

BEFORE THE ARKANSAS STATE BOARD OF EDUCATION
February 12, 2015

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER
IN RE OBY MAC BERRY, PLSB CASE NO. 14-108

At its regular meeting on February 12, 2015, the Arkansas State Board of Education (Board) accepted the recommendation of the Professional Licensure Standards Board Ethics Subcommittee for disciplinary action against the teaching license of Oby Mac Berry. Based upon Mr. Berry's consent to the subcommittee's recommendation and the evidence presented, in accordance with the Administrative Procedures Act, Ark. Code Ann. 25-15-101 et seq., the Board hereby states as follows:

I. Findings of Fact:

- a. The Arkansas Department of Education issued Oby Mac Berry a standard five-year teaching license on January 1, 2012, valid until December 31, 2016.
- b. The Professional Licensure Standards Board Ethics Subcommittee received an allegation that Mr. Berry violated the Arkansas Department of Education Rules Governing the Code of Ethics for Arkansas Educators promulgated pursuant to Ark. Code Ann. § § 6-17-422 and 6-17-428.
- c. The subcommittee authorized an investigation into allegations Mr. Berry violated Standards 1, 3 and 6:
 1. An educator maintains a professional relationship with each student, both in and outside the classroom.
 3. An educator honestly fulfills reporting obligations associated with professional practices.
 6. An educator keeps in confidence information about students and colleagues obtained in the course of professional service, including secure standardized test materials and results, unless disclosure serves a professional purpose or is allowed by law.

- d. Mr. Berry was notified on March 11, 2014, of the subcommittee's authorization on March 7, 2014, to investigate this allegation.
- e. After considering the investigator's report and evidence on December 5, 2014, the subcommittee unanimously found that reasonable belief existed to substantiate a violation of Standards 1, 3, and 6 in that Oby Mac Berry:
 1. Made inappropriate comments in the classroom, to include, but not limited to:
 - i. Telling a student, "Leave me alone. I'm listening to devil worshipping music";
 - ii. Telling a student to "get your ass back in the corner";
 - iii. Calling a student a "smart ass";
 - iv. Using the word "shit" in class;
 - v. Confronting a student in another classroom in front of the entire class, telling the student, "The next time you tell people I don't teach, go ahead and tell them that I also have prostitutes and whores and crack cocaine in my classroom"; and,
 - vi. Calling students in his class "gay" and talking about "butthole sex" in class.
 2. Jumped across his desk, landed on his stomach, and attempted to grab a student's books and papers from the student's desk;
 3. While dressed as if going hunting, attempted to flag down a district bus while on its normal route and not close to the educator's home, which bus was being operated by an employee whom the educator had reported as a pedophile, causing the driver concern for his and the student's safety; and
 4. Came to school with inappropriate black paint markings on his face as if he were going hunting.
 5. Made a report to the Arkansas State Police and the Hot Springs County Sheriff's Department, accusing a district employee of being a pedophile, while having no factual basis to make that report.
 6. Made a phone call to a SubTeach employee and accused another employee of the district of being a pedophile;

7. Called a parent and advised the parent that he had filed a report with the Arkansas State Police that a district employee was a pedophile; and
8. Told a business owner in the community that, "I'm in a kill mode today," and made accusations against a district employee as being a pedophile, notwithstanding that he had no factual basis for making the accusation, and then walked out of the store singing that, "There's f****ing in the band hall."

The subcommittee recommended that the State Board place Mr. Berry's license on probation for three (3) years, assess a fine of \$75, that before returning to the classroom, the educator shall provide a letter from his treating psychiatrist that he is fit to return to the classroom; and for the period of probation, the educator shall provide quarterly reports from his treating physician that he is continuing his treatment as prescribed. All costs paid by Educator.

- f. Mr. Berry was notified of the subcommittee's reasonable belief determination and recommendation on December 9, 2014, by certified and regular mail.
- g. Mr. Berry accepted the subcommittee's recommendation on December 14, 2014, thereby waiving his right to any further notice or hearing or any other rights he might have under the Administrative Procedure Act including those rights set forth in Ark. Code Ann. §§ 25-15-211 and 25-15-212.
- h. At today's meeting, the subcommittee's recommendation and supporting documentation were presented to the Board as part of its consent agenda.

II. Conclusions of Law:

- a. Upon consideration of the evidence presented at the meeting and pursuant to Ark. Code Ann. §§ 6-11-105, 6-17-401, 6-17-422, 6-17-428 and 25-15-201 et seq., and the

Arkansas Department of Education Rules Governing the Code of Ethics for Arkansas Educators, the Board adopts the recommendations of the subcommittee.

- b. Accordingly, the Board orders that Oby Mac Berry's license be placed on probation for three (3) years, assesses a fine of \$75, and requires that:
 - 1) Before returning to the classroom, the educator shall provide a letter from his treating psychiatrist that he is fit to return to the classroom; and
 - 2) For the period of probation, the educator shall provide quarterly reports from his treating physician that he is continuing his treatment as prescribed. All costs paid by Educator.
- c. Mr. Berry is cautioned that further violations of the Code of Ethics or failure to pay the fine within thirty (30) days from the date of this order may result in more severe discipline including permanent revocation of his license.
- d. This order shall remain permanently in Mr. Berry's professional licensure file and the confidential files of the Professional Licensure Standards Board.

IT IS SO ORDERED.


Samuel Ledbetter, Chair
Arkansas State Board of Education