

THE ARKANSAS STATE BOARD OF EDUCATION

**IN RE THE MATTER OF:
GARRY DAVID KIRK
SEPTEMBER 12, 2019**

PLSB CASE NO. 18-157

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

At its regular meeting on September 12, 2019, the Arkansas State Board of Education (Board) accepted the recommendation of the Professional Licensure Standards Board Ethics Hearing Subcommittee (Hearing Subcommittee) for disciplinary action against the teaching license of Garry David Kirk (Educator Kirk). Based upon Educator Kirk's acceptance of the Hearing 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 Kirk a standard five-year teaching license on January 1, 2017, valid until December 31, 2021.
- b. The Professional Licensure Standards Board Ethics Subcommittee (Ethics Subcommittee) received an allegation that Educator Kirk 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 June 1, 2018, the Ethics Subcommittee authorized an investigation into allegations that Educator Kirk violated Standard 1: an educator maintains a professional relationship with each student, both in and outside the classroom; and Standard 2: an educator maintains competence regarding his or her professional

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

- d. Educator Kirk was notified on June 5, 2018, of the Ethics Subcommittee's authorization to investigate this allegation.
- e. After considering the investigator's report and evidence on December 7, 2018, the Ethics Subcommittee unanimously found that a preponderance of evidence existed to substantiate violation of Standard 1 and 2 of the Code of Ethics. Educator Kirk rejected the Ethics Subcommittee's recommendation and requested an evidentiary hearing.
- f. On June 19, 2019, Educator Kirk and his attorney, Greg Alagood, appeared for his evidentiary hearing before the Hearing Subcommittee. After consideration of the testimony, evidence, and arguments presented at the evidentiary hearing, the Hearing Subcommittee found that a preponderance of evidence existed to substantiate violation of Standard 1 and 2 in that Educator Kirk:
 - Made inappropriate physical contact with a student.
- g. The Hearing Subcommittee recommended that the State Board take the following actions:
 1. Probation of license for 1 year;
 2. Assess a \$250 fine (due within 90 days of the State Board Order);
 3. Require Educator to complete the following coursework/readings:
 - ERC19048: Professional Licensure Standards Board (PLSB): The Code of Ethics Training Video (2018): Credit Hours: 1
 - IAE14017: The Learning Classroom: Feelings Count: Credit Hours: 0.5
 - IAE14024: The Learning Classroom: Expectations for Success: Credit Hours: 1.5

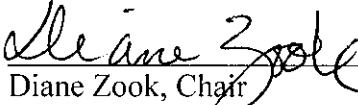
- Title: *The 85% Solution: How Personal Accountability Guarantees Success – No Nonsense, No Excuses* (256p); Author: Linda Galindo; ISBN 13: 9780470500163
- 4. Require Educator to prepare written reflection for each training and book indicating how these will impact the Educator’s classroom management and interactions with students (to be completed by July 1, 2020);
- 5. Require Educator to pay all associated costs.
- h. On July 2, 2019, Educator Kirk’s attorney was notified of the Hearing Subcommittee’s final determination and recommendation by certified mail. Educator Kirk accepted the Hearing Subcommittee’s recommendation on July 10, 2019, thereby waiving his right to any further notice, hearing, or any other rights he may have under the Administrative Procedure Act, including those rights set forth in Ark. Code Ann. §§ 25-15-211 and 25-15-212.
- i. At today’s meeting, the Hearing 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 Hearing Subcommittee’s recommendations, and enacts the sanctions accordingly. The Board admonishes Educator Gary David Kirk for his violation of the Code of Ethics.
- b. Educator Kirk is cautioned that his non-payment of the assessed fine of \$250 may result in the suspension of his license until the fine is paid in full.

- c. Educator Kirk is cautioned that further violations of the Code of Ethics or failure to pay the fine before the end of the first year of probation may result in more severe discipline including permanent revocation of his license.
- d. This order shall remain permanently in Educator Kirk 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