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**A-1:****EXHIBIT ONE (1)**

# ACT Aspire Best for State (James W. Carr Commentary)

by James W. Carr

Updated 7/6/2015 12:00 am

There has been much discussion in recent weeks about the school testing program in Arkansas and whether the state should be using the PARCC assessments, the ACT Aspire or some other instrument.

The main contention is that ACT Aspire is the wrong system because it is currently administered in only three states, so Arkansas students' results can't be adequately compared with those of students in other states. This contention is misguided.

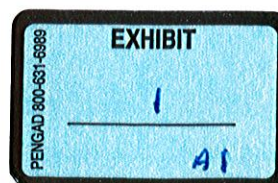
First of all, virtually the same is true of the PARCC assessments, which are administered in fewer than 10 states. In addition, some PARCC proponents fail to mention that ACT Aspire assessments are also administered in individual school districts in 47 states and four U.S. territories.

More than 3.2 million ACT Aspire assessments have been administered to date, which is not an insignificant number.

More importantly, however, the point of administering these assessments is not to compare Arkansas results with other states. Rather, the point is to measure learning among Arkansas students, so that we can 1) make sure they are on track for college and career readiness and 2) give them the academic assistance they need to improve if and when they aren't on track. What difference does it make what happens in Alabama and South Carolina? We're trying to improve educational outcomes for our students in Arkansas.

ACT Aspire is designed to do just that. The system is aligned with the ACT test and its validated standards and benchmark scores. These scores were derived from research based on actual student performance in credit-bearing college classes. The validity of the test is the gold standard in college readiness and admission testing.

It will be years before PARCC tests are validated in a similar manner. So, while broad comparisons with performance in multiple other states might not be possible



initially, at least Arkansas students, parents and educators would know that student performance is being measured in the context of an end result that is known, understood and valued.

ACT Aspire offers other key advantages to our state beyond measuring student progress toward college and career readiness. State legislators have decided to base college scholarship decisions on students' ACT test scores, and the ACT test is the cornerstone of the ACT Aspire system. Thus, using ACT's assessment system would give every Arkansas child opportunity and access to these scholarships.

In addition, ACT Aspire is tied to career readiness, something that is not a part of PARCC. Students in grades eight to 11 receive a Progress for Career Readiness Score on ACT Aspire, which is predictive of performance on the ACT National Career Readiness Certificate. Students who earn that certificate have a credential that can help them get a job.

While it is true that administering a different testing system for the third year in a row would interrupt student progress reports initially, our eyes must be on the future. The best decision is the one that helps Arkansas students moving forward. The best decision for Arkansas is ACT Aspire.

*James W. Carr is senior vice president of Harding University and a professor of business. Email him at [Carr@Harding.edu](mailto:Carr@Harding.edu).*

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Arkansas Business

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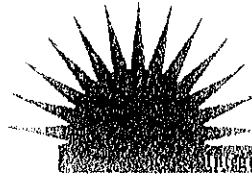
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**A-10:****PLSB EXHIBITS 1-5**



ARKANSAS  
DEPARTMENT  
OF EDUCATION



Arkansas Professional  
Licensure Standards Board

AELS CID: 32209

January 14, 2015

PERSONAL AND CONFIDENTIAL

Justine McDuffie  
2583 North Stagecoach  
Fayetteville, AR 72703

VIA REGULAR MAIL AND CERTIFIED MAIL

RETURN RECEIPT REQUESTED NO.: 91 7199 9991 7032 4718 5676

Re: Arkansas Teaching License

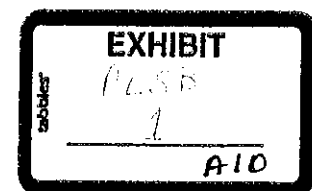
Dear Ms. McDuffie:

We have received information that you were convicted of a disqualifying offense under Ark. Code Ann. § 6-17-410, specifically:

**Date:** March 12, 2014  
**Offense:** Violation of Uniform Controlled Substances Act  
(1 count C Felony; 1 count B Felony)  
**Court:** Circuit Court of Washington County, Arkansas

Arkansas law provides that the State Board of Education shall not issue or renew and shall revoke the license of any person who pleads guilty to certain enumerated offenses. Ark. Code Ann. § 6-17-410(c). In addition, you are ineligible for employment in any public school under Ark. Code Ann. § 6-17-411. Therefore, the Department will recommend that the State Board of Education revoke your license.

**You are entitled to a hearing before the State Board of Education regarding denial of your license.** Ark. Code Ann. § 6-17-410(f) authorizes the State Board to grant waivers of the licensure eligibility provisions of § 6-17-410(c) upon request of an affected applicant for licensure. To request a hearing for a waiver of the disqualifying offense, you must submit your written request to this office, by mail or by email, within thirty (30) days of the date of this letter.

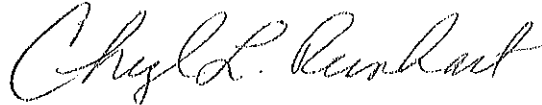


Arkansas Department of Education, Professional Licensure Standards Board  
Four Capitol Mall Box 30, Little Rock, AR 72201  
(501) 371-8014 main office; (501) 682-3781 fax

*The contents of this message may be protected by attorney client privilege, state, or federal law from public disclosure. If you are not the intended recipient you are notified that disclosing, copying, distributing may be strictly prohibited.*

If you have any questions, please feel free to contact me by phone at (501) 682-9983, or by email at [Cheryl.Reinhart@arkansas.gov](mailto:Cheryl.Reinhart@arkansas.gov).

Sincerely,



Cheryl L. Reinhart  
Attorney, Ethics & Licensure

cc: Ivy Pfeffer, Asst. Commissioner, HR/Licensure  
Karli Saracini, Director, Office of Educator Licensure  
Clara Toney, Educator Licensure

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*Arkansas Department of Education, Professional Licensure Standards Board  
Four Capitol Mall Box 30, Little Rock, AR 72201  
(501) 682-3303 main office; (501) 682-3781 fax*

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*Justine McDuffie*  
*Licensee*  
*Revocation*

Date Produced: 02/02/2015

Arkansas Department of Education:

The following is the delivery information for Certified Mail™ item number 7199 9991 7032 4718 5676. Our records indicate that this item was delivered on 01/29/2015 at 02:32 p.m. in FAYETTEVILLE, AR 72703. The scanned image of the recipient information is provided below.

Signature of Recipient :

*Calvin McDuffie*

Address of Recipient :

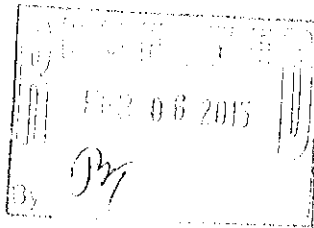
*2583 N. Stagecoach*  
*Dr.*

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,  
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

Customer Reference Number: 1374024 49281348351070jt



3 February 2015

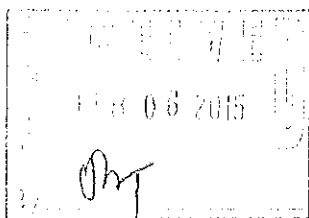
Dear Ms. Reinhart,

My name is Harold McDuffie. I am Justine McDuffie's father. Justine mailed a hand-written request for a hearing to me and asked that I transcribe it into an e-mail to you. I attempted this, but the e-mail wouldn't go through – the reason cited was that Cheryl.Reinhart@arkansas.gov. was not a valid address. Therefore, I am retyping her request and sending it by mail. If the State Board of Education requires that the request be signed by Justine, please notify me by e-mail or telephone (haroldmcduffie@att.net or 479 251 8885), and I will mail a typed copy of this request to her so that she can sign and mail it from the Washington County Detention Center. The enclosed request is an exact transcription.

Thank you,

*Harold McDuffie*  
Harold McDuffie





January 29, 2015

Dear Ms. Reinhart,

I am writing regarding the revocation of my teaching license due to the Violation of Uniform Controlled Substances Act. I do not deny that I committed the felonies I pled guilty to. My involvement with illegal drugs was the result of a series of foolish choices on my part, choices that I will regret for the rest of my life.

I am writing this letter from jail, where I am serving a four month sentence. My apologies come not only from the fact that I am in jail, they come from true sorrow at my actions. I have asked for forgiveness from my parents, from schools where I have taught, and from God. I am being punished. In my classrooms I taught that if anyone broke rules, he or she would be punished accordingly. After punishment the student was forgiven with a clean slate. I realize that my violations are far more serious and complicated than a student violation – I will never have a clean slate and be allowed to begin again as if nothing had happened – but I believe the principle is the same: after a period of probation I ask that the Board give me a chance to regain my license. I assure you with absolute certainty that I will never offend again. Over the past few months I have come to see what I have lost. I love teaching; it is my calling in life. I know that you will ask that if this is true, why would I jeopardize a thing that I value so much. My only answer is that I fell in with the wrong crowd and began to act stupidly. In short, I failed morally, and I am sorrier than I have words to express for my failure.

I understand that you have rules and that I broke them. But by the universal rule that we teach all children and by the rule that we supposedly live by as moral beings, a person who breaks a rule should be punished and then be given a chance to redeem herself.

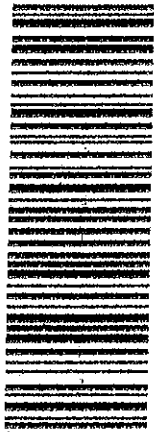
I hereby request a hearing for a waiver of my disqualifying offenses. I appreciate your consideration of my statement.

Sincerely,

Justine McDuffie

Harold McDuffie  
2583 N. Stagecoach Dr.  
Fayetteville, AR 72703

**CERTIFIED MAIL®**

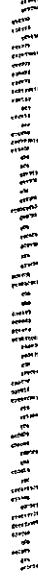


7014 2120 0001 1738 1404



Attn: Cheryl L. Reinhart  
Arkansas Dept. of Education  
Professional Licensure Standards Board  
Four Capital Mall Box 30  
Little Rock, AR 72201

72201\$1019



## Cheryl Reinhart (ADE)

---

**From:** Cheryl Reinhart (ADE)  
**Sent:** Friday, February 06, 2015 4:22 PM  
**To:** 'haroldmcduffie@att.net'  
**Subject:** Your letter

Mr. McDuffie, I wanted to let you know that I received the letter you wrote on your daughter's behalf. I'm sorry you had a problem with my email address, but the one you state in your letter is the correct address. I will accept the request for a hearing and next week I will send a letter confirming that.

Sincerely,

*Cheryl L. Reinhart*  
Director, Professional Licensure Standards Board  
Arkansas Department of Education  
Four Capitol Mall, Box 30  
Little Rock, AR 72201  
501.682.9983 direct line  
501.682.3781 fax  
[Cheryl.Reinhart@arkansas.gov](mailto:Cheryl.Reinhart@arkansas.gov)

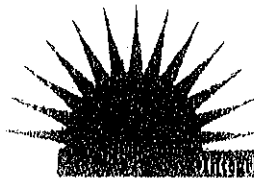


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ARKANSAS  
DEPARTMENT  
OF EDUCATION



Arkansas Professional  
Licensure Standards Board

AELS CID: 32209

June 4, 2015

PERSONAL & CONFIDENTIAL

Ms. Justine McDuffie  
c/o Mr. Harold McDuffie  
2583 N. Stagecoach Drive  
Fayetteville, Arkansas 72703

VIA REGULAR MAIL AND CERTIFIED MAIL

RETURN RECEIPT REQUESTED NO.: 91 7199 9991 7035 6965 2566

RE: Waiver Hearing

Dear Ms. McDuffie:

This letter will confirm that your request for a waiver from the State Board of Education will be heard on Thursday, July 9, 2015, at 10:00 a.m., in the Pulaski County Special School District Board Room, 925 East Dixon Road, Little Rock, 72206. The Board meets at 10:00 a.m. Typically, the hearings are held at the end of the agenda. However, I am not able to tell you an exact time that your matter will be heard as that is always at the Board's discretion on that meeting date.

Please note that hearings are conducted at a public meeting of the State Board which is videoed by live streaming and is archived. All documents provided to the State Board are public record, including the criminal history record information after the educator has provided it publicly. If you request a hearing, you should appear at the meeting and be prepared to answer questions from the State Board members. If you request a hearing and do not appear, the State Board may decide the matter without you being present.

Please also provide to me by Monday, June 15, 2015, a written statement and any supporting documents you wish to include as exhibits. Each exhibit should be marked as "Educator No. \_\_\_\_". Please also return the enclosed form signed and notarized so that we may review the police report.

I have enclosed an excerpt from the Rules Governing Background Checks and Licensure Revocation. Please read Section 8 of these rules as they apply to the hearing process. The full content of the rules may also be viewed online at <http://www.arkansased.org/> under Rules – Current. Please note that any request for a subpoena must be made not later than 10 days before the hearing date.

Arkansas Department of Education, Professional Licensure Standards Board  
Four Capitol Mall Box 30, Little Rock, AR 72201  
(501) 371-8014 voice (501) 682-3781 fax

EXHIBIT

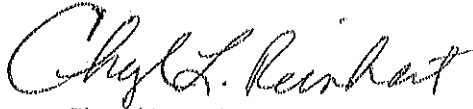
PLS 13

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You may, but are not required to, be represented by an attorney at any stage of this process.

If you have any questions, please feel free to contact me by phone at (501) 682-9983, or by email at [Cheryl.Reinhart@arkansas.gov](mailto:Cheryl.Reinhart@arkansas.gov).

Sincerely,



Cheryl L. Reinhart  
Director, PLSB

cc: Ivy Pfeffer, Assistant Commissioner, HR/Educator Licensure  
Karli Saracini, Director, Educator Licensure

---

*Arkansas Department of Education, Professional Licensure Standards Board  
Four Capitol Mall Box 30, Little Rock, AR 72201  
(501) 682-3303 main office; (501) 682-3781 fax*

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# ARKANSAS DEPARTMENT OF EDUCATION

## REQUESTING A WAIVER OF A DISQUALIFYING OFFENSE

The Arkansas Department of Education has reviewed your criminal background check as a condition of your licensure or employment with a charter school, school district, or education service cooperative.

### Ark. Code Ann. § 6-17-410

provides that the Department of Education shall not issue a first-time license nor renew an existing license and shall revoke any existing license not up for renewal of any person who has a true report in the Child Maltreatment Central Registry or has pled guilty or nolo contendere to or has been found guilty of any of [certain listed] offenses, *including offenses which have been expunged or pardoned.*

### Ark. Code Ann. § 6-17-411

requires a background check for initial employment with a charter school, school district, or education service cooperative.

Your background check revealed a disqualifying offense. You are entitled to a hearing in front of the State Board of Education regarding denial of your license. Ark. Code Ann. § 6-17-410(f) authorizes the State Board to grant waivers of the licensure eligibility provisions of § 6-17-410(c) upon request of an affected applicant for licensure.

State Board of Education meetings occur once a month, at 10:00 a.m. in the Auditorium of the Arkansas Department of Education – Arch Ford Education Building, Four Capitol Mall, Little Rock. Meeting dates may be found at: [http://www.arkansased.org/events/event\\_categories/state-board-of-education](http://www.arkansased.org/events/event_categories/state-board-of-education).

You may but are not required to be represented by an attorney at any stage of this process.

## 1 Request A Hearing

To request a hearing for a waiver of the disqualifying offense, you must submit your written request to the Department by mail, fax, or email, within thirty (30) days of the date you are notified of the disqualification.

## 2 Provide Documentation

The Department will confirm your request for a waiver and ask you to provide a written statement and any supporting documents that at a minimum address the circumstances that the Board will consider (see STEP 3), including the names and phone numbers of persons who may verify information contained in your statement or documentation. You must also provide a signed and notarized form providing authorization for the release of criminal records from courts and law enforcement. If your documentation is received less than six (6) weeks before the scheduled State Board meeting the matter will be postponed until after all documentation is received and reviewed by the Department.

## 3 Accept Or Reject The Department's Recommendation

After reviewing the documentation received from you or from other agencies, the Department will advise you of its decision to:

- Recommend a waiver to the State Board, including any conditions for licensure, such as:
  - Probation or suspension for a specific period of time;
  - Counseling, rehabilitation, or training;
  - Background check at end of probation or suspension;
  - No other disqualifying offenses or ethics violations during the probation or suspension period;
- Recommend that the State Board not issue, not renew, or revoke the license as applicable; or
- Decline to make a recommendation.

You will be given the opportunity to accept or reject the recommendation.

- If you accept the recommendation, the matter will be placed on the State Board's consent agenda. The consent agenda is voted on at that public meeting; and therefore, any documents presented to the State Board are public. If the matter is submitted on the consent agenda, you do not have to appear at the meeting. However, sometimes the State Board members have questions, and you may want to be there to respond to those questions. The State Board has the final decision and may accept a recommendation on the consent agenda or reject the recommendation and afford the educator the opportunity for a hearing at a later date.
- If you reject the recommendation you will proceed to a hearing.

## 4 State Board Hearing

If you request a hearing, you should appear at the meeting and be prepared to present your case and answer questions from the State Board members. If you request a hearing and do not appear, the State Board may decide the matter without you being present. Hearings are conducted at a public meeting of the State Board that is videoed by live streaming and archived. All documents provided to the State Board are public record. You should consult the Rules Governing Background Checks and Licensure Revocation for information on the hearing process (Section 8). The rules are online at <http://www.arkansased.org/> under Rules -- Current.

The circumstances that the State Board may consider includes, but is not limited to:

- The age at which the crime or incident was committed
- The circumstances surrounding the crime or incident
- The length of time since the crime or incident
- Subsequent work history
- Employment references
- Character references
- Other evidence demonstrating that the applicant does not pose a threat to the health or safety of school children or school personnel.

The State Board typically makes a decision at the time of the State Board meeting at which the consent agenda or hearing is considered.

You may obtain further information by contacting:

Cheryl L. Reinhart  
 Attorney, Ethics & Licensure  
 Arkansas Department of Education  
 Four Capitol Mall Box 30  
 Little Rock, AR 72201  
 (501) 682-9983 voice; (501) 682-3781 fax  
[Cheryl.Reinhart@arkansas.gov](mailto:Cheryl.Reinhart@arkansas.gov)

**ARKANSAS DEPARTMENT OF EDUCATION  
RULES GOVERNING  
BACKGROUND CHECKS AND LICENSE REVOCATION  
December 2013**

**1.00 REGULATORY AUTHORITY AND PURPOSE**

- 1.01 These rules shall be known as Arkansas Department of Education Rules Governing Background Checks and License Revocation.
- 1.02 The State Board of Education enacts these Rules pursuant to its authority as set forth in Ark. Code Ann. §§ 6-11-105, 6-17-410, 6-17-411, 6-17-414, 6-17-421, 25-15-201 *et seq.*, and Act 455 of 2013.
- 1.03 It is the purpose of these rules to set forth the requirements for a criminal background check and a Child Maltreatment Central Registry check for:
  - 1.03.1 Each first-time applicant for a license issued by the State Board of Education;
  - 1.03.2 Each applicant for his or her license renewal;
  - 1.03.3 Each applicant for initial employment in a licensed staff position with a public school district or open-enrollment public charter school;
  - 1.03.4 Each applicant for initial employment or non-continuous reemployment in a non-licensed staff position with a public school district, open-enrollment public charter school, or education service cooperative; and
  - 1.03.5 Each preservice teacher.
- 1.04 It is further the purpose of these rules to prescribe the procedure for revocation, suspension, or placing on probation of an educational license.
- 1.05 It is further the purpose of these rules to clarify whose criminal records check and Child Maltreatment Central Registry check fees shall be paid by the Department of Education.
- 1.06 It is further the purpose of these rules to clarify that superintendents and charter school directors shall have the responsibility of reporting licensure violations of teachers and fraudulent acts by Fiscal Officers to the State Board.

## 2.00 DEFINITIONS

For the purposes of these rules:

- 2.01 "Affected District" -- A public school district that loses territory or students as a result of annexation, consolidation, or detachment.
- 2.02 "Applicant" -- Includes any individual:
  - 2.02.1 Applying for his or her first license to be issued by the State Board of Education;
  - 2.02.2 Applying for his or her license renewal;
  - 2.02.3 Seeking initial employment in a licensed staff position with a public school district or open-enrollment public charter school;
  - 2.02.4 Seeking initial employment or non-continuous reemployment in a non-licensed staff position with a public school district, open-enrollment public charter school, or education service cooperative;
  - 2.02.5 Seeking initial employment as a Fiscal Officer of a public school district or open-enrollment public charter school;
  - 2.02.6 Seeking registered volunteer status pursuant to the Arkansas Registered Volunteers Program Act, Ark. Code Ann. § 6-22-101 *et seq.*; or
  - 2.02.7 Who is a preservice teacher.
- 2.03 "Breach of Fiduciary Trust" -- the wrongful misappropriation by a person of any fund or property, which had lawfully been committed to him or her in a fiduciary character.
- 2.04 "Department" -- Arkansas Department of Education.
- 2.05 "Educational entity" -- means a school district, an open-enrollment public charter school, or an education service cooperative.
- 2.06 "Employment" -- Includes any contract of hire, whether written or oral, whether express or implied, for any type of work on behalf of an educational entity, whether full-time or part-time, and whether permanent or temporary.

- 2.06.1 “Employment” also specifically includes without limitation:
  - 2.06.1.1 Service as a substitute teacher, whether paid or unpaid;
  - 2.06.1.2 Student teacher internships, whether paid or unpaid; and
  - 2.06.1.3 Volunteer work pursuant to the Arkansas Registered Volunteers Program Act, Ark. Code Ann. § 6-22-101 *et seq.*
- 2.07 “Fiscal Officer” – Any licensed or non-licensed employee of a public school district, open-enrollment public charter school, or education service cooperative who has any right, duty, or responsibility to access funds of a school district in excess of five thousand dollars (\$5,000), specifically including without limitation superintendents, Fiscal Officers and bookkeepers.
- 2.08 “Fraud” – All acts, omissions and concealments involving a breach of a legal or equitable duty and resulting in damage to another.
- 2.09 “Fraudulent Act” – An act:
  - 2.09.1 Performed willfully and with the specific intent to deceive or cheat for the purpose of either causing some financial loss to another or bringing about some financial gain to the actor; and
  - 2.09.2 For which the actor has pleaded guilty or nolo contendere to or has been found guilty by any court in this state, by a court in another state, or by a federal court.
- 2.10 “Initial employment” means the first time that an applicant has been employed by a public school district, open-enrollment public charter school, or education service cooperative.
- 2.11 “Law enforcement officer” – A state police officer, a city police officer, a sheriff or a deputy sheriff.
- 2.12 “Letter of provisional eligibility” – A six-month, non-renewable letter of provisional eligibility for licensure issued by the State Board of Education to an applicant for first-time licensure during the period that a criminal records check and Child Maltreatment Central Registry check are being conducted.

- 2.13 “Non-continuous reemployment” means employment in a public school district, open-enrollment public charter school, or education service cooperative by an applicant who was previously employed by the same entity but not at any point during the immediately preceding school year.
- 2.14 “Non-licensed staff position” means a position with a public school district, open-enrollment public charter school, or education service cooperative, which position does not require the holder of the position to possess an Arkansas teacher’s license. “Non-licensed staff position” includes a parental monitor on a school bus as permitted under A.C.A. § 6-19-127.
- 2.15 “Preservice teacher” means an unlicensed person admitted to a teacher preparation program approved by the Department that is offered by an institution of higher education in this state.
- 2.16 “Receiving or resulting public school district” – A public school district that is created or gains territory or students as the result of a consolidation, annexation, or detachment.
- 2.17 “State Board” – Arkansas State Board of Education.

### **3.00 LICENSURE, LICENSE RENEWALS, AND LICENSE REVOCATION**

- 3.01 Unless a waiver is granted pursuant to this Section 3.0, the State Board shall not issue a license or license renewal to, and shall revoke, suspend, or place on probation the existing license of, any individual who:
  - 3.01.1 Has pled guilty, pled nolo contendere to, or been found guilty of any offense that will or may result in license revocation under Ark. Code Ann. § 6-17-410;
  - 3.01.2 Has an expunged or a pardoned conviction for any sexual or physical abuse offense committed against a child or any offense that will or may result in license revocation under Ark. Code Ann. § 6-17-410;
  - 3.01.3 Has a true report in the Child Maltreatment Central Registry;
  - 3.01.4 Holds a teaching or similar license obtained by fraudulent means;
  - 3.01.5 Has had a teaching or similar license revoked in another state;

- 3.01.6 Intentionally compromises the validity or security of any student test or testing program administered by or required by the State Board or the Department of Education;
  - 3.01.7 Has the completed examination test score of any testing program required by the State Board for teacher licensure declared invalid by the testing program company and so reported to the Department of Education by the testing company;
  - 3.01.8 Fails to establish or maintain the necessary requirements and standards set forth in Arkansas law or State Board rules and regulations for teacher licensure;
  - 3.01.9 Knowingly submits or provides false or misleading information or knowingly failing to submit or provide information requested or required by law to the Department of Education, the State Board, or the Division of Legislative Audit; or
  - 3.01.10 Knowingly falsifies or directs another to falsify any grade given to a student, whether the grade was given for an individual assignment or examination or at the conclusion of a regular grading period.
- 3.02 Before denying an application for licensure or renewal, or taking action against an existing license, the Department shall provide to the Applicant or licensee a written notice of the reason for the action and shall afford the Applicant or licensee the opportunity to request a hearing before the State Board.
- 3.02.1 Upon receiving the written notice required by this section a person may:
    - 3.02.1.1 Decline to answer the notice, in which case the State Board shall hold a hearing to establish by a preponderance of the evidence that cause for the proposed action exists;
    - 3.02.1.2 Contest the allegations of fact and request a hearing in writing, in which case the person shall be given an evidentiary hearing before the State Board if one is requested;
    - 3.02.1.3 Admit the allegations of fact and request a hearing before the State Board to request a waiver; or

- 3.02.1.4 Stipulate or reach a negotiated agreement, which must be approved by the State Board.
- 3.02.2 A preservice teacher who receives notice under this section and who desires to request a hearing before applying for licensure shall submit to the Department the following items with the written request for a hearing:
  - 3.02.2.1 Proof of acceptance or enrollment in a teacher preparation program approved by the Department; and
  - 3.02.2.2 A written recommendation from the teacher preparation program.
- 3.02.3 A written request for hearing by the Applicant, licensee, or board of directors of a school district or open-enrollment public charter school must be received by the Department's Office of Legal Services no more than thirty (30) days after the receipt of the notice of denial, nonrenewal, or other action by the Applicant or licensee.
  - 3.02.3.1 If the person requesting a hearing fails to appear at the hearing, the hearing shall proceed in the manner described in Section 3.02.1.1 above.
- 3.03 Any hearing shall comply with the procedures set forth in Section 8.00 herein.
- 3.04 Circumstances for which a waiver may be granted after a hearing pursuant to Sections 3.02 or 3.03 shall include without limitation the following:
  - 3.04.1 The age at which the crime or incident was committed;
  - 3.04.2 The circumstances surrounding the crime or incident;
  - 3.04.3 The length of time since the crime or incident;
  - 3.04.4 Subsequent work history;
  - 3.04.5 Employment references;
  - 3.04.6 Character references; and

- 3.04.7 Other evidence demonstrating that the applicant does not pose a threat to the health or safety of school children or school personnel.
- 3.05 After a hearing, the State Board may take one (1) or more of the following actions:
  - 3.05.1 Revoke a license permanently;
  - 3.05.2 Suspend a license for a terminable period of time or indefinitely;
  - 3.05.3 Place or grant a license on probationary status for a terminable period of time with the license to be revoked or suspended if the probationary period is not successfully completed;
  - 3.05.4 Impose a monetary penalty not to exceed five hundred dollars (\$500.00) for each violation;
  - 3.05.5 Require a licensee to complete appropriate professional development programs, education courses, or both;
  - 3.05.6 Require a licensee to successfully complete a licensing examination, credentialing examination, or any other examination required by law or rule to obtain a permit, license, endorsement, or licensure area;
  - 3.05.7 Impose conditions or restrictions on the teaching or educational activities of the licensee;
  - 3.05.8 Impose any other requirement or penalty as may be appropriate under the circumstances of the case and which would achieve the Board's desired disciplinary purposes, but which would not impair the public health or welfare; or
  - 3.05.9 Take no action against a license.
- 3.06 If, after a hearing, the State Board approves a waiver for a preservice teacher:
  - 3.06.1 The individual may obtain a license only upon:
    - 3.06.1.1 Successful completion of the teacher preparation program for which the preservice teacher has provided proof of acceptance or enrollment under Section 3.02.2.1; and

3.06.1.2 Fulfillment of all other requirements for licensure.

3.06.2 A waiver granted under this Section 3.06 shall also operate as a waiver under Ark. Code Ann. § 6-17-414 for the preservice teacher to work for a school district as a student teacher.

#### **4.00 BACKGROUND CHECKS REQUIRED FOR LICENSURE AND SCHOOL EMPLOYMENT**

4.01 Except as otherwise provided herein, an Applicant may not be issued a first-time license or license renewal, nor may an Applicant be employed by a public school district or open-enrollment public charter school, without the successful completion of a criminal records check and the successful completion of a Child Maltreatment Central Registry check as required by these Rules.

4.02 Applicants for a first-time license issued by the State Board:

4.02.1 Each first-time Applicant for a license issued by the State Board shall be required to apply to:

4.02.1.1 The Identification Bureau of the Department of Arkansas State Police for a criminal records check; and

4.02.1.2 The Department of Human Services for a Child Maltreatment Central Registry check.

4.02.2 A background check for a first-time Applicant for a license obtained during the twelve (12) months before the license is issued meets the requirement under 4.02.1 for the first-time Applicant.

4.02.3 The State Board may issue a six-month, non-renewable letter of provisional eligibility for licensure to a first-time Applicant if the Applicant meets all other qualifications, pending the results of the nationwide criminal records and Child Maltreatment Central Registry checks.

4.02.4 The Commissioner of Education may extend the period of provisional eligibility to the end of the contract year if:

- 4.02.4.1 The Applicant is employed by a public school district or open-enrollment public charter school; and
    - 4.02.4.2 Results of the criminal records check or Child Maltreatment Central Registry check are delayed.
  - 4.02.5 The letter of provisional eligibility will immediately become invalid upon receipt of information that the Applicant has a true report on the Child Maltreatment Central Registry or information obtained from the criminal records check from the Arkansas State Police or the FBI, or other eligibility information, indicating that the applicant has pled guilty or nolo contendere to, or has been found guilty of, any offense that will or may result in license revocation under Ark. Code Ann. § 6-17-410.
  - 4.02.6 The Applicant shall be responsible for the payment of any fees associated with the criminal records check and Child Maltreatment Central Registry check.
- 4.03 Applicants for a license renewal:**
- 4.03.1 Each Applicant for license renewal shall be required to apply to:
    - 4.03.1.1 The Identification Bureau of the Department of Arkansas State Police for a criminal records check; and
    - 4.03.1.2 The Department of Human Services for a Child Maltreatment Central Registry check.
  - 4.03.2 The Applicant should begin the process of obtaining the criminal records check and Child Maltreatment Central Registry check by **July 1** of the year in which the Applicant's license expires.
  - 4.03.3 The State Board may issue a six-month, non-renewable letter of provisional eligibility for licensure to a first-time Applicant if the Applicant meets all other qualifications, pending the results of the nationwide criminal records and Child Maltreatment Central Registry checks.

4.03.4 The Commissioner of Education may extend the period of provisional eligibility to the end of the contract year if:

4.03.4.1 The Applicant is employed by a public school district or open-enrollment public charter school; and

4.03.4.2 Results of the criminal records check or Child Maltreatment Central Registry check are delayed.

4.03.5 The letter of provisional eligibility will immediately become invalid upon receipt of information that the Applicant has a true report on the Child Maltreatment Central Registry or information obtained from the criminal records check from the Arkansas State Police or the FBI, or other eligibility information, indicating that the applicant has pled guilty or nolo contendere to, or has been found guilty of, any offense that will or may result in license revocation under Ark. Code Ann. § 6-17-410.

4.03.3 This Applicant shall be responsible for the payment of any fees associated with the criminal records check and Child Maltreatment Central Registry check.

**4.04 Preservice teachers:**

4.04.1 Each Applicant who is a preservice teacher shall apply to:

4.04.1.1 The Identification Bureau of the Department of Arkansas State Police for a criminal records check; and

4.04.1.2 The Department of Human Services for a Child Maltreatment Central Registry check.

4.04.2 The Applicant shall be responsible for the payment of any fees associated with the criminal records check and Child Maltreatment Central Registry check.

4.04.3 These rules do not require an institution of higher education to bar a student from enrollment due to a disqualifying criminal conviction or a true report in the Child Maltreatment Central Registry.

**4.05 Applicants for employment in a licensed staff position:**

- 4.05.1 Each Applicant for initial employment or non-continuous reemployment in a licensed staff position for an educational entity shall be required as a condition of employment to apply to:
  - 4.05.1.1 The Identification Bureau of the Department of Arkansas State Police for a criminal records check; and
  - 4.05.1.2 The Department of Human Services for a Child Maltreatment Central Registry check.
- 4.05.2 The board of directors of a receiving or resulting public school district in a consolidation, annexation, or detachment may waive the requirements of this Section 4.05 for personnel who were employed by an affected district immediately prior to the annexation, consolidation, or detachment and who had a complete criminal records check conducted as a condition of the person's most recent employment with the affected district as required under this section.
- 4.05.3 An educational entity shall not employ in a licensed staff position any individual who has a true report in the Child Maltreatment Central Registry, unless the State Board granted a waiver by awarding a license or renewal under Section 3.00 herein.
- 4.05.4 An educational entity shall not employ in a licensed staff position any individual who has pled guilty, pled nolo contendere to, or been found guilty of any offense that will or may result in license revocation under Ark. Code Ann. § 6-17-410, unless the State Board granted a waiver by awarding a license or renewal under Section 3.00 herein.
- 4.05.5 An educational entity may offer provisional employment to an affected Applicant pending receipt of the results of the nationwide criminal records or Child Maltreatment Central Registry checks.
- 4.05.6 The Applicant shall be responsible for the payment of any fees associated with the criminal records check and Child Maltreatment Central Registry check, unless the board of directors of the employing educational entity chooses to pay the fees.

**4.05 Applicants for employment in a non-licensed staff position:**

- 4.06.1 Each Applicant for initial employment or non-continuous reemployment in a non-licensed staff position for an educational entity, shall be required as a condition of employment to apply to:
  - 4.06.1.1 The Identification Bureau of the Department of Arkansas State Police for a criminal records check; and
  - 4.06.1.2 The Department of Human Services for a Child Maltreatment Central Registry check.
- 4.06.2 The board of directors of a receiving or resulting public school district in a consolidation, annexation, or detachment may waive the requirements of this Section 4.06 for personnel who were employed by an affected district immediately prior to the annexation, consolidation, or detachment and who had a complete criminal records check conducted as a condition of the person's most recent employment with the affected district as required under this section.
- 4.06.3 An educational entity shall not employ in a non-licensed staff position any individual who has a true report in the Child Maltreatment Central Registry or who has pled guilty or nolo contendere to, or has been found guilty of, any offense identified in Ark. Code Ann. § 6-17-414(b).
- 4.06.4 An educational entity may offer provisional employment to an affected Applicant pending receipt of the results of the nationwide criminal records or Child Maltreatment Central Registry checks.
- 4.06.5 The Applicant shall be responsible for the payment of any fees associated with the criminal records check and Child Maltreatment Central Registry check, unless the board of directors of the employing educational entity chooses to pay the fees.
- 4.06.6 Notwithstanding the provisions of Section 4.05.5, an educational entity may at its discretion require criminal records checks and Child Maltreatment Central Registry checks of existing non-licensed employees in the same manner as set forth herein, so long as the educational entity pays the full cost

of the criminal records checks and Child Maltreatment Central Registry checks.

4.06.7 If an applicant for employment has been determined ineligible for employment because the applicant has a true report in the Child Maltreatment Central Registry, or has pled guilty or nolo contendere to, or has been found guilty of, any offense identified in Ark. Code Ann. § 6-17-414(b), the board of directors of the educational entity shall provide a written notice to the applicant and shall afford the applicant the opportunity to request a waiver.

4.06.7.1 The waiver shall be requested no more than thirty (30) days after receipt of the notice of the denial of employment.

4.06.7.2 The waiver may be requested by:

4.06.7.2.1 The hiring official;

4.06.7.2.2 The affected applicant; or

4.06.7.2.3 The person subject to dismissal.

4.06.7.3 Circumstances for which a waiver may be granted shall include without limitation the following:

4.06.7.3.1 The age at which the incident was committed;

4.06.7.3.2 The circumstances surrounding the incident;

4.06.7.3.3 The length of time since the incident;

4.06.7.3.4 Subsequent work history;

4.06.7.3.5 Employment references;

4.06.7.4.6 Character references; and

4.06.7.3.7 Other evidence demonstrating that the applicant does not pose a threat to the health or safety of school children or school personnel.

4.06.07.4 The board of directors of the educational entity may grant the waiver by adopting a written resolution identifying the applicant by name and listing the specific facts and circumstances for which the waiver is being granted.

4.06.07.4.1 A waiver request may be discussed and acted upon by the board of directors only in an open public meeting and not in an executive session.

4.06.07.4.2 After adopting the resolution, the board of directors shall immediately provide a copy of the resolution and waiver request to the Department.

## **5.00 BACKGROUND CHECK PROCEDURES**

5.01 The criminal records check and Child Maltreatment Central Registry check required by these Rules shall be initiated by the submission to the Department of a release of information signed by the Applicant.

5.01.1 For the purposes of these Rules, a criminal records check shall consist of a statewide criminal records check to be conducted by the Department of Arkansas State Police and a nationwide criminal records check to be conducted by the Federal Bureau of Investigation.

5.01.2 Criminal records checks shall conform to the applicable federal or state standards and shall include the taking of fingerprints. The Identification Bureau of the Department of Arkansas State Police may maintain these fingerprints in the automated fingerprint identification system.

5.01.3 Each applicant shall provide fingerprints by completing the State Police fingerprint card in the presence of a law enforcement officer, and shall have the law enforcement officer sign the fingerprint card and give his/her jurisdiction, the date and his/her badge number, or by any other method approved by the Department of Education.

5.01.4 If a legible set of fingerprints, as determined by the Identification Bureau of the Department of Arkansas State Police, cannot be obtained after a minimum of three (3) attempts, the Department of Education shall determine

eligibility for licensure or employment based upon a name check by the Identification Bureau of the Department of Arkansas State Police and the Federal Bureau of Investigation.

- 5.01.5 To be valid for consideration, a criminal records check or Child Maltreatment Central Registry check must have been completed no earlier than twelve (12) months prior to the application for licensure, renewal, or employment.
- 5.02 Any information received by the Department from the Department of Arkansas State Police, the Department of Human Services, or the Federal Bureau of Investigation pursuant to these Rules shall not be available for examination except by the affected applicant or his or her duly authorized representative, and no record, file, or document shall be removed from the custody of the Department of Education.
  - 5.02.1 Any information made available to the affected applicant for licensure or the person whose license is subject to revocation shall be information pertaining to that applicant only.
  - 5.02.2 Rights of privilege and confidentiality established under this section shall not extend to any document created for purposes other than this background check.
  - 5.02.3 For Applicants seeking employment, the Department may disclose to the employing public school district, open-enrollment public charter school, or education service cooperative only whether the Applicant is eligible for employment.
- 5.03 New or existing employees of an educational entity who have a contract with or work for more than one (1) school district in one (1) school year shall be required to have only one (1) criminal records check and one (1) Child Maltreatment Central Registry check to satisfy the requirements of all employing school districts for that year.

## **6.00 REPORTING REQUIREMENTS FOR SUPERINTENDENTS AND CHARTER SCHOOL DIRECTORS**

- 6.01 The superintendent of each public school district and the director of each open-enrollment public charter school shall report in writing by certified mail to the Department's Office of Legal Services the name of any employee of the district or school, whether currently employed or previously employed at any time during the two (2) preceding school years, who:

- 6.01.1 Has pled guilty or nolo contendere, or has been found guilty, of any offense listed in Ark. Code Ann. §§ 6-17-410(c) or 6-17-414(b);
  - 6.01.2 Holds a teaching or similar license obtained by fraudulent means;
  - 6.01.3 Has had a teaching or similar license revoked in another state;
  - 6.01.4 Has intentionally compromised the validity or security of any student test or testing program administered or required by the Department;
  - 6.01.5 Has knowingly submitted falsified information or failed to submit information requested or required by law to the Department, the State Board, or the Division of Legislative Audit; or
  - 6.01.6 Has a true report in the Child Maltreatment Central Registry.
- 6.02 The superintendent of each public school district and the director of each open-enrollment public charter school shall report in writing by certified mail to the Department's Office of Legal Services the name of any Fiscal Officer of the district or school, whether currently employed or previously employed at any time during the two (2) preceding school years, who has pled guilty or nolo contendere to, or has been found guilty of, a fraudulent act.
- 6.03 Failure of a superintendent to report a violation by certified mail within five (5) calendar days of knowledge as listed in Section 6.01 may result in sanctions imposed by the State Board, including but not limited to loss of accreditation.

## **7.00 FISCAL OFFICERS**

- 7.01 In addition to the requirements of Section 4.00, an educational entity shall not employ as a Fiscal Officer any individual who has pled guilty or nolo contendere to, or has been found guilty of, a fraudulent act.
- 7.02 A currently-employed Fiscal Officer of an educational entity who has pled guilty or nolo contendere to, or has been found guilty of, a fraudulent act shall be dismissed from employment with the educational entity.
- 7.02.1 Within five (5) days of knowledge of the plea or conviction, the educational entity shall serve written notice of termination on the Fiscal Officer in person or by certified mail. The notice

- shall advise the Fiscal Officer of his or her right to a hearing before the State Board.
- 7.02.2 The Fiscal Officer may, within thirty (30) days of service of the written notice of termination, request a hearing before the State Board by sending a written request via certified mail to the Department's Office of Legal Services.
- 7.02.3 If the Fiscal Officer does not timely request a hearing before the State Board, termination shall become effective thirty (30) days after the date of service of the written notice of termination.
- 7.02.4 Termination of employment pursuant to this subsection shall not be subject to the requirements of the Teacher Fair Dismissal Act, Ark. Code Ann. § 6-17-1501 *et seq.* or the Public School Employee Fair Hearing Act, Ark. Code Ann. § 6-17-1701 *et seq.*
- 7.03 Any individual found ineligible for employment or dismissed from employment under Section 7.00 may, within thirty (30) days of service of the written notice of denial of employment or written notice of termination, request a hearing before the State Board by sending a written request via certified mail to the Department's Office of Legal Services.
- 7.04 Circumstances for which a waiver may be granted shall include without limitation the following:
- 7.04.1 The age of the Fiscal Officer at the time the criminal act occurred;
- 7.04.2 The length of time since the conviction;
- 7.04.3 Whether the Fiscal Officer has pled guilty or nolo contendere to, or has been found guilty of, any other criminal violations since the original conviction;
- 7.04.4 Whether the original conviction was expunged or pardoned; and
- 7.04.5 Any other relevant facts.
- 7.05 The hearing shall follow the procedures set forth in Section 8.00 of these Rules.

- 7.06 After making its decision, the State Board shall reduce its decision to writing and shall mail copies of the decision to the Fiscal Officer or Applicant and the Superintendent of the affected school district.


## **8.00 STATE BOARD HEARING PROCEDURES**


- 8.01 Each party shall exchange exhibits and witness lists thirty (30) calendar days before the scheduled hearing date, unless both parties agree to a shorter period of time.
- 8.02 Requests for subpoenas must be received in the Office of Legal Counsel not less than ten (10) calendar days before the hearing date.
- 8.03 Each party will have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the representative of the Department of Education. The Chairperson of the State Board may, only for good cause shown and upon the request of either party, allow either party additional time to present their opening statements.
- 8.04 Each party will be given twenty (20) minutes to present their cases, beginning with the representative of the Department of Education. The Chairperson of the State Board may, only for good cause shown and upon the request of either party, allow either party additional time to present their cases.
- 8.05 Every witness giving oral testimony must be sworn under oath by the court reporter and shall be subject to direct examination, cross examination, and questioning by the State Board.
- 8.06 For the purposes of the record, documents offered during the hearing by the Department of Education shall be clearly marked in sequential, numeric order (1, 2, 3).
- 8.07 For the purposes of the record, documents offered during the hearing by the appealing public school district, open-enrollment public charter school, Applicant, or licensee shall be clearly marked in sequential, alphabetic letters (A, B, C).
- 8.08 The Department of Education shall have the burden of proving, by a preponderance of the evidence, that cause for the proposed licensure action exists, and that the recommended disposition from the Department be adopted.
- 8.09 While the scope of each party's presentation ultimately lies within the Board Chairperson's discretion, case presentation should be arranged in such a way as to avoid redundant testimony.

- 8.10 After both parties have presented their cases, the State Board may allow each party to present limited rebuttal testimony.
- 8.11 After making its decision, the State Board shall reduce its decision to writing and shall mail copies of the decision to each party, each party's attorney, and the superintendent or director of any interested public school district or open-enrollment public charter school.
- 8.12 The Board's written decision shall constitute the final agency action for purposes of judicial review pursuant to the Arkansas Administrative Procedure Act, Ark. Code Ann. § 25-15-201 *et seq.*



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<b>DATE &amp; TIME</b>	<b>STATUS OF ITEM</b>	<b>LOCATION</b>
June 6, 2015 , 10:14 am	Delivered	FAYETTEVILLE, AR 72703

## Available Actions

- Text Updates
- Email Updates

Your item was delivered at 10:14 am on June 6, 2015 in FAYETTEVILLE, AR 72703.

June 6, 2015 , 7:10 am	Out for Delivery	FAYETTEVILLE, AR 72703
June 6, 2015 , 7:00 am	Sorting Complete	FAYETTEVILLE, AR 72703
June 6, 2015 , 4:25 am	Arrived at Unit	FAYETTEVILLE, AR 72703
June 6, 2015 , 12:53 am	Departed USPS Facility	FAYETTEVILLE, AR 72701
June 5, 2015 , 9:10 pm	Arrived at USPS Origin Facility	FAYETTEVILLE, AR 72701
June 4, 2015 , 8:50 pm	Departed USPS Facility	LITTLE ROCK, AR 72231
June 4, 2015 , 7:00 pm	Arrived at USPS Origin Facility	LITTLE ROCK, AR 72231
June 4, 2015 , 5:45 pm	Accepted at USPS Origin Sort Facility	LITTLE ROCK, AR 72201

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ARKANSAS  
DEPARTMENT OF EDUCATION  
EDUCATOR'S LICENSE

JUSTINE ANN MCDUFFIE

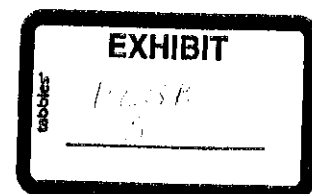
MASTERS

CODE	AREA	TYPE	GRADE LEVEL	VALID FROM	VALID TO
189	MIDDLE SCHOOL SOCIAL STUDIES	STANDARD	5 - 8	1/1/2011	12/31/2015
184	ELEMENTARY	STANDARD	1 - 6	1/1/2011	12/31/2015

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COMMISSIONER OF EDUCATION

DIRECTOR - EDUCATOR LICENSURE



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**A-10:****EDUCATOR'S EXHIBIT 1-7**

RECEIVED PLSB

JUN 16 2015

By:                     

June 11, 2012

Dear Ms. Reinhart,

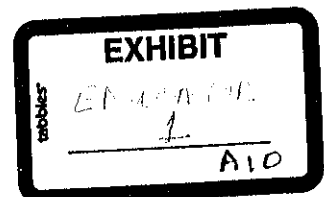
Enclosed you will find my written statement plus three supporting documents regarding my request for waiver of the revocation of my teacher's license. As per our discussion on Monday, June 8, I am not required to enclose any other forms.

I look forward to seeing you on July 9, 2015.

Thank you,

*Justine McDuffie*

Justine McDuffie



Educator #32209

June 11, 2015

To the State Board of Education:

I will be completely honest with you: I am terrified. I made a foolish choice last year; I exercised bad judgment. Now I am faced with that isolated moment in time defining the rest of my life, particularly my career. My future is not only in my own hands. It lies in yours and the decision you make about my licensure as an educator.

I love teaching. It is my calling. I willingly and wholeheartedly threw myself into my life choice of educating children during the eight years I taught full time. There is nothing more fulfilling to me than guiding students to realizing their potential and helping them explore new horizons. I was unable to teach for several years due to health issues, and for the past two years I have substituted as a means of working my way back into teaching.

I cannot blame anyone else for the poor decisions I made last year, but I was influenced by outside forces (namely, a bad boyfriend) which led me astray from my original path. This lapse in judgment will haunt me the rest of my life; however, I don't want it to negatively determine the road I will travel. The boyfriend is out of the picture for good, and I am resolved not only to not allow someone like that back into my life but also to maintain my sobriety regardless of extraneous effects.

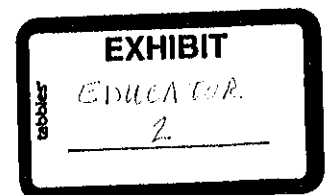
I understand that a teacher is a role model and that my activities last year did not represent role-model behavior. I was a good role model for years as an active teacher, and I can be again. Please know that what happened last year, my using and selling of drugs, was an incident that does not represent my true nature. I strive to be a moral person, and I am more determined than ever now to make positive choices which will enhance my life and the lives of those around me.

I ask you to allow me to keep my teacher's license on probationary terms. The reason I ask for this particular decision is because my license expires in December of this year, and if it is suspended, I cannot renew it. My teacher's license is the most important piece of paper in my life, and I want more than anything to keep it active.

Thank you for hearing my request. I pray that you choose to allow me another chance to prove I am worthy of teaching the young people of Arkansas.

Sincerely,

  
Justine McDuffie



**Kathleen M. Wong, MD PLLC**  
**Psychiatry**  
**127 West Sunbridge Drive**  
**Fayetteville, Arkansas 72703-1624**  
**Phone (479) 301-2284, Fax (479) 301-2338**  
**<http://www.bridges2wellbeing.com/>**

June 11, 2015

Ms Cheryl L. Reinhart, Director  
Arkansas Department of Education  
Professional Licensure Standards Board  
Four Capitol Mall Box 30  
Little Rock, Arkansas, 72201

Dear Ms Reinhart,

This is a letter written at the request of and with the permission of Ms Justine McDuffie.

I am a psychiatrist who has worked with Ms McDuffie since April, 2007. I would like to present my case in support of her situation, advocating her continued professional work in education.

There are many ways which Ms McDuffie will impress a person upon a first meeting: she is clearly bright, articulate, energetic, thoughtful, creative, respectful, enthusiastic, talented, invested, capable. She is good at projects – I recall how she explained various school projects she had developed for her classes, and how favorably the results were received. It is easy to believe that she earned a Masters Degree and has proven herself in eight years of full-time teaching.

She and I have tried to evaluate what led to her losing sight of her best vision for herself. Her parents (who are emphatically supportive) had long shared concerns that she was too soft-hearted, a vulnerability that might lead her to contexts which were far afield from what her best wisdom knew was wise or safe. This most immediate incident, and its immediate consequences, have afforded her the opportunity to reflect, to grow in herself, and to establish more strength in her best self. These reflections, growth, and strengthening, paired with the personal resources she had already developed in herself, make her an asset for others in her community, in her work of education.

There is a bit of lore in the behavioral health field, that those who have traveled the rocky road are best suited to help others who have stumbled into that same rocky road. I suppose that could be translated into: "Experience is the best teacher." Ms McDuffie does not want her life, her contribution to the community, to be defined by this singular error of judgement. In fact, this event and its circumstances have underscored for her all the more that she wants the chance to move forward and be a positive influence for students. From her core, she knows the power of being a good role model for her students – not just in her energies and guidance in the classroom, but also in prudent conduct in all aspects of her life.

I am still impressed with Ms McDuffie – her intelligence, her thoughtfulness, her enthusiasm, her energies, her convictions, her beliefs. I add my voice to those of others who believe that she has much to contribute to her community as an educator, and that she has the capacity, motivation, and self-discipline to achieve this. I am encouraged that she has the dedicated support of her parents, her friends, and even her church as she endeavors to continue her journey. I am confident that she herself has crystallized her sense of her own vision, wisdom, and integrity in a manner that will protect and prevent from future derailment from her best path.

I thank you for your attention.

Sincerely,

*Kathleen M. Wong MD*

Kathleen M. Wong, MD  
Diplomate, American Board of Psychiatry and Neurology  
Fellow, American Psychiatric Association

FELISHA FAWN HARP  
Arkansas - Benton County  
Notary Public - Comm# 12378248  
My Commission Expires Sep 9, 2020

*Felisha Fawn Harp*

**EXHIBIT**

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EDUCATOR  
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June 11, 2015

PHONE: 479-443-0070  
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To: Cheryl Reinhart  
Arkansas Department of Education

RE: Justine McDuffie, Licensure Revocation Waiver Request

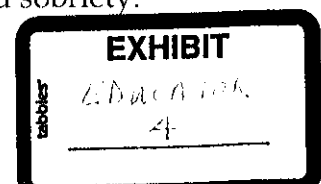
Ms. Reinhart,

I write this letter in support of Ms. McDuffie's request for a license revocation waiver. I represented Ms. McDuffie in the criminal case which resulted in the revocation notice. During that process I have come to know Ms. McDuffie and her parents, Harold and Catherine.

The precipitating circumstance surrounding Ms. McDuffie's case involved the drug dealing of her then-boyfriend Brian Sutton, who encouraged Ms. McDuffie to sell drugs over a several month period. As of today, Sutton remains incarcerated facing drug delivery charges. Prior to meeting Sutton, Ms. McDuffie had never sold drugs. Following her arrest, she severed all ties with Sutton. Ms. McDuffie accepted responsibility for her conduct in court and was fortunate to receive a probated sentence. But it is clear to all that Ms. McDuffie was a minor player in the case, taken advantage of by a more sophisticated, culpable actor. Regarding probation, Ms. McDuffie is currently in perfect compliance, has paid her fines and court costs in full and ahead of schedule, and will soon seek to have her probation period be reduced by half.

The decision to get involved with drugs cost Ms. McDuffie dearly. She had 8 years of successful classroom experience prior to her arrest in March of 2014 and loved her work. She lost her job, her credibility and suffered the embarrassment of a public prosecution.

Ms. McDuffie reports, and I have no reason to doubt that she has been drug-free since her arrest in March of 2014. She is firmly committed to restoring her good standing in the community and reclaiming her professional status. I cannot envision Ms. McDuffie returning to the lifestyle that got her in trouble, and can state with confidence that she would never pose a threat to the health or safety of school children or school personnel. She is fortunate to enjoy the continued support of her parents, friends and church community who supply positive encouragement and ensure her continued sobriety.



Cheryl Reinhart

June 11, 2015

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In short, I have no hesitation in recommending that Ms. McDuffie's license revocation be waived and that she be permitted to resume her career as a teacher.

Thank you for your consideration and do not hesitate to contact me if I can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kent McLemore', with a long horizontal flourish extending to the right.

Kent McLemore

KM

June 11, 2015

To: Arkansas Department of Education; Cheryl Reinhart

Subject: Request Waiver for Revocation of Teaching License of Justine McDuffie

Members of the Hearing Board; Ms. Reinhart,

This statement is made in support of Justine McDuffie, our daughter, who is requesting a waiver of the revocation of her teaching license. We ask you to grant her this waiver on two grounds. (1) The jolt of her conviction for the sale of drugs has permanently changed her life; she will not re-offend. (2) She is an excellent and compassionate elementary teacher; the loss of her profession will not only be a loss to her but to Arkansas children as well.

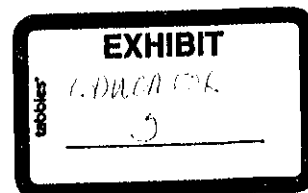
Since early adulthood Justine has periodically suffered from bi-polar disorder. The extreme emotional swings and impairment of judgment which are the hallmarks of this disorder led her to the wrongheaded, self-destructive actions that brought about her arrest, conviction, and jailing for the possession and sale of drugs. Over the past year we have lived with her day by day through the trauma of court and jail. That prolonged experience has at last awakened her and changed her outlook as many years of parental and psychological counseling had not. She will not re-offend – this judgment is based not simply on the hopes and wishes of fond parents, but on the dramatic changes in her attitude and behavior that we now see.

Justine loves teaching children and is very good at it. A number of years her fourth graders tested best in the schools where she taught. We, her parents, recognize her talent and ability because we were ourselves English teachers for many years at Springdale High School. We know what it takes to help young people to succeed academically: one must try to awaken them to the confidence and pride that learning can bring, not simply offer the facts and techniques of a process. Justine has that gift.

We ask the Board to grant this waiver to Justine on a probationary status so that she may renew her license and at some future point apply for a teaching job. She has paid a stiff price for her offense. We beg you to give her a chance to redeem herself.

Thank you,

   
Harold L. McDuffie      Catherine McDuffie



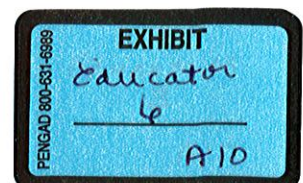
When I was teaching fourth grade, I was constantly attempting to get my students to use words correctly. I taught them the difference between farther and further, for example. One difference I stressed was between eager and anxious. Students often wanted to say they were anxious to do something when they actually meant they were eager, or looking forward to it. Today I come to you with a mixture of both eagerness and anxiousness. I am eager to meet you and plead my case in the hopes that you will empathize with my situation and allow me to retain my teaching certificate. However, I am also anxious. This is my shot; after I finish my appeal to you, my fate is completely in your hands. Whether or not I am allowed to pursue my career and life's passion is no longer up to me, and that is a scary place to be.

I could give you all sorts of reasons and excuses for how I came to be arrested and charged with two drug-related felonies. I was mixed up with the wrong people, including a bad boyfriend. I was in a manic state due to my bipolar tendencies and wasn't thinking clearly. But when it comes down to it, I have to face the fact that I am guilty of these acts. I made my own choices, albeit unwise ones, and now I have to live with the results of them the rest of my life. Even if you allow me to keep my certificate, I will always have this black mark on my past, and I will always regret it.

Being arrested and incarcerated was humiliating, humbling, and terrifying. I am working to put it behind me, but the experience taught me a lot. One thing I learned is that I never, ever want to be in that position again. I want to move forward positively, which means leaving the world of drugs and illegal behavior behind me. I refuse to become a statistic, one of those people who can't pull herself out of the eddy of mischief and continues to live life on the fringes. I will never again commit an act for which I can go to jail. I am stronger than that, and I am committed to keep myself on the right path. My life depends on it.

There is a Flannery O'Connor short story called "Good Country People," which I have always particularly liked. In it, a woman with a wooden leg is mesmerized by a traveling salesman who lures her up into the hayloft of a barn. She is eager (correct use of the word here) to experience the hidden pleasures he professes to offer her. Unfortunately for the woman, the salesman is a rogue who has misled her. He coerces her into removing her leg, then promptly pops it in his briefcase and leaves her stranded in the loft. Today I come to you as that woman. In my own foolishness, I have allowed my leg to be taken. You have the power to give it back to me. I want to climb out of the hayloft. I want to walk again.

Thank you.

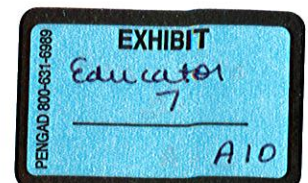


## Request of Waiver for a Disqualifying Offense

Justine McDuffie's license to teach elementary school in Arkansas was revoked because she has a felony charge for sale possession and sale of drugs, an offense to which she pleaded guilty and served 120 days in Washington County Jail. The charge was based on less than one gram of methamphetamine. We, her parents, both retired high school teachers, ask that you place her license on probationary status for a terminable period of time. (Re: paragraph 3.05.3) We asked that you grant this waiver for the following reasons.

1. First, Justine is a very good teacher. She proved herself in the classroom for <sup>0.1947</sup>seven years. Her students tested out well even when she was a beginning teacher. Further, she has a passion for the profession that we've witnessed in few fellow teachers. To lose her forever is not just a loss for her but to the profession.
2. Second, the failure in judgment that brought her to this end is one that will never be repeated. The 120 days she spent in jail awakened her to the folly of giving in to the impulses and blotting out of good judgment brought on by her bi-polar medical condition. Her arrest, conviction, and four months of jail time coupled with the loss of her reputation brought a level of shame and humiliation which we believe has permanently inoculated her against repeating this or any other illegal offense.
3. Third, the felony offense was based on possession and sale of a very small amount of drug. For this offense she has lost not only her good name but her ability to support herself. This felony conviction makes it virtually impossible to find a job that she is qualified for. Literally, it is a sentence for life. We understand the rationale behind the draconian penalties for possession and sale of drugs. Methamphetamine is an extremely destructive drug. However, we cannot accept that there should not be a possibility of a path back for repentant offenders – particularly non-violent, marginal offenders who are highly unlikely to ever offend again. We remind you that she had less than one gram, not ten kilos of the drug. We, Harold and Catherine McDuffie, beg you: Grant our daughter this waiver for probationary status so that she can she can re-enter the profession that she has a passion and uncommon ability for. The gain will be hers, of course; but it will also be that of the fourth-graders who enter her domain.

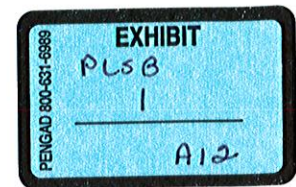
Harold L McDuffie Catherine McDuffie



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**PLSB EXHIBIT ONE (1)**



## Timeline of Events

### PLSB Case # 13-047 – Beverly Garner-Harris

Event	Date	Additional Information
Allegation of Violation Form Submitted to ADE	October 22, 2012	Complainant-Assistant Superintendent David Hart
Allegation of Violation Form Validated	October 22, 2012	
Authorization to Investigate	November 7, 2012	
Notification of Authorization to Investigate Mailed to Ms. Garner-Harris	November 13, 2012	
PLSB Notified of Attorney Representation-Mark Burnette	November 21, 2012	
PLSB Notified Case Reassigned to Clayton Blackstock	February 4, 2013	
Stipulated Agreement Extending Timeline	April 19, 2013	At Ms. Garner-Harris' request for additional time to review the case file and respond to the allegations.- <i>(to August 9, 2013 for conclusion of evidentiary hearing)</i>
Notification of Completed Investigation Mailed to Ms. Garner-Harris	June 4, 2013	
Stipulated Agreement Extending Timeline	July 12, 2013	Agreed to for the convenience of Ms. Garner Harris. Additional time to respond to Final Investigative Report. <i>(Incorrectly called ethics complaint)-(to September 12, 2013 for conclusion of evidentiary hearing)</i>
Response to Final Investigative Report <i>(Incorrectly called ethics complaint)</i>	July 31, 2013	
Initial Reasonable Belief Determination and Recommendation	August 9, 2013	
Notification of Initial Reasonable Belief Determination and Recommendation Mailed to Ms. Garner-Harris	August 16, 2013	

<b>Event</b>	<b>Date</b>	<b>Additional Information</b>
Stipulated Agreement Extending Timeline	December 17, 2013	At Ms. Garner-Harris' request due to injuries she had sustained and an accompanying extended period of recovery.- <i>(to August 1, 2014 for conclusion of evidentiary hearing)</i>
Notification of August 1, 2014 Evidentiary Hearing Date Mailed to Ms. Garner-Harris' Attorney	April 8, 2014	
Parties Agree to Alternative Evidentiary Hearing Date		At PLSB's request.
Notification of October 24, 2014 Evidentiary Hearing Date Mailed to Ms. Garner-Harris' Attorney	August 8, 2014	
Evidentiary Hearing Held	October 24, 2014	
Case Taken Under Advisement	October 24, 2014	
Ethics Subcommittee Announces Decision	November 5, 2014	
Evidentiary Hearing Final Determination and Recommendation Order Mailed to Ms. Garner-Harris' Attorney	December 30, 2014	
Rejection of Final Determination and Recommendation and Requests State Board Review	January 13, 2015	
Agreed Extension of Time to Submit Written Objections and Brief	January 21, 2015	At Ms. Garner-Harris' request based on her not having a phone, which caused problems with attorney communicating with her.
Ms. Garner-Harris' Written Objections and Brief filed with the PLSB	February 2, 2015	
PLSB Files Response to Educator's Brief	February 12, 2015	
State Board Review Hearings Continued	April	Not placed on agenda.
State Board Review Hearings Continued	March, May, and June	At Ms. Garner-Harris' request due to family deaths and emotional disability.

## C E R T I F I C A T E

STATE OF ARKANSAS     )  
                                       ) ss.  
 COUNTY OF SALINE     )

I, SHARON K. HILL, CCR, a Certified Stenomask Reporter before whom the foregoing testimony was taken, do hereby certify that the same is a true and correct transcription of proceedings before the Arkansas State Board of Education, in Little Rock, Arkansas, on July 9, 2015, that the said testimony was reduced to typewritten form by me or under my direction and supervision; and that the foregoing pages constitute a true and correct transcription of all evidence heard and proceedings had in said matter.

I FURTHER CERTIFY that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken.

I FURTHER CERTIFY that I have no contract with any parties within this action that affects or has a substantial tendency to affect impartiality, that requires me to relinquish control of an original transcript or copies of the transcript before it is certified and delivered to the custodial agency, or that requires me to provide any service not made available to all parties to the action.

WITNESS, MY HAND AND SEAL, THIS DATE: July 19, 2015.



*Sharon K. Hill*

SHARON K. HILL, CCR  
 Certified Court Reporter  
 Certificate No. 670

