

<b>TENNESSEE STATE BOARD OF EDUCATION</b>	
<b>PERMIT AND LICENSE DENIAL, FORMAL REPRIMAND, SUSPENSION, &amp; REVOCATION</b>	<b>5.501</b>

POLICY SECTIONS

- I. Purpose
- II. Reporting
- III. Review Procedure
- IV. Board or ALJ Action

I. Purpose

State Board Rule 0520-02-03-.09 governs the denial, formal reprimand, suspension, and revocation of a Tennessee educator license. Reporting and recording of any action taken by the State Board on an educator’s license is coordinated with the Tennessee Department of Education’s Office of Educator Licensure and Preparation (“OELP”) local education agencies (“LEAs”), and schools.

This policy contains the procedures followed in cases of possible license denial, formal reprimand, suspension, or revocation. Requests for reinstatement of a suspended license or restoration of a revoked or surrendered license are handled in accordance with State Board Policy 5.500, License Reinstatement and License Restoration Applications. This policy also addresses procedures followed in cases of possible denial of a temporary permit or denial of the re-issuance of a temporary permit.

II. Reporting

Pursuant to State Board Rule 0520-02-03-.09(2), the Director of Schools, director of a public charter school, or director of a nonpublic school (“Director”) shall inform the State Board whenever a licensed educator is suspended or dismissed, or has resigned, following allegations of conduct, including sexual misconduct, which, if substantiated, would warrant consideration for license suspension, revocation, or formal reprimand under the rule. Directors are also required to report felony convictions of licensed educators and convictions for any offense listed in T.C.A. § 49-5-417 within thirty (30) days of the suspension, dismissal or resignation or within thirty (30) days of receiving knowledge of the conviction.

a. Reporting When an Educator is Placed on Administrative Leave

- i. A Director’s Report is not required when an educator has been placed on administrative leave, if, within thirty (30) days of being placed on leave, the allegation(s) is/are determined to be unsubstantiated and the educator is

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- returned to the classroom without further employment action taken against them by the LEA.
- ii. A Director's Report is not required when an educator has been placed on administrative leave, if, within thirty (30) days of being placed on leave, the allegation is determined to be substantiated but the LEA imposes employment action against the educator that does not constitute a suspension or dismissal or the educator does not resign in lieu of termination; instead, the educator is given a written reprimand, documented counseling, a warning, etc. A Director's Report is not required under these circumstances because the LEA did not impose an employment action against the educator that would require a Director's Report under Board rules, and because the ultimate employment decision was made within the thirty (30) day window.
- b. As provided in State Board Rule 0520-02-03-.09(2)(a), schools and school systems have a duty to respond to State Board inquiries and provide to the State Board, except where prohibited by law, any available documentation requested concerning the allegations contained in the report. Pursuant to T.C.A. § 49-5-419 the chair of the State Board or the Executive Director, as the Chair's designee, may issue subpoenas for the appearance of persons or the production of items, including, but not limited to, documents, videos, and audio recordings, that the chair or the Executive Director considers material or relevant to an investigation being conducted by the State Board, within or outside of this state, pursuant to the State Board's authority to revoke, suspend, refuse to issue, or renew a license or formally reprimand a licensed educator.
- i. State Board staff will send a Subpoena Duces Tecum to the appropriate person or organization. The subpoena issued by the State Board chair or Executive Director will include the specific requests from the State Board, a date by which to comply with the subpoena, and State Board staff contact information.
- c. Reporting Individuals Teaching on a Temporary Permit.
- i. Directors may report individuals teaching on a temporary permit to the State Board under the same conditions outlined in paragraph 2 of this policy. Schools and school systems have a duty to respond to State Board inquiries and provide to the State Board, except when prohibited by law, any available documentation requested concerning the allegations contained in the report.

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III. Review Procedure

a. Automatic Revocation

- i. Upon receipt of a Director's Report, State Board staff reviews the report and, if appropriate, places the educator's file (license or license application) under review in the state of Tennessee's educator licensure database (TN Compass) . Educators who are under review still maintain an active educator license. Educators who are under review are not prohibited from being employed. LEAs may contact the State Board to determine the reason for the review.
- ii. If the State Board receives information regarding a licensed educator who was not reported as described in paragraph (3)(a)(i) above but would warrant automatic revocation under state law or State Board rules and regulations, the State Board reserves the right to place an educator's license file under review in TN Compass.
- iii. Board counsel then obtains a certified copy of the criminal record showing the conviction for one of the offenses at T.C.A. § 49-5-417 (including conviction for the same or similar offense in any jurisdiction), or a report from the Department of Children's Services (DCS) that verifies the identity of the licensed educator and states that DCS has found the educator to have been a perpetrator of child abuse, severe child abuse, child sexual abuse, or child neglect as stated in T.C.A. § 49-5-417, or verification that the licensed educator's name has been placed on the state's vulnerable person's registry or state sex offender registry pursuant to T.C.A. § 49-5-417.
- iv. Following receipt of the information set forth in paragraph 3(a)(iii), Board counsel informs the individual that his/her educator license is subject to automatic revocation at an upcoming Board meeting. Notification is sent at least thirty (30) calendar days prior to the Board meeting at which the revocation is scheduled to occur. During this period, the educator may show compliance with all lawful requirements for the retention of the license.

b. Automatic Suspension

- i. The Tennessee Student Assistance Corporation (TSAC) notifies Board counsel of educators who have defaulted on a student loan pursuant to T.C.A. § 49-5-108(d)(2); or the Department of Human Services (DHS) notifies Board counsel of educators who fail to comply with an order of support of alimony or child support, pursuant to T.C.A. § 36-5-706, as these educators are subject to automatic suspension of their license until they return to compliance.

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- ii. Board counsel places the educator's file (license or license application) under review in TN Compass.
  - iii. Educators who are under review are not prohibited from being employed. LEAs may contact the State Board to determine the reason for the review.
  - iv. Following notification from TSAC or DHS, Board counsel will notify the individual that his/her educator license is subject to automatic suspension at an upcoming Board meeting. Notification is sent at least thirty (30) calendar days prior to the Board meeting at which the suspension is scheduled to occur. During this period, the educator may show compliance with all lawful requirements for the retention of the license.
  - v. Pursuant to T.C.A. § 49-5-108(d)(2)(B), the State Board may elect not to suspend, deny, or revoke the license or certificate of a teacher if student loan default or delinquency is the result of a medical hardship that prevented the person from working in the person's licensed field and the medical hardship significantly contributed to the default or delinquency.
- c. Denial, Formal Reprimand, Suspension, or Revocation
- i. Upon receipt of a director's report following the suspension, dismissal, or resignation of an educator amid allegations of misconduct that, if substantiated, could warrant a licensure action under State Board rule 0520-02-03-.09, Board counsel reviews the report and, if appropriate, places the educator's file under review in the state's educator licensure database (TN Compass).
  - ii. Upon receipt of a report from the National Association of State Directors of Teacher Education and Certification (NASDTEC) national clearinghouse, or an applicant for a license or permit indicates an affirmative answer on the personal affirmation section of the application for a Tennessee educator license or permit, the OELP sends a report to Board Counsel and Board counsel places the educator's file (license, permit, or license or permit application) under review in the state's educator licensure database (TN Compass).
  - iii. Licensed educators who are under review still maintain an active educator license, and are not prohibited from being employed. LEAs may contact the State Board to determine the reason for the review.
  - iv. If the State Board receives information regarding a licensed educator or an individual teaching on permit that was not reported as described in section 2

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above but would warrant potential disciplinary action under State Board rules and regulations, the State Board reserves the right to place an educator's file under review in the state's educator licensure database (TN Compass).

- v. If another proceeding could affect the decision by the Board, Board counsel may wait for:
  - I. The conclusion of any school or district investigation and/or termination proceeding; or
  - II. Entry of a final order in any criminal or civil proceeding, or state administrative proceeding (which may include, but not be limited to DCS or State Comptroller investigation findings) related to the events giving rise to the report.
  
- vi. Issuance or reactivation of a license:
  - I. Issuance or reactivation of a license is considered on a case-by-case basis. The burden of proof rests with the applicant.
  - II. An applicant shall, by a preponderance of the evidence, show why the license should be issued or reactivated despite the applicant's affirmative answers to the personal affirmation questions on his or her application. In the case of a felony conviction, the applicant shall also show that any sentence imposed, including any pre-trial diversion or probationary period, has been completed. Applications may be denied if an action against the applicant's educator license has been taken or is pending in another state.
  
- vii. Issuance of permits:
  - I. The Commissioner of Education ("Commissioner") may grant, on behalf of the State Board, under conditions outlined in T.C.A. § 49-5-106(a)(1), and State Board Rules 0520-02-03-.09 and .12, a temporary permit to an unlicensed individual to teach in an unfilled position, which permit shall be valid only until June 30 following the date of issuance.
  - II. Permit applications and reports received on individuals teaching on a permit will be reviewed by State Board staff as provided in paragraph 3 (c)(vii)(1) and (3) below.

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- viii. Board counsel will present an initial recommendation to the case review committee for review, along with the entire file, to determine whether disciplinary action (denial, formal reprimand, suspension, or revocation) should be recommended to the Board, or if additional investigation is necessary. The case review committee meets monthly and consists of the Executive Director of the State Board or his/her designee, counsel for the Board, and at least one (1) other staff member.
- I. If the case review committee decides not to investigate further or pursue disciplinary action, Board counsel clears the review on the educator's license file, and, if applicable, the Board's legal team will notify the OELP to move forward with processing the application.
- II. If the case review committee recommends that the Board impose disciplinary action or deny the renewal of a license, then Board counsel notifies the educator via certified return receipt mail of the case review committee's proposed licensure action, the educator's right to request a hearing within forty-five (45) days of receipt of the letter and opportunity to show compliance pursuant to T.C.A. 4-5-320(c). The educator shall have fifteen (15) days from receipt of the letter to provide any information on his/her behalf. This information will also be provided to Board members for their consideration when voting on a proposed licensure action. Applicants (initial, renewal, advancing license, or restoration) typically submit any information to be considered by the case review committee with their application. Board counsel may also include a proposed consent order to be agreed to by the educator.
- A. If the educator submits additional information within fifteen (15) days of receipt of the notice of proposed licensure action, Board counsel will acknowledge receipt of the information. Within seven (7) days of receipt of the additional information, or as soon as possible thereafter, Board counsel will conduct a review of the additional information and notify the educator if the recommendation of proposed action will be modified.
- B. If the educator fails to request a hearing on the recommendation or take action with regard to the consent order, Board counsel shall institute a contested case proceeding against the educator before an Administrative Law Judge ("ALJ") of the Secretary of State's Office, sitting alone on behalf of the Board, pursuant to the Uniform Administrative Procedures Act ("UAPA").

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C. If the educator requests a hearing, then Board counsel schedules a hearing to be held as a contested case proceeding with an ALJ of the Secretary of State's office, sitting alone on behalf of the Board, pursuant to the UAPA. Pursuant to State Board Personnel Policy 1.300, Board counsel may also docket the case for mediation and enter into a mediation agreement, enter into a formal settlement agreement, or agree to resolve the case through the entry of an agreed order by an ALJ.

III. If the case review committee recommends that the Board deny an initial application for a Tennessee educator license, an application to reactivate an expired Tennessee educator license, an application for a permit, or that the Board direct the Commissioner not to re-issue a permit, the recommendation will be presented to the Board at a regularly scheduled Board meeting. Board counsel will notify the individual of the denial recommendation, when the recommendation will be presented to the Board, and the Board's policy for requesting to speak at the Board meeting.

IV. Board or ALJ Action

a. Disciplinary Action

i. If the educator consents to the proposed licensure action, Board counsel will present the Consent Order to the Board for a vote at the Board's next quarterly meeting.

I. The Board is not bound by the recommendation of Board counsel and may vote to impose a less harsh disciplinary action or to remove the item from the agenda for reconsideration of a harsher disciplinary action. A vote to remove the item from the agenda for reconsideration of a harsher disciplinary action will result in the educator receiving additional notice regarding his or her right to a hearing.

II. If the Board votes to approve the Consent Order, Board counsel sends a copy of the order imposing the disciplinary action (signed by the Chair and Executive Director) to the educator. Board counsel will notify the OELP of the licensure action and OLEP shall update the educator's license file and notify NASDTEC of the licensure action. Board staff shall also update the Board website with the licensure action.

ii. If the educator requests a hearing, or if a contested case proceeding was instituted by Board counsel against the educator and the ALJ finds that licensure

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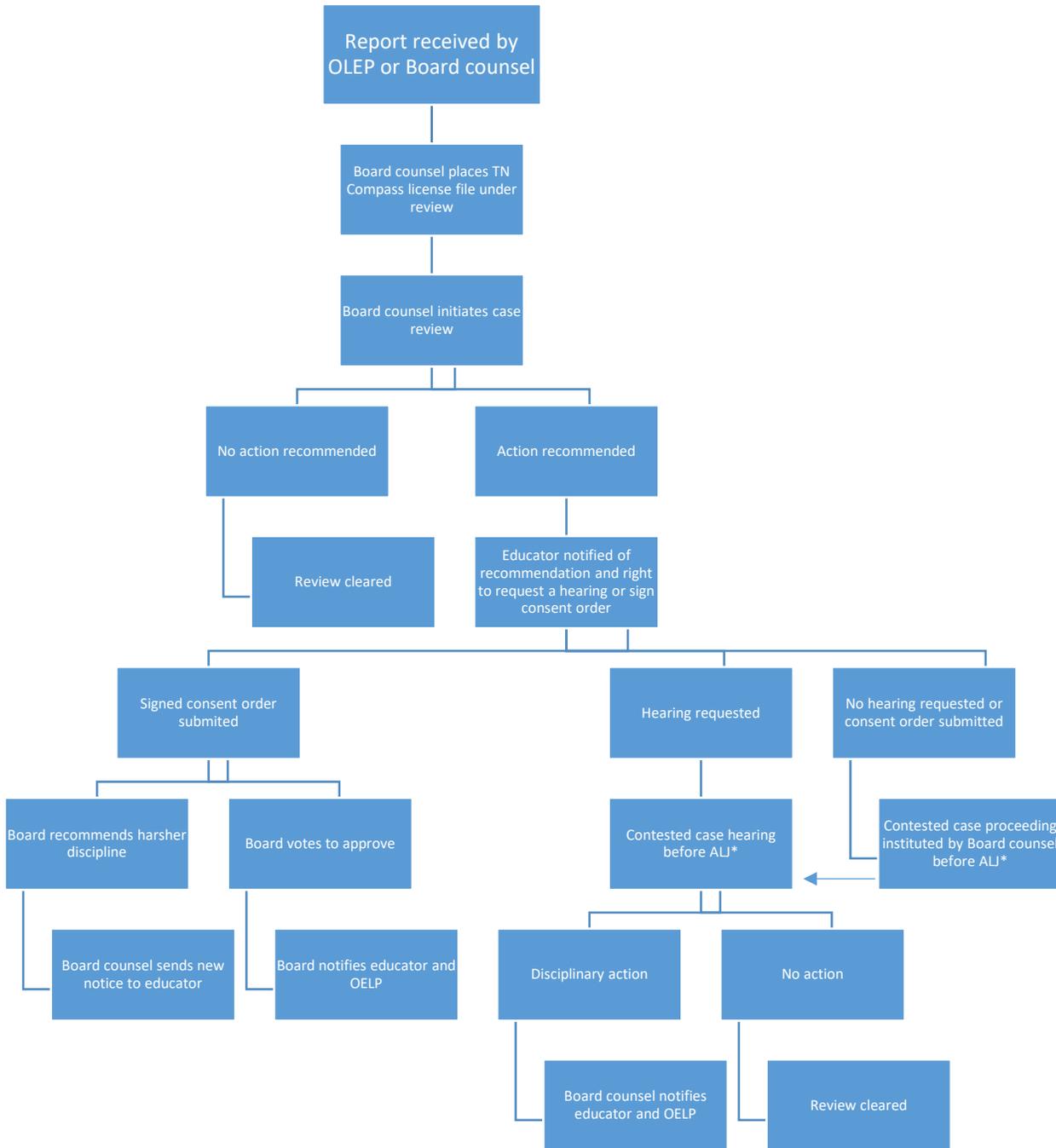
action is warranted, the educator may appeal the Initial Order of the ALJ to the Board or to Chancery Court in Davidson County, Tennessee, pursuant to the UAPA, or seek reconsideration from the ALJ. If no appeal is filed by the educator, Board counsel will notify the OELP of the licensure action in the Initial Order. OELP shall update the educator’s license file and notify NASDTEC of the licensure action. Board counsel will also update the Board website with the licensure action.

- b. No Disciplinary Action
  - i. If the Board votes not to impose discipline, Board counsel clears the review on the educator’s license file, and, if applicable, the Board’s legal team will notify the OELP to move forward with processing the application.
  - ii. If the educator requests a hearing, or if a contested case proceeding was instituted by Board counsel against the educator and the ALJ, sitting alone on behalf of the Board, finds that formal reprimand, suspension, or revocation is not warranted, Board counsel clears the review on the educator’s license file and, if applicable, the Board’s legal team will notify the OELP to move forward with processing the application.
  - iii. The Board may, however, appeal the ALJ’s decision at its discretion to the Board, seek reconsideration from the ALJ, or file an appeal in Chancery Court, pursuant to the UAPA.

**NOTE: Suspended and revoked licenses are subject to expiration.**

A visual representation of this procedure is included as an attachment to this policy on the next page.

## Denial, Formal Reprimand, Suspension or Revocation Flowchart



\* The license holder or the SBE may appeal an adverse decision of the ALJ pursuant to the provisions in the UAPA.

\*\*This flowchart does not include the process for denial of initial applications or denial of an application to reactivate an expired license.