

THE ARKANSAS STATE BOARD OF EDUCATION

**IN RE THE MATTER OF:
DAVID MAXWELL SMITH
APRIL 9, 2020**

PLSB CASE NO. #20-038

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

At its regular meeting on April 9, 2020, the Arkansas State Board of Education (Board) accepted the recommendation of the Professional Licensure Standards Board Ethics Subcommittee (Ethics Subcommittee) for disciplinary action against the teaching license of David Smith (Educator Smith). Based upon Educator Smith's acceptance of the Ethics Subcommittee's recommendation and the evidence presented, in accordance with the Administrative Procedure Act, Ark. Code Ann. 25-15-101 et seq., the Board hereby states as follows:

I. Findings of Fact

- a. The Arkansas Department of Education issued Educator Smith a lifetime teaching license on December 23, 2019.
- b. The Ethics Subcommittee received an allegation that Educator Smith violated the Arkansas Department of Education Rules Governing the Code of Ethics for Arkansas Educators promulgated pursuant to Ark. Code Ann. § § 6-17-422 and 6-17-428.
- c. On September 5, 2019, the Ethics Subcommittee authorized an investigation into allegations that Educator Smith violated 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 and Standard 3: an educator honestly fulfills reporting obligations associated with professional practices.

- d. Educator Smith was notified on September 5, 2019, of the Ethics Subcommittee's authorization to investigate this allegation.
- e. After considering the investigator's report and evidence on January 17, 2020, the Ethics Subcommittee unanimously found that a preponderance of evidence existed to substantiate violation of Standards 2 and 3 in that Educator Smith:
 - 1. Exhibited an inappropriate disposition inclusive of professional and ethical behavior.
 - 2. Failed to follow district and/or state policies, procedures, or regulations.
 - 3. The Educator failed to report Child Maltreatment.
- f. The Ethics Subcommittee recommended that the State Board take the following actions:
 - 1. Six months of probation;
 - 2. Assess a \$150 fine (due within 90 days of State Board Order);
 - 3. Recommend training, coursework or rehab treatment, with monitored progress:
 - (i) ERC19048: Professional Licensure Standards Board (PLSB): The Code of Ethics Training Video (2018); Credit Hours: 1
 - (ii) Title: The 85% Solution: How Personal Accountability Guarantees Success -- No Nonsense, No Excuses (256p); Author: Linda Galindo; ISBN 13: 9780470500163
 - (iii) HWB17118 Act 1236 of 2011: Child Maltreatment (2017); Credit Hours: 2
- g. A written reflection indicating how imperative it is to report child maltreatment as an Educator is to be completed within 90 days of the State Board of Education final order. All costs paid by Educator
- h. On January 17, 2020, Educator Smith was notified of the Ethics Subcommittee's initial determination and recommendation by certified and regular mail. Educator

Smith failed to respond to the Ethics Subcommittee recommendation within thirty calendar days. Therefore, per Rule 12.03 of the Rules Governing the Code of Ethics for Arkansas Educators, the Ethics Subcommittee's recommendation is considered a final recommendation and thereby forwarded to the State Board for final decision.

- i. At today's meeting, the Ethics Subcommittee's recommendation and supporting documentation were presented to the Board as part of its consent agenda.

II. Conclusions of Law

- a. Upon consideration of the evidence presented at the meeting, Ark. Code Ann. §§ 6-11-105, 6-17-401, 6-17-422, 6-17-428 and 25-15-201 et seq., and the Arkansas Department of Education Rules Governing the Code of Ethics for Arkansas Educators, the Board adopts the Ethics Subcommittee's recommendations, and enacts the sanctions accordingly. The Board admonishes Educator David Maxwell Smith for his violation of the Code of Ethics.
- b. Educator Smith is cautioned that his non-payment of the assessed fine of \$100 will result in the continued suspension of his license until the fine is paid in full.
- c. Educator Smith is cautioned that further violations of the Code of Ethics or failure to pay the fine within ninety (90) days from the date of this order may result in more severe discipline including permanent revocation of his license.
- d. This order shall remain permanently in Educator Smith professional licensure file and the confidential files of the Professional Licensure Standards Board.

IT IS SO ORDERED.


Diane Zook, Chair
Arkansas State Board of Education