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Common Cases Related to Code of Ethics Violations

Today, teachers hear a lot about the Code of Ethics. We see cases on the news, and it is presented at faculty meetings. You may have seen the Georgia Professional Standards Commission's video about the Code of Ethics. Also, the PAGE Legal Department attorneys visit schools to give presentations about the Code of Ethics for Educators including pointers on how to avoid legal problems. Sometimes teachers call to ask us about the most common kinds of cases that come from violations of the Code of Ethics. As your attorneys we would like to share some general information on why some educators find themselves being investigated by the Georgia Professional Standards Commission.

First, it is important to know that the Georgia Professional Standards Commission investigates a large number of educators in Georgia each year. The sanctions they can impose on an educator's certificate range from a letter of warning to revocation. Therefore, it is a good idea to have an attorney to help you when you are the subject of a Professional Standards Commission (PSC) investigation. If you ever receive a letter from the PSC stating that you are being investigated, be sure to call the PAGE Legal Department immediately. Educators need to be aware of the following 11 standards or rules.

Standard 1 addresses legal compliance. Educators may get in trouble for failing to reveal arrests on their record (GCIC or NCIC). They think they do not have to reveal these arrests because they have been put in a first offender program or pre-trial intervention program, or they are on probation or plead nolo. The PSC usually wants to know about arrests, and the PAGE Legal Department can help PAGE members reveal this information in the best possible manner. Also, a local school board policy may exist that requires educators to reveal this information to the school system as well. Educators have only 90 days to reveal or report an arrest because of the language in Standard 9.

Standard 2 addresses conduct with students. This standard generates a huge number of complaint letters and was previously titled "Abuse of Students." Each subsection of Standard 2 is very important:

1. committing any act of child abuse, including physical and verbal abuse;
2. committing any act of cruelty to children or any act of child endangerment;
3. committing any sexual act with a student or soliciting such from a student;
4. engaging in or permitting harassment of or misconduct toward a student that would be a violation of state or federal law;
5. soliciting, encouraging, or consummating an inappropriate written, verbal, electronic or physical relationship with a student;
6. furnishing tobacco, alcohol or illegal/unauthorized drugs to any student;
7. failing to prevent the use of alcohol or illegal or unauthorized drugs by students who are under the educator's supervision (including but not limited to at the educator's residence or any other private setting).

Any text message, cell phone call or e-mail that can demonstrate a less than professional relationship with the student may be seen as a violation of this standard (also note that contact with a student via Facebook may be a violation but may fall under Standard 10 for professional conduct). All electronic communications can be brought back as evidence, no matter how many times they are deleted. Also, if an educator's own high school-aged child throws a party at home that educator could be investigated for violation of Standard 2 because of alleged drinking at the party—even if the educator does not condone drinking at home or does not teach at his or her child's school. Also, anytime an educator touches a student there is an opportunity for the student to allege a violation of Standard 2. Anytime the educator is alone with a student, the student has an opportunity to allege a violation of Standard 2. Therefore, please keep this in mind as you work with

students: have another adult present when you are with a student.

Standard 3 addresses alcohol or drugs. Educators cannot drink before school nor can they drink on a field trip, even if the teacher is not on the schedule that afternoon to watch students. Educators cannot drink before a school activity (such as graduation, PTA meetings, an open house, prom or high school football game) because the educator would be under the influence of alcohol while at school or at a school sponsored activity.

Standard 4 is now titled "Honesty." This standard used to be called "Misrepresentation or Falsification." A violation of this standard may occur when an educator writes something down that is knowingly false. Examples of violation of this standard include: student grades without student work-product to support the grade; attendance; degree level; where the educator previously taught (or failure to note this on the application); the educator calling in sick but instead going to, for example, a hair appointment, shopping or a job interview.

Standard 5 addresses public funds or public property. The public property issue is usually regarding use of the school computer. The school computer assigned to the educator is only to be used for school purposes. Please find the local school board policy in your school system and read it. Be aware that school systems can always print out all your work on the computer, such as: websites visited, e-mails sent and received, the time the e-mail was sent and or read (Were you supposed to be teaching students at that time?) and the content of the e-mail (Was it inappropriate, romantic or sexual in nature?).

The second part of this standard regards public funds, usually referred to as school funds. This becomes an issue anytime educators are put in charge of collecting school money for example, book or yearbooks orders, school pictures, the Sunshine Fund; or Jump Rope for Heart. The educator must

follow the local school policy about collecting money, which may include giving students receipts and keeping up with money. Someone might allege that the educator spent the money for personal use. Missing money is a problem. When a school fund-raiser is audited, the teacher who was in charge of the fund-raiser is responsible for accounting for all of the money.

Standard 6 addresses remunerative conduct. This standard has to do with educators receiving money from parents or students. Problems for educators can arise when selling products to students or parents and/or conducting or coaching sports camps where the educator receives money from boosters or parents. Always be sure to get the school system's permission prior to these activities and also, if you wish to tutor for money.

Standard 7 addresses confidential student information. This standard mirrors federal law FERPA (Family Education Right to Privacy Act) and requires educators to keep student records confidential. Student records include: academic, discipline, health status and family status. Educators cannot allow students see other students' grades or GPA. Also, teachers who vent or talk about discipline issues or academic issues (complaining about students) can get in trouble for sharing discipline information or academic information about students. Information that is protected includes health status (the student might have AIDS or Hepatitis B) and family status, (such as if the parents are divorced or if the student is on the free or reduced lunch program).

Standard 8 is titled "Abandonment of Contract." When an educator signs a contract with a school system, the educator is then bound by the terms of the contract. So if the educator wishes to resign, he or she must ask for permission to be released from the contract. The PSC has issued new criteria regarding specific family situations that state it will not investigate an allegation of abandonment of contract where the educator gives written notice and evidence the reason. But, it is important to be aware that educators cannot just merely resign. Call the PAGE Legal Department, and we can help with this issue.

Standard 9 addresses required reporting. The cases that appear under this standard usually have to do with the educator self reporting issues regarding a criminal charge and/or an arrest (see Standard 1). This standard requires the educator to report within 90 days. The second kind of case that violates this standard has to do with reporting suspected child abuse or suspected child neglect. Georgia law states that educators have only

24 hours to report suspected child abuse or suspected child neglect. The requirement or standard is not if the educator is sure or not, but if the educator has any information. If the educator has any information, then he or she must report. It is a good idea to report in writing (it can be as simple as a note with one sentence, the date and a signature). Keep a copy at home for future reference. Each school will have individual protocol for reporting and following this procedure.

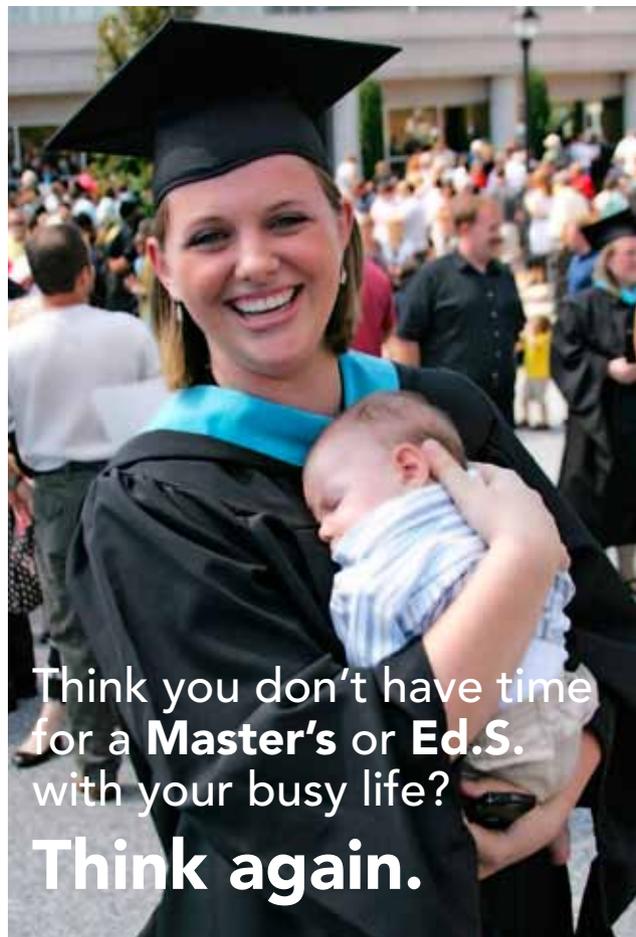
Standard 10 addresses professional conduct. These cases usually fall into four situations:

- 1.) inappropriate language—profanity but also words that would hurt students' feelings;
- 2.) inappropriate discipline—check with the principal about implementing a creative kind of discipline—i.e. sending students outside to cut the grass with scissors, losing your cool with the class, and throwing a book or a ruler;
- 3.) inadequate supervision;
- 4.) Facebook—posting Facebook language or a picture that is less than professional may cause parental concern.

Please do not resign if you are called in for a meeting about this kind of issue. Please call the PAGE Legal Department for help.

Standard 11 is a new standard specifically designed to address testing issues. The kinds of tests that this standard covers are only state mandated tests like CRCT, EOCT, graduation test, 5th grade writing test, etc. If you have been following the news, you know that this is a huge issue right now. It is imperative that educators follow the instructions for issuing tests. Be sure to walk around during the entire time you are giving the test, monitor the students and do not leave test booklets unguarded. Also, be sure to give the right section of the test on the right day, but do not give too much time. Finally, be careful about your tone if you are required to read the questions, follow all IEP modifications carefully and do not erase student answer sheets. If there is a problem or a question, notify the testing coordinator at the school immediately. Also, call the PAGE Legal Department with questions or for assistance.

These are not all of the kinds of cases that come before the PSC, but this information gives an overview of the type of fact patterns that appear over and over again. If you have questions please call the PAGE Legal Department. ♦



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