

Brian Whitmore
Suspension, Three (3) Months

The Background:

Prior History: N/A

Facts: On January 20, 2023, Mr. Whitmore was suspended after administration received a video of Mr. Whitmore having an inappropriate conversation with a student in class. Mr. Whitmore and a student went back and forth about their preferences in a partner and used inappropriate terminology to refer to female anatomy.

Applicable

Law/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 “Other 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) defines “Suspension” the nullification of an educator’s license for a predetermined term, after which the license may be reinstated. Reinstatement shall be subject to the completion of any terms and conditions contained in the order of suspension.

0520-02-03-.09(3)(i) provides that the State Board of Education 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(5)(a)(6)(i) provides 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)(9) 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)(7) provides an educator shall make reasonable effort to protect the student from conditions harmful to learning or to health and safety.

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

T.C.A. § 49-5-1003(b)(9) provides an educator shall not intentionally expose the student to embarrassment or disparagement.

T.C.A. § 49-5-1003(b)(15) provides an educator shall not engage in any sexually related behavior with the student, whether verbal, written, physical, or electronic, with or without the student's consent. Sexually related behavior includes, but is not limited to, behaviors such as making sexual jokes or sexual remarks; engaging in sexual kidding, sexual teasing, or sexual innuendo; pressuring the student for dates or sexual favors; engaging in inappropriate physical touching, groping, or grabbing; kissing; rape; threatening physical harm; and committing sexual assault.

T.C.A. § 49-5-1003(b)(19) provides an educator shall maintain a professional approach with the student at all times.

T.C.A. § 49-5-1004(c)(2) provides an educator shall conduct themselves in a manner that preserves the dignity and integrity of the education profession.

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

Board Action Consistency Considerations:

February 2021 – Board approved the three (3) month retroactive suspension of an educator's license for having a vulgar exchange with a student on the student's public facebook page.

The Recommendation:

Board counsel recommends the Board approve the signed Consent Order submitted by the Respondent for the three (3) month suspension of Respondent's license based upon the facts and applicable rule noted above.