

**RULES
OF
THE STATE BOARD OF EDUCATION**

**CHAPTER 0520-02-03
EDUCATOR LICENSURE**

0520-02-03-.09 DENIAL, FORMAL REPRIMAND, SUSPENSION AND REVOCATION.

(1) Definitions and Examples:

- (a) Conviction – Means a judgment entered by a court upon a plea of guilty, a plea of nolo contendere, a finding of guilt by a jury or the court notwithstanding any pending appeal or habeas corpus proceeding arising from the judgment. Conviction includes, but is not limited to, a conviction by a federal court or military tribunal, including a court-martial conducted by the armed forces of the United States, and a conviction, whether upon a plea of guilty, a plea of nolo contendere, or a finding of guilt by a jury or the court, in any other state of the United States, other jurisdiction, or other country. Conviction also includes a plea taken in conjunction with Tennessee Code Annotated (T.C.A.) § 40-35-313 or its equivalent in any other jurisdiction.
- (b) Formal Reprimand – A less harsh licensing action than the suspension, revocation, or denial of a license, which admonishes an educator for certain conduct under this rule. An educator who has been reprimanded by the Board shall receive a letter from the State Board of Education, which shall become part of the educator's state and local record, indicating that the inappropriate conduct is discouraged and shall be subject to further disciplinary action if repeated.
- (c) Inappropriate Communication (Explicit) – Any communication between an educator and a student that describes, represents, or alludes to sexual activity or any other illicit activity. This shall not be construed to prevent an educator from communication regarding sexual or illicit activities for educational purposes such as in teaching family- life curriculum pursuant to T.C.A. §§ 49-6-1307 et seq. or drug abuse resistance education pursuant to T.C.A. § 49-1-402.
- (d) Inappropriate Communication (Non-Explicit) – Any communication between an educator and a student that is beyond the scope of the educator's professional responsibilities. Examples of such non-explicit inappropriate communications include, but are not limited to, those communications that discuss the educator's or student's past or current romantic relationships; those that include the use of profanities or obscene language; those that are harassing, intimidating, or bullying; those that attempt to establish an inappropriate personal relationship with a student; and those that are related to personal or confidential information regarding another school staff member or student.
- (e) Inappropriate Physical Contact – Unlawful, unnecessary, and/or unjustified physical contact with a student. Examples of such unnecessary and unjustified contact include, but are not limited to, sexual contact, physical altercations, horseplay, tickling, improper use of corporal punishment, and rough housing.
- (f) Inappropriate Physical Contact With Harm – Inappropriate physical contact as described in subparagraph (e) above that results in physical or mental harm or the potential of physical or mental harm to a student.
- (g) Major Testing Breach – A breach of test security that results in nullification of test scores, as determined by the Department of Education.

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- (h) Minor Testing Breach – A breach of test security that does not result in nullification of any test scores, as determined by the Department of Education.
 - (i) Negligence – Failure to exercise the care toward others that a reasonable or prudent person would exercise under the circumstances or taking action that a reasonable person would not.
 - (j) Official School Business – Any activity undertaken by an educator in an official capacity and in connection with the educator’s employment. Examples include, but are not limited to, conferences, professional development, trainings, and seminars.
 - (k) Other Good Cause – Conduct that calls into question the fitness of an educator to hold a license including, but not limited to, noncompliance with security guidelines for Tennessee Comprehensive Assessment Program (TCAP) or successor tests pursuant to T.C.A. § 49-1-607, failure to report as required under paragraph (2), or violation of any provision in the Teacher Code of Ethics as contained in T.C.A. §§ 49- 5-1001, *et seq.*
 - (l) Permanent Revocation – The nullification of an educator’s license without eligibility for future reinstatement. Permanent revocation shall also include the voluntary permanent surrender of an educator’s license without eligibility for future reinstatement.
 - (m) School Premises – Any real property and/or land owned, leased, managed, controlled, or under the custody of a state or local education agency, school system, or school.
 - (n) School Property – Any property owned, leased, managed, controlled, or under the custody of a state or local education agency, school system, or school.
 - (o) School Related Activity – Any activity in which a student participates, including but not limited to classes, meetings, extracurricular activities, clubs, athletics, and field trips, sponsored by the school, state educational agency, or local educational agency.
 - (p) Suspension – With regard to licensure action by the Board, suspension means the nullification of an educator’s license for a predetermined term, after which the license is reinstated. Reinstatement may be subject to the completion of terms and conditions contained in the order of suspension. With regard to employment action taken by a school or LEA, suspension means the temporary removal of an educator from their regular duties with or without pay. Suspension includes the placement of an educator on administrative leave pending investigation into allegations of misconduct,
 - (q) Revocation– The nullification of an educator’s license for a period of at least five (5) years, after which an educator may petition the State Board for reinstatement. Revocation shall also include the voluntary surrender of an educator’s license for a period of at least five (5) years, after which an educator may petition the State Board for reinstatement.
- (2) Notification to the Tennessee Department of Education (“TDOE”) Office of Educator Licensing and Preparation (“OELP”) – It is the responsibility of the Director of Schools of the employing public or non-public school or school system or Director of a public charter school to inform the TDOE OELP of licensed educators who have been suspended or dismissed, or who have resigned, following allegations of conduct, including sexual misconduct, which, if substantiated, would warrant consideration for license suspension, revocation, or formal reprimand under paragraphs (3), (4), or (5). The report shall be submitted within thirty (30) days of the suspension, dismissal, or resignation. The Director of Schools shall also report felony convictions and convictions for any offense listed in T.C.A. § 39-13-532, § 39-17-417, and § 40-35-501(i)(2) of licensed educators within thirty (30) days of receiving knowledge of the conviction. School systems have a duty to respond to State

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Board inquiries and provide to the State Board, except when prohibited by law, any available documentation requested concerning the allegations contained in the notice.

(3) The State Board of Education may revoke, suspend, formally reprimand, or refuse to issue or renew an educator's license for any of the following reasons:

- (a) Conviction of a felony;
- (b) Conviction of possession of illegal drugs;
- (c) Being on school premises, school property, at a school-related activity involving students, or on official school business, while possessing, consuming, or under the influence of alcohol or illegal drugs;
- (d) Falsification or altering of a license or documentation required for licensure;
- (e) Inappropriate physical contact with a student;
- (f) Denial, suspension, or revocation of a license or certificate in another jurisdiction for reasons which would justify denial, suspension, or revocation under this rule;
- (g) Other good cause as defined in subparagraph (1)(k) of this rule; or
- (h) Any offense contained in paragraphs (4) and/or (5) of this rule.

(4) Automatic Revocation and Suspension

(a) Automatic Revocation of License – The State Board of Education shall automatically revoke or permanently revoke, without the right to a hearing, the license of an educator for the following:

1. Upon receiving verification of the identity of the licensed educator together with a certified copy of a criminal record showing that the licensed educator has been convicted of any the following offenses listed at T.C.A. § 39-13-532, § 39-17-417, § 40-35-501(i)(2), or any offense listed at T.C.A. § 49-5-413(d)(3) (including conviction for the same or similar offense in any jurisdiction).
2. Upon receiving verification of the identity of the licensed educator together with a report from the Department of Children's Services (DCS) stating that DCS has found the educator to have been a perpetrator of child abuse, severe child abuse, child sexual abuse, or child neglect as stated in T.C.A. § 49-5-413(e).
3. The Board shall notify persons whose licenses are subject to automatic revocation at least thirty (30) days prior to the board meeting at which such revocation shall occur.

(b) Automatic Suspension of License – The State Board of Education shall automatically suspend, without the right to a hearing, the license of an educator upon receiving notice from the responsible state agency of the identity of the licensed educator together with notification that the educator has committed any of the following offenses:

1. Default on a student loan pursuant to T.C.A. § 49-5-108(d)(2), provided, however, pursuant to T.C.A. § 49-5-108(d)(2)(B), the State Board of Education may elect not to suspend, deny, or revoke the license or certificate of a teacher if the default or

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delinquency is the result of a medical hardship that prevented the person from working in the person's licensed field and the medical hardship significantly contributed to the default or delinquency; or

2. Failure to comply with an order of support for alimony or child support, pursuant to T.C.A. § 36-5-706.
3. The Board shall notify persons whose licenses are subject to automatic suspension at least thirty (30) days prior to the board meeting at which such suspension shall occur.

(5) Disciplinary Actions

(a) For the following categories of offenses, the State Board of Education shall impose uniform disciplinary action upon its findings as detailed below:

1. Conviction of a felony
 - (i) Upon receiving notification that an individual has been convicted of a felony, the board may revoke or permanently revoke the convicted individual's educator license.
2. Use, possession, or under the influence of alcohol or illegal substances
 - (i) An individual holding an educator's license who is found to be in possession of, consuming, or under the influence of alcohol, or illegal substances while on school premises or property when children are present shall be subject to a disciplinary action within the range of suspension for not less than one (1) year up to and including revocation.
 - (ii) An individual holding an educator's license who is found to be in possession of, consuming, or under the influence of alcohol, or illegal substances while on school premises or property without children present shall be subject to a disciplinary action within the range of suspension for not less than one (1) year up to and including revocation.
 - (iii) An individual holding an educator's license who is found to be in possession of, consuming, or under the influence of alcohol or illegal substances while not on school premises or property, but while participating in school related activities with children present, shall be subject to a disciplinary action within the range of suspension for not less than one (1) year up to and including revocation.
 - (iv) An individual holding an educator's license who is found to be in possession of, consuming, or under the influence of alcohol or illegal substances while not on school premises or property, but participating in school related activities without children present, shall be subject to a disciplinary action within the range of suspension for not less than six (6) months up to and including a two (2) year suspension.
3. Negligence in the commission of duties as an educator

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- (i) An individual holding an educator's license who is found to be negligent in his or her commission of duties as an educator in such a manner that does not result in harm to a child shall be subject to a disciplinary action within the range of a letter of formal reprimand up to and including a two (2) year suspension.
 - (ii) An individual holding an educator's license who is found to be negligent in their commission of duties as an educator in such a manner that results in harm to a child, shall be subject to a disciplinary action within the range of suspension for no less than one (1) year up to and including permanent revocation.
4. Testing breaches
- (i) An individual holding an educator's license who is found to have committed a minor testing breach shall be subject to a disciplinary action within the range of a letter of formal reprimand up to and including a suspension not to exceed one (1) year.
 - (ii) An individual holding an educator's license who is found to have committed a major testing breach shall be subject to a disciplinary action within the range of a suspension of no less than one (1) year up to and including revocation.
5. Unprofessionalism
- (i) An individual holding an educator's license who is found to have engaged in non-explicit inappropriate communication with a student shall be subject to a disciplinary action within the range of a suspension for no less than three (3) months up to and including revocation.
 - (ii) An individual holding an educator's license who is found to have engaged in inappropriate communication of an explicit nature with a student shall be subject to permanent revocation.
 - (iii) An individual holding an educator's license who is found to have inappropriately used school property shall be subject to a disciplinary action within the range of a suspension for no less than three (3) months up to and including revocation.
6. Inappropriate Physical Contact
- (i) An individual holding an educator's license who is found to have engaged in inappropriate physical contact with a student that does not result in harm or potential harm to the student shall be subject to a disciplinary action within the range of a formal reprimand up to and including suspension for two (2) years.
 - (ii) An individual holding an educator's license who is found to have engaged in inappropriate physical contact with a student that results in harm or potential harm to the student shall be subject to a disciplinary action within the range of a suspension for not less than two (2) years up to and including permanent revocation.

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7. Falsification of Licensure Documentation – An individual holding an educator's license who is found to have falsified licensure documentation shall be subject to a disciplinary action within the range of revocation or permanent revocation.
 8. Violation of the Teacher Code of Ethics – An individual holding an educator's license who is found to have violated the teacher code of ethics contained in T.C.A. Title 49, Chapter 5, Part 10 shall be subject to a disciplinary action within the range of a suspension for no less than one (1) year up to and including revocation.
- (b) Similar offenses – Actions related or similar to the above-enumerated offenses shall carry recommended disciplinary action commensurate with the range established for the similar offense.
 - (c) Nothing in this part shall prevent an educator from exercising his or her lawful authority to use reasonable force when necessary under the circumstances to correct or restrain a student or prevent bodily harm or death to another person pursuant to T.C.A. § 49-6- 4107.
 - (d) Repeated violations – Individuals holding an educator's license who are subject to multiple disciplinary actions by the Board shall face disciplinary action in excess of the recommended ranges. A third violation, regardless of severity, shall be subject to a recommendation of revocation.
 - (e) Nothing in this rule shall prohibit the State Board from imposing a disciplinary action outside of the uniform discipline range upon good cause shown in extraordinary circumstances.
- (6) Reinstatement or Restoration of a License
- (a) Reinstatement
 1. An individual whose license has been suspended under paragraphs (3), (4), or (5) of this rule may have his or her educator's license reinstated after the period of suspension has been completed, and, where applicable, the person has presented proof of compliance with all terms prescribed by the State Board. Suspended licenses are subject to the expiration and renewal rules of the State Board.
 - (b) Restoration
 1. An individual whose license has been revoked under paragraphs (3), (4), or (5) of this rule may apply to the State Board to have the license restored upon application showing that the cause for revocation no longer exists and that the person has complied with any terms imposed in the order of revocation. To show the cause no longer exists, the individual shall show why the license should be restored despite the misconduct that resulted in the individual's license being revoked. The individual shall provide evidence of rehabilitation and fitness to perform the duties authorized and required by the license sought. In the case of a felony conviction, before an application shall be considered, the person shall also show that any sentence imposed, including any pre-trial diversion or probationary period, has been completed. Application for such restoration shall be made to State Board counsel.
 2. An individual whose license has been revoked under paragraphs (3), (4), or (5) of this rule shall not be eligible to reapply for licensure for a period of no less than five (5) years from the time at which the license was initially revoked. A person

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whose license has been permanently revoked shall not be eligible to reapply for licensure.

3. In any deliberation by the Board of Education to restore a license that has been revoked, there shall be a rebuttable presumption that an individual whose license has been revoked is unfit for licensure. Nothing in this section is intended to guarantee restoration of a license.
4. Restoration of an educator license is considered on a case-by-case basis. The burden of proof rests with the individual applying for restoration of the license. In the case of a felony conviction, the individual shall also show that any sentence imposed, including any pre-trial diversion or probationary period, has been completed. An application for restoration may be denied if an action against the individual's license is pending in another state.

(7) Denial of a License

- (a) An individual who has been denied an educator license may reapply for a license at any point after denial provided the individual has complied with any terms imposed in the order of denial. If the individual indicates an affirmative answer on the personal affirmation section of the application for a Tennessee educator license, the individual shall show why the license should be issued despite the individual's affirmative answers. In the case of a felony conviction, the individual shall also show that any sentence imposed, including any pre-trial diversion or probationary period has been completed. An application for issuance of a license may be denied if an action against the individual's license is pending in another state.
- (b) Presumptive Denial – There shall be a rebuttable presumption that any individual applying for an educator's license who has committed an offense that would subject him or her to revocation or suspension shall be presumed ineligible to receive a Tennessee educator's license.

(8) Scope of Disciplinary Action – An individual whose license has been denied, suspended, or revoked may not serve as a volunteer or be employed, directly or indirectly, as an educator, paraprofessional, aide, substitute teacher, or in any other position during the period of the denial, suspension, or revocation.

(9) Prior to proposing denial, formal reprimand, suspension or revocation of an individual's educator license under paragraphs (3), (5), or (6) of this rule, Board counsel shall notify the individual via certified return receipt mail that, pursuant to T.C.A. § 4-5-320(c), he or she may submit to Board counsel a personal statement and any other mitigating information that he or she would like the case review committee to consider in making its recommendation to the State Board. Educators shall have fifteen (15) days from the date of receipt of the notice to provide any information. This information shall be provided to the case review committee and Board members for their consideration when voting on a proposed licensure action.

(10) Board counsel shall present an initial recommendation for licensure action or non-action to a case review committee consisting of Board staff who shall review the entire file to determine whether disciplinary action should be pursued against an individual's license, or whether to issue, renew, restore, or reinstate an individual's license. The case review committee may also determine that additional investigation is necessary before a recommendation can be made.

(11) Notice of Hearing – If the case review committee recommends that the Board formally reprimand, suspend, revoke or deny an individual's license under paragraphs (3) or (5) of this rule, Board

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counsel shall send written notice to the individual regarding the proposed licensure action and that they are entitled to request that a hearing be conducted as a contested case under the Uniform Administrative Procedures Act, T.C.A. §§ 4-5-301, *et seq.* Should the individual fail to request a hearing within the specified time period, a contested case proceeding shall be instituted against him or her, of which the educator shall receive separate notice directing him or her to appear at a specified time and place for a hearing to be held before an Administrative Law Judge (“ALJ”) pursuant to the Uniform Administrative Procedures Act (“UAPA”), T.C.A. §§ 4-5-301, *et seq.* Should the individual fail to appear, a default judgment may be taken against his or her license. The Board or the educator may appeal the Initial Order of the ALJ to the Board or to Chancery Court in Davidson County, Tennessee, pursuant to the UAPA, or seek reconsideration from the ALJ. In lieu of a hearing, the educator may consent to the proposed licensure action

- (12) If the individual consents to the proposed licensure action, Board counsel shall present the consent order to the Board for approval. The Board is not bound by the recommendation contained in the consent order. The Board may vote to approve the consent order, to impose less harsh disciplinary action, or to pull the item from the agenda for reconsideration of a harsher disciplinary action. If a harsher disciplinary action is recommended by the Board, Board counsel shall send a new notice to the individual regarding their right to request a hearing pursuant to paragraph eleven (11) of this rule.
- (13) Discipline Schedule – The following chart outlines the least and greatest disciplinary ranges for the offenses listed as indicated by the shaded squares.

	Letter of Formal Reprimand	Suspension of 3 months up to and including 6 months	Suspension of 6 months up to and including 1 year	Suspension of 1 year up to and including 18 months	Suspension of 18 months up to and including 2 years	Suspension of 2 years up to and including revocation	Revocation	Permanent Revocation
Minor Testing Breach								
Failure to Report								
Negligence w/o Harm or Potential Harm								
Inappropriate Physical Contact w/o Harm								
Unprofessionalism – Inappropriate Communication (Non-Explicit)								
Unprofessionalism – Inappropriate Use of School Property								
Possession/Use/Under Influence – Off School Premises/Property w/o Children Present During School Related Activity								
Possession/Use/Under Influence – Off School Premises/Property w/ Children								

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	Letter of Formal Reprimand	Suspension of 3 months up to and including 6 months	Suspension of 6 months up to and including 1 year	Suspension of 1 year up to and including 18 months	Suspension of 18 months up to and including 2 years	Suspension of 2 years up to and including revocation	Revocation	Permanent Revocation
Possession/Use/Under Influence- - On School Premises/Property w/o Children								
Possession/Use/Under Influence – On School Premises/Property w/ Children								
Major Testing Breach								
Violation of Teacher Code of Ethics								
Negligence w/ Harm or Potential Harm to a Student								
Inappropriate Physical Contact with Harm								
Felony Conviction								
Falsification of Licensure Documentation								
Unprofessionalism – Inappropriate Communication (Explicit)								

Authority: T.C.A. §§ 4-5-320, 49-1-302, 49-1-607, 49-5-108, 49-5-413, and 49-5-417. **Administrative History:** Repeal and new rules filed December 18, 2014; effective March 18, 2015. A stay of the rules was filed January 28, 2015; new effective date June 1, 2015. Amendment filed May 29, 2015; effective August 27, 2015. Emergency rules filed August 27, 2015; effective through February 23, 2016. Repeal and new rules filed October 27, 2015; effective January 25, 2016. Emergency rule filed September 5, 2017; effective through March 4, 2018. Amendments filed December 5, 2017; effective March 5, 2018.