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4

As Engrossed: H3/11/11 H3/15/11

A Bill

HOUSE BILL 1952

5 By: Representatives J. Roebuck, Cheatham, Tyler
6 By: Senator J. Jeffress
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE ARKANSAS CODE CONCERNING THE
10 ENFORCEMENT OF ETHICS VIOLATIONS BY ARKANSAS
11 EDUCATORS; AND FOR OTHER PURPOSES.
12
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Subtitle

15 TO AMEND THE ARKANSAS CODE CONCERNING THE
16 ENFORCEMENT OF ETHICS VIOLATIONS BY
17 ARKANSAS EDUCATORS.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code § 6-17-422(h)(3)(D) – (i), concerning the
23 powers and duties of the Professional Licensure Standards Board, are
24 repealed:

25 ~~(D)(i) The Professional Licensure Standards Board may:~~
26 ~~(a) Establish procedures for receiving,~~
27 ~~considering, and investigating complaints referred by the Department of~~
28 ~~Education, a public school district, or a public school superintendent~~
29 ~~regarding the unethical behavior of licensed school personnel;~~

30 ~~(b) Make recommendations for enforcement; and~~

31 ~~(c) Establish an ethics subcommittee of the~~
32 ~~Professional Licensure Standards Board with equal representation of public~~
33 ~~school teachers and administrators as well as one (1) member from any other~~
34 ~~category of representation on the Professional Licensure Standards Board.~~

35 ~~(ii) All rules, procedures, hearings, and appeals~~
36 ~~relating to the code of ethics required by this subsection (h) are subject to~~



1 ~~the Arkansas Administrative Procedure Act, § 25-15-201 et seq.~~

2 ~~(i)(1) Except under subdivision (i)(4) of this section, all records~~
3 ~~and all hearings, meetings, and deliberations of the Professional Licensure~~
4 ~~Standards Board relating to an ethics complaint against an administrator or~~
5 ~~teacher under this section are confidential and exempt from the Freedom of~~
6 ~~Information Act of 1967, § 25-19-101 et seq.~~

7 ~~(2) All records pertaining to an ethics complaint under this~~
8 ~~subsection (i) shall be open for inspection and copying by the person against~~
9 ~~whom the complaint is lodged.~~

10 ~~(3) The person against whom the complaint is lodged and his or~~
11 ~~her representative are entitled to be present at all hearings.~~

12 ~~(4)(A) A hearing before the State Board of Education to consider~~
13 ~~the possible revocation, suspension, or other sanction of an administrator's~~
14 ~~or a teacher's license based on a recommendation of the Professional~~
15 ~~Licensure Standards Board for enforcement of an alleged ethics violation~~
16 ~~under this section, including without limitation an informal disposition by~~
17 ~~the State Board of Education of an ethics complaint under this section by~~
18 ~~stipulation, settlement, consent order, or default, is open to the public.~~

19 ~~(B) All records on which the State Board of Education~~
20 ~~relies at a hearing under this subdivision (i)(4) to make its decision are~~
21 ~~subject to public disclosure under the Freedom of Information Act of 1967, §~~
22 ~~25-19-101 et seq.~~

23
24 SECTION 2. Arkansas Code Title 6, Chapter 17, Subchapter 4, is amended
25 to add an additional section to read as follows:

26 6-17-427. Ethical violations.

27 (a) As used in this section:

28 (1) "Code of ethics" means the code of ethics for educators
29 established by the Professional Licensure Standards Board under § 6-17-422;

30 (2) "Educator" means a person holding a valid Arkansas teacher's
31 or administrator's license issued by the State Board of Education;

32 (3)(A) "Ethical violation" means an act or omission on the part
33 of an educator when the educator knew or reasonably should have known that
34 the act or omission was in violation of the code of ethics.

35 (B) "Ethical violation" does not include:

36 (i) A reasonable mistake made in good faith; or

1 (ii) An act or omission undertaken in accordance
2 with the reasonable instructions of a supervisor; and

3 (4) "Ethics complaint" means a document that:

4 (A) States facts constituting an alleged ethical violation
5 of the code of ethics;

6 (B) Is signed under penalty of perjury by the person
7 filing the ethics complaint; and

8 (C) Is authorized for investigation by the Professional
9 Licensure Standards Board or its designated subcommittee.

10 (b)(1) The Professional Licensure Standards Board shall:

11 (A) Establish procedures for receiving, considering, and
12 investigating ethics complaints;

13 (B) Make recommendations for enforcement of the code of
14 ethics; and

15 (C) Establish an ethics subcommittee of the Professional
16 Licensure Standards Board with equal representation of public school teachers
17 and administrators as well as one (1) member from any other category of
18 representation on the Professional Licensure Standards Board.

19 (2) All rules, procedures, hearings, and appeals relating to the
20 code of ethics and ethics complaints under this section are subject to the
21 Arkansas Administrative Procedure Act, § 25-15-201 et seq.

22 (c)(1) The ethics subcommittee of the Professional Licensure Standards
23 Board shall:

24 (A) Receive and investigate ethics complaints; and

25 (B) Enforce the code of ethics by making a recommendation
26 to the State Board of Education for:

27 (i) A written warning, reprimand, or probation; or

28 (ii) The revocation, suspension, nonrenewal, or
29 termination of a license issued by the State Board of Education.

30 (2) The State Board of Education may make an informal
31 disposition of the ethical violation by stipulation, settlement, consent
32 order, or default.

33 (d) An ethics complaint may be filed with the Professional Licensure
34 Standards Board by any person through:

35 (1) The Department of Education;

36 (2) A public school district; or

1 (3) A public school superintendent.

2 (e)(1) The ethics subcommittee shall investigate an ethics complaint
3 that it determines is credible.

4 (2) Following an interview conducted as part of an investigation
5 of an ethics complaint, the investigator shall place in the investigation
6 file a written report of the interview.

7 (f)(1) Within ten (10) calendar days of authorizing an ethics
8 complaint investigation, the ethics subcommittee shall provide to the
9 educator under investigation:

10 (A) Written notice of the investigation and the nature of
11 the alleged ethical violation; and

12 (B) A copy of:

13 (i) The documents and evidence concerning the facts
14 alleged in the ethics complaint;

15 (ii) Provisions of this section or other state
16 statutory law applicable to an ethical violation under this section; and

17 (iii) The applicable rules in effect at the time the
18 ethics complaint is filed.

19 (3) Upon the completion of the investigation and before an
20 initial consideration of the of the investigation, the ethics subcommittee
21 shall provide to the educator:

22 (A) A copy of the documents and evidence concerning the
23 investigation of the ethics complaint; and

24 (B) Written notice that the ethics subcommittee will
25 consider taking an action against the educator.

26 (g)(1) Within thirty (30) calendar days after an educator receives the
27 notice, documentation, and evidence from the ethics subcommittee under
28 subsection (f) of this section, the educator may respond to the ethics
29 complaint in writing.

30 (2) The ethics subcommittee may permit additional time for a
31 response.

32 (h)(1) Upon receipt of the results of the investigation and any
33 written response from the educator who is the subject of the ethics
34 complaint, the ethics subcommittee shall issue an initial decision and
35 provide notice of the initial decision to the educator.

36 (2) Within thirty (30) days of receiving notice of the initial

1 decision, if the educator disagrees with the initial decision, the educator
2 may request an evidentiary hearing in the manner specified in the rules of
3 the Professional Licensure Standards Board.

4 (i)(1) Upon receipt of a request for a hearing, the ethics
5 subcommittee shall grant and conduct a hearing in accordance with its rules.

6 (2) The educator and the Professional Licensure Standards Board
7 may be represented by representatives of their choosing.

8 (j) Within ten (10) business days of the ethics subcommittee taking
9 action following a hearing, the ethics subcommittee shall provide to the
10 educator under investigation a written notice of the action.

11 (k) The ethics subcommittee shall complete its investigation of an
12 ethics complaint and take action:

13 (1) Within one hundred fifty (150) days of receiving the ethics
14 complaint; or

15 (2) If a hearing is conducted, within one hundred eighty (180)
16 days of receiving the ethics complaint.

17 (1) The time limitations imposed under this section may be
18 waived when reasonable under certain circumstances, including without
19 limitation inclement weather, state or national emergencies, or other
20 unforeseeable events by the:

21 (1) Educator if the time limitation is imposed upon the
22 ethics subcommittee; or

23 (2) Ethics subcommittee if the time limitation is imposed
24 upon the educator.

25 (m) The Professional Licensure Standards Board shall promulgate rules
26 for:

27 (1) Receiving and investigating an ethics complaint;

28 (2) Enforcing the code of ethics; and

29 (3) Granting and conducting hearings under this section.

30 (n) All rules, procedures, hearings, and appeals under this section
31 are subject to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

32 (o) Except as provided in subsection (q) of this section, all records
33 and all hearings, meetings, and deliberations of the ethics subcommittee
34 relating to an ethics complaint are confidential and exempt from the Freedom
35 of Information Act of 1967, § 25-19-101 et seq.

36 (p) All records pertaining to an ethics complaint shall be open for

1 inspection and copying by the educator against whom the ethics complaint is
2 lodged, unless otherwise prohibited by state or federal law.

3 (q)(1) A hearing under this section before the State Board of
4 Education on a recommendation of the ethics subcommittee for enforcement of
5 the code of ethics is a public hearing.

6 (2) All records upon which the State Board of Education relies
7 at a hearing under this subsection to make its decision are subject to public
8 disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq.

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10 /s/J. Roebuck
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