

## **Title 6. Education**

### **Chapter I. Division of Elementary and Secondary Education**

#### **Subchapter G. School District Personnel**

#### **Part 192. Rules Governing the Code of Ethics for Arkansas Educators**

##### **Subpart 1. Generally**

###### **6 CAR § 192-101. Purpose.**

(a) The purpose of this part is to:

(1) Define standards of ethical conduct for all educators, whether licensed or employed under a legal waiver from licensure; and

(2) Outline procedures for:

(A) Receiving complaints;

(B) Authorizing and conducting investigations; and

(C) Recommending enforcement of the Code of Ethics.

(b)(1) The professional, ethical educator contributes to the development and maintenance of a supportive student-focused learning community that values and promotes:

(A) Human dignity;

(B) Fairness;

(C) Care;

(D) The greater good; and

(E) Individual rights.

(2) These values are the ethical premises for the standards of professional behavior and ethical decision making established in this Code of Ethics.

(3) By establishing standards of ethical conduct, the Code of Ethics:

(A) Promotes the health, safety, and general welfare of students and educators; and

(B) Ensures the citizens of Arkansas a degree of accountability within the education profession.

**6 CAR § 192-102. Applicability.**

(a) The valid Arkansas educator’s license of any person shall be subject to the conditions, requirements, and mandates of the Code of Ethics, procedures, and recommendations for enforcement.

(b) An educator who is employed under a waiver of licensure granted by the State Board of Education to an educational entity is subject to the conditions, requirements, and mandates of the Code of Ethics, procedures, and recommendations for enforcement, including:

- (1) Public notification of violations of the Code of Ethics; and
- (2) Fines equivalent to those for licensed educators.

(c)(1) A preservice teacher who is assigned to a school as a student intern in a supervised field experience or supervised clinical experience is also subject to the Code of Ethics.

(2) A sanction adopted by the state board may be imposed on a license when and if it is issued to the sanctioned preservice teacher.

**6 CAR § 192-103. Definitions.**

As used in this part:

(1) “Acted upon” means that the State Board of Education has taken an action to address an ethics complaint by revoking, suspending, or imposing another sanction upon an educator’s license;

(2)(A) An “authorized ethics complaint investigation” is an ethics complaint that has been:

(i) Validated by an investigator of the Professional Licensure Standards Board as being submitted by an identifiable person; and

(ii) Authorized for investigation based upon reasonable belief by the ethics subcommittee that if the allegation is true it would constitute a violation of the Code of Ethics as set forth in this part, committed by an Arkansas educator.

(B) The ethics subcommittee shall authorize investigation of an ethics complaint that it determines is credible (Arkansas Code § 6-17-428);

(3) "AELS" means the Arkansas Educator Licensure System;

(4) "Code of Ethics" means the code of ethics for Arkansas educators established by the Professional Licensure Standards Board under Arkansas Code § 6-17-422;

(5)(A) "Dispositions" are the values, commitments, and professional ethics that:

(i) Influence behaviors toward:

(a) Students;

(b) Families;

(c) Colleagues; and

(d) Communities; and

(ii) Contribute to student learning, motivation, and development as well as the educator's own professional growth.

(B) Dispositions are guided by beliefs and attitudes related to values such as:

(i) Caring;

(ii) Fairness;

(iii) Honesty;

(iv) Responsibility; and

(v) Social justice;

(6) "Division" means the Division of Elementary and Secondary Education;

(7) "Educator" means a:

(A) Person holding a valid educator's license issued by the State Board of Education, even if the license expires during the pendency of the ethics complaint process;

(B) Person employed under a waiver from licensure;

(C) Preservice teacher, including a person holding an aspiring teacher permit;

(D) Person employed under an emergency teaching permit; or

(E) Person who is a registered volunteer who will be working with students in an athletic coaching capacity or is in the process of obtaining a coaching certificate through the Arkansas Activities Association and is assisting with students in a coaching capacity in a public school athletic program;

(8) "Educational setting" means any public school, open enrollment public charter school, virtual public school, or education service cooperative in Arkansas serving students in any of grades prekindergarten through twelve (preK-12);

(9) "Educator's license" means a teaching license, an administrator's license, a lifetime teaching license, an ancillary license, a provisional license, or any other license or permit issued by the State Board of Education;

(10)(A) "Ethics complaint" means an allegation of violation form that:

(i) States alleged facts that, if true, would constitute an ethics violation of the Code of Ethics;

(ii) Is signed under penalty of perjury by the person filing the ethics complaint;

(iii) Is validated by a Professional Licensure Standards Board investigator; and

(iv) Is authorized for investigation by the ethics subcommittee.

(B) An ethics complaint may also be a finding made in an audit report forwarded to the Division of Elementary and Secondary Education by the Legislative Joint Auditing Committee under Arkansas Code § 6-17-426;

(11)(A) "Ethics hearing subcommittee" means the subcommittee appointed by the Professional Licensure Standards Board to conduct evidentiary hearings under these rules.

(B) The ethics hearing subcommittee is composed of six (6) members, three (3) of whom may be appointed by the Professional Licensure Standards Board based on educational experience.

(C) One (1) of the members shall be appointed to represent nonlicensed teachers;

(12)(A) "Ethics subcommittee" means the subcommittee established by the Professional Licensure Standards Board to:

- (i) Receive and investigate ethics complaints; and
- (ii) Enforce the Code of Ethics through recommendations to the State Board of Education.

(B) The ethics subcommittee is composed of five (5) members with proportionate representation as the Professional Licensure Standards Board of public school teachers and administrators plus one (1) member from any other category of representation on the Professional Licensure Standards Board;

(13)(A) "Ethics violation" is an act or omission on the part of an educator when the educator knew or reasonably should have known that such acts or omissions were in violation of the Code of Ethics as set forth in this part.

(B) An ethics violation does not include:

- (i) A reasonable mistake made in good faith;
- (ii) Acts or omissions undertaken in accordance with the reasonable instructions of a supervisor; or
- (iii) An act or omission under circumstances in which the educator had a reasonable belief that failure to follow the instructions of a supervisor would result in an adverse job action against the educator;

(14) "Filed" means an allegation of violation form, a motion, or other document has been stamped by Professional Licensure Standards Board staff with a date acknowledging when the document arrived at the offices of the Professional Licensure Standards Board staff;

(15) "Hearing officer" means an impartial Arkansas licensed attorney who serves in a quasi-judicial role, i.e.:

- (A) Opening the hearing;
- (B) Introducing the parties;
- (C) Swearing witnesses; and
- (D) Ruling on objections;

(16) "Impairment" means the state of being mentally or physically diminished, weakened, or damaged with respect to performing the educator's professional duties;

(17)(A) "Level 1 Public Notification of Ethics Violation" is a public notification that a nonlicensed educator has violated the Code of Ethics in a manner equivalent to a violation that warrants a written reprimand.

(B) The purpose of a Level 1 Public Notification of Ethics Violation is to publicly admonish the nonlicensed educator;

(18)(A) "Level 2 Public Notification of Ethics Violation" is a public notification that a nonlicensed educator has violated the Code of Ethics in a manner equivalent to a violation that warrants the probation of a license.

(B) The purpose of a Level 2 Public Notification of Ethics Violation is to:

(i) Publicly admonish the nonlicensed educator; and

(ii) Place conditions or requirements on the educator for a specified period of time;

(19)(A) "Level 3 Public Notification of Ethics Violation" is a public notification that a nonlicensed educator has violated the Code of Ethics in a manner equivalent to a violation that warrants the suspension of a license.

(B) The purpose of a Level 3 Public Notification of Ethics Violation is:

(i) To publicly admonish the nonlicensed educator; and

(ii) For a specified period of time, to:

(a) Place conditions or requirements on the nonlicensed educator;

(b) Notify the public that the nonlicensed educator is not recommended for employment or volunteering in an educational setting; and

(c) Notify the public that the nonlicensed educator is not eligible for teaching or testing duties;

(20)(A) "Level 4 Public Notification of Ethics Violation" is a public notification that a nonlicensed educator has violated the Code of Ethics in a manner equivalent to a violation that warrants the revocation of a license.

(B) The purpose of a Level 4 Public Notification of Ethics Violation is to notify the public that the:

(i) Educator is not recommended for employment or volunteering in an educational setting; and

(ii) Nonlicensed educator is not eligible for future licensure;

(21)(A) "Monitoring conditions or restrictions" may include any actions or alternative sanctions allowed under the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

(B) Such conditions or restrictions may include but are not limited to requiring that an educator, at the educator's expense, submit a new criminal background check or submit other requested information such as:

(i) Current employment; or

(ii) Compliance with recommended:

(a) Counseling;

(b) Treatment;

(c) Education; or

(d) Training.

(C) The ethics subcommittee may recommend the length of the monitoring period to the State Board of Education;

(22)(A) "NASDTEC Clearinghouse" means the searchable database administered by the education departments of members of the National Association of State Directors of Teacher Education and Certification (NASDTEC).

(B) The NASDTEC Clearinghouse is viewable only by:

(i) Member agencies responsible for educator licensure/certification and discipline; and

(ii) Additional interested education organizations approved by NASDTEC;

(23)(A) "Nonrenewal" means that an expired license will not be renewed.

(B) Nonrenewal may be permanent or temporary.

(C) There is no reinstatement of a license after permanent nonrenewal.

(D) Nonrenewal will apply when an educator's license expires after the occurrence of the alleged ethics violation;

(24) "PLSB" means the Professional Licensure Standards Board;

(25) "Prekindergarten" means an early childhood education program that serves students from birth to enrollment in kindergarten;

(26)(A) "Preponderance of the evidence" is the greater weight of the relevant evidence; superior evidentiary weight that, though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient to induce a fair and impartial mind to one (1) side of the issue rather than the other.

(B) It is determined by considering all of the relevant evidence and deciding which evidence is more credible.

(C) A preponderance of the evidence is not necessarily determined by the greater number of witnesses or documents presented.

(D) If, on any allegation against an educator, it cannot be determined whether the allegation is more likely true than not true, the allegation cannot be considered to have been proved;

(27) "Preservice teacher" means an unlicensed person who is enrolled as a student in an educator preparation program approved by the Division of Elementary and Secondary Education;

(28)(A) "Private letter of caution" is a nonpunitive communication from the ethics subcommittee to an educator in response to an ethics complaint against the educator.

(B) Private letters of caution may be provided to an educator by the ethics subcommittee of the Professional Licensure Standards Board in lieu of recommending other discipline.

(C) Private letters of caution do not make any factual findings but inform the educator that the conduct alleged in the complaint or its investigation falls within the broad range of the Code of Ethics but that the circumstances and mitigating factors do not warrant disciplinary action.

(D) Private letters of caution remain in the files retained by the Professional Licensure Standards Board staff, but are not placed in an educator's licensure file at the Division of Elementary and Secondary Education.

(E)(i) A private letter of caution:

(a) Is not submitted to the State Board of Education for approval; and

(b) Does not constitute a sanction for the purposes of the Code of Ethics.

(ii) As a result, private letters of caution cannot be the basis for a request for an evidentiary hearing before the ethics subcommittee or the State Board of Education;

(29)(A) "Probation" is the placing of conditions, requirements, or circumstances on the status of an educator's license issued by the State Board of Education for a period of time established by the State Board of Education.

(B) Generally, an educator whose license is under probation must sufficiently satisfy such conditions, requirements, or circumstances in order to maintain or be reinstated to the original nonprobationary teaching license status.

(C) The probation will remain permanently in the:

(i) Division of Elementary and Secondary Education file of the educator; and

(ii) Files retained by the Professional Licensure Standards Board;

(30) "Public information" for the purpose of this part is information publicly available from news media or public record;

(31)(A) "Reasonable belief" is a belief based upon knowledge of facts and circumstances that:

(i) Are reasonably trustworthy; and

(ii) Would justify a reasonable person's belief that:

(a) A violation of the Code of Ethics as set forth in this part has been committed; and

(b) The named educator committed such a violation.

(B) A reasonable belief is not based upon mere suspicion or conjecture;

(32) "Relevant evidence" or "material evidence" is evidence having any tendency to make the existence of any fact that is of consequence to the determination of the matter more probable or less probable than it would be without the evidence;

(33)(A) "Revocation" is the invalidation of any educator's license.

(B) The revocation will remain permanently in the:

(i) Division of Elementary and Secondary Education file of the educator; and

(ii) Files retained by the Professional Licensure Standards Board.

(C) An educator whose license has been revoked may refer to the Division of Elementary and Secondary Education Rules Governing Educator Licensure, 6 CAR pt. 180, on the reinstatement of a revoked license;

(34) "State Board" means the State Board of Education;

(35) "School hiring official" means the person designated by a school who is responsible for hiring or making final recommendations for the hiring of an educator who:

(A) Holds an Arkansas teaching or administrator's license; or

(B) Will be employed under a waiver granted by the State Board of Education;

(36) "School-sponsored activity" is any event or activity sponsored by the school or school system that 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;

(37) "Sexual abuse" has the same meaning as given to the term in Arkansas Code § 12-18-103(20)(D) as it applies to a caretaker, but shall include a victim who is:

(A) Younger than twenty-one (21) years of age; and

(B) Still a student;

(38) "Student" is any individual enrolled in any state's public or private schools from prekindergarten through grade twelve (preK-12);

(39)(A) "Substantiated allegation" means observance of or reasonable cause to believe that a violation of the code of ethics has occurred.

(B) The completion of an investigation is not required in order for an allegation to be a substantiated allegation.

(C) A substantiated allegation may be a preliminary determination made by a public school;

(40) "Supervisor" under this part means an administrator authorized by the district or school board to administer professional employee discipline, up to and including recommending:

(A) Termination; or

(B) Nonrenewal;

(41)(A) "Suspension" is the temporary invalidation of any educator's license for a period of time specified by the State Board of Education.

(B) The suspension will remain permanently in the Division of Elementary and Secondary Education file of the educator and in the files retained by the Professional Licensure Standards Board;

(42) "Take action" means that, based on a preponderance of the evidence, the ethics subcommittee or ethics hearing subcommittee makes a determination and recommendation based on an ethics complaint;

(43)(A) "Valid educator's license" means that the educator's license was current, on probation, or under suspension at the time of an alleged ethics violation.

(B) A valid educator's license that expires after the occurrence of the alleged ethics violation is still subject to an ethics complaint process relating to the alleged ethics violation;

(44) "Waiver from licensure" means a waiver from rules and/or laws governing educator licensure granted under:

(A) The Arkansas Quality Charter Schools Act of 2013, Arkansas Code § 6-23-101 et seq., to a public charter school in the approval of:

(i) Its original charter; or

(ii) An amendment to its charter;

- (B) Arkansas Code § 6-15-103, to a school district;
  - (C) Arkansas Code § 6-15-2801 et seq., concerning the district of innovation program, to a school of innovation; or
  - (D) Any other educational entity pursuant to Arkansas law; and
- (45)(A) "Written reprimand" is a written admonishment from the State Board of Education to the named educator for his or her conduct.
- (B) The written reprimand cautions that further unethical conduct:
    - (i) Will lead to a more severe action; and
    - (ii) Is associated with a monetary fine of the educator.
  - (C) The written reprimand will remain permanently in the files retained by the Professional Licensure Standards Board.

**6 CAR § 192-104. The Code of Ethics for Arkansas educators.**

- (a) All Arkansas educators, preservice teachers, and those employed under a waiver of licensure must adhere to the Code of Ethics represented below.
- (b) An allegation of unethical conduct authorized for investigation and subsequently considered by the ethics subcommittee or the ethics hearing subcommittee and the State Board of Education shall be based upon an alleged violation of the following:
  - (1) Standard 1: An educator maintains a professional relationship with each student, both in and outside the classroom;
  - (2) 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;
  - (3) Standard 3: An educator honestly fulfills reporting obligations associated with professional practices;
  - (4) Standard 4: An educator entrusted with public funds and property, including school-sponsored activity funds, honors that trust with honest, responsible stewardship;
  - (5) Standard 5: An educator maintains integrity regarding the acceptance of any gratuity, gift, compensation, or favor that might impair or appear to influence

professional decisions or actions and shall refrain from using the educator's position for personal gain;

(6) Standard 6: An educator keeps in confidence secure standardized test materials and results and maintains integrity regarding test administration procedures;

(7) Standard 7: An educator maintains the confidentiality of information about students and colleagues obtained in the course of the educator's professional services that is protected under state law or rule, federal law or regulations, or the written policies of the educator's school district, unless disclosure serves a professional purpose as allowed or required by:

- (A) Law;
- (B) Rule; or
- (C) Regulations;

(8) Standard 8: An educator, while on school premises or at school-sponsored activities involving students, refrains from:

(A) Using, possessing, and/or being under the influence of:

- (i) Alcohol; or
- (ii) Unauthorized drugs/substances;

(B) Possessing items prohibited by law;

(C) Possessing or using:

- (i) Tobacco;
- (ii) Tobacco-related products;
- (iii) E-cigarettes;
- (iv) E-liquid; or
- (v) Vapor products; or

(D) Abusing/misusing prescription medications or other authorized substances, as evidenced by impairment.

**6 CAR § 192-105. Recommended disciplinary action.**

(a)(1) The ethics subcommittee or ethics hearing subcommittee is authorized to recommend to the State Board of Education:

(A) Levels of public notification for ethics violation for a nonlicensed educator; or

(B) For a licensed educator, a written reprimand or the probation, suspension, revocation, nonrenewal, or nonissuance of an educator's license.

(2)(A) The ethics subcommittee or ethics hearing subcommittee is also authorized to recommend the placement of conditions or restrictions on the activities of the educator that would assist the educator via:

(i) Training;

(ii) Coursework; or

(iii) Rehabilitative treatment.

(B) All costs would be paid by the educator.

(C) The state board may direct the Professional Licensure Standards Board to monitor progress toward the completion of any corrective action.

(b) Any of the following shall be considered cause for recommendation of disciplinary action against an educator:

(1) An initial determination by the ethics subcommittee that, based on a preponderance of the evidence, a violation of the Code of Ethics as set forth in this part has occurred;

(2) Following an evidentiary hearing before the ethics hearing subcommittee, the ethics hearing subcommittee finds by a preponderance of the evidence that an educator violated the Code of Ethics as set forth in this part;

(3) An agreement between an educator and the ethics subcommittee or ethics hearing subcommittee as to the facts and/or the recommendation for disciplinary action;

(4) A failure to comply with the payment of any imposed fines, fees, or other conditions or restrictions imposed by the state board;

(5) Audit reports forwarded to the Division of Elementary and Secondary Education by the Legislative Joint Auditing Committee pursuant to Arkansas Code § 6-17-426; or

(6) Disciplinary action against an educator's license/certificate in another state on grounds:

(A) Inconsistent with ethical conduct specified in 6 CAR § 192-104 of this part; or

(B) As stated in this section.

(c)(1) An individual whose license has been revoked or nonrenewed, or suspended or temporarily nonrenewed by any state for an offense for which the license would be subject to sanction in Arkansas shall not serve as a volunteer or be employed as an educator, consultant, paraprofessional, aide, substitute teacher, official, and/or judge of a school-sponsored activity or be employed in any other position with a school district, open-enrollment public charter school, or education service cooperative following his or her revocation or permanent nonrenewal, or during the period of suspension or temporary nonrenewal for a violation of the Code of Ethics.

(2) An individual who has received a Level 3 Public Notification of Ethics Violation for the period of time specified in the Level 3 Public Notification is not:

(A) Recommended for employment or for volunteering in an educational setting, including without limitation performing teaching or testing duties; and

(B) Eligible for licensure.

(3) An individual who has been issued a Level 4 Public Notification of Ethics Violation is not:

(A) Recommended for employment or for volunteering in an educational setting, including without limitation performing teaching or testing duties; and

(B) Eligible for licensure on and after the issuance of the Level 4 Public Notification.

(4)(A) In lieu of imposing a disciplinary action as set forth above, the Professional Licensure Standards Board ethics subcommittee may provide the accused educator with a private letter of caution.

(B) A private letter of caution may not be appealed by the educator.

### **6 CAR § 192-106. Fines and fees.**

(a)(1) The Professional Licensure Standards Board may recommend to the State Board of Education for approval, as authorized by Arkansas Code §§ 6-17-422(h)(3)(C) and 6-17-428, monetary fees to be paid by a person for the issuance, reissuance, fine, or penalty associated with the process, procedures, or enforcement of requirements necessary to issue or maintain an Arkansas teaching license.

(2) Fine amounts are listed in Appendix B to this part which is attached and is hereby fully incorporated into this part as if fully set forth herein.

(3) Nonrefundable fees for applications pertaining to an educator's license are published on the Division of Elementary and Secondary Education website as approved by the state board.

(4) The state board shall use the revenue collected from the fees and fines for the operation of the Professional Licensure Standards Board.

(b) An educator shall pay a fine imposed by the state board within ninety (90) days of the state board's final order.

(c)(1) Failure to pay fines and fees may result in the division recommending that the state board suspend the educator's license pursuant to Arkansas Code § 25-15-217.

(2) The division will not renew a license until all fines and fees have been paid.

#### **6 CAR § 192-107. Disclosure of records.**

(a)(1) When the State Board of Education issues a written reprimand for violation of the Code of Ethics, it will be reported to the Division of Elementary and Secondary Education but is not publicly viewable in AELS.

(2) The division will disclose written reprimands if requested and pursuant to state or federal law.

(b) Disciplinary actions are publicly reported as follows:

(1)(A) The probation of a license is reported on AELS and the NASDTEC Clearinghouse:

- (i) During the period of probation; and
- (ii) Until all conditions are met.

(B) Following the successful completion of probation, the probation is removed from public view on AELS and the NASTDEC Clearinghouse but is maintained permanently in the educator's files at the division;

(2)(A) A Level 2 Public Notification of Ethics Violation is reported on AELS:

- (i) For the period of time stated in the notice; and
- (ii) Until all conditions are met.

(B) Upon the successful completion of the period of time and all requirements stated in the Level 2 Public Notification, the notification is removed from public view in AELS but is maintained permanently in the educator's files at the division;

(3)(A) The suspension or temporary nonrenewal of a license is reported on AELS and the NASTDEC Clearinghouse.

(B) Upon the reinstatement of the license:

(i) AELS and the NASDTEC Clearinghouse will reflect that the license is reinstated; and

(ii) The suspension or temporary nonrenewal is maintained permanently in the educator's files at the division;

(4)(A) A Level 3 Public Notification of Ethics Violation is reported in AELS.

(B) Upon the successful completion of the period of time and all requirements stated in the Level 3 Public Notification, the recommendation against employment and volunteering is removed from AELS but the evidence of a Level 3 Public Notification is maintained permanently in the educator's files at the division;

(5) The revocation or permanent nonrenewal of a license is:

- (A) Permanently reported on AELS and the NASDTEC Clearinghouse; and
- (B) Maintained permanently in the educator's files at the division; and

(6) A Level 4 Public Notification of Ethics Violation is:

- (A) Permanently recorded on public view in AELS; and
- (B) Maintained permanently in the educator's files at the division.

(c) AELS will contain the following information:

- (1) The standard of ethical conduct violated;
- (2) The sanction approved by the state board; and

(3) A copy of the final order of the state board.

(d) Records of the ethics subcommittee and ethics hearing subcommittee shall be retained in accordance with the Arkansas General Records Retention Schedule, 25 CAR pt. 60.

(e) In accordance with Arkansas Code § 6-17-428, all records and all hearings, meetings, and deliberations of the ethics subcommittee and ethics hearing subcommittee relating to an ethics complaint are:

(1) Confidential; and

(2) Exempt from the Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq.

(f)(1) All documents relied upon by the state board for its decision making at a public hearing are public record.

(2) All hearings before the state board are:

(A) Publicly viewable through livestreamed video; and

(B) Archived on the division website.

(3)(A) State board orders concerning ethics violations are publicly available on the division website.

(B) Orders on written reprimands, probation, and suspension will be removed after the educator has met the terms of the state board order and after the expiration of two (2) years from the date of the order, but orders issuing a sanction longer than two (2) years shall remain on the website:

(i) For the duration of the sanction; and

(ii) Until the educator has met the terms of the state board order.

(C) For nonrenewal or revocation, orders shall remain permanently on the division website.

(g)(1) Subject to preemption or prohibition by other state or federal law, all records pertaining to an ethics complaint are open for inspection and copying by:

(A) The person against whom the complaint is lodged; and

(B) His or her representative.

(2) Videos, recordings, or other materials that the Professional Licensure Standards Board cannot redact will be made available to the educator or his or her representative at the Professional Licensure Standards Board office only.

(h) Information such as personal contact information, social security numbers, student names, and other information protected by state or federal law will be redacted or released as permitted by law.

(i) In accordance with Arkansas Code § 25-15-208, disclosure shall not be required of the research or records, correspondence, reports, or memoranda to the extent that they contain the opinions, theories, or conclusions of:

- (1) The attorney for the agency;
- (2) Members of his or her staff; or
- (3) Other state agents.

**6 CAR § 192-108. Mandatory filing of allegation and ethics violations review.**

(a) Within twenty-four (24) hours of a matter coming to the attention of a public school supervisor, a supervisor at an Arkansas public educational setting shall file an ethics complaint if he or she observes or has reasonable cause to suspect or if there is a substantiated allegation that an educator has violated Standard 1 of the Code of Ethics.

(b) The failure to submit an ethics complaint under this section is a violation of Standard 3.

(c) This provision does not satisfy the legal obligation by the supervisor or an educator as a mandated reporter of child maltreatment under § 12-18-402 of the Child Maltreatment Act, Arkansas Code § 12-18-101 et seq.

**6 CAR § 192-109. Procedures for the investigation of an ethics complaint.**

**(a) Submitting an allegation of violation of the Code of Ethics.**

(1) Any person wishing to submit an allegation of an ethics violation must use the allegation of violation form ("allegation form") developed by the .

(2)(A) An allegation form shall be completed and signed under penalty of perjury by the complainant.

(B) Only an original signature will be accepted.

(C) A facsimile or electronic signature on the form will not be accepted and the:

(i) Form will be returned; or

(ii) Complainant will be required to submit a form with an original signature.

(3)(A)(i) An allegation form shall be submitted to the Assistant Commissioner of the Division of Public School Accountability designated on the allegation form.

(ii) The assistant commissioner shall forward the allegation form to the board office for filing.

(B) The allegation form may be filed with the board by submitting it to:

(i) The Division of Elementary and Secondary Education;

(ii) A public school district; or

(iii) A public school superintendent.

(C)(i) If an allegation form is received by a public school district or a public school superintendent, the public school district or superintendent must forward all signed allegations directly to the Division of Elementary and Secondary Education.

(ii) The failure to do so may be considered a violation of the Code of Ethics.

(b)(1) **Automatic submission for investigation.** The following will automatically go to the ethics subcommittee of the board for the opening of an investigation:

(A) Public information that an educator may have committed a violation of the Code of Ethics; and

(B) Audit reports forwarded to the Division of Elementary and Secondary Education by the Legislative Joint Auditing Committee pursuant to Arkansas Code § 6-17-426.

(2)(A) If the ethics subcommittee votes that the chair should submit an allegation form, the chair shall recuse herself or himself from any further consideration of the complaint.

(B) If necessary, the board may appoint a board member to the ethics subcommittee for the limited purpose of resolving a complaint filed under this section.

**(c) Validation.**

(1) The investigators of the board will review the allegation form and:

(A) Verify that the allegation form:

- (i) Has been submitted by an identifiable person;
- (ii) Was signed under penalty of perjury; and
- (iii) Concerns alleged unethical conduct; and

(B) Obtain any updated information and/or additional evidence concerning the allegations from the time the allegation was originally submitted to the board.

(2)(A) After an allegation of a violation is validated, it cannot be withdrawn by the complainant.

(B) However, the ethics subcommittee may take a written request for withdrawal into consideration when determining whether to authorize an investigation based on the allegation.

**(d) Action by the board on an allegation of violation.** An allegation will become a complaint once it has been:

(1) Filed with the board as provided under subsection (a) of this section with an original signature;

(2) Validated by one (1) of the board investigators as being submitted by an identifiable person; and

(3) Determined by the ethics subcommittee as credible and, if true, would constitute a violation by an Arkansas educator of the Code of Ethics as set forth in this part.

**(e) Action by the board ethics subcommittee.**

(1)(A) The ethics subcommittee will determine whether to grant authority to the board investigative staff to investigate the allegation.

(B) Authority to investigate the allegation will be based upon a reasonable belief that the allegation, if true, constitutes a violation of the Code of Ethics committed by the alleged educator.

(2)(A) Any member of the ethics subcommittee of the board who works with or for the educator against whom the allegation is submitted shall recuse himself or herself from any discussion, hearing, or deliberations concerning the accused educator.

(B) A member shall recuse himself or herself if there is any relationship or other potential conflict of interest that would prevent him or her from making a fair and impartial decision on the educator's case.

(3) The ethics subcommittee is not limited to the standard alleged on the form but may consider all of the evidence submitted with the allegation in determining which, if any, standard may have been violated.

(4)(A) If the ethics subcommittee votes not to authorize investigation, the:

- (i) Allegation shall be dismissed; and
- (ii) Matter shall be closed without further action against the educator.

(B) There is no notification to the educator either of the:

- (i) Allegation; or
- (ii) Denial of authority to investigate.

(5)(A) If the ethics subcommittee votes to authorize investigation of the allegation, the allegation becomes an authorized ethics complaint.

(B) Within ten (10) business days of authorization, the board staff shall:

(i) Notify the named educator in writing concerning the initiation of the investigation; and

(ii) Provide the educator with a copy of:

(a) The complaint and documents or evidence provided by the complainant as provided in 6 CAR § 192-107; and

(b) The provisions of Arkansas Code § 6-17-428 or other state statutory law applicable to an ethics violation and the applicable rules in effect at the time the ethics complaint is filed.

(C) The board staff shall also provide to the complainant written notice of the authorization to investigate their alleged violation or violations.

(6)(A) If in the course of an authorized investigation the board investigative staff discovers credible information that the named educator has committed additional violations of the Code of Ethics, the board staff may request additional authority to investigate from the ethics subcommittee.

(B) The authorization of an additional investigation will restart the calculation of the statutory timelines.

(7)(A) In the event that board staff discovers credible information that another educator has violated the Code of Ethics the board staff may request that the ethics subcommittee chair submit an allegation form with the Division of Elementary and Secondary Education.

(B) If the ethics subcommittee votes that the chair should submit an allegation form, the chair shall recuse herself or himself from any further consideration of the complaint.

(C) If necessary, the board may appoint a board member to the ethics subcommittee for the limited purpose of resolving the complaint.

**(f) Completion of the investigation.**

(1) The ethics subcommittee shall complete its investigation of an ethics complaint and take action:

(A) Within one hundred fifty (150) calendar days of authorizing the investigation; or

(B) If a hearing is conducted, within one hundred eighty (180) calendar days of authorizing the investigation.

(2) Upon completion of the investigation and final report of investigation, the board staff will provide to the accused educator or his or her representative:

(A) The final report of investigation;

(B)(i) Except as provided under 6 CAR § 192-107, a copy of the documents and evidence concerning the investigation of the ethics complaint.

(ii) If the educator requests a transcript of a video or recording, the board office may provide the transcript, redacted as necessary.

(iii) At its option, the board may outsource the transcription at the educator's expense.

(iv) If a request for a transcript will cause the resolution of the case to exceed the statutory timeline, the board may:

(a) Decline the transcript request; or

(b) Request that the educator agree to extend the timeline until the educator receives and submits payment for the transcript;

(C) Written notice that the ethics subcommittee will consider taking action against the named educator; and

(D) A copy of the rules in effect at the time the ethics complaint is filed.

(3) The named educator or his or her attorney will be allowed fourteen (14) calendar days from receipt of the final report, notice, documentation, and evidence from the board staff to submit any further response in writing.

(4) The educator or his or her attorney may request additional time to respond to the final report, notice, documentation, and evidence received from the board staff regarding the investigation.

(5) At the conclusion of the fourteen (14) calendar days or upon receiving the written response from the educator, the board staff will send the final report of investigation and educator's response to the members of the ethics subcommittee.

(6) The board will consider a notice as received on the earliest of one (1) of the following dates:

(A) The date a letter mailed by certified mail was received by the educator, as confirmed with the United States Postal Service;

(B) On the tenth calendar day from the date a letter was mailed by regular mail, if the educator or his or her representative does not sign for the certified letter and the letter sent by regular mail is not returned to the board; or

(C) The date the educator or his or her representative accesses the documents sent by secure file link.

**6 CAR § 192-110. Procedures for the initial determination and recommendation of the ethics subcommittee.**

(a)(1) The ethics subcommittee shall take action on the ethics complaint by making an initial determination and recommendation not more than sixty (60) days after receipt of the:

(A) Educator's written response to the final report of investigation; or  
(B) Expiration of the educator's time to provide a written response to the final report of investigation.

(2) The ethics subcommittee shall review:

(A) The results of the investigation, including the Professional Licensure Standards Board staff's final report of investigation; and

(B) If submitted as required by this part, the written response from the educator who is the subject of the ethics complaint.

(3)(A) Following the review, if the ethics subcommittee finds that the educator violated the Code of Ethics as set forth in this part, the ethics subcommittee:

(i) Shall issue an initial decision; and

(ii) May recommend any appropriate action as set forth in this part.

(B) The ethics subcommittee shall refer to the Sanction Guidelines for Ethical Violations approved by the Professional Licensure Standards Board (Appendix D) when making the initial determination and recommendation.

(4) The initial recommendation shall:

(A) Be considered a proposal for decision under Arkansas Code § 25-15-210; and

(B) Contain a statement of the reasons for the decision and each issue of fact or law necessary for the decision.

(5) **Private letter of caution.** The ethics subcommittee may also issue a private letter of caution in lieu of recommending a disciplinary action.

(b) **Notice to the educator.**

(1) The Professional Licensure Standards Board staff will notify the named educator in writing of the recommendation of the ethics subcommittee within ten (10) business days following the ethics subcommittee's initial determination and recommendation.

(2) The notice will further inform the educator that he or she may request an evidentiary hearing at which the ethics hearing subcommittee may:

(A) Retain the ethics subcommittee's recommendation; or

(B) Modify it, including finding no evidence to support a finding of a violation.

(3) There is no right to an evidentiary hearing or an appeal from a private letter of caution.

**(c) Educator's response.**

(1) The educator may:

(A) Reject the recommendation of the ethics subcommittee of the Professional Licensure Standards Board; and

(B) Request an evidentiary hearing before the ethics hearing subcommittee by submitting the request to the Professional Licensure Standards Board attorney in writing within fourteen (14) calendar days of the date the educator receives the notice.

(2) If an educator fails to respond to notification of the initial recommendation of the ethics subcommittee within fourteen (14) calendar days, the initial recommendation will:

(A) Become a final recommendation without an evidentiary hearing; and

(B) Be forwarded to the State Board of Education for a final decision.

(3)(A) The Professional Licensure Standards Board staff shall notify the educator that the final recommendation will be submitted to the state board as part of its consent agenda.

(B) The state board may:

(i) Remove the case from its consent agenda; and

(ii) Set the case for further review pursuant to 6 CAR § 192-114(a).

(4) If the educator allows his or her license to expire after the date of the alleged ethics violation, the complaint process will continue through its completion.

**(d) Notice to complainant.**

(1) The Professional Licensure Standards Board staff shall provide a written notice to the complainant when the ethics subcommittee:

(A) Determines the evidence does not support a finding of an ethical violation; and

(B) Closes the file.

(2) However, the ethics subcommittee rationale for not authorizing an investigation shall remain confidential.

**6 CAR § 192-111. Motions before the ethics subcommittee or ethics hearing subcommittee.**

(a) An educator or his or her representative who has requested an evidentiary hearing may file a motion by serving it on the attorney for the Professional Licensure Standards Board, who shall:

(1) File stamp the motion indicating the date it is received; and

(2) Promptly transmit the motion or motions to the chair of the ethics hearing subcommittee for consideration at the next available ethics hearing subcommittee meeting.

(b)(1) Once an evidentiary hearing has been requested, all motions must be filed no later than fourteen (14) calendar days before the scheduled date of the hearing.

(2) The responding party shall have seven (7) calendar days to respond to a motion.

(c) Filing a motion that requests that the ethics hearing subcommittee take an action prior to the requested or scheduled evidentiary hearing extends the time limits set out in this part and Arkansas Code § 6-17-428 by the amount of time required to rule on the motion.

(d)(1) Requests regarding procedural matters, including requests for additional time for the hearing or for continuation of a hearing or proposed stipulated settlements,

may be considered on the motions or papers submitted or the ethics hearing subcommittee chair may allow oral argument.

(2) The board attorney and the educator may propose a stipulation to dispose of any procedural or substantive matters at any time subject to final approval by the ethics hearing subcommittee.

(e) The chair of the ethics hearing subcommittee may consider any motion that is not timely filed as set forth herein when there is good cause for the untimely filing.

### **6 CAR § 192-112. Evidentiary hearings.**

#### **(a) Request for and scheduling of an evidentiary hearing.**

(1) If the educator requests an evidentiary hearing, the hearing will be held before the ethics hearing subcommittee:

(A) Within one hundred eighty (180) days of the date the investigation was authorized; or

(B) At a time and date agreed between the parties.

(2) The Professional Licensure Standards Board staff shall notify the educator in writing of the date, time, and location of the evidentiary hearing.

(3)(A) Each party shall disclose to the other the names of all witnesses and identify all evidence the party intends to use at the hearing.

(B) The notice will also state a date by which the exchange shall take place.

(4)(A) The educator or the Professional Licensure Standards Board representative may request a continuance of a scheduled evidentiary hearing.

(B) Such a request shall be made in the form of a written motion as provided in 6 CAR § 192-111.

(C) For reasonable circumstances, including without limitation inclement weather, state or national emergencies, or other unforeseeable events, the ethics hearing subcommittee may, on its own motion, continue a scheduled evidentiary hearing.

#### **(b) Hearing procedures.**

(1) An evidentiary hearing shall be conducted on the record before a court reporter.

(2)(A) Any member of the ethics hearing subcommittee of the PLSB who works with or for the educator against whom the allegation is submitted shall recuse himself or herself from any discussion, hearing, or deliberations concerning the accused educator.

(B) A member shall recuse himself or herself if there is any relationship or other potential conflict of interest that would prevent him or her from making a fair and impartial decision on the educator's case.

(3) The ethics hearing subcommittee may use a hearing officer.

(4) The chair of the ethics hearing subcommittee or the hearing officer, if a hearing officer is present, shall ensure that the evidentiary hearing is conducted according to the procedures outlined in this section.

(5) Once the ethics hearing subcommittee members become aware of the name of the educator who has requested a hearing, subcommittee members shall not:

(A) Discuss the case with anyone prior to the hearing; or

(B) Conduct any research related to the educator or the case.

(6)(A) No individuals other than the parties, attorneys, hearing officer, witnesses while testifying, subcommittee members, the PLSB investigator or other PLSB staff, and court reporter will be allowed in the hearing room during the hearing.

(B) While off the record or on breaks, the educator, his or her attorney, and the PLSB staff shall leave the hearing room.

(7)(A) The ethics hearing subcommittee shall use the "preponderance of the evidence" standard to determine whether a violation of the Code of Ethics occurred.

(B) The representative of the Professional Licensure Standards Board will have the burden of proving each fact of consequence to the determination by a preponderance of the evidence.

(8)(A)(i) A representative of the Professional Licensure Standards Board and the educator, or his or her attorney, shall have up to one (1) hour each to present their cases to the ethics hearing subcommittee.

(ii) The chair of the ethics hearing subcommittee may grant additional time to either or both parties if necessary.

(B) A motion for additional time will be considered timely if it is submitted to the ethics hearing subcommittee as provided in 6 CAR § 192-111.

(9)(A) Witnesses shall be sworn in by the chair or hearing officer.

(B) Except for the educator and Professional Licensure Standards Board investigator, witnesses shall remain outside of the hearing room until called to testify.

(C) The proceedings of the ethics hearing subcommittee are by law confidential and witnesses shall not discuss the case or any evidence or documents concerning the case before, during, or after the hearing except in the presence of the ethics hearing subcommittee.

(10)(A) Each party will have the opportunity, should it so choose, to make an opening statement.

(B) The statement shall be no longer than five (5) minutes in length.

(C) The chair or hearing officer may grant additional time to either or both parties if necessary.

(11) The Professional Licensure Standards Board shall present its case, and opening statement if it so chooses, first.

(12)(A) Any written documents, photographs, or any other items of evidence may be presented to the ethics hearing subcommittee with the permission of the:

(i) Chair; or

(ii) Hearing officer.

(B) The items of evidence shall be marked as either "PLSB Exhibit Number 1 (et seq.);" or "Educator's Exhibit Number 1 (et seq.)."

(C) After an item of evidence has been presented to the ethics hearing subcommittee, the introducing party shall give:

(i) One (1) copy to the court reporter for the record; and

(ii) One (1) copy to each:

(a) Member of the ethics hearing subcommittee; and

(b) Hearing officer.

(13)(A) After one (1) party has questioned a witness, the other party shall have an opportunity to cross-examine the witness.

(B) The chair or hearing officer may also grant either party the opportunity:

- (i) For redirect examination; or
- (ii) To offer rebuttal testimony.

(14) Cross-examination, redirect, and rebuttal are not included in the one-hour time period for case presentation, but the limitation or extension of time is at the discretion of the chair or hearing officer.

(15) While the scope of each party's presentation ultimately lies within the chair's or hearing officer's discretion, case presentation should be arranged in such a way as to avoid redundant testimony.

(16) Each member of the ethics hearing subcommittee shall also have the opportunity to ask questions of any witness or any party at any time.

(17)(A) After the rebuttal evidence has been presented, the educator shall have up to ten (10) minutes to present a closing statement, if desired.

(B) The chair or hearing officer may grant additional time if necessary.

(18)(A) After the educator has made a closing statement, or waived the opportunity for the same, the representative of the Professional Licensure Standards Board shall have up to ten (10) minutes to make his or her closing statement, if desired.

(B) The chair or hearing officer may grant additional time if necessary.

(19) Ethics hearing subcommittee members should not talk or otherwise communicate with the educator or witnesses while off the record at the hearing, including before or after the hearing begins, not even to exchange pleasantries.

(20) The ethics hearing subcommittee may:

(A) Maintain, reject, or modify the ethics subcommittee recommendation;

or

(B) Issue a nonpunitive private letter of caution.

(21)(A) After closing statements have been made, or the opportunity to make them has been waived, the ethics hearing subcommittee:

- (i) May go off the record for deliberations; and
- (ii) Will ask that all parties leave the room during this time.

(B) After a decision has been made:

- (i) Parties will be asked to return to the hearing room; and
- (ii) The ethics hearing subcommittee:

*(a)* Will orally announce the decision; or

*(b)* May take the case under advisement and render a decision at a later time.

(22) The ethics hearing subcommittee shall state in its written decision the following:

(A) Its determination as to whether the educator violated one (1) or more standards of the Code of Ethics;

(B) Its findings as to the evidence supporting each determination of a violation;

(C) Its recommendation to the State Board of Education, if any, for disciplinary action, including the sanction, conditions, and time periods to be met; and

(D) A statement of each issue of fact or law necessary for the decision.

**(c) Notice of evidentiary hearing decision.**

(1) Within ten (10) business days following the action taken by the ethics hearing subcommittee, the Professional Licensure Standards Board staff will notify the educator in writing of the ethics hearing subcommittee's action taken on the evidentiary hearing.

(2)(A) Following the notice of action taken, the Professional Licensure Standards Board attorney shall send to the educator the ethics hearing subcommittee's written findings and recommendation.

(B) The evidentiary hearing recommendation is a proposal for decision under Arkansas Code § 25-15-210.

(3) After receiving the written findings and recommendations, the educator may object and request a review by the state board pursuant to 6 CAR § 192-112.

**(d) Educator's request for state board review.**

(1) The educator shall have fourteen (14) calendar days from the receipt of the written findings and recommendations of the ethics hearing subcommittee to:

(A) Object; and

(B) Request a review by the state board.

(2)(A) If the educator does not request a state board review within the fourteen-day period:

(i) The findings and recommendation shall become final; and

(ii) The Professional Licensure Standards Board will submit them to the state board for placement on its consent agenda.

(B) The state board may:

(i) Remove the case from its consent agenda; and

(ii) Set the case for further review pursuant to 6 CAR § 192-114(a).

**6 CAR § 192-113. Subpoenas.**

(a)(1) At the request of a party to a proceeding pending before the Professional Licensure Standards Board or its subcommittees, the Chair of the board may issue a subpoena and bring before the board, or the chair of the ethics hearing subcommittee may issue a subpoena and bring before the ethics hearing subcommittee, as a witness any person in this state.

(2) The board chair or the chair of the ethics hearing subcommittee may, on his or her own motion, issue a subpoena at any time.

(b)(1) A party requesting a subpoena must make the request in writing to the board staff attorney.

(2) Requests for subpoenas made to the board shall be delivered to the office of the board attorney no later than ten (10) calendar days prior to the board hearing for which the subpoena is requested.

(c)(1) The party requesting the subpoena is responsible for serving the subpoena on the witness:

(A) In the manner provided for by statute or rule for the service of subpoenas in civil cases; or

(B) By any form of mail addressed to the person to be served with:

(i) A return receipt requested; and

(ii) Delivery restricted to the:

(a) Addressee; or

(b) Agent of the addressee.

(2) The requesting party is responsible for the payment of any fees or mileage associated with the appearance of the witness subject to the subpoena.

(d) The subpoena shall:

(1) Be in the name of the board or the board ethics hearing subcommittee as applicable;

(2) State the name of the proceeding; and

(3) Command each person to whom it is directed to give testimony at the time and place specified in the subpoena in one (1) of the following ways:

(A) In person;

(B) Before a certified court reporter under oath at the place of the

witness's:

(i) Residence; or

(ii) Employment;

(C) By videotaped deposition at the place of the witness's residence or employment, or at another location agreed to between the parties; or

(D) By live video communications from the witness's residence, place of employment, or a nearby facility capable of providing video transmission to the:

(i) Board; or

(ii) Ethics hearing subcommittee.

(e) The manner of providing testimony under the subpoena shall be conducted by video conference testimony unless another manner is agreed upon by the:

- (1) Board or the ethics hearing subcommittee, as applicable; and
- (2) Person who is the subject of the subpoena.

(f) The subpoena may require the witness to bring with him or her any book, writing, or other thing under his or her control that he or she is bound by law to produce in evidence.

(g)(1) A witness who has been served by subpoena and who appears in person to testify at the trial or case pending before the board or the ethics hearing subcommittee shall be reimbursed for travel and attendance as provided by law.

(2) The cost of serving a subpoena and all associated costs for the testimony, such as a deposition, shall be borne by the requesting party.

(h)(1) If a witness is served with a subpoena and fails to provide testimony in obedience to the subpoena, the board may apply to the circuit court of the county in which the board is holding the proceeding for an order:

- (A) Causing the arrest of the witness; and
- (B) Directing that the witness be brought before the court.

(2) The court will have the power to punish the disobedient witness for contempt as provided by the Arkansas Rules of Civil Procedure.

(i) A witness who has been served with a subpoena may challenge the validity of the subpoena in the circuit court of the county in which the witness:

- (1) Resides; or
- (2) Is employed.

#### **6 CAR § 192-114. State Board of Education review.**

(a) The State Board of Education may remove a Professional Licensure Standards Board recommendation from its consent agenda for further review as follows:

(1) The state board will request that the review be placed on the action agenda for its next available regularly scheduled monthly board meeting and provide its rationale for the review;

(2) The educator or his or her attorney may elect to:

(A)(i) Appear at the subsequent review meeting and have the opportunity to make a statement at the state board review for up to ten (10) minutes.

(ii) The Professional Licensure Standards Board may also have up to ten (10) minutes to testify.

(iii) Additional time may be granted at the discretion of the state board chair.

(iv) The state board members may ask questions of either party at the subsequent review; or

(B) Request a full review of the evidentiary hearing transcript and evidence, if an evidentiary hearing has already been conducted and the state board is removing a consent agenda item for a recommendation from the Professional Licensure Standards Board evidentiary hearing subcommittee;

(3) If the educator or his or her attorney does not make any of the above elections, or does not appear for the subsequent review meeting, the state board shall:

(A) Conduct the subsequent review without the educator or his or her attorney; and

(B) Make a final decision; and

(4) The state board's final decision, made at the meeting at which the subsequent review is conducted, may be appealed by the educator to circuit court as provided under 6 CAR § 192-115.

(b)(1) When an educator objects to the ethics hearing subcommittee's evidentiary hearing findings and recommendation, the educator may request a review by the state board by filing with the Professional Licensure Standards Board attorney his or her written objections and brief within fourteen (14) calendar days of receiving the ethics hearing subcommittee's written findings and recommendations on the evidentiary hearing.

(2)(A) The parties may agree to allow the educator additional time to file the written objections and brief.

(B) The educator or the educator's attorney may also request that the state board grant the educator additional time to file the written objections and brief.

(C) A request for additional time shall specify the reason for the request and shall be in the form of a written motion.

(D) The Professional Licensure Standards Board attorney will provide the state board with the motion and any response.

**(c) Written objections and briefs.**

(1) The transcript will be provided to the state board by the Professional Licensure Standards Board attorney, and the educator should not include any part of the transcript in the written objections and brief.

(2) The written objections, brief, and Professional Licensure Standards Board's response shall use the following caption and shall bear the signature of the:

(A) Party; or

(B) If represented by counsel, the attorney for the party:

<b>BEFORE THE STATE BOARD OF EDUCATION</b>	
<b>IN THE MATTER OF:</b> _____	<b>PLSB CASE NO.:</b> _____
<b><u>TITLE OF DOCUMENT</u></b>	

(3)(A) The Professional Licensure Standards Board attorney may file a written response to the educator's objections and brief within fourteen (14) calendar days of receipt of the educator's objections and brief.

(B) The Professional Licensure Standards Board attorney shall prepare a redacted copy of the ethics hearing subcommittee hearing transcript and hearing exhibits to be filed with the state board.

(C) The Professional Licensure Standards Board's findings and recommendations, the educator's objections and brief, the Professional Licensure Standards Board's response, and the redacted transcript will be:

(i) Submitted to the state board; and

(ii) Heard by the state board at the next available meeting date or at a later date if agreed between the parties.

(D)(i) All requests for an extension of time to file written objections or responses, for extended time for oral argument, or for any other prehearing matter shall be made in the form of a motion to the Chair of the State Board of Education in a timely manner to give notice and opportunity for a response to the other party before the hearing date.

(ii) The Professional Licensure Standards Board attorney will provide the state board with the motion and any response.

**(d) Oral Argument.**

(1) Either the Professional Licensure Standards Board or the educator may request oral argument.

(2) The request should be submitted in writing by the party at the time the written objections or response, as applicable, is filed.

(3) If oral argument is requested, the Professional Licensure Standards Board attorney shall introduce the item on the agenda, then the educator will have ten (10) minutes to present an oral argument in opposition to the:

(A) Findings; and

(B) Recommendations.

(4) The Professional Licensure Standards Board's attorney will then have (10) minutes for oral argument in support of the:

(A) Findings; and

(B) Recommendations.

(5) Upon good cause shown, the Chair of the State Board of Education may grant either party additional time for oral argument.

**(e) Testimony.**

(1) The hearing is on the consideration of the transcript, the pleadings, and oral argument only.

(2)(A) However, at the request of the chair of the state board, the educator and the Professional Licensure Standards Board investigator for the case may provide testimony.

(B) All testimony from the educator, or the Professional Licensure Standards Board investigator, shall be given under oath.

**(f) Order — Findings.**

(1) After consideration of the findings and recommendations, the records, objections, briefs, and arguments, the state board shall issue a decision on the record and will provide a final written decision, including findings of fact and conclusions of law, separately stated.

(g) **Notices.** Following the issuance of the state board's final written order, the Professional Licensure Standards Board staff shall provide the following written notices:

(1)(A) Notice to educator.

(B) Within thirty (30) calendar days following the state board review, the Professional Licensure Standards Board shall provide to the educator by personal service or by mail a copy of the final decision or order;

(2)(A) Notice to complainant.

(B) The Professional Licensure Standards Board staff shall provide written notice to the complainant when the state board has issued its final written order on the recommendation of the ethics subcommittee or ethics hearing subcommittee; and

(3)(A) Notice to employing education entity.

(B) The Professional Licensure Standards Board staff shall provide written notice to the employing educational entity, if any, when:

(i) The educator's license has been suspended, nonrenewed (temporarily or permanently), or revoked by the state board; or

(ii) A Level 2, 3, or 4 Public Notification of Ethics Violation is approved by the state board.

**6 CAR § 192-115. Appeal to circuit court.**

(a) The educator may file an appeal of the State Board of Education’s final order to circuit court within thirty (30) days pursuant to the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

(b) The thirty-day time period for filing an appeal in circuit court shall run from the date the educator receives the final written order of the state board.

### **Appendix A. Summary of Timeline for the Ethics Complaint Process**

**Link:**

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/279/6CARpt.192AppendixA.pdf>

### **Appendix B. Potential Sanctions and Fines**

**Link:**

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/280/6CARpt.192AppendixB.pdf>

### **Appendix C. Explanations and Guidance to Clarify the Intent of the Code of Ethics**

**Link:**

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/281/6CARpt.192AppendixC.pdf>

### **Appendix D. PLSB Sanctioning Guidelines**

**Link:**

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/282/6CARpt.192AppendixD.pdf>