

ARKANSAS DEPARTMENT OF EDUCATION
RULES GOVERNING THE CODE OF ETHICS FOR ARKANSAS EDUCATORS
June 9, 2008

1.00 Title

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

2.00 Regulatory Authority

2.01 These rules are promulgated pursuant to the State Board of Education's authority under Ark. Code Ann. §§ 6-11-105, 6-17-401, 6-17-410, 6-17-422 (Act 846 of 2007), and 25-15-201 et seq. **and Acts 0938, 1283 and 1370 of 2009.**

3.00 Purpose

3.01 The purpose of the Rules Governing the Code of Ethics for Arkansas Educators (Code) is to define Standards of professional conduct and to outline procedures for investigations and enforcement of the Code.

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

4.00 Definitions

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

4.01 **Complaint** is any validated, written and signed statement from the Arkansas Department of Education, local school board, the Arkansas State Board of Education, or public school superintendent of this state filed with the Professional Licensure Standards Board alleging that an educator has breached one or more of the Standards in the Code of Ethics for Educators.

4.02 **Conviction** includes a plea of guilty or a plea of *nolo contendere*, or a finding or verdict of guilty, regardless of whether an appeal of the conviction has been sought, or a criminal conviction has been sealed or expunged; a situation where first offender treatment without adjudication of guilt pursuant to the charge was granted; and a situation where an adjudication of guilt or sentence was otherwise withheld or not entered on the charge or the charge was otherwise disposed of in a similar manner in any jurisdiction.

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- 4.03 **Denial** is the refusal to grant a teaching license to an applicant for a teaching license.
- 4.04 **Dispositions** are the values, commitments, and professional ethics that influence behaviors toward students, families, colleagues and communities and affect student learning, motivation, and development as well as the educator's own professional growth. Dispositions are guided by beliefs and attitudes related to values such as caring, fairness, honesty, responsibility and social justice.
- 4.05 **Educator** is a teacher, school or school system administrator or other education personnel who has been issued a teaching license by the Arkansas State Board of Education. For the purposes of the Code, *educator* also refers to a licensed student intern.
- 4.06 **Monitoring** is at a minimum a semi-annual appraisal of the educator's conduct by the Professional Licensure Standards Board through contact with the educator and his or her employer. As a condition of monitoring, an educator may be required to submit a criminal background check or other requested information. The Arkansas State Board of Education specifies the length of the monitoring period.
- 4.07 **Probation** is the placing of conditions, requirements or circumstances on the status of a teaching license for a period of time established by the Arkansas State Board of Education. Generally, a license under probation must sufficiently satisfy such conditions, requirements or circumstances in order to maintain or be reinstated to the original non-probationary teaching license status.
- 4.08 **Reprimand** is a written admonishment from the Arkansas State Board of Education to the license holder for his or her conduct. The written reprimand cautions that further unethical conduct will lead to a more severe action and shall become a permanent entry in the licensure file of the educator and is associated with a monetary fine of the educator.
- 4.09 **Revocation** is the permanent invalidation of any teaching license held by the educator.
- 4.10 **School-sponsored activity** is any event or activity sponsored by the school or school system which includes but is not limited to athletic events, booster clubs, parent-teacher organizations, or any activity designed to enhance the school curriculum (i.e., foreign language trips, etc.) whether on school-campus or not.
- 4.11 **Student** is any individual enrolled in the state's public or private schools from pre-kindergarten through grade 12.
- 4.12 **Suspension** is the temporary invalidation of any teaching license for a period of time specified by the Arkansas State Board of Education.

- 4.13 **Teaching License** refers to any teaching, service, or leadership certificate, license, or permit issued by authority of the Arkansas State Board of Education.
- 4.14 **Warning** is a written communication from the Arkansas State Board of Education to the license holder that his or her conduct is unethical. The warning cautions that further unethical conduct will lead to a more severe action and shall become a permanent entry in the licensure file of the educator.

5.00 Standards of Professional Conduct

The Standards of Professional Conduct are set forth as follows:

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

6.00 Disciplinary Action.

- 6.01 The Professional Licensure Standards Board (Board) is authorized to recommend to the State Board probation, suspension, revocation or denial of a teaching license or the issuance of a reprimand or warning after an investigation is held after notice and an opportunity for a hearing are provided to the license holder. The Board is also authorized to recommend other avenues to assist the educator via training, coursework or rehabilitative treatment. (All costs would be assumed by the

educator.) The State Board of Education may direct the Arkansas Department of Education to monitor progress toward the completion of any corrective action. Any of the following shall be considered cause for recommendation of disciplinary action against the holder of a teaching license:

- An initial determination that there is probable cause to believe a breach of any of the Standards of the Code of Ethics in Section 5.00 or any conduct described in the offenses set forth in A.C.A. §§ 6-17-410 (c) (1) – (34) has occurred.
- A failure to comply with the payment of any imposed fines.
- Disciplinary action against a teaching license/certificate in another state on grounds consistent with unethical conduct specified in Section 5.00 or as stated in the bullets above in 6.01 of these rules.
- Allegations submitted through the ADE from the Legislative Joint Audit Committee regarding audit reports for school districts.

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

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

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

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

8.00 Fines and Fees

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

- a. May impose fines up the amounts listed in *Appendix B* to these rules, which is attached and is hereby fully incorporated into these rules as if fully set forth herein.
- b. Shall impose fees for action taken pertaining to an educator's license as set forth in the attachment *Appendix B*.

- c. Shall use the revenue collected by the State Board of Education from the fees and fines imposed per *Appendix B* of these Rules for the operation of the Professional Licensure Standards Board.

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

1. **Freedom of Information Act (FOIA):**

All records, hearing, meetings, and deliberations of the PLSB relating to an ethics complaint against a licensed educator are confidential and exempt from the Freedom of Information Act. All records relating to an ethics complaint are open for inspection and copying by the person against whom the complaint is lodged, and that individual and his or her representative are entitled to be present during all hearings. A hearing before the State Board of Education to consider possible action against an individual's teaching license based on a recommendation of the PLSB is open to the public, and all records on which the State Board of Education relies during such a hearing is subject to public disclosure under the Freedom of Information Act.

2. **Allegations:**

Any parties wishing to submit an allegation must submit the allegation on the appropriate Allegation Form as developed by the PLSB.

3. **Complaint Received by the PLSB:**

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

- i. The Ethics Review Sub-Committee determines whether to investigate.
- ii. Letter sent to complainant about disposition of complaint.
- iii. Letter sent to Superintendent or President of the local school board if appropriate about disposition of complaint.
- iv. The following will automatically go to the sub-committee to open an investigation:
 - a) An affirmative answer concerning criminal or ethical violations on a licensure application.
 - b) Confirmation from the Arkansas State Police or the FBI, regarding criminal convictions.
 - c) Allegations from the Legislative Joint Audit Committee regarding audit reports for school districts.

4. **Investigation Initiated by Professional Licensure Standards Board (PLSB)**

- i. A letter will be sent to the educator requesting information/statement.
- ii. An Investigation is conducted.

- iii. An Investigative Summary will be sent to the Ethics Sub-Committee.

5. Probable Cause Determination Made

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

6. Proposed Action or Hearing Offered

- i. A letter sent notifying the educator and the school district, if appropriate, of proposed PLSB action and the reason for the proposed action.
- ii. Educator may consent to the proposed action or may request a hearing before the Ethic Sub-Committee of the PLSB.
- iii. If an educator does not respond in thirty (30) days, the proposed action becomes a final decision recommended for Arkansas State Board of Education (SBE) action.

7. Subpoena Power:

Both the Professional Licensure Standards Board and the State Board of Education shall have subpoena power to bring before the boards as a witness any person in the state. Any party to a proceeding pending before the Professional Licensure Standards Board or the State Board of Education may request the issuance of a subpoena for the attendance of a witness. Upon approval of the Chair, the Professional Licensure Standards Board or the State Board of Education shall issue the subpoena in the manner as provided by law or rule for the issuance and service of subpoenas in civil cases.

8. PLSB Evidentiary Hearing

- i. If the educator requests a hearing, an evidentiary hearing will be held before the Ethics Sub-Committee of the PLSB within ninety (90) days, but no earlier than thirty (30) days, from the date that the PLSB receives the educator's hearing request. Either party may request additional time subject to the subcommittee's approval
- ii. A decision by the Sub-Committee will be made.
- iii. The educator will be notified in writing of the Sub-Committee's decision. The educator may accept the initial decision or request a hearing before the SBE.

9. Evidentiary Hearing Procedures of the PLSB Sub-Committee

- i. The educator shall be notified in writing of the date, time and location of the Ethics Sub-Committee of the Professional Licensure Standards Board (PLSB) meeting at which his/her case will be considered. The notice will also state a deadline by which the educator must submit items to the sub-committee for consideration.

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

- xiii. A written decision reflecting the hearing subcommittee's final decision and recommendation shall be promptly prepared by the PLSB for the chairperson of the hearing subcommittee's signature. A copy of the decision and recommendation shall be timely transmitted to the educator, the PLSB and the SBE.
- xiv. The educator shall have thirty (30) days from the receipt of the decision and recommendation to appeal the sub-committee's decision to the SBE. Should the educator not file an appeal to the SBE within the above-referenced thirty (30) day time period, the decision of the sub-committee shall become non-appealable.

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LIST OF RECOMMENDED ACTIONS AND APPLICABLE FINES

Action Taken	Maximum Fine Amount
<u>Complaint is not substantiated – No action taken, Case file closed</u>	<u>\$0</u>
<u>Educators who violate testing procedures of the state and for whom the subcommittee of the PLSB believes the violation does not rise to the level of a licensure action may be recommended for additional training in the approved testing procedures by the state in lieu of any action recommended to the State Board of Education.</u>	<u>All Expenses paid by the Educator</u>
<u>Recommended Treatment or Rehabilitation by the State Board of Education with periodic monitoring.</u>	<u>All Expenses paid by the Educator</u>
Written Warning by State Board of Education	\$0
Written Reprimand by State Board of Education	\$50
Probation of License	\$75
Suspension of License	\$100
Permanent Revocation of License	\$0

LIST OF APPLICABLE FEES

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

Adding Degrees to Existing License (If not occurring at the time of renewal)	Not Applicable	\$50.00
Duplicate License	Not Applicable	\$50.00

Appendix C

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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