

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

As of February 14, 2008

1.00 Title

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

2.00 Regulatory Authority

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

3.00 Purpose

3.01 The purpose of the Rules Governing the Code of Ethics for Arkansas Educators (Code) is to define 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.

- 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 **Moral Turpitude** is an act or omission of such baseness, vileness, shamefulness or depravity in a private, public or social setting, which is so contrary to a duty or standard of conduct which a person owes his/her fellow person, profession or society in general.
- 4.08 **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.
- 4.09 **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.
- 4.10 **Revocation** is the permanent invalidation of any teaching license held by the educator.

- 4.11 **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.
- 4.12 **Student** is any individual enrolled in the state’s public or private schools from prekindergarten through grade 12.
- 4.13 **Suspension** is the temporary invalidation of any teaching license for a period of time specified by the Arkansas State Board of Education.
- 4.14 **Teaching License** refers to any teaching, service, or leadership certificate, license, or permit issued by authority of the Arkansas State Board of Education.
- 4.15 **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 in the following format: first, the Standard is stated, followed by a listing, which is not all-inclusive, of examples of “ethical” and “unethical” conduct under the particular Standard (commentary).

The commentary portions of the rule carry the same weight and authority as every other portion of the rule and may form the basis for disciplinary action against a teacher, pursuant to Section 6.00 of these rules.

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

Commentary: Ethical conduct includes, but is not limited to, the following:

- Advocating and providing for equitable educational opportunities for each student.
- Nurturing the intellectual, physical, emotional, social, and civic potential of each student.
- Creating, supporting and maintaining an environment conducive to learning for each student.
- Providing an environment that does not expose any student to embarrassment or disparagement.
- Making reasonable efforts to protect students from conditions detrimental to their health and safety.

Unethical conduct includes, but is not limited to, the following:

- Committing any act of child abuse, including physical, sexual and verbal abuse;
- Committing or soliciting any unlawful sexual act;
- Engaging in harassing behavior on the basis of race, gender, sexual orientation, national origin, religion or disability;
- Soliciting, encouraging or consummating an inappropriate written, verbal or physical relationship with a student; and

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

Commentary: Ethical conduct includes, but is not limited, to the following:

- Completing all state licensure requirements.
- Completing all state and local professional development requirements.
- Ensuring that instruction does not deny student access to varying points of view.
- Ensuring that instruction does not suppress or distort subject matter.

Unethical conduct includes, but is not limited to, the following:

- Unreasonably denying students access to varying points of view, suppressing or distorting subject matter to promote personal bias or to proselytize.
- Failing to fulfill professional development requirements.

5.03 Standard 3: An educator honestly fulfills reporting and contractual obligations associated with professional practices.

Commentary: Ethical conduct includes, but is not limited to, the following:

- Submitting accurate and honest reports, data, and information to the Arkansas Department of Education, Arkansas Bureau of Legislative Audit, the Arkansas State Board of Education and other state and federal governmental organizations.
- Submitting accurate and honest reports regarding professional qualifications, criminal history, college or staff development credit and/or degrees, academic awards and employment history when applying for employment and/or license.
- Submitting accurate and honest reports when recommending an individual for employment, promotion, or licensure.
- Fulfilling all terms and obligations detailed in a contract with the local board of education or education agency.
- Striving to uphold the responsibilities inherent in the code of ethics of the education profession.

Unethical conduct includes, but is not limited to, the following:

- Abandoning the contract for professional services without prior release from the contract by the employer as determined by a court of law.
- Willfully refusing to perform the services and/or obligations required by a contract as determined by a court of law.
- Falsifying reports and/or failing to provide all requested information on documents required by the Arkansas Department of Education or State Board of Education when applying for or renewing any license with the Arkansas State Board of Education.
- Failing to report when there is reasonable cause to suspect that an alleged violation of one or more Standards of the Code of Ethics for Educators has occurred no later than thirty (30) days from the date the educator became aware of an alleged violation unless the law or local procedures require reporting sooner.

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

Commentary: Ethical conduct includes but is not limited to the following:

- Maximizing state and local resources through efficient and judicious utilization.
- Modeling for students and colleagues the responsible use of public property.

Unethical conduct is acts or omissions which are in violation of local policy, state or federal rules, regulations, or laws, and includes, but is not limited to, the following:

- Misusing public or school-related funds.
- Failing to account for funds collected from students or parents.
- Submitting fraudulent requests for reimbursement of expenses or for pay.
- Co-mingling public or school-related funds with personal funds or checking accounts.
- Using school property without the approval of the local board of education/governing board/appropriate designated authority.

5.05 Standard 5: An educator maintains integrity with students, colleagues, parents, patrons and businesses regarding gifts, gratuities, favors and additional compensation.

Commentary: Ethical conduct includes, but is not limited to, the following:

- Ensuring that institutional privileges are not used for personal gain.
- Ensuring that school policies or procedures are not impacted by gifts or gratuities from any person or organization.
- Avoiding the solicitation of students and/or parents of students to purchase equipment, supplies, and/or services from the educator or to participate in activities that financially benefit the educator unless approved by the local

board of education and, when necessary, the Arkansas Department of Education.

- Avoiding the acceptance of gifts from vendors or potential vendors for personal use or gain where there may be the appearance of a conflict of interest.
- Avoiding the tutoring of students assigned to the educator for remuneration unless approved by the local board of education/governing board/superintendent/or appropriate designated authority.
- Avoiding coaching, promoting and/or providing athletic camps, summer leagues, etc. that involves students in the school system in which the educator is employed unless approved by the local board of education/governing board or the superintendent. These types of activities must be in compliance with all rules and regulations of the Arkansas Athletic Association.

Unethical conduct includes, but is not limited to, the following:

- Soliciting students or parents of students to purchase equipment, supplies, or services from the educator or to participate in activities that financially benefit the educator unless approved by the local board of education/governing and when necessary the Arkansas Department of Education.
- Accepting gifts from vendors or potential vendors for personal use or gain where there may be the appearance of a conflict of interest.
- Tutoring students assigned to the educator for remuneration unless approved by the local board of education/governing board/superintendent/or appropriate designed authority.
- Coaching, instructing, promoting athletic camps, summer leagues, etc., that involves students in an educator's school system and from whom the educator receives remuneration unless approved by the local board of education/governing board or the superintendent. These types of activities must be in compliance with all rules and regulations of the Arkansas Athletic Association.
- Any act or omission which is in violation of Ark. Code Ann. § 6-24-101 *et seq.*

5.06 Standard 6: An educator keeps in confidence student records, personnel records, standardized test material and other information covered by confidentiality agreements.

Commentary: Ethical conduct includes, but is not limited to, the following:

- Keeping in confidence information about students that has been obtained in the course of professional service unless disclosure serves professional purposes or is allowed or required by law.
- Maintaining the security of standardized test materials, scores, supplies and resources.

Unethical conduct includes, but is not limited to, the following:

- Sharing of confidential information concerning student academic and disciplinary records, personal confidences, health and medical information, family status and/or income, and assessment/testing results, unless disclosure is required or permitted by law.
- Sharing of confidential information restricted by state or federal law.
- Violating confidentiality agreements related to standardized testing including copying or teaching identified test items, publishing or distributing test items or answers, discussing test items, violating local school system or state directions for the use of tests or test items, etc.
- Violating other confidentiality agreements required by state or local policy.

5.07 Standard 7: An educator factually and appropriately presents the dangers of alcohol, tobacco and unauthorized /illegal drug use during the course of professional practice and in accordance with current state law.

Commentary: Ethical conduct includes, but is not limited to, the following:

- Refraining from the use of alcohol, tobacco and unauthorized drugs while on school premises or at a school-sponsored activity involving students.
- Fulfilling school expectations regarding participation in curricular and extra-curricular programs that communicate the dangers of alcohol, tobacco and drug abuse.

Unethical conduct includes, but is not limited to, the following:

- Being on school premises and/or at a school-sponsored activity involving students while under the influence of, possessing, using, or consuming illegal or unauthorized drugs.
- Being on school premises or at a school-sponsored activity involving students while documented as being under the influence of, possessing, or consuming alcoholic beverages.

5.08 Standard 8: An educator abides by local, state and federal laws.

6.00 Disciplinary Action.

6.01 The Professional Licensure Standards Board (Board) is authorized to recommend to the Department of Education for presentation 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. Any of the following grounds shall be considered cause for recommendation of disciplinary action against the holder of a teaching license:

- Breach of conduct as outlined in Section 5.00 of these rules.

- Disciplinary action against a teaching license/certificate in another state on grounds consistent with unethical conduct specified in Section 5.00 of these rules.
- Order from a court of competent jurisdiction or an administrative finding from the Office of Child Support Enforcement of the Arkansas Department of Finance & Administration pursuant to Ark. Code Ann. § 9-14-239 that the license should be suspended or the application for licensure should be denied for non-payment of child support.
- Notification from the Arkansas Department of Higher Education that the educator is in default and not in satisfactory repayment status on a student loan guaranteed by the Arkansas Higher Education Assistance Corporation pursuant to the authority contained in rules and regulations enacted by the Arkansas Department of Higher Education.
- Failure by an educator to repay any amounts owed to the Department of Education pursuant to Ark. Code Ann. § 6-17-413 concerning the repayment by educators of participation fees for the National Board of Professional Teaching Standards (NBPTS) but does not complete the requirements set forth in Ark. Code Ann. § 6-17-413(b).
- Failure by an educator to repay any funds paid to the educator pursuant to Ark. Code Ann. § 6-17-811 (“Incentives for Teacher Recruitment and retention in High-Priority Districts”) if the educator did not fulfill all contractual obligations necessary to obtain the funds.
- Violation of any other laws and rules that specifically are relevant to an individual’s ability to maintain his/her teaching license.
- Any other cause that renders an educator unfit for employment as an educator because of acts or omissions that constitutes unprofessional conduct and/or moral turpitude.

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 or in any other position during the period of his or her revocation, suspension or denial for a violation of the Arkansas Code of Ethics for Educators.

6.03 The Arkansas State Board of Education shall notify local and state officials of all disciplinary actions. In addition, suspensions and revocations are reported by the Arkansas Department of Education to national officials, including the 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 for in the attachment *Appendix B*.
- c. Shall use the revenue collected by the State Board of Education from the fees and fines imposed per *Appendix B* of these Rules for the operation of the Professional Licensure Standards Board.

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

1. Complaint Received by the PLSB:

A *complaint* will be deemed a request to investigate. A request for investigation may be a written and validated signed statement of allegations from a citizen of Arkansas filed with the Arkansas Department of Education, local school board, the Arkansas State Board of Education, or public school superintendent of this state which is 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.
- iii. Letter sent to complainant about disposition of complaint.
- iv. Letter sent to Superintendent or President of the local school board if appropriate about disposition of complaint.
- v. The following will automatically go to the sub-committee to open an investigation:
 - a) An affirmative answer concerning criminal or ethical violations on a licensure application.
 - b) Confirmation from the Arkansas State Police or the FBI, regarding criminal convictions.

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

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

3. Probable Cause Determination Made

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

4. Proposed Action or Hearing Offered

- i. A letter sent notifying the educator and the school district, if appropriate, of proposed PLSB action.
- ii. Educator may consent to the proposed action or may request a hearing before the Ethic Sub-Committee of the PLSB.

- iii. If an educator does not respond in thirty (30) days, the proposed action becomes a final decision recommended for Arkansas State Board of Education (SBE) action.

5. 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 unless both parties agree to a longer period of time.
- 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 review before the SBE.

6. 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, at his/her discretion, 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 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 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 order reflecting the hearing subcommittee's final decision shall be promptly prepared by the PLSB for the chairperson of the hearing subcommittee's signature. A copy of the order 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 order 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.

LIST OF APPLICABLE FINES

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

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 Teacher's License	New	\$100.00
	Renewal	\$100.00
Five-Year Vocational Permit	New	\$100.00
	Renewal	\$100.00
One-Year Probationary Teaching Permit	New	\$35.00
Lifetime Teacher's License	New	\$25.00
Adding Area or Level to Existing License <u>(If not occurring at the time of renewal)</u>	Not Applicable	\$50.00
Adding Degrees to Existing License <u>(If not occurring at the time of renewal)</u>	Not Applicable	\$50.00
Duplicate License	Not Applicable	\$50.00