

**Kevin Dever**  
**Suspension, 3 Months Retroactive**

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**The Background:**

*Prior History:* N/A

*Facts:* On March 10, 2021, Mr. Dever disregarded notification of a student's 504 plan which addressed possible accommodations as a result of the student's autism and eating disorder. Although he should have been aware of the student's diagnoses, Mr. Dever called the student "jelly roll" and "retard." In her e-mail to administration, the student's mother included a conversation she had with Mr. Dever in September 2020 after he jokingly called the student "retard." Mr. Dever apologized for his choice of words but says that he likes to joke with students. The mother acknowledged that her son likes the teacher, enjoys the class, and mostly loves the back and forth; however, he was affected by these two instances. Warren County suspended Mr. Dever for one day and required training which he has already completed.

*Applicable Rule:* 0520-02-03-.09(1)(e) defines Inappropriate Communication (Non-explicit) as 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.

0520-02-03-.09(1)(k) defines Good Cause as conduct that calls into question the fitness of an educator to hold a license including, but not limited to, violation of any provision in the Teacher Code of Ethics as contained in T.C.A. §§ 49- 5-1001, et seq.

0520-02-03-.09(1)(p) provides that with regard to licensure action by the State 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 public or non-public school or school system, suspension means the temporary removal of an educator from his or her regular duties with or without pay. Suspension includes the placement of an educator on administrative leave pending investigation into allegations of misconduct.

0520-02-03-.09(3)(c) provides that Board may revoke, suspend, formally reprimand, or refuse to issue or renew an educator's license for 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.

0520-02-03-.09(3)(i) provides that the Board may revoke, suspend, formally reprimand, or refuse to issue or renew an educator's license for other good cause as defined in subparagraph (1)(k) of this rule.

0520-02-03-.09(3)(j) provides that the Board may revoke, suspend, formally reprimand, or refuse to issue or renew an educator's license for any offense contained in paragraphs (4) and/or (5) of this rule.

0520-02-03-.09(5)(a)(5)(i) provides that 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.

0520-02-03-.09(5)(a)(8) provides that 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 formal reprimand up to and including revocation.

T.C.A. § 49-5-1003(b)(8) provides that an educator shall make reasonable effort to protect the emotional well-being of the student.

*Status:* Respondent was notified by certified mail of the Board's intent to **suspend** his educator license based upon these findings. Respondent received said notice.

**Board Action Consistency Considerations:**

N/A

**The Recommendation:**

The Board staff recommends that the Board approve the signed Consent Order submitted by the Respondent based upon the facts and applicable rule noted above.