

**ARKANSAS DEPARTMENT OF EDUCATION  
RULES GOVERNING THE CODE OF ETHICS  
FOR ARKANSAS EDUCATORS**

Effective Date: \_\_\_\_\_

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**1.00 Title**

- 1.01 These rules shall be known as the Arkansas Department of Education Rules Governing the Code of Ethics for Arkansas Educators.

**2.00 Regulatory Authority**

- 2.01 These rules are promulgated pursuant to the State Board of Education’s authority under Ark. Code Ann. §§ 6-11-105, 6-17-401, 6-17-410, 6-17-422, 6-17-425, 6-17-426, 6-17-428, 25-15-201 et seq., and ~~Act 1090 of 2015~~ Act 564 of 2017.
- 2.02 All rules, procedures, hearings and appeals relating to the Code of Ethics complaints shall be promulgated and implemented under the Arkansas Administrative Procedures Act, Ark. Code Ann. § 25-15-201 et seq.

### 3.00 Purpose

- 3.01 The purpose of the Rules Governing the Code of Ethics for Arkansas Educators (Code of Ethics) is to define standards of ethical conduct for all educators, whether licensed or employed under a legal waiver from licensure, and to outline procedures for receiving complaints, authorizing and conducting investigations, and recommending enforcement of the Code of Ethics.
- 3.02 The professional, ethical educator contributes to the development and maintenance of a supportive student-centered **focused** learning community that values and promotes human dignity, fairness, care, the greater good and individual rights. These values are the ethical premises for the standards of professional behavior and ethical decision-making established in this Code of Ethics ~~for Arkansas Educators~~. By establishing standards of ethical conduct, the Code of Ethics promotes the health, safety, and general welfare of students and educators and ensures the citizens of Arkansas a degree of accountability within the education profession.

### 4.00 Applicability

- 4.01 The valid Arkansas ~~teaching~~ 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.
- 4.02 An educator who is employed under a waiver of licensure granted by the State Board to an educational entity is subject to the conditions, requirements, and mandates of the Code of Ethics, procedures, and recommendations for enforcement, including public notification of violations of the Code of Ethics and fines equivalent to those for licensed educators.
- 4.03 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. A sanction adopted by the State Board of Education may be imposed on a license when, and if, it is issued to the sanctioned preservice teacher.
- ~~4.02—A building level administrator in an Arkansas public school shall file an ethics complaint if he or she observes or has reasonable cause to suspect that an educator has violated Standard 1 of the Code of Ethics involving the sexual abuse of a student. [4.02 AND 4.03 MOVED TO SECTION 10]~~
- ~~4.03—The failure to submit an ethics complaint under Section 4.02 of these rules is a violation of the Code of Ethics.~~

## 5.00 Definitions

- 5.01 **Acted upon** means that the ~~State Board of Education~~ State Board has taken an action to address an ethics complaint by revoking, suspending, or imposing another sanction upon an educator's license.
- 5.02 **An Authorized Ethics Complaint Investigation** is an ethics complaint that has been: (1) ~~verified~~ validated by the Chief Investigator of the ~~Professional Licensure Standards Board~~ PLSB as being submitted by an identifiable person; and (2) authorized for investigation based upon reasonable belief by the Ethics Subcommittee ~~of the PLSB~~ that if the allegation is true, it would constitute a violation of the Code of Ethics as set forth in these rules committed by an Arkansas educator ~~after September 1, 2008~~. The Ethics Subcommittee ~~of the PLSB~~ shall investigate an ethics complaint that it determines is credible. (Ark. Code Ann. § 6-17-428).
- 5.03 **ADE** means the Arkansas Department of Education.
- 5.04 **AELS** means the Arkansas Educator Licensure System.
- ~~5.03~~ 5.05 **Code of Ethics** means the Code of Ethics for Arkansas Educators established by the ~~Professional Licensure Standards Board~~ PLSB under Ark. Code. Ann. § 6-17-422.
- 5.04 ~~**Conviction** includes a plea of guilty or a plea of *nolo contendere*, or a finding or verdict of guilty, regardless of whether an appeal of the conviction has been sought, or a criminal conviction has been sealed or expunged; a situation where first offender treatment without adjudication of guilt pursuant to the charge was granted; and a situation where an adjudication of guilt or sentence was otherwise withheld or not entered on the charge or the charge was otherwise disposed of in a similar manner in any jurisdiction. [ TERM IS NOT USED IN THE RULES ]~~
- 5.05 ~~**Denial** is the refusal to grant a teaching license to an applicant for a teaching license. [ TERM IS NOT USED IN THE RULES ]~~
- 5.06 **Dispositions** are the values, commitments, and professional ethics that influence behaviors toward students, families, colleagues and communities and ~~affect that~~ contribute to student learning, motivation, and development as well as the educator's own professional growth. Dispositions are guided by beliefs and attitudes related to values such as caring, fairness, honesty, responsibility and social justice.
- 5.07 **Educator** means a:
- 5.07.1 A person holding a valid educator's license issued by the State

Board of Education;

5.07.2 A person employed under a waiver from licensure; or

5.07.3 A preservice teacher.

~~5.08 **Educator in a supervisory role in an Arkansas school** means an educator, as defined in these rules, who as a part of his or her primary employment duties is responsible for the supervision of other licensed educators employed in any public school, open enrollment public charter school, virtual school, education service cooperative, or private school in Arkansas serving students in any of grades pre-K through 12. [NOT NEEDED – SEE “SUPERVISOR”]~~

5.08 **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 pre-K through 12.

5.09 **Educator’s License** means a teaching license, an administrator’s license, lifetime teaching license, ancillary license, provisional license, or any other license or permit issued by the State Board.

~~5.09~~ 5.10 **Ethics Complaint** means a document an allegation of violation form that states facts constituting an alleged alleged facts that if true would constitute an ethics violation of the Code of Ethics, and is signed under penalty of perjury by the person filing the ethics complaint, validated by the PLSB Chief Investigator, and authorized for investigation by the Ethics Subcommittee. An ethics complaint may also be a finding made in an audit report forwarded to the ADE by the Arkansas Joint Legislative Auditing Committee under Ark. Code Ann. § 6-17-426.

~~5.10~~ 5.11 **Ethics Subcommittee** means the subcommittee established by the Professional Licensure Standards Board-PLSB to receive and investigate ethics complaints, and enforce the Code of Ethics, including making through recommendations to the State Board of Education for a written warning, a written reprimand, or the placement of conditions or restrictions on the activities of the educator, or the revocation, suspension, or probation or nonrenewal of a license. The Ethics Subcommittee may issue a Private Letter of Caution. The Ethics Subcommittee may also dismiss an ethics complaint if it finds there is no ethics violation.

5.11.1 The Ethics Subcommittee is composed of five (5) members with proportionate representation as the PLSB of public school teachers and administrators plus one (1) member from any other category of representation on the PLSB.

5.12 **Ethics Hearing Subcommittee** means the subcommittee appointed by the PLSB

to conduct evidentiary hearings under these rules. The Ethics Hearing Subcommittee is composed of six (6) members, at least two (2) of whom shall have served on the Ethics Subcommittee and three (3) of whom may be appointed by the PLSB based on educational experience. One (1) of the members shall be appointed to represent non-licensed teachers.

~~5.11~~ 5.13 **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 these rules.

5.13.1 An ethics violation does not include:

5.13.1.1 A reasonable mistake made in good faith; ~~or~~

5.13.1.2 Acts or omissions undertaken in accordance with the reasonable instructions of a supervisor; or

5.13.1.3 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.

~~5.12~~ 5.14 **Filed** means ~~the~~ an allegation of violation form, a motion, or other document has been stamped by PLSB staff with a date acknowledging when the document arrived at the offices of the PLSB staff.

5.15 **Hearing Officer** means an impartial licensed attorney from the Arkansas Attorney General's office who serves in a quasi-judicial role, i.e. opening the hearing, introducing the parties, swearing witnesses, and ruling on objections.

5.16 **Impairment** means the state of being mentally or physically diminished, weakened, or damaged, with respect to performing the educator's professional duties.

5.17 **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. The purpose of a Level 1 Public Notification is to publicly admonish the nonlicensed educator;

5.18 **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. The purpose of a Level 2 Public Notification is to publicly admonish the nonlicensed educator and place conditions or requirements on the educator for a specified period of time.

5.19 **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. The purposes of a Level 3 Public Notification are to publicly admonish the nonlicensed educator and for a specified period of time: (a) to place conditions or requirements on the nonlicensed educator; (b) to 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.

5.20 **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. The purpose of a Level 4 Public Notification is to notify the public that the educator is not recommended for employment or volunteering in an educational setting, and that the nonlicensed educator is not eligible for future licensure.

~~5.13~~ 5.21 **Monitoring Conditions or Restrictions** may include any actions or alternative sanctions allowed under the Administrative Procedures Act, including at a minimum a semi-annual appraisal of the educator's conduct by the PLSB staff through contact with the educator and his or her employer or other appropriate persons. 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 current employment, compliance with recommended counseling, treatment, education or training. The Ethics Subcommittee may recommend the length of the monitoring period to the State Board of Education.

5.22 **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). The Clearinghouse is viewable only by member agencies responsible for educator licensure/certification and discipline and additional interested education organizations approved by NASDTEC.

5.23 **Nonrenewal** means that an expired license will not be renewed. Nonrenewal may be permanent or temporary. There is no reinstatement of a license after permanent nonrenewal. *Nonrenewal will apply when an educator's license expires after the occurrence of the alleged ethics violation.*

5.24 **PLSB** means the Professional Licensure Standards Board.

~~5.14~~ 5.25 **Pre-kindergarten** means an early childhood education program that serves students from birth to enrollment in kindergarten.

~~5.15~~ 5.26 **Preponderance of 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 ~~include~~ induce a fair and impartial mind to one side of the issue rather than the other. It is determined by considering all of the relevant evidence and deciding which evidence is more credible. A preponderance of the evidence is not necessarily determined by the greater number of witnesses or documents presented. 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.

5.27 **Preservice Teacher** means an unlicensed person who is enrolled as a student in an educator preparation program approved by the ADE.

~~5.16~~ 5.28 **Private Letter of Caution** is a non-punitive communication from the Ethics Subcommittee to an educator in response to an ethics complaint against the educator. Private Letters of Caution may be provided to an educator by the Ethics Subcommittee of the PLSB in lieu of recommending other discipline. 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. Private Letters of Caution remain in the files retained by the PLSB staff, but are not placed in an educator's licensure file at the ADE. A Private Letter of Caution is not submitted to the State Board of Education for approval and it does not constitute a sanction for the purposes of the Code of Ethics. As a result, Private Letters of Caution cannot be basis for a request for an evidentiary hearing before the Ethics Subcommittee or the State Board of Education.

~~5.17~~ 5.29 **Probation** is the placing of conditions, requirements or circumstances on the status of ~~a teaching~~ an educator's license issued by the State Board for a period of time established by the State Board. 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 non-probationary teaching license status. The probation will remain permanently in the ADE file of the educator and in the files retained by the PLSB.

~~5.18~~ 5.30 **Public Information** for the purpose of these rules is information publicly available ~~coming~~ from news media or public record.

~~5.19~~ 5.31 **Reasonable belief** is a belief based upon knowledge of facts and circumstances that are reasonably trustworthy, and that would justify a reasonable person's belief that: (1) a violation of the Code of Ethics as set forth in these rules has been committed; and (2) that the named educator committed such a violation. A reasonable belief is not based upon mere suspicion or conjecture.

~~5.20~~ **Received** means ~~the date the ethics complaint was presented to the Ethics~~

~~Subcommittee for authorization of an investigation.~~

- ~~5.21~~ 5.32     **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.
- ~~5.22~~     ~~**Reprimand** is a written admonishment from the State Board to the named educator for his or her conduct. The written reprimand cautions that further unethical conduct will lead to a more severe action and is associated with a monetary fine of the educator. In the absence of further unethical conduct, a reprimand will remain in the licensure file of the educator for a period of two (2) years from the date the reprimand is imposed by the State Board. The reprimand will remain permanently in the files retained by PLSB staff. [SEE WRITTEN REPRIMAND]~~
- ~~5.23~~ 5.33     **Revocation** is the permanent invalidation of any ~~teaching or administrator's~~ educator's license held by the educator. There is no reinstatement of a license after permanent revocation. The revocation will remain permanently in the ADE file of the educator and in the files retained by the PLSB.
- 5.34     **State Board** means the Arkansas State Board of Education.
- ~~5.24~~ 5.35     **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 holds an Arkansas teaching or administrator's license, or an educator who will be employed under a waiver granted by the State Board.
- ~~5.25~~ 5.36     **School-sponsored activity** is any event or activity sponsored by the school or school system which 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.
- ~~5.26~~ 5.37     **Sexual abuse** has the same meaning as given to the term in Ark. Code Ann. § 12-18-103(18)(20)(D) as it applies to a caretaker, but shall include a victim who is younger than twenty-one (21) years of age and is still a student.
- ~~5.27~~ 5.38     **Student** is any individual enrolled in ~~the~~ any state's public or private schools from pre-kindergarten through grade 12.
- ~~5.28~~ 5.39     **Supervisor** under these rules mean an administrator authorized by the district or school board to administer professional employee discipline up to and including recommending termination or nonrenewal.



- ~~5.29~~ 5.40 **Suspension** is the temporary invalidation of any teaching educator's license for a period of time specified by the State Board. The suspension will remain permanently in the ADE file of the educator and in the files retained by the PLSB.
- 5.41 **Take action** means that, *based on a preponderance of the evidence*, the Ethics Subcommittee or *Ethics Hearing Subcommittee*, makes an initial reasonable belief determination and recommendation *based* on an ethics complaint, ~~or the Ethics Hearing Subcommittee makes a determination and recommendation on the Ethics Subcommittee initial reasonable belief determination and recommendation.~~
- ~~5.30~~ **Teaching License** refers to any teaching, service, or leadership certificate, license, or permit issued by the State Board.
- 5.42 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. 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.*
- 5.43 **Waiver from licensure** means a waiver from rules and/or laws governing educator licensure granted under:
- 5.43.1 The Arkansas Quality Charter Schools Act of 2013, Ark. Code Ann. § 6-23-101 et seq., to a public charter school in the approval of its original charter or an amendment to its charter;
- 5.43.2 Ark. Code Ann. § 6-15-103 to a school district;
- 5.43.3 The District of Innovation Program, Ark. Code Ann. § 6-15-2801 et seq., to a School of Innovation; or
- 5.43.4 Any other educational entity pursuant to Arkansas law.
- ~~5.31~~ **Warning** is a written communication from the State Board to the named educator that his or her conduct is unethical. ~~The warning cautions that further unethical conduct will lead to a more severe action. In the absence of further unethical conduct, a warning will remain in the licensure file of the educator for a period of two (2) years from the date the warning is imposed by the State Board. The warning will remain permanently in the files retained by PLSB staff.~~
- 5.44 **Written Reprimand** is a written admonishment from the State Board to the named educator for his or her conduct. The written reprimand cautions that further unethical conduct will lead to a more severe action and is associated with

a monetary fine of the educator. The written reprimand will remain permanently in the files retained by the PLSB.

## **6.00 The Code of Ethics for Arkansas Educators**

At a minimum, Arkansas educators and preservice teachers must adhere to the Code of Ethics represented in the Standards of Ethical Conduct shown below. An allegation of unethical conduct, authorized for investigation, and subsequently considered by the Ethics Subcommittee or the Ethics Hearing Subcommittee, and the State Board shall be based upon an alleged violation of the following The Standards of Ethical Conduct are set forth as follows:

- ~~6.01~~ **Standard 1:** An educator maintains a professional relationship with each student, both in and outside the classroom.
- ~~6.02~~ **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.
- ~~6.03~~ **Standard 3:** An educator honestly fulfills reporting obligations associated with professional practices.
- ~~6.04~~ **Standard 4:** An educator entrusted with public funds and property, including school sponsored activity funds, honors that trust with honest, responsible stewardship.
- ~~6.05~~ **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.
- ~~6.06~~ **Standard 6:** An educator keeps in confidence secure standardized test materials and results and maintains integrity regarding test administration procedures.
- ~~6.07~~ **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 regulations, 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 law or regulations.
- ~~6.08~~ **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 alcohol or unauthorized drugs/substances, and/or possessing items prohibited by law, or**
- b) **possessing or using tobacco or tobacco-related products, e-cigarettes, e-liquid, or vapor products, or**
- c) **abusing/misusing prescription medications or other authorized substances as evidenced by impairment while on school premises or at school-sponsored activities involving students.**

## 7.00 Recommended Disciplinary Action

7.01 The Ethics Subcommittee or Ethics Hearing Subcommittee is authorized to recommend to the State Board ~~a Level 1 Public Notification~~ Levels of Public Notification for a nonlicensed educator, or for a licensed educator, a written ~~reprimand or the probation, suspension, revocation, or nonrenewal, or non-issuance of a teaching an educator's license or the issuance of a reprimand or warning.~~ 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 training, coursework or rehabilitative treatment. (All costs would be paid by the educator.) The State Board may direct the ~~ADE~~ PLSB to monitor progress toward the completion of any corrective action. Any of the following shall be considered cause for recommendation of disciplinary action against ~~the holder of a license~~ an educator:

- 7.01.1 An initial determination by the Ethics Subcommittee that based on a preponderance of the evidence, there is a reasonable belief ~~that~~ a violation of the Code of Ethics as set forth in these rules has occurred.
- 7.01.2 Following an evidentiary hearing before the Ethics Hearing Subcommittee, the Ethics Hearing Subcommittee finds, by a preponderance of the evidence, ~~that there is a reasonable belief~~ that an educator violated the Code of Ethics as set forth in these rules.
- 7.01.3 An agreement between an educator and the Ethics Subcommittee or Ethics Hearing Subcommittee as to the facts and/or the recommendation for disciplinary action.
- 7.01.4 A failure to comply with the payment of any imposed fines, fees, or other conditions or restrictions imposed by the State Board ~~of Education.~~

~~7.01.4~~ 7.01.5 Audit reports forwarded to the ADE by the Arkansas Legislative Joint Auditing Committee pursuant to Ark. Code Ann. § 6-17-426.

~~7.01.5~~ 7.01.6 Disciplinary action against ~~a teaching~~ an educator's license/certificate in another state on grounds inconsistent with ethical conduct specified in Section 6.00 or as stated in this section.

7.02 An individual whose license has been revoked, or nonrenewed, or suspended or temporarily nonrenewed ~~may 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 ~~during the period of~~ 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 ~~for Arkansas Educators~~.

7.02.1 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:

7.02.1.1 Is not recommended for employment or for volunteering in an educational setting, including without limitation performing teaching or testing duties; and

7.02.1.2 Is not eligible for licensure.

7.02.2 An individual who has been issued a Level 4 Public Notification of Ethics Violation is not recommended for employment or for volunteering in an educational setting, including without limitation performing teaching or testing duties and is not eligible for licensure on and after the issuance of the Level 4 Public Notification.

~~7.03 Suspensions and revocations are reported by the ADE to national officials, including the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse. [MOVED TO SECTION 9.00]~~

7.04 In lieu of imposing a disciplinary action as set forth above, the PLSB Ethics Subcommittee may provide the accused educator with a Private Letter of Caution. A Private Letter of Caution may not be appealed by the educator.

**~~8.00 Procedures for the Investigative Process and Final Determination of Alleged Ethics Violations~~**

- ~~8.01~~ ~~In considering and investigating complaints brought before it, the Ethics Subcommittee shall follow the procedures set forth in *Appendix A* to these rules, which are hereby fully incorporated into these rules as if fully set forth herein.~~
- ~~8.02~~ ~~With the exception of a Private Letter of Caution, all recommendations of the Ethics Subcommittee are presented to the State Board of Education. The State Board of Education may approve, reject, or modify a recommendation of the Ethics Subcommittee, and may refer a case back to the Ethics Subcommittee for further consideration or for an evidentiary hearing.~~
- ~~8.03~~ ~~The State Board, in making its determination on the recommendation of the Ethics Subcommittee, may require the testimony of the educator against whom the Ethics Subcommittee has recommended a sanction.~~

## **9.00 8.00 Fines and Fees**

~~9.01~~ ~~8.01~~ The PLSB may recommend to the State Board, for violations of the Code of Ethics in all areas for approval as authorized by Ark. Code Ann. §§ 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.

~~9.01.1~~ ~~8.01.1~~ May impose fines up to the amounts Fine amounts are listed in *Appendix B* to these rules, which is attached and is hereby fully incorporated into these rules as if fully set forth herein.

~~9.01.2~~ ~~8.01.2~~ May impose fees for action taken Nonrefundable fees for applications pertaining to an educator's license as set forth in the attachment *Appendix B* are published on the ADE website as approved by the State Board.

~~9.01.3~~ ~~8.01.3~~ Shall The State Board shall use the revenue collected by the State Board of Education from the fees and fines imposed per *Appendix B* of these Rules for the operation of the Professional Licensure Standards Board PLSB.

~~9.02~~ ~~8.02~~ An educator shall pay a fine imposed by the State Board within ninety (90) days of the State Board's final order.

~~9.03~~ ~~8.03~~ Failure to pay fines and fees may result in the ~~Ethics Subcommittee~~ ADE recommending that the State Board suspend the educator's license pursuant to Ark. Code Ann. § 25-15-217. The ~~Department~~ ADE will not renew a license until all fines and fees have been paid.

**10.00 9.00 Disclosure of Records**

~~10.01~~ When the State Board has disciplined an educator for violation of the Code of Ethics by placing the educator on probation, suspension, or non-renewing, or revoking the educator's license, these actions will be reported by the Office of Educator Licensure and may be posted in its electronic database such that they are viewable to school districts and other authorized personnel. In addition, these actions may be reported to other national education organizations or agencies such as the NASTDEC clearinghouse.

~~10.02~~ When the State Board has issued a warning or reprimand for violation of the Code of Ethics, these will be reported to the Office of Educator Licensure but are not posted in its electronic database. The Office of Educator Licensure will report reprimands or warnings if requested.

9.01 When the State Board issues a written reprimand for violation of the Code of Ethics, it will be reported to the ADE but is not publicly viewable in AELS. The ADE will disclose written reprimands if requested and pursuant to state or federal law.

9.02 Disciplinary actions are publicly reported as follows:

9.02.1 The probation of a license is reported on AELS and the NASTDEC Clearinghouse during the period of probation and until all conditions are met. 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 ADE and PLSB;

9.02.2 A Level 2 Public Notification of Ethics Violation is reported on AELS for the period of time stated in the notice and until all conditions are met. 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 ADE and PLSB;

9.02.3 The suspension or temporary nonrenewal of a license are reported on AELS and the NASTDEC Clearinghouse. Upon the reinstatement of the license, AELS and the NASDTEC Clearinghouse will reflect that the license is reinstated, and the suspension or temporary nonrenewal is maintained permanently in the educator's files at the ADE and PLSB;

9.02.4 A Level 3 Public Notification of Ethics Violation is reported in

AELS. 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 ADE and PLSB; and

9.02.5 The revocation or permanent nonrenewal of a license is permanently reported on AELS and the NASDTEC Clearinghouse and is maintained permanently in the educator's files at the ADE and PLSB;

9.02.6 A Level 4 Public Notification of Ethics Violation is permanently recorded on public view in AELS and maintained permanently in the educator's files at the ADE and PLSB.

9.03 AELS will contain the following information:

9.03.1 The Standard of Ethical Conduct violated;

9.03.2 The sanction approved by the State Board; and

9.03.3 A copy of the final order of the State Board.

~~10.03~~ 9.06 Records of the PLSB Ethics Subcommittee and Ethics Hearing Subcommittee shall be retained in accordance with the Arkansas General Records Retention Schedule.

~~10.04~~ 9.07 In accordance with Ark. Code Ann. § 6-17-428, all records and all hearings, meetings, and deliberations of the Professional Licensure Standards Board and its Ethics Subcommittee and Ethics Hearing Subcommittee relating to an ethics complaint are confidential and exempt from the Freedom of Information Act of 1967, Ark. Code Ann. § 25-19-101 et seq.

9.08 All documents relied upon by the State Board for its decision-making are public record.

9.08.1 All hearings before the State Board are publicly viewable through live-streamed video and are archived on the ADE website.

9.08.2 State Board orders concerning ethics violations are publicly available on the ADE website. Orders on written reprimands will be removed after the expiration of two (2) years from the date of the order, but orders concerning probation, suspension, nonrenewal, or revocation shall remain on the website for the period of time required in the order.

9.09 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 the person against whom the complaint is lodged and his or her representative. Videos, recordings, or other materials that the PLSB cannot redact will be made available to the educator or his or her representative at the PLSB office only.

9.10 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.

~~10.05~~ 9.11 In accordance with Ark. Code Ann. § 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 the attorney for the agency or members of his or her staff or other state agents.

## **11.00 10.00 Mandatory Filing of Allegation and Ethics Violations Review**

~~11.01~~ 10.01 An educator in a supervisory role in an Arkansas A supervisor at an Arkansas public educational setting school shall file an ethics complaint if he or she observes or has reasonable cause to suspect that an educator has violated Standard 1 involving the sexual abuse of a student.

~~11.02~~ 10.02 The failure to submit an ethics complaint under this section is a violation of Standard 3.

10.03 This provision does not satisfy the legal obligation by the supervisor or an educator as a mandated reporter of child maltreatment under Ark. Code Ann. § 12-18-402 of the Child Maltreatment Act.

~~11.03 Before an educator who holds an Arkansas teaching license or administrator's license may be hired for employment at an Arkansas school, the school hiring officer shall check the Arkansas Educator Licensure System (AELS) of the Department of Education to determine whether the State Board of Education has acted upon a violation of Standard 1 involving the sexual abuse of a student by the applicant. [MOVED TO THE RULES GOVERNING BACKGROUND CHECKS]~~

## **11.00 Procedures for the Investigation of an Ethics Complaint**

11.01 Submitting an Allegation of Violation of the Code of Ethics - Any person wishing to submit an allegation of an ethics violation must use the Allegation of Violation form (allegation form) developed by the PLSB.

11.01.1 An allegation form shall be completed and signed under penalty of



perjury by the complainant. Only an original signature will be accepted. A facsimile or electronic signature on the form will not be accepted and the form will be returned or the complainant will be required to submit a form with an original signature.

11.01.2 An allegation form shall be submitted to the ADE Assistant Commissioner designated on the allegation form. The Assistant Commissioner shall forward the allegation form to the PLSB office for filing.

11.01.2.1 The allegation form may be filed with the PLSB by submitting it to the ADE, a public school district, or a public school superintendent.

11.01.2.2 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 ADE; the failure to do so may be considered a violation of the Code of Ethics.

11.02 **Automatic submission for investigation** - The following will automatically go to the Ethics Subcommittee of the PLSB for the opening of an investigation:

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

11.02.2 Audit reports forwarded to the ADE by the Arkansas Joint Auditing Committee pursuant to Ark. Code Ann. § 6-17-426.

11.02.3 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. If necessary, the PLSB may appoint a board member to the Ethics Subcommittee for the limited purpose of resolving a complaint filed under this section.

11.03 **Validation** - The Chief Investigator of the PLSB will review the allegation form and verify that the allegation form: (1) has been submitted by an identifiable person; (2) was signed under penalty of perjury; and (3) concerns alleged unethical conduct.

11.03.1 After an allegation of a violation is validated, it cannot be withdrawn by the complainant. However, the Ethics Subcommittee may take a written request for withdrawal into consideration when determining whether to authorize an investigation based on the allegation.

11.04 **Action by the PLSB on an Allegation of Violation** - An allegation will become a complaint once it has been:

- 11.04.1 Filed with the PLSB as provided under 11.01 with an original signature;
- 11.04.2 Validated by the PLSB Chief Investigator as being submitted by an identifiable person; and
- 11.04.3 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 these rules, ~~committed by an Arkansas educator.~~ An allegation shall be processed as follows:

11.05 **Action by the PLSB Ethics Subcommittee** –

- 11.05.1 The Ethics Subcommittee will determine whether to grant authority to the PLSB investigative staff to investigate the allegation. 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.
- 11.05.2 Any member of the Ethics Subcommittee of the PLSB who works with or for the educator against whom the allegation is submitted shall recuse himself/herself from any discussion, hearing, or deliberations concerning the accused educator. A member shall recuse himself/herself if there is any relationship that would prevent him/her from making a fair and impartial decision on the educator's case.
- 11.05.3 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.
- 11.05.4 If the Ethics Subcommittee votes not to authorize investigation, the allegation shall be dismissed and the matter shall be closed without further action against the educator. There is no notification to the educator either of the allegation or of the denial of authority to investigate.
- 11.05.5 If the Ethics Subcommittee votes to authorize investigation of the allegation, the allegation becomes an authorized ethics complaint.

11.05.5.1 Within ten (10) business days of authorization, the PLSB staff shall notify the named educator in writing concerning the initiation of the investigation and provide the educator with a copy of:

11.05.5.1.1 The complaint and documents or evidence provided by the complainant, as provided in Section 9.00; and

11.05.5.1.2 The provisions of Ark. Code Ann. § 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.

11.05.5.2 The PLSB staff shall also provide to the complainant written notice of the authorization to investigate their alleged violation(s).

11.05.6 If, in the course of an authorized investigation, the PLSB investigative staff discovers credible information that the named educator has committed additional violations of the Code of Ethics, the PLSB staff may request additional authority to investigate from the Ethics Subcommittee.

11.05.6.1 The authorization of an additional investigation will restart the calculation of the statutory timelines.

11.05.7 In the event that PLSB staff discovers credible information that another educator has violated the Code of Ethics the PLSB staff may request that the Ethics Subcommittee Chair submit an allegation form with the ADE. 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. If necessary, the PLSB may appoint a board member to the Ethics Subcommittee for the limited purpose of resolving the complaint.

## 11.06 Completion of the Investigation –

11.06.1 The Ethics Subcommittee shall complete its investigation of an ethics complaint and take action within:

11.06.1.1 One hundred fifty (150) calendar days of authorizing the investigation; or

11.06.1.2 If a hearing is conducted, within one hundred eighty

(180) calendar days of authorizing the investigation.

11.06.2 Upon completion of the investigation and final report of investigation, the PLSB staff will provide to the accused educator or his or her representative:

11.06.2.1 The final report of investigation;

11.06.2.2 Except as provided under Section 9.00, a copy of the documents and evidence concerning the investigation of the ethics complaint.

11.06.2.2.1 If the educator requests a transcript of a video or recording, the PLSB office may provide the transcript, redacted as necessary.

11.06.2.2.2 At its option, the PLSB may outsource the transcription at the educator's expense.

11.06.2.2.3 If a request for a transcript will cause the resolution of the case to exceed the statutory timeline, the PLSB may decline the transcript request or request that the educator agree to extend the timeline until the educator receives and submits payment for the transcript;

11.06.2.3 Written notice that the Ethics Subcommittee will consider taking action against the named educator; and

11.06.2.4 A copy of the rules in effect at the time the ethics complaint is filed.

11.06.3 The named educator or his/her attorney will be allowed thirty (30) calendar days from receipt of the notice, documentation, and evidence from the Ethics Subcommittee to submit any further response in writing.

11.06.4 At the conclusion of the thirty (30) calendar days or upon receiving the written response from the educator, the PLSB staff will send the final report of investigation and educator's response to the members of the Ethics Subcommittee.

11.06.5 The PLSB will consider a notice as received on the earliest of one of

the following dates:

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

11.06.5.2 On the tenth (10th) 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 PLSB; or

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

## **12.00 Procedures for the Initial Determination and Recommendation of the Ethics Subcommittee**

12.01 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: (1) the educator's written response to the final report of investigation, or (2) the expiration of the educator's time to provide a written response to the final report of investigation.

12.01.1 The Ethics Subcommittee shall review the results of the investigation including the PLSB staff's final report of investigation and, if submitted as required by these rules, the written response from the educator who is the subject of the ethics complaint.

12.01.2 Following the review, if the Ethics Subcommittee finds that ~~a reasonable belief exists that~~ the educator violated the Code of Ethics as set forth in these rules, the Ethics Subcommittee shall issue an initial decision and may recommend any appropriate action as set forth in these rules.

12.01.2.1 The Ethics Subcommittee shall refer to the Sanction Guidelines for Ethical Violations approved by the PLSB (Appendix D) when making the initial determination and recommendation.

12.01.3 The initial recommendation shall be considered a proposal for decision under Ark. Code Ann. § 25-15-210 and shall contain a statement of the reasons for the decision and each issue of fact or law necessary for the decision.

12.01.4 **Private Letter of Caution** - The Ethics Subcommittee may also issue a Private Letter of Caution in lieu of recommending a disciplinary action.

12.02 **Notice to the Educator** –

12.02.1 The PLSB 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.

12.02.2 The notice will further inform the educator that he or she may request an evidentiary hearing, at which the Ethics Hearing Subcommittee may retain the Ethics Subcommittee’s recommendation, or may modify it, including finding no **evidence to support a finding** reasonable belief of a violation.

12.02.3 There is no right to an evidentiary hearing, or an appeal from a Private Letter of Caution.

12.03 **Educator’s response** -

12.03.1 The educator may **accept in writing** ~~reject~~ the recommendation of the Ethics Subcommittee of the PLSB **or request in writing and request** an evidentiary hearing before the Ethics **Hearing Subcommittee by submitting the request to the PLSB attorney in writing** within thirty (30) calendar days of the date the educator receives the notice.

12.03.2 If an educator fails to respond to notification of the initial recommendation of the Ethics Subcommittee within thirty (30) calendar days, the initial recommendation will become a final recommendation without an evidentiary hearing and will be forwarded to the State Board for **consideration a final decision**.

12.03.4 ~~If the educator accepts the Ethics Subcommittee’s initial recommendation or waives a response, the recommendation becomes final.~~ The PLSB staff shall notify the educator that the final recommendation will be submitted to the State Board as part of its consent agenda.

12.03.4.1 ~~Even if the educator has agreed to the initial recommendation, the~~ **The** State Board may remove the case from its consent agenda and **remand the case to the PLSB for further consideration consistent with its instruction set the case for further review pursuant to**

Section 16.01.

12.03.5 *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.*

~~12.03.5~~ ~~The educator may request an evidentiary hearing by submitting a written request to the PLSB within thirty (30) calendar days of receiving the notification of the initial recommendation of the Ethics Subcommittee.~~

12.04 **Notice to Complainant** - The PLSB staff shall provide a written notice to the complainant when the Ethics Subcommittee determines ~~there is no reasonable belief~~ *the evidence does not support a finding* of an ethical violation and closes the file. However, the Ethics Subcommittee rationale for not authorizing an investigation shall remain confidential.

**13.00 Motions before the Ethics Subcommittee or Ethics Hearing Subcommittee**

13.01 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 PLSB who shall file-stamp the motion indicating the date it is received and promptly transmit the motion(s) to the Chair of the Ethics Hearing Subcommittee for consideration at the next available Ethics Hearing Subcommittee meeting.

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

13.03 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 these rules and Ark. Code Ann. § 6-17-428 by the amount of time required to rule on the motion.

13.04 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. The PLSB 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.

13.05 The Chair of the Ethics Hearing Subcommittee Chair may consider any motion that is not timely filed as set forth herein when there is good cause for the untimely filing.

## **14.00 Evidentiary Hearings**

### **14.01 Request for and scheduling of an evidentiary hearing.**

- 14.01.1 If the educator requests an evidentiary hearing, the hearing will be held before the Ethics Hearing Subcommittee within one hundred eighty (180) days of the date the investigation was authorized, or at a time and date agreed between the parties.
- 14.01.2 The PLSB staff shall notify the educator in writing of the date, time and location of the evidentiary hearing.
- 14.01.3 Each party shall disclose to the other the names of all witnesses and identify all evidence the party intends to use at the hearing. The notice will also state a date by which the exchange shall take place.
- 14.01.4 The educator or the PLSB representative may request a continuance of a scheduled evidentiary hearing. Such a request shall be made in the form of a written motion as provided in Section 13. 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.

### **14.02 Hearing procedures.**

- 14.02.1 An evidentiary hearing shall be conducted on the record before a court reporter.
- 14.02.2 The Ethics Hearing Subcommittee may use a hearing officer.
- 14.02.3 The Ethics Hearing Subcommittee shall use the “preponderance of the evidence” standard to determine whether a violation of the Code of Ethics occurred. The representative of the PLSB will have the burden of proving each fact of consequence to the determination by a preponderance of the evidence.
- 14.02.4 A representative of the PLSB and the educator (or his/her attorney) shall have up to one (1) hour each to present their cases to the Ethics Hearing Subcommittee. The Chair of the Ethics Hearing Subcommittee may grant additional time to either or both parties, if necessary.
- 14.02.4.1 A motion for additional time will be considered timely if it is submitted to the Ethics Hearing Subcommittee as



provided in Section 13.

- 14.02.5 Witnesses shall be sworn in by the Chair or hearing officer. Except for the educator and PLSB investigator, witnesses shall remain outside of the hearing room until called to testify. 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.
- 14.02.6 Each party will have the opportunity, should it so choose, to make an opening statement. The statement shall be no longer than five (5) minutes in length. The Chair or hearing officer may grant additional time to either or both parties, if necessary.
- 14.02.7 The PLSB shall present its case (and opening statement, if it so chooses) first.
- 14.02.8 Any written documents, photographs or any other items of evidence may be presented to the Ethics Hearing Subcommittee with the permission of the Chair or hearing officer.
- 14.02.8.1 The items of evidence shall be marked as either “PLSB Exhibit Number 1(et seq.)” or “Educator’s Exhibit Number 1 (et seq.)”
- 14.02.8.2 After an item of evidence has been presented to the Ethics Hearing Subcommittee, the introducing party shall give one (1) copy to the court reporter for the record and one (1) copy to each member of the Ethics Hearing Subcommittee and hearing officer.
- 14.02.9 After one party has questioned a witness, the other party shall have an opportunity to cross-examine the witness. The Chair or hearing officer may also grant either party the opportunity for re-direct examination or to offer rebuttal testimony.
- 14.02.10 Cross-examination, re-direct, 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.
- 14.02.11 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.
- 14.02.12 Each member of the Ethics Hearing Subcommittee shall also have

the opportunity to ask questions of any witness or any party at any time.

14.02.13 After the rebuttal evidence has been presented, the educator shall have up to ~~five (5)~~ **ten (10)** minutes to present a closing statement, if desired. The Chair or hearing officer may grant additional time if necessary.

14.02.14 After the educator has made a closing statement, or waived the opportunity for the same, the representative of the PLSB shall have up to ~~five (5)~~ **ten (10)** minutes to make his/her closing statement, if desired. The Chair or hearing officer may grant additional time if necessary.

14.02.15 The Ethics Hearing Subcommittee may:

14.02.15.1 Maintain, reject, or modify the Ethics Subcommittee recommendation; or

14.02.15.2 Issue a non-punitive Private Letter of Caution.

14.02.16 After closing statements have been made (or the opportunity to make them has been waived), the Ethics Hearing Subcommittee may go off the record for deliberations and will ask that all parties leave the room during this time. After a decision has been made parties will be asked to return to the hearing room and the Ethics Hearing Subcommittee will orally announce the decision or may take the case under advisement and render a decision at a later time.

14.02.17 The Ethics Hearing Subcommittee shall state in its written decision the following:

14.02.17.1 Its determination as to whether the educator violated one or more standards of the Code of Ethics;

14.02.17.2 Its findings as to the evidence supporting each determination of a violation;

14.02.17.3 Its recommendation to the State Board, if any, for disciplinary action, including the sanction, conditions, and time periods to be met; and

14.02.17.4 A statement of each issue of fact or law necessary for the decision.

### 14.03 Notice of Evidentiary Hearing Decision

14.03.1 Within ten (10) business days following the action taken by the Ethics Hearing Subcommittee, the PLSB staff will notify the educator in writing of the Ethics Hearing Subcommittee's action taken on the evidentiary hearing.

14.03.2 Following the notice of action taken, the PLSB attorney shall send to the educator:

14.03.2.1 The Ethics Hearing Subcommittee's written findings and recommendation.

14.03.2.1.1 The evidentiary hearing recommendation is a proposal for decision under Ark. Code Ann. § 25-15-210.; ~~and~~

~~14.03.2.2~~ ~~A copy of the court reporter's transcript of the hearing.~~

14.03.3 After receiving the written findings and recommendations, the educator may ~~accept the evidentiary recommendation or~~ object and request a review by the State Board pursuant to Section 14.04.

#### 14.04 Educator's ~~Acceptance or~~ Request for State Board Review

14.04.1 The educator shall have fourteen (14) calendar days from the receipt of the written findings and recommendations of the Ethics Hearing Subcommittee to ~~object and request a review by the State Board.~~ ∴

~~14.04.1.1~~ ~~Accept the written findings and recommendations; or~~

~~14.04.1.2~~ ~~Object and request a review by the State Board.~~

~~14.04.2~~ ~~Should the educator not request a review by the State Board within the above referenced 14-day time period, the educator is deemed to have accepted the findings and recommendations and waives the right to State Board review.~~

14.04.2 If the educator ~~accepts the findings and recommendations of the Ethics Hearing Subcommittee or~~ does not request a State Board review within the 14-day period, the findings and recommendation shall become final and the PLSB will submit them to the State Board on its consent agenda.

14.04.2.1 ~~The State Board may remove the case from its consent agenda and set the case for further review pursuant to Section 16.01.~~

## 15.00 Subpoenas

- 15.01 At the request of a party to a proceeding pending before the PLSB or its subcommittees, the Chair of the PLSB may issue a subpoena and bring before the PLSB, 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. The PLSB Chair or the Chair of the Ethics Hearing Subcommittee may, on his or her own motion, issue a subpoena at any time.
- 15.02 A party requesting a subpoena must make the request in writing to the PLSB staff attorney. Requests for subpoenas made to the PLSB shall be delivered to the office of the PLSB Attorney no later than ten (10) calendar days prior to the PLSB hearing for which the subpoena is requested.
- 15.03 The party requesting the subpoena is responsible for serving the subpoena on the witness in the manner provided for by statute or rule for the service of subpoenas in civil cases or by any form of mail addressed to the person to be served with a return receipt requested and delivery restricted to the addressee or agent of the addressee. The requesting party is responsible for the payment of any fees or mileage associated with the appearance of the witness subject to the subpoena.
- 15.04 The subpoena shall:
- 15.04.1 Be in the name of the PLSB or the PLSB Ethics Hearing Subcommittee as applicable;
  - 15.04.2 State the name of the proceeding; and
  - 15.04.3 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:
    - 15.04.3.1 In person;
    - 15.04.3.2 Before a certified court reporter under oath at the place of the witness' residence or employment;
    - 15.04.3.3 By video-taped deposition at the place of the witness' residence or employment, or at another location agreed to between the parties; or
    - 15.04.3.4 By live video communications from the witness' residence, place of employment, or a nearby facility capable of providing video transmission to the PLSB or the Ethics Hearing Subcommittee.

15.05 The manner of providing testimony under the subpoena shall be conducted by video conference testimony unless another manner is agreed upon by the PLSB or the Ethics Hearing Subcommittee, as applicable, and the person who is the subject of the subpoena.

15.06 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.

15.07 A witness who has been served by subpoena and who appears in person to testify at the trial or case pending before the PLSB or the Ethics Hearing Subcommittee shall be reimbursed for travel and attendance as provided by law.

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

15.08 If a witness is served with a subpoena and fails to provide testimony in obedience to the subpoena, the PLSB may apply to the circuit court of the county in which the PLSB is holding the proceeding for an order causing the arrest of the witness and directing that the witness be brought before the court.

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

15.09 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 resides or is employed.

## **16.00 State Board Review**

16.01 The State Board may remove a PLSB recommendation from a consent agenda for further review as follows:

16.01.1 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.

16.01.2 The educator or his/her attorney may elect to:

16.01.2.1 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. The PLSB may also have up to ten (10) minutes to testify. Additional time may be granted at the discretion of the board chair. The

board members may ask questions of either party at the subsequent review; or

16.01.2.2 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 PLSB Evidentiary Hearing Subcommittee.

16.01.3 If the educator or his/her attorney does not make any of the above elections, or does not appear for the subsequent review meeting, the State Board shall conduct the subsequent review without the educator or his/her attorney and make a final decision.

16.01.4 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 Section 17.00.

16.02 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 PLSB 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.

16.02.1 The parties may agree to allow the educator additional time to file the written objections and brief. The educator/educator's attorney may also request that the State Board grant the educator additional time to file the written objections and brief. A request for additional time shall specify the reason for the request and shall be in the form of a written motion. The PLSB attorney will provide the State Board with the motion and any response.

### 16.03 Written Objections and Briefs

16.03.1 The transcript will be provided to the State Board by the PLSB attorney and the educator should not include any part of the transcript in the written objections and brief. *However, the brief must include supporting page references to the transcript.*

16.03.2 The written objections, brief, and PLSB's response shall use the following caption and shall bear the signature of the party or, if represented by counsel, the attorney for the party:

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

- 16.03.3     The PLSB 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.
- 16.03.4     The PLSB attorney shall prepare a redacted copy of the Ethics Hearing Subcommittee hearing transcript and hearing exhibits to be filed with State Board.
- 16.03.5     The PLSB’s findings and recommendations, the educator’s objections and brief, the PLSB’s response, and the redacted transcript will be submitted to the State Board and will be heard by the State Board at the next available meeting date or at a later date if agreed between the parties.
- 16.03.6     All requests for an extension of time to file written objections or responses, for extended time for oral argument, or for any other pre-hearing matter shall be made in the form of a motion to the State Board Chair in a timely manner to give notice and opportunity for a response to the other party before the hearing date. The PLSB attorney will provide the State Board with the motion and any response.

**16.04 Oral Argument; Testimony**

- 16.04.1     Either the PLSB or the educator may request oral argument.
- 16.04.2     The request should be submitted in writing by the party at the time the written objections or response, as applicable, is filed.
- 16.04.3     If oral argument is requested, the PLSB 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 findings and recommendations.
- 16.04.4     The PLSB’s attorney will then have (10) minutes for oral argument in support of the findings and recommendations.

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

### **16.05 Testimony**

16.05.1 The hearing is on the consideration of the transcript, the pleadings, and oral argument only. However, at the request of the State Board Chair, the educator and the PLSB investigator for the case or the Chief Investigator may provide testimony. All testimony from the educator, the PLSB investigator, or the Chief Investigator shall be given under oath.

### **16.06 Order; Findings**

16.06.1 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.

### **16.07 Notices**

16.07.1 Following the issuance of the State Board's final written order, the PLSB staff shall provide the following written notices:

16.07.1.1 **Notice to Educator** - Within thirty (30) calendar days following the State Board review, the PLSB shall provide to the educator by personal service or by mail a copy of the final decision or order.

16.07.1.2 **Notice to Complainant** - The PLSB 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.

16.07.1.3 **Notice to Employing Educational Entity** – The PLSB staff shall provide written notice to the employing educational entity, if any, when the educator's license has been suspended, nonrenewed (temporarily or permanently), or revoked by the State Board or a Level 2, 3, or 4 Public Notice of Ethics Violation is approved by the State Board.

### **17.00 Appeal to Circuit Court**

17.01 The educator may file an appeal of the State Board's final order to circuit court



within thirty (30) days pursuant to the Arkansas Administrative Procedures Act, Ark. Code Ann. § 25-15-201 et seq.

17.02 The 30-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.

### **~~Procedures for the Investigative Process and Final Recommendation for Disposition of an Ethics Complaint~~**

#### **~~1. — Applicability of the Administrative Procedure Act~~**

~~All rules, procedures, hearings and appeals relating to the Code of Ethics shall be promulgated and implemented under the Arkansas Administrative Procedure Act, Ark. Code Ann. § 25-15-201 et seq.~~

#### **~~2. — Freedom of Information Act (FOIA):~~**

~~All records, hearings, meetings, and deliberations of the PLSB relating to an ethics complaint against an administrator or teacher are confidential and exempt from the Freedom of Information Act. All records pertaining to an ethics complaint are open for inspection and copying by the person against whom the complaint is lodged. The person against whom the complaint is lodged and his or her representative are entitled to be present during all hearings. A hearing before the State Board to consider the possible revocation, suspension, or other sanction of an administrator's or a teacher's license based on a recommendation of the PLSB for enforcement of an alleged ethics violation, including without limitation an informal disposition by the State Board of an ethics complaint by stipulation, settlement, consent order, or default is open to the public. All records on which the State Board relies during such a hearing to make its decision are subject to public disclosure under the Freedom of Information Act.~~

#### **~~3. — Allegations:~~**

~~Any person or party wishing to submit an allegation must use the allegation of violation form developed by the PLSB and attached to these rules as Appendix D. It may be filed with the PLSB through the Department of Education, a public school district, or a public school superintendent. If an allegation form is filed with a public school district or a public school superintendent, the public school district or superintendent must forward all signed allegations directly to the Department of Education. Failure to forward an allegation of violation form may be considered a violation of the Code of Ethics.~~

#### **~~4. — Allegations Received by the PLSB Ethics Subcommittee:~~**

~~An allegation will become a complaint once it has been: (1) verified by the Chief Investigator of the PLSB as being submitted by an identifiable person; and (2) is credible and if true, would constitute a violation of the Code as set forth in these rules, committed by an~~

~~Arkansas educator after September 1, 2008. An allegation shall be processed as follows:~~

- ~~a. — Initial Review: The Chief Investigator of the PLSB will thoroughly review the allegation and verify that the allegation has been submitted by an identifiable person and was signed under penalty of perjury.~~
- ~~b. — Authority to Investigate: The Ethics Subcommittee will determine whether to grant authority to the PLSB investigative staff to investigate the allegation. Authority to investigate the allegation will be based upon a reasonable belief that the allegation, if true, constitutes a violation of the Code as set forth in these rules and was committed by the alleged educator after September 1, 2008. Any member of the Ethics Subcommittee of the PLSB who works with or for the educator against whom the allegation is submitted shall recuse himself/herself from any discussion, hearing, or deliberations concerning the accused educator. 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~~
  - ~~i. — Authority to Investigate Denied: If the Ethics Subcommittee votes not to authorize investigation, the allegation shall be dismissed and the matter shall be closed without further action against the educator.~~
  - ~~ii. — Authority to Investigate Granted: If the Ethics Subcommittee votes to authorize investigation of the allegation, the allegation becomes an authorized ethics complaint. The PLSB staff shall notify the named educator in writing concerning the initiation of the investigation and provide the educator with a copy of the complaint within ten (10) calendar days of authorization. The PLSB staff shall provide to the educator under investigation 1) written notice of the investigation and nature of the alleged ethics violation and, 2) a copy of the documents and evidence concerning the facts alleged in the ethics complaint, provisions of Ark. Code Ann. § 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.~~
  - ~~iii. — Automatic Investigation: The following will automatically go to the Ethics Subcommittee of the PLSB for the opening of an investigation:~~
    - ~~(A) — Public information that an educator may have committed a violation the Code of Ethics. In the event that PLSB staff or Ethics Subcommittee members discover public information that an educator may have committed a violation of the Code of Ethics, the PLSB staff or any member of the Ethics Subcommittee may request that the Ethics Subcommittee Chair file an allegation form with the Department. If the Ethics Subcommittee votes that the Chair should file an allegation form, the Chair will recuse~~

herself or himself from any further consideration of the newly filed complaint. If necessary, the PLSB may appoint a board member to the Ethics Subcommittee for the limited purpose of resolving the newly filed complaint.

(B) — Audit reports forwarded to the ADE by the Arkansas Joint Auditing Committee pursuant to Ark. Code Ann. § 6-17-426.

- e. — Requesting additional authority to investigate: If, in the course of an authorized investigation, PLSB staff discovers credible information that the named educator has committed additional violations of the Code, the PLSB staff may request additional authority to investigate from the Ethics Subcommittee. In the event that PLSB staff discovers credible information that another educator has violated the Code of Ethics, the PLSB staff may request that the Ethics Subcommittee Chair file an allegation form with the Department. If the Ethics Subcommittee votes that the Chair should file an allegation form, the Chair will recuse herself or himself from any further consideration of the newly filed complaint. If necessary, the PLSB may appoint a board member to the Ethics Subcommittee for the limited purpose of resolving the newly filed complaint.
- d. — Completion of the Investigation: The Ethics Subcommittee shall complete its investigation of an ethics complaint and take action within one hundred fifty (150) days of authorizing the investigation or, if a hearing is conducted, within one hundred eighty (180) days of authorizing the investigation. Upon completion of the investigation and final report of investigation, the PLSB staff will send the final report of investigation to the accused educator or his/her attorney via certified and regular mail. The educator shall be provided with:
- i. — A copy of the documents and evidence concerning the investigation of the ethics complaint and,
  - ii. — Written notice that the Ethics Subcommittee will consider taking action against the named educator and,
  - iii. — A copy of Ark. Code Ann. § 6-17-428 or other state statutory law applicable to the ethics violation authorized for investigation, and
  - iv. — A copy of the rules in effect at the time the ethics complaint is filed.
  - v. — The named educator or his/her attorney will be allowed thirty (30) calendar days from receipt of the notice, documentation, and evidence from the Ethics Subcommittee or its staff to submit any further response in writing. At the conclusion of the thirty (30) calendar days or upon receiving the written response from the educator, the PLSB staff will send the final report of investigation and educator's response to the members of the Ethics Subcommittee.

- e. ~~Initial Recommendation of the Ethics Subcommittee: At the next scheduled meeting of the Ethics Subcommittee, the Ethics Subcommittee shall review the results of the investigation including the PLSB staff's final report of investigation and any written response from the educator who is the subject of the ethics complaint. Following such a review, if the Ethics Subcommittee finds that a reasonable belief exists that the educator violated the Code as set forth in these rules, the Ethics Subcommittee shall issue an initial decision and may recommend any appropriate action as set forth in *Appendix B*. The initial recommendation shall be considered a proposal for decision under Ark. Code Ann. § 25-15-210 and shall contain a statement of the reasons for the decision and each issue of fact or law necessary for the decision.~~
- i. ~~Notification of the Educator: The PLSB staff will notify the named educator in writing of the recommendation of the Ethics Subcommittee. The named educator may accept in writing the recommendation of the Ethics Subcommittee of the PLSB or request in writing an evidentiary hearing before the Ethics Subcommittee. The PLSB staff will inform the educator that following an evidentiary hearing, the Ethics Subcommittee may find that no reasonable belief that a violation of the Code exists, or could find that a reasonable belief that violation of the Code exists and recommend any appropriate action as set forth in *Appendix B*.~~
- ii. ~~Private Letter of Caution: The Ethics Subcommittee of the PLSB may also issue a Private Letter of Caution in lieu of recommending an action set forth in *Appendix B*.~~
- f. ~~Waiver of Evidentiary Hearing: If an educator fails to respond to notification of the initial recommendation of the Ethics Subcommittee within thirty (30) days, the initial recommendation will become a final recommendation without an evidentiary hearing and will be forwarded to the State Board for consideration.~~
- g. ~~If the educator accepts the Ethics Subcommittee's recommendation or waives a response, the PLSB staff shall notify the educator that the final recommendation will be submitted to the State Board as part of its consent agenda.~~

##### **5. ~~Waiver or Request of an Ethics Subcommittee Evidentiary Hearing~~**

- a. ~~If the educator requests a hearing, an evidentiary hearing will be held before the Ethics Subcommittee within one hundred eighty (180) days of receiving the complaint as is defined in these rules. Either party may request additional time. Such a request shall be in writing and shall set forth the reason(s) for which additional time is needed. The time limitations may be waived when reasonable under the circumstances, including without limitation, inclement weather, state or national emergencies, or other unforeseeable events by the:~~

- i. ~~Educator if the time limitation is imposed upon the Ethics Subcommittee; or~~
  - ii. ~~Ethics Subcommittee if the time limitation is imposed upon the educator; or~~
  - iii. ~~A written stipulation between the educator and the PLSB staff attorney with the approval of the Ethics Subcommittee.~~
- b. ~~Within ten (10) calendar days following the findings and recommendation of the Ethics Subcommittee, the PLSB staff will notify the educator in writing of the Ethics Subcommittee's evidentiary hearing findings and recommendations. The educator may accept the evidentiary recommendation or object and request a review by the State Board pursuant to Section 9 of this Appendix. The evidentiary hearing recommendation shall be considered a proposal for decision under Ark. Code Ann. § 25-15-210 and shall contain a statement of the reasons for the decision and each issue of fact or law necessary for the decision.~~
- e. ~~Waiver of State Board Review: If an educator fails to respond to notification of the Ethics Subcommittee's evidentiary hearing recommendation within fourteen (14) days, the evidentiary hearing recommendation will become a final recommendation and will be forwarded to the State Board.~~

## **6. ~~Motions~~**

- 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 PLSB who shall record the date it is received and promptly transmit the motion(s) to the Ethics Subcommittee for its consideration at the next available Ethics Subcommittee meeting.~~
- b. ~~Filing a motion that requests that the Ethics Subcommittee take action prior to the requested or scheduled evidentiary hearing tolls the time limits set out in these rules and Ark. Code Ann. § 6-17-428.~~
- c. ~~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. The PLSB attorney and the educator may enter a stipulation to dispose of any procedural or substantive matters at any time subject to final approval by the Ethics Subcommittee.~~

## **7. ~~Evidentiary Hearing Procedures of the PLSB Ethics Subcommittee~~**

- a. ~~The educator and the PLSB may be represented by representatives of their choosing.~~

- ~~b. The educator shall be notified in writing of the date, time and location of the Ethics Subcommittee meeting at which his/her case will be considered. The notice will also state a deadline by which the educator must submit items to the Ethics Subcommittee for consideration. Items submitted may be rejected if not timely. Educators and PLSB staff are encouraged to submit all documentary evidence by the deadline so that the Ethics Subcommittee will be prepared to expeditiously address the case at the evidentiary hearing.~~
- ~~c. A representative of the PLSB and the educator (or his/her attorney) shall have up to twenty five (25) minutes each to present their cases to the Ethics Subcommittee. The chairperson of the Ethics Subcommittee may grant additional time to either or both parties, if necessary.~~
- ~~d. Each party will have the opportunity, should it so choose, to make an opening statement. The statement shall be no longer than five (5) minutes in length. The chairperson of the Ethics Subcommittee may grant additional time to either or both parties, if necessary.~~
- ~~e. The representative of the PLSB shall present its case (and opening statement, if it so chooses) to the Ethics Subcommittee first.~~
- ~~f. Any written documents, photographs or any other items of evidence may be presented to the hearing Ethics Subcommittee with the permission of the chairperson. The items of evidence shall be marked as either "PLSB Exhibit Number 1(et seq.)" or "Educator's Exhibit Number 1(et seq.)". After an item of evidence has been allowed to be presented to the Ethics Subcommittee by the chairperson, the introducing party shall give one (1) copy to the court reporter for the record and one (1) copy to the chairperson.~~
- ~~g. After one party has questioned a witness, the other party shall have the same opportunity.~~
- ~~h. Members of the hearing Ethics Subcommittee shall also have the opportunity to ask questions of any witness or any party at any time.~~
- ~~i. While the scope of each party's presentation ultimately lies within the chairperson's discretion, case presentation should be arranged in such a way as to avoid redundant testimony.~~
- ~~j. After the educator has presented his/her case, the chairperson may allow each party to present limited rebuttal testimony.~~
- ~~k. After the rebuttal evidence has been presented, the educator shall have up to five (5) minutes to present a closing statement, if desired. The chairperson of the Ethics Subcommittee may grant additional time if necessary.~~

- ~~l. — After the educator has made a closing statement, or waived the opportunity for the same, the representative of the PLSB shall have up to five (5) minutes to make his/her closing statement, if desired. The chairperson of the Ethics Subcommittee may grant additional time if necessary.~~
- ~~m. — After closing statements have been made (or the opportunity to make them has been waived), the hearing Ethics Subcommittee may orally announce its decision. Alternatively, the hearing Ethics Subcommittee may take the case under advisement and render a written decision at a later time.~~
- ~~n. — During an evidentiary hearing, the “preponderance of the evidence” standard shall be used by the Ethics Subcommittee to determine whether a violation of the Code occurred. If the Ethics Subcommittee finds that a violation occurred, it may issue a recommendation for appropriate sanction to the Arkansas State Board of Education. The representative of the PLSB will have the burden of proving each fact of consequence to the determination by a preponderance of the evidence. The Ethics Sub may also issue a non-punitive Private Letter of Caution Letter.~~
- ~~o. — A written decision reflecting the hearing Ethics Subcommittee’s final findings and recommendation shall be promptly prepared by the PLSB staff attorney for the chairperson’s signature. A copy of the findings and recommendation s shall be transmitted in a timely manner to the educator. The evidentiary hearing recommendation shall be considered a proposal for decision under Ark. Code Ann. § 25-15-210 and shall contain a statement of the reasons for the decision and each issue of fact or law necessary for the decision.~~
- ~~p. — The educator shall have fourteen (14) days from the receipt of the final findings and recommendations to object and request a State Board Review pursuant to Section 9 of this Appendix. Should the educator not request a review by the State Board within the above referenced fourteen (14) day time period, the findings and recommendations of the Ethics Subcommittee shall become final.~~

#### **8. — Subpoena Power:**

- ~~a. — At the request of a party to a proceeding pending before the PLSB or the Ethics Subcommittee or the State Board of Education, the Chair of the PLSB or the Ethics Subcommittee or the State Board of Education may, as appropriate, issue a subpoena and bring before the PLSB, the Ethics Subcommittee or the State Board as a witness any person in this state. The PLSB, the Ethics Subcommittee or the State Board may, on their own motion, issue a subpoena at any time.~~
- ~~b. — A party requesting a subpoena must make the request in writing to either the PLSB staff attorney or the State Board attorney, as appropriate. Requests for subpoenas made to the PLSB shall be delivered to the Office of the PLSB Attorney no later than ten (10) calendar days prior to the PLSB hearing for~~

which the subpoena is requested. Requests for subpoenas made to the State Board shall be delivered to the Office of General Counsel of the ADE no later than ten (10) calendar days prior to the State Board hearing for which the subpoena is requested.

- c. — The subpoena shall:
  - i. — Be in the name of either the PLSB, the Ethics Subcommittee, or the State Board;
  - ii. — State the name of the proceeding; and
  - iii. — 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' residence or employment;
    - (C) — By video taped deposition at the place of the witness' residence or employment; or
    - (D) — By live video communications from the witness' residence, place of employment, or a nearby facility capable of providing video transmission to the board that has subpoenaed the witness.
  - iv. — The manner of providing testimony under the subpoena shall be conducted by video conference testimony unless another manner is agreed upon by the board or commission and the person who is the subject of the subpoena.
- d. — 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.
- e. — Service of the subpoena shall be in the manner as provided by law or rule for the service of subpoenas in civil cases.
- f. — A witness who has been served by subpoena and who appears in person to testify at the trial or case pending before the PLSB, the Ethics Subcommittee or the State Board shall be reimbursed for travel and attendance as provided by law.
- g. — If a witness is served with a subpoena and fails to provide testimony in obedience to the subpoena, the PLSB, the Ethics Subcommittee or the State



~~Board may apply to the circuit court of the county in which the PLSB, the Ethics Subcommittee or the State Board is holding the proceeding for an order causing the arrest of the witness and directing that the witness be brought before the court.~~

- ~~h. — 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 resides or is employed.~~

#### ~~9. — State Board Review~~

- ~~a. — When an educator objects to the Ethics Subcommittee's evidentiary hearing findings and recommendation, the educator may request a review by the State Board of Education by notifying the attorney for the PLSB in writing within fourteen (14) days.~~
- ~~b. — Within ten (10) days of requesting a review, the educator will have an opportunity to file written exceptions and briefs regarding the Ethics Subcommittee's evidentiary hearing findings and recommendation.~~
- ~~c. — The PLSB attorney may file a written response to the educator's exceptions and brief within ten (10) days of receipt of the educator's exceptions and brief.~~
- ~~d. — The PLSB attorney shall prepare a redacted copy of the Ethics Subcommittee hearing transcript and hearing exhibits to be filed with State Board of Education.~~
- ~~e. — The PLSB's findings and recommendations, the educator's exceptions and brief, and the PLSB's response, and the redacted transcript will be submitted to the State Board of Education at the next available meeting date.~~
- ~~f. — Either the PLSB or the educator may request oral argument. If oral argument is requested, the PLSB attorney shall introduce the item on the agenda, then the educator will then have ten (10) minutes to present an oral argument in opposition to the findings and recommendations. The PLSB's attorney will then have (10) minutes for oral argument in support of the findings and recommendations. Upon good cause shown, the Chairperson of the State Board may grant either party additional time for oral argument.~~
- ~~g. — After consideration of the findings and recommendations, the records, exceptions, briefs, and arguments, the State Board of Education shall issue a final decision or order in writing or stated on the record. The final decision shall include findings of fact and conclusions of law, separately stated. The educator shall be served personally or by mail with a copy of the final decision or order.~~

**Summary of Timeline for the Ethics Complaint Process**

<b><u>PLSB Action</u></b>	<b><u>Educator Action</u></b>	<b><u>Deadline</u></b>
<u>Initial Review of Allegation / Authorization of Investigation</u>		<u>First available meeting following verification of an allegation of violation</u>
<u>Notice to Complainant if no Authorization of Investigation</u>		
<u>Notice to Educator of Authorization of Investigation</u>		<u>10 business days after authorization</u>
	<u>Response of Educator to Ethics Complaint</u>	<u>30 calendar days after receiving notice</u>
<u>Reasonable Belief <i>Initial</i> Determination and Recommendation</u>		<u>First available meeting after receiving the response or expiration of educator's response time (within 150 days after authorization of investigation)</u>
	<u>Response of Educator to Reasonable Belief <i>Initial Determination and Recommendation</i> notice (accept or reject and request evidentiary hearing)</u>	<u>30 calendar days of receiving the notice</u>
<u>If <i>accepted, no rejection</i> schedule for State Board consent agenda</u>		<u>Placed on the next available agenda. <i>State Board may remove from consent and set for review at a subsequent regularly scheduled State Board meeting.</i></u>
<u>If rejected, schedule Evidentiary Hearing</u>		<u>Scheduled within 180 days from the date the investigation was authorized, unless the parties agree otherwise</u>
<u>Motions concerning a hearing</u>	<u>Motions concerning a hearing</u>	<u>14 calendar days before hearing date</u>
	<u>Request for subpoenas</u>	<u>10 calendar days before hearing date</u>
<u>Taking action on evidentiary hearing</u>		<u>At the conclusion of the hearing, or at a later time if taken under advisement</u>
<u>Notice to Educator of action taken</u>		<u>10 business days after taking action</u>
<u>Notice to Educator of written findings and recommendations</u>		<u>As soon as is practicable after receipt of the hearing transcript</u>
	<u>Response to notice of <i>action taken: either an acceptance of the findings and recommendation or a (submits a request for State Board review by filing written objections and brief)</i></u>	<u>14 calendar days of receiving the written findings and recommendations</u>
<u>Response to educator's written objections and brief</u>		<u>14 calendar days after receiving written objections and brief</u>
<u>Scheduling State Board review</u>		<u>Placed on the action agenda for the next available State Board meeting</u>
<u>Notice to Educator of State Board Order; Notice to Complainant of State Board Order</u>		<u>As soon as is practicable after receipt of the hearing transcript</u>
	<u>Filing of an appeal to Circuit Court</u>	<u>Within 30 days of receiving the written order of the State Board</u>

## LIST OF ACTIONS & APPLICABLE FINES

Nonpayment of fines may subject the educator to further disciplinary action.

Action Taken	Maximum Fine Amount
Complaint is not substantiated – No action taken; Case closed.	\$0 <u>Not Applicable</u>
<del>Educators who violate testing procedures of the state and for whom the Ethics Subcommittee of the PLSB believes the violation does not rise to the level of an ethics violation may be recommended for additional training in the approved testing procedures by the state.</del>	<del>All expenses paid by the educator.</del>
Compliance with <u>recommended training, conditions, or restrictions,</u> or <del>recommended</del> treatment or rehabilitation with periodic monitoring.	All expenses paid by the educator.
Private Letter of Caution	\$0
<del>Written Warning</del>	<del>\$0</del>
Written Reprimand / <u>Level 1 Public Notification of Ethics Violation</u>	\$50 <u>Up to \$100</u>
Probation of License / <u>Level 2 Public Notification of Ethics Violation</u>	\$75 <u>Up to \$250</u>
Suspension of License <u>or Temporary Nonrenewal</u> / <u>Level 3 Public Notification of Ethics Violation</u>	\$100 <u>Up to \$500</u>
<u>Permanent Revocation or Permanent Nonrenewal</u> of License / <u>Level 4 Public Notification of Ethics Violation</u>	\$0 <u>Up to \$500</u>

**LIST OF APPLICABLE FEES**

[These will be published on the ADE website as approved by the State Board]

<b>License Issued-</b>	<b>New or Renewal</b>	<b>Fee- Amount</b>
One-Year Provisional Teacher's License	New Renewal	\$0.00- \$0.00-
Five-Year Standard Teacher's License	New Renewal	\$75.00 \$75.00
Five-Year Vocational Permit	New Renewal	\$75.00 \$75.00
One-Year Professional Teaching Permit	New	\$35.00
Lifetime Teacher's License- (Must be 62 years of age.)	New	\$0.00
Adding Area or Level to Existing License	Not Applicable	\$0.00-
Adding Degrees to Existing License (If not occurring at the time of renewal)	Not Applicable	\$0.00-
Duplicate License-	Not Applicable	\$50.00-

## **Explanations and Guidelines Guidance to Clarify the Intent of the Code of Ethics**

The purpose of this Appendix C is to provide greater clarity and intent of each ethical standard listed in Section 6.00 of this rule. Therefore, *Appendix C* is not designed to supersede the required standard of ethical conduct but rather to provide some rationale of the intent and purpose and thus the proper application of each ethical standard of conduct. It is recognized that *Appendix C* is a general application of the intent and purpose of each ethical standard and is considered a guide and not all inclusive of each and every interpretation and application of the Code of Ethics as required in Section 6.00.

~~Moreover, it is recognized that unless specifically stated in a standard of conduct listed in Section 6.00 of these rules or specifically required in *Appendix C*'s interpretation of a particular standard of conduct, the alleged unethical conduct by a licensed educator may be considered by the Professional Licensure Standards Board regardless of the mental intent related to the alleged unethical action or omission. However, the Professional Licensure Standards Board may consider the mental intent or capacity of the licensed educator, along with other relevant factors, when determining whether a violation exists and what, if any, disciplinary action to recommend to the Arkansas State Board of Education for alleged violations of this Code of Ethics.~~

**Employer/Employee or Contractual Relationship.** ~~Furthermore, it is recognized that the~~ The Code of Ethics is designed as a model of minimum standards for maintaining the public's respect for, and support of, educators ~~those holding a license issued by the State Board of Education.~~ It is not intended to regulate the employer/employee or contract relationship between any public school district and its educators.

The Code of Ethics is an overarching and superior set of standards and rules intended to establish and contribute to the development and maintenance of a supportive student-focused ~~centered~~ learning community that values and promotes human dignity, fairness, care, the greater good, and individual rights.

<p><b>Standard 1    An educator maintains a professional relationship with each student, both in and outside the classroom.</b></p>
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Guidance: This standard goes to the core of a professional educator's expected conduct and relationship with all students and transcends criminal behavior or other actions which violate law. The professional relationship with students is such behavior and action which promotes at all times the mental, emotional, and physical health and safety of students. An educator should show respect for and not demean, embarrass, or harass students ~~absent some reasonable educational or disciplinary purpose and never as prohibited by law.~~

An educator should not participate in and should discourage bullying based on such characteristics as race, national origin, color, gender, sexual orientation or identity, age, disability, or religion. "Bullying" means the intentional harassment, intimidation, humiliation,

ridicule, defamation, or threat or incitement of violence against a student by a written, verbal, electronic, or physical act that may address an attribute, **as defined in A.C.A. § 6-18-514**, of the student and that causes or creates actual or reasonably foreseeable: (a) physical harm to a student or damage to the student's property; (b) substantial interference with a student's education; or (c) a hostile educational environment for one (1) or more students due to the severity, persistence, or pervasiveness of the act.

Educators should maintain professional relationships with students while using social-networking technology tools.

A professional relationship is one where the educator maintains a position of educator/student authority with students even while expressing concern, empathy, and encouragement for students. In that position of authority, an educator may nurture the student's intellectual, physical, emotional, social and civic potential. An educator may display concern and compassion for a student's personal problems and, when appropriate, refer the student for school counseling or other help.

**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.**

Guidance: This standard addresses the professional educator's obligation to implement best practices and maintain competence in skills and knowledge. An educator has many dispositions that are required in the course of instruction ~~such as ensuring that students have access to varying points of view and that instruction reflects current subject matter.~~ Educators have a responsibility to exercise professionalism and competence when dealing with members of the school community. Members of the school community include, but are not limited to, administrators, teachers, staff, parents, guardians, school board members, residents of the school district's community.

**Standard 3 An educator honestly fulfills reporting obligations associated with professional practices.**

Guidance: This standard covers those situations where there is an intentional or knowing attempt to deceive or mislead an educational entity. Honest errors or mistakes or inaccuracies are not intended to be encompassed by this standard. To uphold this standard an educator should be honest when reporting data and information to the ~~Arkansas Department of Education~~ ADE, the ~~Arkansas Bureau of~~ Arkansas Bureau of Legislative Audit, the Arkansas State Board of Education, and other state and federal governmental agencies. Honestly reporting grades is also a part of this standard. It is also important that an educator honor this standard when giving information to recommend an individual for employment, promotion, or licensure as well as when reporting professional qualifications, criminal history, college credits and degrees, awards, and employment history. Similarly the failure to timely submit information covers those situations where there is a knowing failure to submit or provide information.

The State Board of Education may take direct action to revoke, suspend, or place on probation an educator whose conduct violates Ark. Code Ann. § 6-17-410(d)(1)(A)(vii) and (viii) without submission of an ethics complaint. It is important to note that noncompliance with mandated child abuse reporting laws also falls ~~with~~ within this standard.

**Standard 4 An educator entrusted with public funds and property, including school sponsored activity funds, honors that trust with honest, responsible stewardship.**

Guidance: An educator must be a good steward of public funds, personnel and property dedicated to school related purposes. The use and accounting for these resources under the educator's control must comply with state and federal laws that regulate the use of public funds and property. The use of such resources for personal gain, other than incidental personal benefit for which there is no public education purpose would not be in keeping with the intent of this standard.

**Standard 5 An educator maintains integrity regarding acceptance of any gratuity, gifts, compensation or favor that might impair or appear to influence professional decision or actions and shall refrain from using the educator's position for personal gain.**

Guidance: The standard is intended to prohibit that conduct which is solely for personal gain and creates an appearance of a conflict of interest in the role as an educator. The standard of conduct called for by this section involves an examination of the total circumstances surrounding the gratuity, gift, compensation, or favor. Factors to consider include the value of the gratuity, gift or favor, the reasonableness of any compensation; the timing of the gratuity, gift, compensation, or favor; and the relationship between the educator and the person from whom the gratuity, gift, compensation, or favor comes. Pursuant to Ark. Code Ann. § 6-24-113 an educator may accept awards and grants as provided for therein. Ark. Code Ann. § 6-24-112 contains some specific prohibited transactions involving gratuities or offers of employment. The second part of this standard requires that the educator does not use the position for personal gain.

**Standard 6 An educator keeps in confidence secure standardized test materials and results and maintains integrity regarding test administration procedures.**

Guidance: When standardized tests are administered, educators should maintain the confidentiality of those parts of the standardized test materials that are to remain confidential such as actual test items and test booklets in accordance with state law, regulation, and testing policy. ~~Supervisors may be entitled to access to other educators' personnel records and should maintain the confidentiality of those records.~~ This standard applies to all educators, whether licensed or non-licensed. Licensed educators should be reminded that this standard is in addition to conduct prohibited under Ark. Code Ann. §§ 6-15-438, 6-17-410(d)(1)(A)(iii) by law and the Arkansas Department of Education Rules Governing Testing Improprieties. The

State Board may take direct action to revoke, suspend, or place on probation, the license of an educator whose conduct violates this ~~section~~ standard without the filing of an ethics complaint.

**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 regulations, 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 law or regulations.**

Guidance: At times educators are entitled to and/or for professional reasons need access to certain student records, as well as other educators’ records. Much of this information is confidential and the educator should maintain that confidence unless the disclosure serves some legitimate educational purpose as allowed or required by law. The Federal Education Rights and Privacy Act (FERPA) addresses the confidentiality of certain student records. Such federal and state laws permit disclosure of some student information and restrict the disclosure of other student information. Educators should respect and comply with these and other similar confidentiality laws. Confidential student information may include student academic and disciplinary records, health and medical information, family status and/or income, assessment/testing results, and Social Security information. ~~Similarly, educators should not disclose confidential information about colleagues unless the disclosure serves some legitimate professional purpose as allowed or required by law.~~ Educators shall not knowingly or maliciously disclose confidential information about a student or colleague.

**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 alcohol or unauthorized drugs/substances, and/or possessing items prohibited by law, or**
- b) **possessing or using tobacco or tobacco-related products, e-cigarettes, e-liquid, or vapor products, or**
- c) **abusing/misusing prescription medications or other authorized substances as evidenced by impairment while on school premises or at school-sponsored activities involving students.**

Guidance: This standard sets forth the expectation of the professional educator concerning using, possessing, or being under the influence of the listed substances while on school premises or at school-sponsored activities involving students or being in violation of state law governing the using, possessing or being under the influence of alcohol, tobacco, or unauthorized/illegal drugs/substances while on school property or at school-sponsored activities involving students.



**SANCTION GUIDELINES FOR ETHICAL VIOLATIONS (approved by PLSB 6-5-2017)**

<b><u>(Private)</u></b>	<b><u>Level 1 Public Notification</u></b>	<b><u>Level 2 Public Notification</u></b>	<b><u>Level 3 Public Notification:</u></b>	<b><u>Level 4 Public Notification</u></b>
<b><u>Letter of Caution</u></b>	<b><u>Licensure Action: Written Reprimand</u></b>	<b><u>Licensure Action: Probation</u></b>	<b><u>Licensure Action: Suspension or Temporary Nonrenewal</u></b>	<b><u>Licensure Action: Revocation or Permanent Nonrenewal</u></b>
<p><u>To privately inform that the conduct is broadly speaking a violation but the circumstances and mitigating factors do not warrant disciplinary action; No Fine</u></p>	<p><u>To publicly admonish and caution that further unethical conduct will lead to a more severe action; Fine imposed up to \$100</u></p>	<p><u>To publicly admonish and place conditions or requirements on the educator and/or status of a license for a specified period of time; Fine imposed up to \$250</u></p>	<p><u>To publicly admonish and place conditions or requirements on the educator; to notify the public that during the specified period the educator is not recommended for licensure or employment or volunteering in an education setting; and to temporarily invalidate an educator's license for a specified period of time; Fine imposed up to \$500</u></p>	<p><u>To notify the public that the educator is not recommended for employment or volunteering in an educational setting, is not eligible for future licensure, and to permanently invalidate an educator's license; Fine imposed up to \$500</u></p>
<b><u>Weighting factors (one or more present):</u></b>	<b><u>Weighting factors (one or more present):</u></b>	<b><u>Weighting factors (one or more present):</u></b>	<b><u>Weighting factors (one or more present):</u></b>	<b><u>Weighting factors (one or more present):</u></b>
<ul style="list-style-type: none"> <li>a. <u>Only one incident</u></li> <li>b. <u>Actions are viewed as unethical, but do not warrant disciplinary action</u></li> <li>c. <u>Negligent or reckless act or omission, but very low in severity</u></li> <li>d. <u>No detrimental impact on students</u></li> <li>e. <u>No prior history of similar behavior</u></li> </ul>	<ul style="list-style-type: none"> <li>a. <u>Only one violation</u></li> <li>b. <u>Actions are viewed as unethical, and if continued could have a detrimental impact on students</u></li> <li>c. <u>No prior history of similar behavior</u></li> <li>d. <u>Some low level negative impact on student</u></li> <li>e. <u>Low level of damage to, loss of or misuse of school district property or funds</u></li> <li>f. <u>Reasonably should have known that actions violated the Code of Ethics</u></li> </ul>	<ul style="list-style-type: none"> <li>a. <u>One or more violations</u></li> <li>b. <u>Evidence of some prior history of similar behavior</u></li> <li>c. <u>Some low to moderate level negative impact on student</u></li> <li>d. <u>Moderate level of damage to, loss of, or misuse of school district property or funds</u></li> <li>e. <u>Knew that actions violated the Code of Ethics</u></li> </ul>	<ul style="list-style-type: none"> <li>a. <u>Multiple violations</u></li> <li>b. <u>Violations that occur over a period of years</u></li> <li>c. <u>Moderate to high level of negative impact on student</u></li> <li>d. <u>Moderate to high level of damage to, loss of, or misuse of school district property or funds</u></li> <li>e. <u>Willful or intentional violation of the Code of Ethics</u></li> </ul>	<ul style="list-style-type: none"> <li>a. <u>Multiple violations</u></li> <li>b. <u>Violations that occur over a period of years</u></li> <li>c. <u>Moderate to high level of negative impact on student</u></li> <li>d. <u>High level of damage to, loss of, or misuse of school district property or funds</u></li> <li>e. <u>Willful or intentional violation of the Code of Ethics</u></li> <li>f. <u>Act of child maltreatment</u></li> <li>g. <u>Criminal offense involving a student</u></li> </ul>

### Code of Ethics for Arkansas Educators Allegation of Violation Form

Allegation made against:

Name of Licensed Educator \_\_\_\_\_ Date of Incident \_\_\_\_\_

Educator's Address \_\_\_\_\_

Educator's Phone (w) \_\_\_\_\_ (c) \_\_\_\_\_ (h) \_\_\_\_\_ Email \_\_\_\_\_

Educator's Work/School \_\_\_\_\_ Phone \_\_\_\_\_

School Address \_\_\_\_\_ City \_\_\_\_\_ Zip \_\_\_\_\_

Name of School District \_\_\_\_\_ Phone \_\_\_\_\_

District Office Address \_\_\_\_\_ City \_\_\_\_\_ Zip \_\_\_\_\_

\* If this is a Standard 1 Allegation and you are a mandated reporter who believes suspected child maltreatment has occurred pursuant to A.C.A. § 12-12-501 et. seq, did you report it to the Arkansas State Police Child Abuse Hotline? Yes \_\_\_\_\_ No \_\_\_\_\_

*(See the attached instruction page for a listing of the each of the Standards of Conduct.)*

Brief Statement Describing the Alleged Conduct: *(Please be as specific as possible; attach additional pages as needed.)*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

List the name of any other person, agency, or authority to whom the alleged conduct has been reported:

\_\_\_\_\_  
\_\_\_\_\_

List the names and contact information of any witnesses and list and **attach** any documents, photographs or other evidence you have to support your allegation(s)

\_\_\_\_\_  
\_\_\_\_\_

Allegation is being made by (check appropriate box)  Educator  Administrator  Parent  Other: \_\_\_\_\_

Complainant's Name \_\_\_\_\_ E-mail: \_\_\_\_\_

Address \_\_\_\_\_ Daytime Phone \_\_\_\_\_

City, State, Zip \_\_\_\_\_ Other Phone/Cell \_\_\_\_\_

**BY SIGNING BELOW, I SWEAR OR AFFIRM THAT THE FOREGOING STATEMENTS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF UNDER PENALTY OF PERJURY.**

Complainant's Signature: \_\_\_\_\_ Date \_\_\_\_\_

Send to: Dr. Karen Cushman Walters, Assistant Commissioner for HR/Licensure  
Arkansas Department of Education  
Four Capitol Mall, Room 102  
Little Rock, AR 72201

Allegation Validated by: _____ Date: _____ (FOR DEPARTMENT OF EDUCATION/PLSB USE ONLY)
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## **DIRECTIONS FOR COMPLETING ALLEGATION FORM**

***This form should be used to submit an allegation of a violation of the Code of Ethics against a currently licensed Arkansas educator or administrator.***

**Name of Educator:** Means the name of the person whose conduct is alleged to have violated the Code of Ethics.

**Date of Incident:** Be specific if a date specific is known. If there is a date range/school year/event, list that date range.

**Standard 1:** An educator maintains a professional relationship with each student, both in and outside the classroom.

**Standard 2:** An educator maintains competence regarding skills, knowledge, and dispositions relating to his or her professional practice inclusive of skills, knowledge, disposition, and responsibilities relating to his or her organizational position.

**Standard 3:** An educator honestly fulfills reporting obligations associated with professional practices.

**Standard 4:** An educator entrusted with public funds and property, including school sponsored activity funds, honors that trust with honest, responsible stewardship.

**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.

**Standard 6:** An educator keeps in confidence secure standardized test materials and results and maintains integrity regarding test administration procedures.

**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 regulations, 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 law or regulations.

**Standard 8:** An educator refrains from using, possessing and/or being under the influence of alcohol or unauthorized drugs or substances and/or possessing items prohibited by law, or possessing or using tobacco or tobacco related products while on school premises or at school sponsored activities involving students.

**Brief Statement Describing the Alleged Conduct:** Please write a short factual description of the events or conduct that you believe violates the Code of Ethics. Be specific with regard to the names of person involved, the names of the students, and the names of any witnesses. Please use dates, even if approximate, wherever appropriate.

**Reporting to Other Persons, Agencies, or Authorities:** Please identify any other reporting or other steps to resolve the issue that you have undertaken concerning the alleged conduct and the outcome of the reporting.

**Witnesses, Documents, and Photographs:** List the name and contact information for any person you believe may have additional information regarding the unethical conduct. Please **submit copies** of the documents and/or copies of the photographs with your form and list them.

**Complainant's Name:** Means the name of the person who is making the allegation. If it is on behalf of a school district, it means the district's contact for this complaint such as the superintendent, or the superintendent's designee.

**Perjury:** Act 1045 of 2011 requires that complainants sign the allegation form under penalty of perjury. Signing under penalty of perjury means that you believe that the facts and circumstances alleged are true, it does not mean that the information will ultimately be proven to be true.