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**Licenses: Denial, Formal Reprimand, Suspension, or Revocation**

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**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. Cathryn Coop – Suspension, 2 Years
- B. John Demerdjian – Formal Reprimand
- C. Devin Harper – Suspension, 3 Months
- D. Jonathan Isley – Voluntary Surrender
- E. Steven Lynch – Suspension, 3 Months
- F. Colleen Molnar – Suspension, 2 Years Retroactive\*
- G. Frank Shaw – Voluntary Surrender
- H. David Weatherford – Voluntary Surrender

\*Item F is subject to the Board Rule filed on January 25, 2016, and expired on September 4, 2017.

**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:

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- (c) Being on school premises or at school-related activity involving students while documented as being under the influence of, possessing or consuming alcohol or illegal drugs;

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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 version of the rule filed on March 5, 2018.**

**Part (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 § 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 will receive a letter from the State Board of Education, which will 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 teaching staff member’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.

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(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 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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(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 – The nullification of an educator’s license for a predetermined term, after which the license is automatically reinstated. Reinstatement may be subject to the completion of terms and conditions contained in the order of suspension.

(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

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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:

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- (c) Being on school premises, at a school-related activity involving students, or on official school business, while possessing or consuming alcohol or illegal drugs;

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- (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 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:
  - 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. § 39-17-417, 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:

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- 2. Use or possession of alcohol or illegal substances
  - (i) An individual holding an educator’s license who is found to be in possession of or consuming, alcohol, or using 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 or consuming alcohol, or using 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.

3. Negligence in the commission of duties as an educator

- (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.

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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 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.

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.

