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December 9, 2022

PERSONAL & CONFIDENTIAL

Patrick Benca
1311 S. Broadway St.
Little Rock, Arkansas 72202
patrick@mwbfirm.com

VIA CERTIFIED MAIL AND SECURE SERVER

RE: PLSB Case No. 19-176 - State Board of Education Final Order

Dear Mr. Benca:

Enclosed please find a copy of the State Board of Education's Findings of Fact, Conclusions of Law, and Order (Order) signed by the State Board Chair and entered in the Professional Licensure Standards Board Case referenced above regarding your client.

The Order will be considered as received on the date it is downloaded from the secure server. However, if you do not download from the secure server, and the letter and Order sent by regular mail is not returned to us within ten (10) days, the Order will be considered received on the tenth (10th) calendar day from the date of this letter.

*Your client has the **right to file a Circuit Court appeal** of the State Board of Education's Order. If you choose to appeal, your appeal must be filed with the Circuit Court no later than thirty (30) days after your receipt of the Order. Please see Ark. Code Ann. § 25-15-201 et seq. for additional information on the appeal process.*

Sincerely,

/s/ Whitney James

Whitney James, Interim Managing Attorney
Professional Licensure Standards Board

Enclosures as Stated

THE ARKANSAS STATE BOARD OF EDUCATION

**IN RE THE MATTER OF:
JOSHUA N. SMITH
DECEMBER 8, 2022**

PLSB CASE NO. 19-176

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

At its regular meeting on December 8, 2022, the Arkansas State Board of Education (“Board”) accepted the recommendation of the Professional Licensure Standards Board Ethics Subcommittee (“Ethics Subcommittee”) for disciplinary action against the teaching license of Joshua N. Smith (“Educator Smith”). Based upon Educator Smith’s failure to respond to the Ethics Subcommittee’s recommendation and the evidence presented, in accordance with the Administrative Procedure Act, Ark. Code Ann. 25-15-101 et seq., the Board hereby states as follows:

I. Findings of Fact

- a. Educator Smith was employed under an Act 1240 waiver approved by the Arkansas Department of Education.
- b. The Ethics Subcommittee received an allegation that Educator Smith violated the Arkansas Department of Education Rules Governing the Code of Ethics for Arkansas Educators promulgated pursuant to Ark. Code Ann. § § 6-17-422 and 6-17-428.
- c. On June 5, 2019, the Ethics Subcommittee authorized an investigation into allegations that Educator Smith violated *Standard 1: an educator maintains a professional relationship with each student, both in and outside the classroom;* *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;

- d. Educator Smith was notified on June 5, 2019, of the Ethics Subcommittee's authorization to investigate this allegation.
- e. After considering the investigator's report and evidence on November 2, 2022, the Ethics Subcommittee unanimously found that a preponderance of evidence existed to substantiate violation of Standards 1 and 2 in that Educator Smith:
 - Physical contact (sexual) with student(s).
 - Inappropriate communications with a student (sexual) with student(s) in person or via electronic communication.
 - Exhibited an inappropriate disposition inclusive of professional and ethical behavior.
 - Failed to follow district/state/or federal policies, procedures, or regulations.
- f. The Ethics Subcommittee recommended that the State Board take the following actions:
 1. Level 4 Public Notification of ethics violation.
- g. On November 2, 2022, Educator Smith's attorney was notified of the Ethics Subcommittee's initial determination and recommendation by secure server, and on November 5 by certified mail. Educator Smith failed to respond to the Ethics Subcommittee's recommendation thereby waiving his right to any further notice, hearing, or any other rights he may have under the Administrative Procedure Act, including those rights set forth in Ark. Code Ann. §§ 25-15-211 and 25-15-212.
- h. At today's meeting, the Ethics Subcommittee's recommendation and supporting documentation were presented to the Board as part of its consent agenda.

II. Conclusions of Law

- a. Upon consideration of the evidence presented at the meeting, Ark. Code Ann. §§ 6-11-105, 6-17-401, 6-17-422, 6-17-428 and 25-15-201 et seq., and the Arkansas

Department of Education Rules Governing the Code of Ethics for Arkansas Educators, the Board adopts the Ethics Subcommittee's recommendations, and enacts the sanctions accordingly. The Board admonishes Educator Smith for his violation of the Code of Ethics.

- b. This order shall remain permanently in Educator Smith's professional licensure file and the confidential files of the Professional Licensure Standards Board.

IT IS SO ORDERED.



Ouida Newton, Chair
Arkansas State Board of Education