

1 State of Arkansas *As Engrossed: H3/11/11 H3/15/11 H3/21/11 S3/28/11*

2 88th General Assembly

# A Bill

3 Regular Session, 2011

HOUSE BILL 1952

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5 By: Representatives J. Roebuck, Cheatham, Tyler

6 By: Senator J. Jeffress

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## For An Act To Be Entitled

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AN ACT TO AMEND THE ARKANSAS CODE CONCERNING THE

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ENFORCEMENT OF ETHICS VIOLATIONS BY ARKANSAS

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EDUCATORS; AND FOR OTHER PURPOSES.

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## Subtitle

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TO AMEND THE ARKANSAS CODE CONCERNING THE

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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24 repealed: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.~~

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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;

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

3 (iii) An act or omission under circumstances in which the  
4 educator had a reasonable belief that failure to follow the instructions of a  
5 supervisor would result in an adverse job action against the educator; and

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

7 (A) States facts constituting an alleged ethical violation  
8 of the code of ethics; and

9 (B) Is signed under penalty of perjury by the person  
10 filing the ethics complaint.

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

12 (A) Establish procedures for:

13 (i) Receiving and investigating an ethics complaint;

14 (ii) Enforcing the code of ethics; and

15 (iii) Granting and conducting hearings under this  
16 section;

17 (B) Make recommendations for enforcement of the code of  
18 ethics; and

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

23 (2) All rules, procedures, hearings, and appeals relating to the  
24 code of ethics complaints under this section shall be promulgated and  
25 implemented under the Arkansas Administrative Procedure Act, § 25-15-201 et  
26 seq.

27 (c)(1) The ethics subcommittee of the Professional Licensure Standards  
28 Board shall:

29 (A) Receive and investigate ethics complaints;

30 (B) Enforce the code of ethics by:

31 (i) Making a recommendation to the State Board of  
32 Education for:

33 (a) A written warning, a written reprimand, or  
34 the written placement of conditions or restrictions on the activities of the  
35 educator; or

36 (b) The revocation, suspension, probation, or

1 nonrenewal of a license issued by the State Board of Education; or  
2 (ii) Issuing a private letter of caution; and  
3 (C) Dismiss an ethics complaint if it finds there is no  
4 ethics violation.

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

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

10 (1) The Department of Education;

11 (2) A public school district; or

12 (3) A public school superintendent.

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

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

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

21 (A) Written notice of the investigation and the nature of  
22 the alleged ethical violation; and

23 (B) A copy of:

24 (i) The documents and evidence concerning the facts  
25 alleged in the ethics complaint;

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

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

30 (3) Upon the completion of the investigation and before an  
31 initial consideration of the of the investigation, the ethics subcommittee  
32 shall provide to the educator:

33 (A) A copy of the documents and evidence concerning the  
34 investigation of the ethics complaint; and

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

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

5 (2) The ethics subcommittee may permit additional time for a  
6 response.

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

11 (2) Within thirty (30) days of receiving notice of the initial  
12 decision, if the educator disagrees with the initial decision, the educator  
13 may request an evidentiary hearing in the manner specified in the rules of  
14 the Professional Licensure Standards Board.

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

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

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

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

24 (1) Within one hundred fifty (150) days of *authorizing the*  
25 *investigation of the ethics complaint; or*

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

28 *(1) The time limitations imposed under this section may be waived*  
29 *when reasonable under certain circumstances, including without limitation*  
30 *inclement weather, state or national emergencies, or other unforeseeable*  
31 *events by the:*

32 *(1) Educator if the time limitation is imposed upon the ethics*  
33 *subcommittee; or*

34 *(2) Ethics subcommittee if the time limitation is imposed upon*  
35 *the educator.*

36 *(m) Except as provided in subsection (o) of this section, all records*

1 and all hearings, meetings, and deliberations of the Professional Licensure  
2 Standards Board and the ethics subcommittee relating to an ethics complaint  
3 are confidential and exempt from the Freedom of Information Act of 1967, §  
4 25-19-101 et seq.

5 (n) All records pertaining to an ethics complaint shall be open for  
6 inspection and copying by the educator against whom the ethics complaint is  
7 lodged, unless otherwise prohibited by state or federal law.

8 (o)(1) A hearing under this section before the State Board of  
9 Education on a recommendation of the ethics subcommittee for enforcement of  
10 the code of ethics is a public hearing.

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

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15 /s/J. Roebuck  
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