Licenses: Denial, Formal Reprimand, Suspension, or Revocation

The Background:

The State Board of Education recently revised its Denial, Formal Reprimand, Suspension, or Revocation Rule. All cases reviewed are acted upon according to the Rule that was in place when the misconduct occurred. Information regarding the State Board's authority to take licensure actions under each version of the rule follows the recommendations.

The Recommendations:

Board action is required. State Board staff recommends approval of the recommended actions noted below.

- A. Jaime Byram Revocation, Automatic
- B. Christopher Comer Voluntary Surrender**
- C. Erin Laming Suspension, 1 year
- D. Bragg Lampkin Revocation, Automatic, Permanent
- E. Larry Nidiffer Suspension, 6 months
- F. Charles Patterson Suspension, 2 years
- G. Michael Pesce Voluntary Surrender**
- H. Richard Pitcock Revocation, Automatic*
- I. Alice Polonsky Suspension, 3 months
- J. Zheng Tu Voluntary Surrender*
- K. Brad Weir Revocation, Automatic, Permanent

*Items H and J are subject to the Board Rule filed on January 25, 2016, and expired on September 4, 2017.

**Item B and G is subject to the Emergency Board Rule filed on September 5, 2017, and expired on March 4, 2018.

The following information pertains to cases reviewed based on the previous version of the rule in effect from January 25, 2016 through September 4, 2017.

Pursuant to State Board of Education Rule 0520-02-03.09(2), the State Board of Education may revoke, suspend, reprimand formally, or refuse to issue or renew a license for the following reasons:

(a) Conviction of a felony;

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(f) Other good cause. Other good cause shall be construed to include noncompliance with security guidelines for Tennessee Comprehensive Assessment Program (TCAP) or successor tests pursuant to T.C.A. §49-1-607, default on a student loan pursuant to T.C.A. §49-5-108(d)(2) or failure to report under part (e).

A person 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.

The following information pertains to cases reviewed based on the emergency version of the rule filed on September 5, 2017 and expired on March 4, 2018.

Part (1) Definitions -

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(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 licensure actions under parts (3) or (4), or violation of any provision of the Teacher Code of Ethics as contained in T.C.A. § 49-5-1003.

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

(a) Conviction of a felony;

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(g) Other good cause as defined in section (1)(k) of this rule; or

(h) Any offense contained in parts (4) and/or (5) of this rule.

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Part (4) Automatic Revocation and Suspension –

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

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 offense listed at T.C.A. §§40-35-501(i)(2), 39-17-417, a sexual offense or a violent sexual offense as defined in 40-39-202, any offense in title 39, chapter 13, 39-14-301 and 39-14-302, 39-14-401 and 39-14-404, 39-15-401 and 39-15-402, 39-17-1320, or any other offense in title 39, chapter 17, part 13 (including conviction for the same or similar

offense in any jurisdiction). The Board will 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.

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Part (5) Disciplinary Actions

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

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- 5. Unprofessionalism
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- An individual holding an educator's license who is found to have engaged in nonexplicit 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.
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 - 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 shall be subject to a disciplinary action within the range of suspension within the range of a suspension for no less than one (1) year up to and including revocation.

	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								
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 - Off School Premises/Property w/o Children Present During School Related Activity				
Possession/Use - Off School Premises/Property w/ Children				
Possession/Use - On School Premises/Property w/o Children				
Possession/Use - 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 Disciplinary Measures				
Inappropriate Physical Contact with Harm				
Felony Conviction				
Falsification of Licensure Documentation				
Unprofessionalism - Inappropriate Communication (Explicit)				

The following information pertains to cases reviewed based on the version of the rule filed on March 5, 2018.

Part (1) Definitions -

(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 §40-35-313 or its equivalent in any other jurisdiction.

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(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 licensure actions under parts (3) or (4), or violation of any provision of the Teacher Code of Ethics as contained in T.C.A. § 49-5-1003.

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

(a) Conviction of a felony;

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(e) Inappropriate physical contact with a student;

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- (g) Other good cause as defined in section (1)(k) of this rule; or
- (h) Any offense contained in part (4) of this rule.

Part (4) Automatic Revocation and Suspension –

- (a) Automatic Revocation of License The State Board of Education shall automatically revoke, without the right to a hearing, the license of an educator for the following:
 - 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. § 39-17-417, a sexual offense or a violent sexual offense as defined in T.C.A. § 40-39-202, any offense in title 39, chapter 13, T.C.A. § 39-14-301 and T.C.A. § 39-14-302, T.C.A. § 39- 14-401 and T.C.A. § 39-14-404, T.C.A. § 39-15-401 and T.C.A. § 39-15-402, T.C.A. § 39-17-1320, or any other offense in title 39, chapter 17, part 13 (including conviction for the same or similar offense in any jurisdiction).

Part (5) Disciplinary Actions -

- (a) For the following categories of offenses, the State Board of Education shall impose uniform disciplinary action 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.

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- 5. Unprofessionalism
 - An individual holding an educator's license who is found to have engaged in nonexplicit 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 nonexplicit 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.
- 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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- 8. Violation of Teacher Code of Ethics An individual holding an educator license who is found to have violated the teacher code of ethics shall be subject to a disciplinary action within the range of one (1) year up to and including 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.

	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								
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 - Off						
School						
Premises/Property w/o						
Children Present During						
School Related Activity						
Possession/Use - Off						
School						
Premises/Property w/						
Children						
Possession/Use - On						
School						
Premises/Property w/o						
Children						
Possession/Use - 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						
Disciplinary Measures						
Inappropriate Physical						
Contact with Harm						
Felony Conviction						
Falsification of						
Licensure						
Documentation						
Unprofessionalism -						
Inappropriate						
Communication						
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