nonlicensed educator and for a specified period of time: (a) to place conditions or requirements on the nonlicensed educator; (b) to notify the public that the nonlicensed educator is not recommended for employment or volunteering in an educational setting; and (c) notify the public that the nonlicensed educator is not eligible for teaching or testing duties.

5.20 **Level 4 Public Notification of Ethics Violation** is a public notification that a nonlicensed educator has violated the Code of Ethics in a manner equivalent to a violation that warrants the revocation of a license. The purpose of a Level 4 Public Notification is to notify the public that the educator is not recommended for employment or volunteering in an educational setting, and that the nonlicensed educator is not eligible for future licensure.

5.21 **Monitoring Conditions or Restrictions** may include any actions or alternative sanctions allowed under the Administrative Procedures Act. 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.

5.22 **NASDTEC Clearinghouse** means the searchable database administered by the

education departments of members of the National Association of State Directors of Teacher Education and Certification (NASDTEC). The Clearinghouse is viewable only by member agencies responsible for educator licensure/certification and discipline and additional interested education organizations approved by NASDTEC.

5.23 **Nonrenewal** means that an expired license will not be renewed. Nonrenewal may be permanent or temporary. There is no reinstatement of a license after permanent nonrenewal. Nonrenewal will apply when an educator's license expires after the occurrence of the alleged ethics violation.

5.24 **PLSB** means the Professional Licensure Standards Board.

5.25 **Pre-kindergarten** means an early childhood education program that serves students from birth to enrollment in kindergarten.

5.26 **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 induce 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.

5.27 **Preservice Teacher** means an unlicensed person who is enrolled as a student in an educator preparation program approved by the Division.

5.28 **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 Division. A Private Letter of Caution is not submitted to the State Board for approval and it does not constitute a sanction for the purposes of the Code of Ethics. As a result, Private Letters of Caution cannot be the basis for a request for an evidentiary hearing before the Ethics Subcommittee or the State Board.

5.29 **Probation** is the placing of conditions, requirements, or circumstances on the status of an educator's license issued by the State Board 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. The probation will remain permanently in the Division file of the educator and in the files retained by the PLSB.

5.30 **Public Information** for the purpose of these rules is information publicly available from news media or public record.

5.31 **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.

5.32 **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.

5.33 **Revocation** is the invalidation of any educator's license. The revocation will remain permanently in the Division file of the educator and in the files retained by the PLSB. An Educator whose license has been revoked may refer to the Division of Elementary and Secondary Education Rules Governing Educator Licensure on the reinstatement of a revoked license.

5.34 **State Board** means the Arkansas State Board of Education.

5.35 **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, or an educator who will be employed under a waiver granted by the State Board.

5.36 **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.

5.37 **Sexual abuse** has the same meaning as given to the term in Ark. Code Ann. § 12-18-103(20)(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.

5.38 **Student** is any individual enrolled in any state's public or private schools from pre-kindergarten through grade 12.

5.39 **Substantiated allegation** means observance of or reasonable cause to believe that a violation of the code of ethics has occurred

5.39.1 The completion of an investigation is not required in order for an allegation to be a substantiated allegation.

5.39.2 A substantiated allegation may be a preliminary determination made by a public school.

~~5.39~~ **5.40** **Supervisor** under these rules means an administrator authorized by the district or school board to administer professional employee discipline up to and including recommending termination or nonrenewal.

~~5.40~~ **5.41** **Suspension** is the temporary invalidation of any educator's license for a period of time specified by the State Board. The suspension will remain permanently in the Division file of the educator and in the files retained by the PLSB.

~~5.41~~ **5.42** **Take action** means that, based on a preponderance of the evidence, the Ethics Subcommittee or Ethics Hearing Subcommittee, makes a determination and recommendation based on an ethics complaint.

~~5.42~~ **5.43** **Valid educator's license** means that the educator's license was current, on probation, or under suspension at the time of an alleged ethics violation. A valid educator's license that expires after the occurrence of the alleged ethics violation is still subject to an ethics complaint process relating to the alleged ethics violation.

~~5.43~~ **5.44** **Waiver from licensure** means a waiver from rules and/or laws governing educator licensure granted under:

~~5.43.1~~ 5.44.1 The Arkansas Quality Charter Schools Act of 2013, Ark. Code Ann. § 6- 23-101 et seq., to a public charter school in the approval of its original charter or an amendment to its charter;

~~5.43.2~~ 5.44.2 Ark. Code Ann. § 6-15-103 to a school district;

~~5.43.3~~ 5.44.3 The District of Innovation Program, Ark. Code Ann. § 6-15-2801 et seq., to a School of Innovation; or

~~5.43.4~~ 5.44.4 Any other educational entity pursuant to Arkansas law.

~~5.44~~ **5.45** **Written 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. The written reprimand will remain permanently in the files retained by the PLSB.

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6.0 The Code of Ethics for Arkansas Educators

All Arkansas Educators, preservice teachers, and those employed under a waiver of licensure must adhere to the Code of Ethics represented below. An allegation of unethical conduct, authorized for investigation, and subsequently considered by the Ethics Subcommittee or the Ethics Hearing Subcommittee, and the State Board shall be based upon an alleged violation of the following:

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

Standard 2: **An educator maintains competence regarding his or her professional practice, inclusive of professional and ethical behavior, skills, knowledge, dispositions, 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 rule, 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, rule, or regulations.**

Standard 8: **An educator, while on school premises or at school-sponsored activities involving students, refrains from:**

a) using, possessing and/or being under the influence of alcohol or unauthorized drugs/substances, possessing items prohibited by law,

b) possessing or using tobacco or tobacco-related products, e-cigarettes, e-liquid, or vapor products, or

c) abusing/misusing prescription medications or other authorized substances as evidenced by impairment.

7.0 Recommended Disciplinary Action

7.1 The Ethics Subcommittee or Ethics Hearing Subcommittee is authorized to recommend to the State Board Levels of Public Notification for a nonlicensed educator, or for a licensed educator, a written reprimand or the probation, suspension, revocation, nonrenewal, or non-issuance of an educator's license. The Ethics Subcommittee or Ethics Hearing 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 PLSB to monitor progress toward the completion of any corrective action. Any of the following shall be considered cause for recommendation of disciplinary action against an educator:

7.1.1 An initial determination by the Ethics Subcommittee that, based on a preponderance of the evidence, a violation of the Code of Ethics as set forth in these rules has occurred.

7.1.2 Following an evidentiary hearing before the Ethics Hearing Subcommittee, the Ethics Hearing Subcommittee finds, by a preponderance of the evidence, that an educator violated the Code of Ethics as set forth in these rules.

7.1.3 An agreement between an educator and the Ethics Subcommittee or Ethics Hearing Subcommittee as to the facts and/or the recommendation for disciplinary action.

7.1.4 A failure to comply with the payment of any imposed fines, fees, or other conditions or restrictions imposed by the State Board.

7.1.5 Audit reports forwarded to the Division by the Arkansas Legislative Joint Auditing Committee pursuant to Ark. Code Ann. § 6-17- 426.

7.1.6 Disciplinary action against an educator's license/certificate in another state on grounds inconsistent with ethical conduct specified in Section 6.00 or as stated in this section.

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7.2 An individual whose license has been revoked or nonrenewed, or suspended or temporarily nonrenewed of any state for an offense for which the license would be subject to sanction in Arkansas, shall 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 following his or her revocation or permanent nonrenewal, or during the period of suspension or temporary nonrenewal for a violation of the Code of Ethics.

7.2.1 An individual who has received a Level 3 Public Notification of Ethics Violation, for the period of time specified in the Level 3 Public Notification:

7.2.1.1 Is not recommended for employment or for volunteering in an educational setting, including without limitation performing teaching or testing duties; and

7.2.1.2 Is not eligible for licensure.

7.2.2 An individual who has been issued a Level 4 Public Notification of Ethics Violation is not recommended for employment or for volunteering in an educational setting, including without limitation performing teaching or testing duties and is not eligible for licensure on and after the issuance of the Level 4 Public Notification.

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. A Private Letter of Caution may not be appealed by the educator.

8.0 Fines and Fees

8.1 The PLSB may recommend to the State Board for approval as authorized by Ark. Code Ann. §§ 6-17-422(h)(3)(c) and 6-17-428, monetary fees to be paid by a person for the issuance, reissuance, fine, or penalty associated with the process, procedures, or enforcement of requirements necessary to issue or maintain an Arkansas teaching license.

8.1.1 Fine amounts are listed in *Appendix B* to these rules, which is attached and is hereby fully incorporated into these rules as if fully set forth herein.

8.1.2 Nonrefundable fees for applications pertaining to an educator's license are published on the Division website as

approved by the State Board.

8.1.3 The State Board shall use the revenue collected from the fees and fines for the operation of the PLSB.

8.2 An educator shall pay a fine imposed by the State Board within ninety (90) days of the State Board's final order.

8.3 Failure to pay fines and fees may result in the Division recommending that the State Board suspend the educator's license pursuant to Ark. Code Ann. § 25-15- 217. The Division will not renew a license until all fines and fees have been paid.

9.0 Disclosure of Records

9.1 When the State Board issues a written reprimand for violation of the Code of Ethics, it will be reported to the Division but is not publicly viewable in AELS. The Division will disclose written reprimands if requested and pursuant to state or federal law.

9.2 Disciplinary actions are publicly reported as follows:

9.2.1 The probation of a license is reported on AELS and the NASTDEC Clearinghouse during the period of probation and until all conditions are met. Following the successful completion of probation, the probation is removed from public view on AELS and the NASTDEC Clearinghouse, but is maintained permanently in the educator's files at the Division;

9.2.2 A Level 2 Public Notification of Ethics Violation is reported on AELS for the period of time stated in the notice and until all conditions are met. Upon the successful completion of the period of time and all requirements stated in the Level 2 Public Notification, the notification is removed from public view in AELS, but is maintained permanently in the educator's files at the Division;

9.2.3 The suspension or temporary nonrenewal of a license are reported on AELS and the NASTDEC Clearinghouse. Upon the reinstatement of the license, AELS and the NASDTEC Clearinghouse will reflect that the license is reinstated, and the suspension or temporary nonrenewal is maintained permanently in the educator's files at the Division;

9.2.4 A Level 3 Public Notification of Ethics Violation is reported in AELS. Upon the successful completion of the period of time and all requirements stated in the Level 3 Public Notification, the

recommendation against employment and volunteering is removed from AELS, but the evidence of a Level 3 Public Notification is maintained permanently in the educator's files at the Division;

9.2.5 The revocation or permanent nonrenewal of a license is permanently reported on AELS and the NASDTEC Clearinghouse and is maintained permanently in the educator's files at the Division; and

9.2.6 A Level 4 Public Notification of Ethics Violation is permanently recorded on public view in AELS and maintained permanently in the educator's files at the Division.

9.3 AELS will contain the following information:

9.3.1 The Standard of Ethical Conduct violated;

9.3.2 The sanction approved by the State Board; and

9.3.3 A copy of the final order of the State Board.

9.4 Records of the Ethics Subcommittee and Ethics Hearing Subcommittee shall be retained in accordance with the Arkansas General Records Retention Schedule.

9.5 In accordance with Ark. Code Ann. § 6-17-428, all records and all hearings, meetings, and deliberations of the Ethics Subcommittee and Ethics Hearing 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.

9.6 All documents relied upon by the State Board for its decision-making <u>at a public hearing</u> are public record.

9.6.1 All hearings before the State Board are publicly viewable through live-streamed video and are archived on the Division website.

9.6.2 State Board orders concerning ethics violations are publicly available on the Division website. Orders on written reprimands, probation and suspension will be removed after the <u>educator has met the terms of the State Board order and after the</u> expiration of two (2) years from the date of the order, but orders issuing a sanction longer than two (2) years shall remain on the website for the duration of the sanction <u>and until the educator has met the terms of the State Board order</u>. For nonrenewal or revocation, orders shall remain permanently on the Division website.

9.7 Subject to preemption or prohibition by other state or federal law, all records

pertaining to an ethics complaint are open for inspection and copying by the person against whom the complaint is lodged and his or her representative. Videos, recordings, or other materials that the PLSB cannot redact will be made available to the educator or his or her representative at the PLSB office only.

9.8 Information such as personal contact information, social security numbers, student names, and other information protected by state or federal law will be redacted or released as permitted by law.

9.9 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.

10.0 Mandatory Filing of Allegation and Ethics Violations Review

10.1 Within twenty-four (24) hours of a matter coming to the attention of a public school supervisor, a ~~A~~ supervisor at an Arkansas public educational setting shall file an ethics complaint if he or she observes, ~~or~~ has reasonable cause to suspect, or there is a substantiated allegation that an educator has violated Standard 1 ~~involving the sexual abuse of a student~~ of the Code of Ethics.

10.2 The failure to submit an ethics complaint under this section is a violation of Standard 3.

10.3 This provision does not satisfy the legal obligation by the supervisor or an educator as a mandated reporter of child maltreatment under Ark. Code Ann. § 12-18-402 of the Child Maltreatment Act.

11.0 Procedures for the Investigation of an Ethics Complaint

11.1 Submitting an Allegation of Violation of the Code of Ethics - Any person wishing to submit an allegation of an ethics violation must use the Allegation of Violation form (allegation form) developed by the PLSB.

11.1.1 An allegation form shall be completed and signed under penalty of perjury by the complainant. Only an original signature will be accepted. A facsimile or electronic signature on the form will not be accepted and the form will be returned or the complainant will be required to submit a form with an original signature.

11.1.2 An allegation form shall be submitted to the Assistant Commissioner designated on the allegation form. The Assistant Commissioner shall forward the allegation form to the PLSB office for filing.

11.1.2.1 The allegation form may be filed with the PLSB by submitting it to the Division, a public school district, or a public school superintendent.

11.1.2.2 If an allegation form is received by a public school district or a public school superintendent, the public school district or superintendent must forward all signed allegations directly to the Division; the failure to do so may be considered a violation of the Code of Ethics.

11.2 Automatic submission for investigation - The following will automatically go to the Ethics Subcommittee of the PLSB for the opening of an investigation:

11.2.1 Public information that an educator may have committed a violation of the Code of Ethics; and

11.2.2 Audit reports forwarded to the Division by the Arkansas Joint Auditing Committee pursuant to Ark. Code Ann. § 6-17-426.

11.2.3 If the Ethics Subcommittee votes that the Chair should submit an allegation form, the Chair shall recuse herself or himself from any further consideration of the complaint. If necessary, the PLSB may appoint a board member to the Ethics Subcommittee for the limited purpose of resolving a complaint filed under this section.

11.3 Validation - The Investigators of the PLSB will review the allegation form and verify that the allegation form: (1) has been submitted by an identifiable person; (2) was signed under penalty of perjury; (3) concerns alleged unethical conduct and; (4) obtain any updated information and/or additional evidence concerning the allegations, from the time the allegation was originally submitted to the PLSB.

11.3.1 After an allegation of a violation is validated, it cannot be withdrawn by the complainant. However, the Ethics Subcommittee may take a written request for withdrawal into consideration when determining whether to authorize an investigation based on the allegation.

11.4 Action by the PLSB on an Allegation of Violation - An allegation will become a complaint once it has been:

11.4.1 Filed with the PLSB as provided under 11.01 with an original signature;

11.4.2 Validated by one of the PLSB Investigators as being submitted by an identifiable person; and

11.4.3 Determined by the Ethics Subcommittee as credible and if true, would constitute a violation by an Arkansas educator of the Code of Ethics as set forth in these rules.

11.5 Action by the PLSB Ethics Subcommittee

11.5.1 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 of Ethics committed by the alleged educator.

11.5.2 Any member of the Ethics Subcommittee 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 member shall recuse himself/herself if there is any relationship or other potential conflict of interest that would prevent him/her from making a fair and impartial decision on the educator's case.

11.5.3 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.

11.5.4 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. There is no notification to the educator either of the allegation or of the denial of authority to investigate.

11.5.5 If the Ethics Subcommittee votes to authorize investigation of the allegation, the allegation becomes an authorized ethics complaint.

11.5.5.1 Within ten (10) business days of authorization, the PLSB staff shall notify the named educator in writing concerning the initiation of the investigation and provide the educator with a copy of:

11.5.5.1.1 The complaint and documents or evidence provided by the complainant, as provided in Section 9.00; and

11.5.5.1.2 The 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.

11.5.5.2 The PLSB staff shall also provide to the complainant written notice of the authorization to investigate their alleged violation(s).

11.5.6 If, in the course of an authorized investigation, the PLSB investigative staff discovers credible information that the named educator has committed additional violations of the Code of Ethics, the PLSB staff may request additional authority to investigate from the Ethics Subcommittee.

11.5.6.1 The authorization of an additional investigation will restart the calculation of the statutory timelines.

11.5.7 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 submit an allegation form with the Division. If the Ethics Subcommittee votes that the Chair should submit an allegation form, the Chair shall recuse herself or himself from any further consideration of the complaint. If necessary, the PLSB may appoint a board member to the Ethics Subcommittee for the limited purpose of resolving the complaint.

11.6 Completion of the Investigation

11.6.1 The Ethics Subcommittee shall complete its investigation of an ethics complaint and take action within:

11.6.1.1 One hundred fifty (150) calendar days of authorizing the investigation; or

11.6.1.2 If a hearing is conducted, within one hundred eighty (180) calendar days of authorizing the investigation.

11.6.2 Upon completion of the investigation and final report of investigation, the PLSB staff will provide to the accused educator or his or her representative:

11.6.2.1 The final report of investigation;

11.6.2.2 Except as provided under Section 9.00, a copy of the documents and evidence concerning the investigation of

the ethics complaint.

11.6.2.2.1 If the educator requests a transcript of a video or recording, the PLSB office may provide the transcript, redacted as necessary.

11.6.2.2.2 At its option, the PLSB may outsource the transcription at the educator's expense.

11.6.2.2.3 If a request for a transcript will cause the resolution of the case to exceed the statutory timeline, the PLSB may decline the transcript request or request that the educator agree to extend the timeline until the educator receives and submits payment for the transcript;

11.6.2.3 Written notice that the Ethics Subcommittee will consider taking action against the named educator; and

11.6.2.4 A copy of the rules in effect at the time the ethics complaint is filed.

11.6.3 The named educator or his/her attorney will be allowed fourteen (14) calendar days from receipt of the final report, notice, documentation, and evidence from the PLSB staff to submit any further response in writing.

11.6.4 The educator or his/her attorney may request additional time to respond to the final report, notice, documentation and evidence received from the PLSB staff regarding the investigation.

11.6.5 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 Subcommittee.

11.6.6 The PLSB will consider a notice as received on the earliest of one of the following dates:

11.6.6.1 The date a letter mailed by certified mail was received by the educator, as confirmed with the United States Postal Service;

11.6.6.2 On the tenth (10th) calendar day from the date a

letter was mailed by regular mail, if the educator or his or her representative does not sign for the certified letter, and the letter sent by regular mail is not returned to the PLSB; or

11.6.6.3 The date the educator or his or her representative accesses the documents sent by secure file link.

12.0 Procedures for the Initial Determination and Recommendation of the Ethics Subcommittee

12.1 The Ethics Subcommittee shall take action on the ethics complaint by making an initial determination and recommendation not more than sixty (60) days after receipt of: (1) the educator's written response to the final report of investigation, or (2) the expiration of the educator's time to provide a written response to the final report of investigation.

12.1.1 The Ethics Subcommittee shall review the results of the investigation including the PLSB staff's final report of investigation and, if submitted as required by these rules, the written response from the educator who is the subject of the ethics complaint.

12.1.2 Following the review, if the Ethics Subcommittee finds that the educator violated the Code of Ethics as set forth in these rules, the Ethics Subcommittee shall issue an initial decision and may recommend any appropriate action as set forth in these rules.

12.1.2.1 The Ethics Subcommittee shall refer to the Sanction Guidelines for Ethical Violations approved by the PLSB (Appendix D) when making the initial determination and recommendation.

12.1.3 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.

12.1.4 **Private Letter of Caution** - The Ethics Subcommittee may also issue a Private Letter of Caution in lieu of recommending a disciplinary action.

12.2 Notice to the Educator

12.2.1 The PLSB staff will notify the named educator in writing of the

recommendation of the Ethics Subcommittee within ten (10) business days following the Ethics Subcommittee's initial determination and recommendation.

12.2.2 The notice will further inform the educator that he or she may request an evidentiary hearing, at which the Ethics Hearing Subcommittee may retain the Ethics Subcommittee's recommendation, or may modify it, including finding no evidence to support a finding of a violation.

12.2.3 There is no right to an evidentiary hearing or an appeal from a Private Letter of Caution.

12.3 Educator's response

12.3.1 The educator may reject the recommendation of the Ethics Subcommittee of the PLSB and request an evidentiary hearing before the Ethics Hearing Subcommittee by submitting the request to the PLSB attorney in writing within fourteen (14) calendar days of the date the educator receives the notice.

12.3.2 If an educator fails to respond to notification of the initial recommendation of the Ethics Subcommittee within fourteen (14) calendar days, the initial recommendation will become a final recommendation without an evidentiary hearing and will be forwarded to the State Board for a final decision.

12.3.3 The PLSB staff shall notify the educator that the final recommendation will be submitted to the State Board as part of its consent agenda.

12.3.3.1 The State Board may remove the case from its consent agenda and set the case for further review pursuant to Section 16.01.

12.3.4 If the educator allows his or her license to expire after the date of the alleged ethics violation, the complaint process will continue through its completion.

12.4 **Notice to Complainant** - The PLSB staff shall provide a written notice to the complainant when the Ethics Subcommittee determines the evidence does not support a finding of an ethical violation and closes the file. However, the Ethics Subcommittee rationale for not authorizing an investigation shall remain confidential.

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13.0 Motions before the Ethics Subcommittee or Ethics Hearing Subcommittee

13.1 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 file-stamp the motion indicating the date it is received and promptly transmit the motion(s) to the Chair of the Ethics Hearing Subcommittee for consideration at the next available Ethics Hearing Subcommittee meeting.

13.2 Once an evidentiary hearing has been requested, all motions must be filed no later than fourteen (14) calendar days before the scheduled date of the hearing. The responding party shall have seven (7) calendar days to respond to a motion.

13.3 Filing a motion that requests that the Ethics Hearing Subcommittee take an action prior to the requested or scheduled evidentiary hearing extends the time limits set out in these rules and Ark. Code Ann. § 6-17-428 by the amount of time required to rule on the motion.

13.4 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, or the Ethics Hearing Subcommittee Chair may allow oral argument. The PLSB attorney and the educator may propose a stipulation to dispose of any procedural or substantive matters at any time subject to final approval by the Ethics Hearing Subcommittee.

13.5 The Chair of the Ethics Hearing Subcommittee Chair may consider any motion that is not timely filed as set forth herein when there is good cause for the untimely filing.

14.0 Evidentiary Hearings

14.1 Request for and scheduling of an evidentiary hearing

14.1.1 If the educator requests an evidentiary hearing, the hearing will be held before the Ethics Hearing Subcommittee within one hundred eighty (180) days of the date the investigation was authorized, or at a time and date agreed between the parties.

14.1.2 The PLSB staff shall notify the educator in writing of the date, time and location of the evidentiary hearing.

14.1.3 Each party shall disclose to the other the names of all witnesses and identify all evidence the party intends to use at the hearing. The notice will also state a date by which the exchange shall take

place.

14.1.4 The educator or the PLSB representative may request a continuance of a scheduled evidentiary hearing. Such a request shall be made in the form of a written motion as provided in Section 13. For reasonable circumstances, including without limitation, inclement weather, state or national emergencies, or other unforeseeable events, the Ethics Hearing Subcommittee may, on its own motion, continue a scheduled evidentiary hearing.

14.2 Hearing procedures

14.2.1 An evidentiary hearing shall be conducted on the record before a court reporter.

14.2.2 Any member of the Ethics Hearing Subcommittee 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 member shall recuse himself/herself if there is any relationship or other potential conflict of interest that would prevent him/her from making a fair and impartial decision on the educator's case.

~~14.2.2~~ 14.2.3 The Ethics Hearing Subcommittee may use a hearing officer.

14.2.4 The chair of the Ethics Hearing Subcommittee or the hearing officer, if a hearing officer is present, shall ensure that the evidentiary hearing is conducted according to the procedures outlined in this section.

14.2.5 Once the Ethics Hearing Subcommittee members become aware of the name of the educator who has requested a hearing, subcommittee members shall not discuss the case with anyone prior to the hearing or conduct any research related to the educator or the case.

14.2.6 No individuals, other than the parties, attorneys, hearing officer, witnesses while testifying, subcommittee members, the PLSB investigator or other PLSB staff, and court reporter will be allowed in the hearing room during the hearing. While off the record or on breaks, the educator, his or her attorney, and the PLSB staff shall leave the hearing room.

~~14.2.3~~ 14.2.7 The Ethics Hearing Subcommittee shall use the "preponderance of the evidence" standard to determine whether a violation of the Code of Ethics occurred. The representative of the

PLSB will have the burden of proving each fact of consequence to the determination by a preponderance of the evidence.

~~14.2.4~~ 14.2.8 A representative of the PLSB and the educator (or his/her attorney) shall have up to one (1) hour each to present their cases to the Ethics Hearing Subcommittee. The Chair of the Ethics Hearing Subcommittee may grant additional time to either or both parties, if necessary.

~~14.2.4.1~~ 14.2.8.1 A motion for additional time will be considered timely if it is submitted to the Ethics Hearing Subcommittee as provided in Section 13.

~~14.2.5~~ 14.2.9 Witnesses shall be sworn in by the Chair or hearing officer. Except for the educator and PLSB investigator, witnesses shall remain outside of the hearing room until called to testify. The proceedings of the Ethics Hearing Subcommittee are by law confidential and witnesses shall not discuss the case or any evidence or documents concerning the case before, during, or after the hearing except in the presence of the Ethics Hearing Subcommittee.

~~14.2.6~~ 14.2.10 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 Chair or hearing officer may grant additional time to either or both parties, if necessary.

~~14.2.7~~ 14.2.11 The PLSB shall present its case (and opening statement, if it so chooses) first.

~~14.2.8~~ 14.2.12 Any written documents, photographs or any other items of evidence may be presented to the Ethics Hearing Subcommittee with the permission of the Chair or hearing officer.

~~14.2.8.1~~ 14.2.12.1 The items of evidence shall be marked as either "PLSB Exhibit Number 1(et seq.)" or "Educator's Exhibit Number 1 (et seq.)."

~~14.2.8.2~~ 14.2.12.2 After an item of evidence has been presented to the Ethics Hearing Subcommittee, the introducing party shall give one (1) copy to the court reporter for the record and one (1) copy to each member of the Ethics Hearing Subcommittee and hearing officer.

~~14.2.9~~ 14.2.13 After one party has questioned a witness, the other party shall have an opportunity to cross-examine the witness. The Chair or

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hearing officer may also grant either party the opportunity for re-direct examination or to offer rebuttal testimony.

~~14.2.10~~ 14.2.14 Cross-examination, re-direct, and rebuttal are not included in the one-hour time period for case presentation, but the limitation or extension of time is at the discretion of the Chair or hearing officer.

~~14.2.11~~ 14.2.15 While the scope of each party's presentation ultimately lies within the Chair's or hearing officer's discretion, case presentation should be arranged in such a way as to avoid redundant testimony.

~~14.2.12~~ 14.2.16 Each member of the Ethics Hearing Subcommittee shall also have the opportunity to ask questions of any witness or any party at any time.

~~14.2.13~~ 14.2.17 After the rebuttal evidence has been presented, the educator shall have up to ten (10) minutes to present a closing statement, if desired. The Chair or hearing officer may grant additional time if necessary.

~~14.2.14~~ 14.2.18 After the educator has made a closing statement, or waived the opportunity for the same, the representative of the PLSB shall have up to ten (10) minutes to make his/her closing statement, if desired. The Chair or hearing officer may grant additional time if necessary.

14.2.19 Ethics Hearing Subcommittee members should not talk or otherwise communicate with the educator or witnesses while off the record at the hearing, including before or after the hearing begins, not even to exchange pleasantries.

~~14.2.15~~ 14.2.20 The Ethics Hearing Subcommittee may:

~~14.2.15.1~~ 14.2.20.1 Maintain, reject, or modify the Ethics Subcommittee recommendation; or

~~14.2.15.2~~ 14.2.16.2 Issue a non-punitive Private Letter of Caution.

~~14.2.16~~ 14.2.21 After closing statements have been made (or the opportunity to make them has been waived), the Ethics Hearing Subcommittee may go off the record for deliberations and will ask that all parties leave the room during this time. After a decision has been made parties will be asked to return to the hearing room and the Ethics Hearing Subcommittee will orally announce the decision or may take the case under advisement and render a decision at a later time.

~~14.2.17~~ 14.2.22 The Ethics Hearing Subcommittee shall state in its written decision the following:

~~14.2.17.1~~ 14.2.22.1 Its determination as to whether the educator violated one or more standards of the Code of Ethics;

~~14.2.17.2~~ 14.2.22.2 Its findings as to the evidence supporting each determination of a violation;

~~14.2.17.3~~ 14.2.22.3 Its recommendation to the State Board, if any, for disciplinary action, including the sanction, conditions, and time periods to be met; and

~~14.2.17.4~~ 14.2.22.4 A statement of each issue of fact or law necessary for the decision.

14.3 Notice of Evidentiary Hearing Decision

14.3.1 Within ten (10) business days following the action taken by the Ethics Hearing Subcommittee, the PLSB staff will notify the educator in writing of the Ethics Hearing Subcommittee's action taken on the evidentiary hearing.

14.3.2 Following the notice of action taken, the PLSB attorney shall send to the educator:

14.3.2.1 The Ethics Hearing Subcommittee's written findings and Recommendation.

14.3.2.1.1 The evidentiary hearing recommendation is a proposal for decision under Ark. Code Ann. § 25-15-210.

14.3.3 After receiving the written findings and recommendations, the educator may object and request a review by the State Board pursuant to Section 14.04.

14.4 Educator's Request for State Board Review

14.4.1 The educator shall have fourteen (14) calendar days from the receipt of the written findings and recommendations of the Ethics Hearing Subcommittee to object and request a review by the State Board.

14.4.2 If the educator does not request a State Board review within the

14- day period, the findings and recommendation shall become final and the PLSB will submit them to the State Board on its consent agenda.

14.4.2.1 The State Board may remove the case from its consent agenda and set the case for further review pursuant to Section 16.01.

15.0 Subpoenas

15.1 At the request of a party to a proceeding pending before the PLSB or its subcommittees, the Chair of the PLSB may issue a subpoena and bring before the PLSB, or the Chair of the Ethics Hearing Subcommittee may issue a subpoena and bring before the Ethics Hearing Subcommittee, as a witness any person in this state. The PLSB Chair or the Chair of the Ethics Hearing Subcommittee may, on his or her own motion, issue a subpoena at any time.

15.2 A party requesting a subpoena must make the request in writing to the PLSB staff attorney. 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.

15.3 The party requesting the subpoena is responsible for serving the subpoena on the witness in the manner provided for by statute or rule for the service of subpoenas in civil cases or by any form of mail addressed to the person to be served with a return receipt requested and delivery restricted to the addressee or agent of the addressee. The requesting party is responsible for the payment of any fees or mileage associated with the appearance of the witness subject to the subpoena.

15.4 The subpoena shall:

15.4.1 Be in the name of the PLSB or the PLSB Ethics Hearing Subcommittee as applicable;

15.4.2 State the name of the proceeding; and

15.4.3 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:

15.4.3.1 In person;

15.4.3.2 Before a certified court reporter under oath at the place of the witness' residence or employment;

15.4.3.3 By video-taped deposition at the place of the witness' residence or employment, or at another location agreed to between the parties; or

15.4.3.4 By live video communications from the witness' residence, place of employment, or a nearby facility capable of providing video transmission to the PLSB or the Ethics Hearing Subcommittee.

15.5 The manner of providing testimony under the subpoena shall be conducted by video conference testimony unless another manner is agreed upon by the PLSB or the Ethics Hearing Subcommittee, as applicable, and the person who is the subject of the subpoena.

15.6 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.

15.7 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 Ethics Hearing Subcommittee shall be reimbursed for travel and attendance as provided by law.

15.7.1 The cost of serving a subpoena and all associated costs for the testimony, such as a deposition, shall be borne by the requesting party.

15.8 If a witness is served with a subpoena and fails to provide testimony in obedience to the subpoena, the PLSB may apply to the circuit court of the county in which the PLSB is holding the proceeding for an order causing the arrest of the witness and directing that the witness be brought before the court.

15.8.1 The court will have the power to punish the disobedient witness for contempt as provided by the Arkansas Rules of Civil Procedure.

15.9 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.

16.0 State Board Review

16.1 The State Board may remove a PLSB recommendation from a consent agenda for further review as follows:

16.1.1 The State Board will request that the review be placed on the action agenda for its next available regularly scheduled monthly board meeting and provide its rationale for the review.

16.1.2 The educator or his/her attorney may elect to:

16.1.2.1 Appear at the subsequent review meeting and have the opportunity to make a statement at the State Board review for up to ten (10) minutes. The PLSB may also have up to ten (10) minutes to testify. Additional time may be granted at the discretion of the board chair. The board members may ask questions of either party at the subsequent review; or

16.1.2.2 Request a full review of the evidentiary hearing transcript and evidence, if an evidentiary hearing has already been conducted and the State Board is removing a consent agenda item for a recommendation from the PLSB Evidentiary Hearing Subcommittee.

16.1.3 If the educator or his/her attorney does not make any of the above elections, or does not appear for the subsequent review meeting, the State Board shall conduct the subsequent review without the educator or his/her attorney and make a final decision.

16.1.4 The State Board's final decision, made at the meeting at which the subsequent review is conducted, may be appealed by the educator to Circuit Court as provided under Section 17.00.

16.2 When an educator objects to the Ethics Hearing Subcommittee's evidentiary hearing findings and recommendation, the educator may request a review by the State Board by filing with the PLSB attorney his or her written objections and brief within fourteen (14) calendar days of receiving the Ethics Hearing Subcommittee's written findings and recommendations on the evidentiary hearing.

16.2.1 The parties may agree to allow the educator additional time to file the written objections and brief. The educator/educator's attorney may also request that the State Board grant the educator additional time to file the written objections and brief. A request for additional time shall specify the reason for the request and shall be in the form of a written motion. The PLSB attorney will provide the State Board with the motion and any response.

16.3 Written Objections and Briefs

16.3.1 The transcript will be provided to the State Board by the PLSB

attorney and the educator should not include any part of the transcript in the written objections and brief.

16.3.2 The written objections, brief, and PLSB's response shall use the following caption and shall bear the signature of the party or, if represented by counsel, the attorney for the party:

BEFORE THE ARKANSAS STATE BOARD OF EDUCATION
IN THE MATTER OF:
_____ **PLSB CASE NO.: _____**
TITLE OF DOCUMENT

16.3.3 The PLSB attorney may file a written response to the educator's objections and brief within fourteen (14) calendar days of receipt of the educator's objections and brief.

16.3.4 The PLSB attorney shall prepare a redacted copy of the Ethics Hearing Subcommittee hearing transcript and hearing exhibits to be filed with State Board.

16.3.5 The PLSB's findings and recommendations, the educator's objections and brief, the PLSB's response, and the redacted transcript will be submitted to the State Board and will be heard by the State Board at the next available meeting date or at a later date if agreed between the parties.

16.3.6 All requests for an extension of time to file written objections or responses, for extended time for oral argument, or for any other pre-hearing matter shall be made in the form of a motion to the State Board Chair in a timely manner to give notice and opportunity for a response to the other party before the hearing date. The PLSB attorney will provide the State Board with the motion and any response.

16.4 Oral Argument; Testimony

16.4.1 Either the PLSB or the educator may request oral argument.

16.4.2 The request should be submitted in writing by the party at the time the written objections or response, as applicable, is filed.

16.4.3 If oral argument is requested, the PLSB attorney shall introduce the item on the agenda, then the educator will have ten (10) minutes to

present an oral argument in opposition to the findings and recommendations.

16.4.4 The PLSB's attorney will then have (10) minutes for oral argument in support of the findings and recommendations.

16.4.5 Upon good cause shown, the Chair of the State Board may grant either party additional time for oral argument.

16.5 Testimony

16.5.1 The hearing is on the consideration of the transcript, the pleadings, and oral argument only. However, at the request of the State Board Chair, the educator and the PLSB investigator for the case may provide testimony. All testimony from the educator, or the PLSB investigator shall be given under oath.

16.6 Order; Findings

16.6.1 After consideration of the findings and recommendations, the records, objections, briefs, and arguments, the State Board shall issue a decision on the record and will provide a final written decision, including findings of fact and conclusions of law, separately stated.

16.7 Notices

16.7.1 Following the issuance of the State Board's final written order, the PLSB staff shall provide the following written notices:

16.7.1.1 **Notice to Educator** - Within thirty (30) calendar days following the State Board review, the PLSB shall provide to the educator by personal service or by mail a copy of the final decision or order.

16.7.1.2 **Notice to Complainant** - The PLSB staff shall provide written notice to the complainant when the State Board has issued its final written order on the recommendation of the Ethics Subcommittee or Ethics Hearing Subcommittee.

16.7.1.3 **Notice to Employing Educational Entity** – The PLSB staff shall provide written notice to the employing educational entity, if any, when the educator's license has been suspended, nonrenewed (temporarily or permanently), or revoked by the

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State Board or a Level 2, 3, or 4 Public Notice of Ethics Violation is approved by the State Board.

17.0 Appeal to Circuit Court

17.1 The educator may file an appeal of the State Board's final order to circuit court within thirty (30) days pursuant to the Arkansas Administrative Procedure Act, Ark. Code Ann. § 25-15-201 et seq.

17.2 The 30-day time period for filing an appeal in circuit court shall run from the date the educator receives the final written order of the State Board.

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Appendix A

Summary of Timeline for the Ethics Complaint Process

PLSB Action	Educator Action	Deadline
Initial Review of Allegation / Authorization of Investigation		First available meeting following verification of an allegation of violation
Notice to Complainant if no Authorization of Investigation		
Notice to Educator of Authorization of Investigation		10 business days after authorization
	Response of Educator to Ethics Complaint	~~30~~ 14 calendar days after receiving notice
	Response to Final Report and Investigation	14 calendar days after receiving notice
Initial Determination and Recommendation		First available meeting after receiving the response or expiration of educator's response time (within 150 days after authorization of investigation)
	Response of Educator to Initial Determination and Recommendation notice (reject and request evidentiary hearing)	14 calendar days of receiving the notice
If no rejection schedule for State Board consent agenda		Placed on the next available agenda. State Board may remove from consent and set for subsequent review.
If rejected, schedule Evidentiary Hearing		Scheduled within 180 days from the date the investigation was authorized, unless the parties agree otherwise
Motions concerning a hearing	Motions concerning a hearing	14 calendar days before hearing date
	Request for subpoenas	10 calendar days before hearing date
Taking action on evidentiary hearing		At the conclusion of the hearing, or at a later time if taken under advisement
Notice to Educator of action taken		10 business days after taking action
Notice to Educator of written findings and recommendations		As soon as is practicable after receipt of the hearing transcript
	Response to notice of the findings and recommendation (submits a request for State Board review by filing written objections and brief)	14 calendar days of receiving the written findings and recommendations
Response to educator's written objections and brief		14 calendar days after receiving written objections and brief
Scheduling State Board review		Placed on the action agenda for the next available State Board meeting
Notice to Educator of State Board Order; Notice to Complainant of State Board Order		As soon as is practicable after receipt of the hearing transcript
	Filing of an appeal to Circuit Court	Within 30 days of receiving the written order of the State Board

Appendix B

~~LIST OF ACTIONS & APPLICABLE FINES~~

~~Nonpayment of fines may subject the educator to further disciplinary action.~~

~~Action Taken~~	~~Maximum Fine Amount~~
~~Complaint is not substantiated – No action taken; Case closed.~~	~~Not Applicable~~
~~Compliance with recommended training, conditions, or restrictions, or treatment or rehabilitation with periodic monitoring.~~	~~All expenses paid by the educator.~~
~~Private Letter of Caution~~	~~$0~~
~~Written Reprimand / Level 1 Public Notification of Ethics Violation~~	~~Up to $100~~
~~Probation of License / Level 2 Public Notification of Ethics Violation~~	~~Up to $250~~
~~Suspension of License or Temporary Nonrenewal / Level 3 Public Notification of Ethics Violation~~	~~Up to $500~~
~~Permanent Revocation or Permanent Nonrenewal of License / Level 4 Public Notification of Ethics Violation~~	~~Up to $500~~

Potential Sanctions and Fines

Potential Sanction	Fine
Letter of Caution – A non-punitive communication from the Ethics Subcommittee to privately inform the educator that the conduct is a violation, but the circumstances and mitigating factors do not warrant disciplinary action.	N/A
Written Reprimand or Level 1 Public Notification – To publicly admonish and caution that further unethical conduct will lead to a more severe action.	up to $100
Probation of License or Level 2 Public Notification – To publicly admonish and place conditions or requirements on the educator and/or status of a license for a specified period of time.	up to $250
Suspension of License or Level 3 Public Notification – To publicly admonish or place conditions or requirements on the educator; to notify the public that during the specified period the educator is not recommended for licensure, employment or volunteering in an education setting; and to temporarily invalidate an educator's license for a specified period of time.	up to $500
Revocation of License, Non-renewal, Non-Issuance, Level 4 Public Notification – To notify the public that the educator is not recommended for employment or volunteering in an educational setting, is not eligible for future licensure, and to permanently invalidate an educator's license.	up to $500

Non-payment of fines may subject the educator to further disciplinary action.

Explanations and Guidance to Clarify the Intent of the Code of Ethics

The purpose of this *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 of Ethics as required in Section 6.00.

Employer/Employee or Contractual Relationship. The Code of Ethics is designed as a model of minimum standards for maintaining the public's respect for, and support of, educators. It is not intended to regulate the employer/employee or contract relationship between any public school district and its educators.

The Code of Ethics is an overarching and superior set of standards and rules intended to establish and contribute to the development and maintenance of a supportive student-focused 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.**

Guidance: 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.

An educator should not participate in and should discourage bullying based on such characteristics as race, national origin, color, gender, sexual orientation or identity, age, disability, or religion. "Bullying" means the intentional harassment, intimidation, humiliation, ridicule, defamation, or threat or incitement of violence against a student by a written, verbal, electronic, or physical act that may address an attribute, as defined in A.C.A. § 6-18-514, of the student and that causes or creates actual or reasonably foreseeable: (a) physical harm to a student or damage to the student's property; (b) substantial interference with a student's education; or (c) a hostile educational environment for one (1) or more students due to the severity, persistence, or pervasiveness of the act.

Educators should maintain professional relationships with students while using social-networking technology tools.

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 professional and ethical behavior, skills, knowledge, dispositions, and responsibilities relating to his or her organizational position.**

Guidance: 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. Educators have a responsibility to exercise professionalism and competence when dealing with members of the school community. Members of the school community include, but are not limited to, administrators, teachers, staff, parents, guardians, school board members, residents of the school district's community.

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

Guidance: 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 and educator should be honest when reporting data and information to the DESE, the Arkansas 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 within this standard.

Standard 4	**An educator entrusted with public funds and property, including school sponsored activity funds, honors that trust with honest, responsible stewardship.**

Guidance: 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.**

Guidance: 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.**

Guidance: 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. This standard applies to all educators, whether licensed or non-licensed. Licensed educators should be reminded that this standard is in addition to conduct prohibited by law and the Division of Elementary and Secondary Education Rules Governing Test Security, Testing Violations, and Alleged 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 standard 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.**

Guidance: 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 Family 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. Educators shall not knowingly or maliciously disclose confidential information about a student or colleague.

Standard 8	**An educator, while on school premises or at school-sponsored activities involving students, refrains from:** **a) using, possessing and/or being under the influence of alcohol or unauthorized drugs/substances, possessing items prohibited by law,** **b) possessing or using tobacco or tobacco-related products, e-cigarettes, e-liquid, or vapor products, or** **c) abusing/misusing prescription medications or other authorized substances as evidenced by impairment.**

Guidance: 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.

SANCTION GUIDELINES FOR ETHICAL VIOLATIONS (approved by PLSB 6-5-2017)				
(Private)	**Level 1 Public Notification**	**Level 2 Public Notification**	**Level 3 Public Notification:**	**Level 4 Public Notification**
Letter of Caution	**Licensure Action: Written Reprimand**	**Licensure Action: Probation**	**Licensure Action: Suspension or Temporary Nonrenewal**	**Licensure Action: Revocation or Permanent Nonrenewal**
To privately inform that the conduct is broadly speaking a violation but the circumstances and mitigating factors do not warrant disciplinary action; No Fine	To publicly admonish and caution that further unethical conduct will lead to a more severe action; Fine imposed up to $100	To publicly admonish and place conditions or requirements on the educator and/or status of a license for a specified period of time; Fine imposed up to $250	To publicly admonish and place conditions or requirements on the educator; to notify the public that during the specified period the educator is not recommended for licensure or employment or volunteering in an education setting; and to temporarily invalidate an educator's license for a specified period of time; Fine imposed up to $500	To notify the public that the educator is not recommended for employment or volunteering in an educational setting, is not eligible for future licensure, and to permanently invalidate an educator's license; Fine imposed up to $500
Weighting factors (one or more present):	**Weighting factors (one or more present):**	**Weighting factors (one or more present):**	**Weighting factors (one or more present):**	**Weighting factors (one or more present):**
a. Only one incident b. Actions are viewed as unethical, but do not warrant disciplinary action c. Negligent or reckless act or omission, but very low in severity d. No detrimental impact on students e. No prior history of similar behavior	a. Only one violation b. Actions are viewed as unethical, and if continued could have a detrimental impact on students c. No prior history of similar behavior d. Some low-level negative impact on student e. Low level of damage to, loss of or misuse of school district property or funds f. Reasonably should have known that actions violated the Code of Ethics	a. One or more violations b. Evidence of some prior history of similar behavior c. Some low to moderate level negative impact on student d. Moderate level of damage to, loss of, or misuse of school district property or funds e. Knew that actions violated the Code of Ethics	a. Multiple violations b. Violations that occur over a period of years c. Moderate to high level of negative impact on student d. Moderate to high level of damage to, loss of, or misuse of school district property or funds e. Willful or intentional violation of the Code of Ethics	a. Multiple violations b. Violations that occur over a period of years c. Moderate to high level of negative impact on student d. High level of damage to, loss of, or misuse of school district property or funds e. Willful or intentional violation of the Code of Ethics f. Act of child maltreatment g. Criminal offense involving a student

PLSB Sanctioning Guidelines

Offense	Examples	Beginning Sanction
Drugs/Alcohol	Educator is under the influence of drug(s) and/or alcohol on school property or at a school-sponsored event. This includes prescription medication that impairs the educator's behavior	Suspension followed by Probation
Failure to Follow District, State, AAA, and/or Federal policies, procedures, or regulations	Failing to follow district policy; violating state law; violating AAA rules and/or regulations; violating federal policies and/or laws	Probation
Failure to Report	Failure to report child abuse to the Child Maltreatment Hotline; Failure of an administrator to report a Standard 1 violation	Probation
Failure to Follow IEP/504	Not properly following a student's IEP or 504 plan. This includes not giving modifications or only giving partial modifications	Probation
Falsification of Grades and/or Attendance	The intentional changing of grades or attendance records without justifiable rationale	Probation
Falsification of Documents and/or Records	This can include, but is not limited to, the falsification of IEP or 504 documentation, falsification of letters from state/federal agencies; falsification of teacher of record; falsifying signatures	Probation
FERPA Violation	Disseminating any student information without an educational purpose. Student information includes, but is not limited to, student academic and disciplinary records, health and medical information, family status and/or income, assessment/testing results	Probation
Inappropriate Communication (Non-Student)	Bullying/harassing co-worker or subordinate; making malicious or intentionally false statements about a colleague; using coercive means or promising special treatment to influence professional judgment of colleagues; using inappropriate language when speaking with parents; failing to communicate with parents	Written Reprimand
Inappropriate Communication with a Student (Sexual/Courting/Amorous)	Communication in person, electronic, or via social media that is sexual or courting/amorous in nature. This includes, but is not limited to: communication about sexual experiences sexual relationships, sexual objects, sexual videos, and/or sexual pictures; sexual harassment; showing/demonstrating usage of sexual toys; planning a relationship after the student graduates; making lewd or suggestive comments or overtures toward a student;	Revocation

	soliciting and/or encouraging a romantic relationship with a student	
Inappropriate Communication with a Student (Non-Sexual)	Communication in-person, electronic, or via social media. This includes, but is not limited to, behaving in an overly friendly or familiar way or failing to maintain an appropriate professional boundary with a student, chronically embarrassing a student, displaying prejudice or bigotry against a student, mocking or belittling a student, using profane, offensive, or explosive language in the presence of students	Probation
Inappropriate Interaction with a Student	Desk dumping; pulling seats out from under students; taping students to desk or furniture; throwing objects at students; bullying/harassing students; being alone with a student in a dark or closed room or secluded area; behaving in an overly-friendly or familiar way or failing to maintain an appropriate professional boundary with a student, administering discipline not compliant with district policy	Probation
Inappropriate Use of School Property/Funds	Using school district email for personal use; sending and/or receiving inappropriate materials from school computers; not properly managing school funds; failing to account for funds	Probation
Release of Employee Information	Improperly releasing confidential employment records; releasing employee medical information	Written Reprimand
Inappropriate and/or Insufficient Supervision of Students	Failing to properly supervise students, failing to ensure student safety, allowing students to engage in unsafe activities, leaving students unattended for any length of time	Written Reprimand
Physical Contact with Student Resulting in Injury	Any physical contact with a student that results in bruising, cuts, scrapes, or other visual signs of physical abuse. This can include hitting, pushing, pinching, or grabbing a student	Suspension
Physical Contact with Student Resulting in No Injury	Any physical contact with a student that does not result in bruising, cuts, scrapes, or other visual signs of the physical contact	Probation
Sexual Contact	Kissing; Hugging; Sexual Intercourse; Oral Sex	Revocation
Testing Violation	Failing to follow testing procedures as stated in a testing security agreement	Written Reprimand
Utilizing Position for Financial Gain	Accepting gifts for return of a favor or privilege from students or colleagues	Written Reprimand

Potential Mitigating Factors	Potential Aggravating Factors
• No history of similar behavior • Actions or omissions of action are low in severity • There is little to no negative impact on students • There is little to no negative impact on school district property and/or funds • Educator was acting in self-defense or the defense of others • There is little to no impact on community and/or stakeholders • The educator was acting in good faith • The educator is novice teacher	• There is a moderate to severe level of negative impact on students. • There is evidence of prior similar behavior • Willful or intentional violation of the Code of Ethics • The actions constitute an act of child maltreatment • There is a criminal offense involving a student • There is moderate to severe impact on the community and/or stakeholders • Moderate to severe level of negative impact on district property/funds • Multiple violations • Violations occurred over a period of years • The educator is experienced or veteran teacher • Disqualifying offense(s) as enumerated in Ark. Code Ann. §§ 6-17-410(c) or 6-17-414(b)

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT Arkansas Department of Education
BOARD/COMMISSION State Board of Education
PERSON COMPLETING THIS STATEMENT Whitney James
TELEPHONE NO. (501) 682-1866 **EMAIL** whitney.james@ade.arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE DESE Rules Governing the Code of Ethics for Arkansas Educators

1. Does this proposed, amended, or repealed rule have a financial impact?
   Yes ☐ No ☑

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
   Yes ☑ No ☐

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☑ No ☐

   If no, please explain:

   (a) how the additional benefits of the more costly rule justify its additional cost;

   (b) the reason for adoption of the more costly rule;

   (c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

   (d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:

   (a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year	**Next Fiscal Year**
General Revenue_____	General Revenue_____
Federal Funds_____	Federal Funds_____
Cash Funds_____	Cash Funds_____
Special Revenue_____	Special Revenue_____
Other (Identify)_____	Other (Identify)_____
Total 0 _____	Total 0 _____

(b) What is the additional cost of the state rule?

Current Fiscal Year	**Next Fiscal Year**
General Revenue_____	General Revenue_____
Federal Funds_____	Federal Funds_____
Cash Funds_____	Cash Funds_____
Special Revenue_____	Special Revenue_____
Other (Identify)_____	Other (Identify)_____
Total 0 _____	Total 0 _____

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

Current Fiscal Year	**Next Fiscal Year**
$ 0 _____	$ 0 _____

6. What is the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year	**Next Fiscal Year**
$ 0 _____	$ 0 _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars ($100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes ☐ No ☑

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

(1) a statement of the rule's basis and purpose;

(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

(3) a description of the factual evidence that:
(a) justifies the agency's need for the proposed rule; and
(b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;

(4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

(5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

(6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and

(7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
(a) the rule is achieving the statutory objectives;
(b) the benefits of the rule continue to justify its costs; and
(c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

February 13, 2024

Jacob Oliva
Secretary

Stacy Smith
Deputy Commissioner

State Board of Education

Dr. Sarah Moore
Stuttgart
Chair

Kathy Rollins
Springdale
Vice-Chair

Steve Sutton
Marion

Adrienne Woods
Rogers

Randy Henderson
Blytheville

Lisa Hunter
White Hall

Jeff Wood
Little Rock

Ken Bragg
Sheridan

Leigh Keener
Little Rock

Proposed Rules Governing the Code of Ethics for Arkansas Educators

Purpose

The Division of Elementary and Secondary Education ("Division") is seeking Governor's Office review and approval of the proposed amendments to the DESE Rules Governing the Code of Ethics for Arkansas Educators.

Background

Pursuant to Ark. Code Ann. § 6-17-422, the Professional Licensure Standards board shall establish a code of ethics for administrators and teachers. Per Ark. Code Ann. § 6-17-428, the Professional Licensure Standards Board shall establish procedures regarding the code of ethics. Act 237 of 2023 made amendments to Ark. Code Ann. § 6-17-428. In addition, further changes to the rules are necessary to establish and clarify procedures related to the code of ethics.

Summary of Amendments

- Per Act 237 of 2023, the definition of "educator" is expanded in the rules to include persons holding an aspiring teacher permit and registered volunteer coaches.
- Per Act 237 of 2023, the definition of "substantiated allegation" is added to the rules.
- Clarifying language is added to Section 7.2 of the rules to allow individuals to apply for licensure in Arkansas if a license was revoked, nonrenewed, or suspended in another state for an offense that is not disqualifying in Arkansas.
- Language is added to the rules to clarify that State Board orders remain on the Division's website until the educator has met the terms of the State Board order. This is consistent with information reflected in the Arkansas Educator Licensure System for suspension or probation of a license.
- Per Act 237 of 2023, language is added to the rules regarding the requirement for public school supervisors to report violations of Standard 1 of the Code of Ethics within 24 hours of the matter coming to the attention of the public school supervisor.
- Language is added to the rules regarding recusal of an ethics subcommittee member or ethics hearing subcommittee member if the member has any potential conflict of interest.
- For confidentiality purposes, to prevent potential conflicts of interest, and to ensure fair and impartial hearings, additional procedures for the Ethics Hearing Subcommittee are added to the rules. The procedures include, but are not limited to, guidance and requirements regarding communication with witnesses, communication with educators, and recusal due to conflicts of interest.
- The rules are amended to include revised and expanded sanctioning guidelines to help ensure consistency in sanctioning. These guidelines are based on five years of data with average sanctions and also include language from other states' sanctioning guidelines. The guidelines also provide additional clarifying information for educators regarding the potential sanctions for violations of the Code of Ethics.

Recommendation

The Division of Elementary and Secondary Education recommends Governor's Office approval of these rules.

Notice of Rulemaking

Pursuant to Arkansas Code Annotated § 25-15-201 et seq., notice is hereby given that the Division of Elementary and Secondary Education is considering new administrative rules. Public comment hearings will be held on the DESE Rule Governing Public School Policies Relating to Overnight Trips and Use of Public School Lavatories on May 22, 2024 at 1:30 p.m. Public comment hearings will be held for the following rules on May 31, 2024 at 10am: the DESE Rule Governing Professional Development; the DESE Rule Governing Arkansas Governor's School; the DESE Rule Governing Background Checks; the ADE, Office of Early Childhood Rules Governing Better Beginnings, Arkansas's Tiered Quality Rating and Improvement System; the DESE Rule Governing the Code of Ethics for Arkansas Educators; the DESE Rule Governing Dyslexia Screenings and Interventions; the DESE Rule Governing Educator Licensure; the DESE Rule Governing Emergency Response Equipment and Training in Arkansas Public Schools; the DESE Rule Governing Fiscal Assessment and Accountability Program; the DESE Rule Governing the Maternity Leave Cost Sharing Program; the DESE Rule Governing the Requirements and Procedures for Obtaining an Arkansas Birth through Prekindergarten Teaching Credential; and the DESE Rule Governing Water Safety Information Provided by Public Schools. Public comment hearings will be held for the repeal of the following rules on May 31, 2024 at 1:30pm: the DESE Rule Governing the Educator Compensation Reform Program; the DESE Rule Governing Eligibility of Participating School Districts in the Traveling Teacher Program; the DESE Rule Governing Incentives for Teacher Recruitment and Retention in High-Priority Districts; the DESE Rule Governing Reimbursement by School Districts for Election Expenses; the DESE Rule Governing School Board Zones and Rezoning; the DESE Rule Governing School District Duty to Report Student Criminal Acts; the DESE Rule Governing the Succeed Scholarship Program; and DCTE Rule Governing Methods of Administration of Career and Technical Education Programs. All hearings will be held at the Arkansas Department of Education, Arch Ford Building, Four Capitol Mall, Little Rock, AR, 72201. The public comment period for these rules ends on June 10, 2024. Written comments regarding these proposed rules may be mailed to ADE Legal Services, Four Capitol Mall, Room 302A, Little Rock, AR, 72201. Comments also may be emailed to ADE.RulesComments@ade.arkansas.gov. A copy of the proposed rules can be found on the Division of Elementary and Secondary Education's

website at: https://dese.ade.arkansas.gov/Offices/legal/rules/pending. Copies also may be obtained by contacting ADE's Office of Legal Services at the above address or via phone at (501) 683-1390.

Re: Notice of Rulemaking

Legal Ads <legalads@arkansasonline.com>
Wed 5/8/2024 11:42 AM

To:Daniel Shults (ADE) <Daniel.Shults@ade.arkansas.gov>
Cc:LaBria Brown (ADE) <LaBria.Brown@ade.arkansas.gov>;Legal <legal@ade.arkansas.gov>

Caution: This is an external email and may contain a suspicious subject or content. Please take care when clicking links or opening attachments. When in doubt, contact ADE IT Services.

Notice will run Fri 5/10, Sat 5/11, and Sun 5/12.

Sunday will be invoiced separate from Fri/Sat.

Thank you.

Gregg Sterne, Legal Advertising
Arkansas Democrat-Gazette
legalads@arkansasonline.com

From: "Daniel Shults (ADE)" <Daniel.Shults@ade.arkansas.gov>
To: "LaBria Brown, ADE" <LaBria.Brown@ade.arkansas.gov>, "Legal Ads" <legalads@arkansasonline.com>
Cc: "Legal" <legal@ade.arkansas.gov>
Sent: Wednesday, May 8, 2024 11:27:16 AM
Subject: RE: Notice of Rulemaking

ARKANSAS DEPARTMENT OF EDUCATION

Daniel Shults
Deputy Legal Counsel
Arkansas Department of Education
4 Capitol Mall, Suite 302
Little Rock, Arkansas 72201
Office: (501) 682-4202
Cell: (501) 647-5939
Email: daniel.shults@ade.arkansas.gov

From: LaBria Brown (ADE) <LaBria.Brown@ade.arkansas.gov>
Sent: Wednesday, May 8, 2024 9:57 AM
To: Legal Ads <legalads@arkansasonline.com>
Cc: Legal <legal@ade.arkansas.gov>; Daniel Shults (ADE) <Daniel.Shults@ade.arkansas.gov>
Subject: Notice of Rulemaking

Good morning,

Please find the attached Notice of Rulemaking for several Division of Elementary and Secondary Education administrative rules and confirm receipt. Please run for three consecutive days, from Friday, May 10, 2024, through Sunday, May 12, 2024. Please let me know if you have any questions.