

BEFORE THE ARKANSAS STATE BOARD OF EDUCATION

IN RE: SIMONE S. VAUGHN

PLSB CASE NO.: T13-015B

FINAL ORDER

On June 11, 2015, during a regular meeting of the Arkansas State Board of Education (“State Board”), the State Board heard and considered Educator Simone S. Vaughn’s (“Educator Vaughn”) objections to the Professional Licensure Standards Board (“PLSB”) Ethics Subcommittee’s (“Ethics Subcommittee”) February 6, 2015 Evidentiary Hearing Determination and Recommendation (“Final Determination and Recommendation”). The PLSB was present by and through its attorney, Jennifer N. Liwo. Educator Vaughn appeared, by and through her attorney, John Burnett.

Upon consideration of the Educator’s Brief in Support of Appeal from the Professional Licensure Standards Board Ethics Subcommittee, the PLSB’s Response to Educator’s Brief in Support of Appeal from the Professional Licensure Standards Board Ethics Subcommittee, the arguments of counsel, and all other matters properly before it, the State Board hereby finds and orders as follows:

I. Substantial Evidence Standard

Arkansas appellate courts recognize that administrative agencies, by virtue of their “specialization, insight through experience, and more flexible procedures than courts”, are well suited to make determinations on the evidence before them. *Lamar Co., LLC v. Ark. State Hwy. & Transp. Dept.*, 2011 Ark. App. 695, 5-6, 386 S.W.3d 670, 674 (2011). Administrative decisions are upheld “if they are supported by substantial evidence and are not arbitrary, capricious, or characterized by an abuse of discretion.” *Collie v. Ark. State Med. Bd.*, 370 Ark. 180, 258 S.W.3d 367, 370 (2007). If there is substantial evidence to support the decision, it follows that the decision cannot be arbitrary or capricious. *Id.* 258 S.W.3d at 372.

When determining if a decision is supported by substantial evidence, the record is reviewed to “ascertain if the decision is supported by relevant evidence that a reasonable mind might accept as adequate to support a conclusion.” *Id.* 258 S.W.3d at 370. The evidence is given its “strongest most probative force in favor of the administrative agency.” *Id.* “The question is not whether the testimony would have supported a contrary finding, but whether it supports the finding that was made.” *Id.* Even though the evidence would support another conclusion, or even if the preponderance of the evidence would indicate a different result, the agency decision is still affirmed if reasonable minds could reach the conclusion reached by the agency. *Super. Improvement Co. v. Hignight*, 254 Ark. 328, 493 S.W.2d 424, 426-427 (1973).

II. The Code of Ethics for Arkansas Educators

An ethical violation is “an act or omission on the part of an educator when the educator knew or reasonably should have known that the act or omission was in violation of the code of ethics.” Ark. Code Ann. § 6-17-428(a)(3)(A).

Ethical violations do not include: (1) reasonable mistakes made in good faith; (2) acts or omissions undertaken in accordance with the reasonable instructions of a supervisor; or (3) acts or omissions under circumstances in which the educator had a reasonable belief that failure to follow the instructions of a supervisor would result in an adverse job action against the educator. Ark. Code Ann. § 16-17-428(a)(3)(B).

The Code of Ethics for Arkansas Educators (“Code of Ethics”) provides:

Standard 3: An educator honestly fulfills reporting obligations associated with professional practices.

“This standard covers those situations where there is an intentional or knowing attempt to deceive or mislead an educational entity. Honest errors or mistakes or inaccuracies are not intended to be encompassed by this standard. [...]. Honestly reporting grades is also a part of this standard.” Ark. Dept. Ed.-Rules Governing the Code of Ethics for Arkansas Educators, Appendix C-Explanations and Guidelines to Clarify the Intent of the Code of Ethics.

III. Evidentiary Hearing Determination and Recommendation

Following an evidentiary hearing, the Ethics Subcommittee is tasked with determining whether an educator violated the Code of Ethics. Ark. Dept. Ed.-Rules Governing the Code of Ethics for Arkansas Educators, § 7.01.2. The determination must be made by a preponderance of the evidence. *Id.* As defined in Ark. Dept. Ed.-Rules Governing the Code of Ethics for Arkansas Educators, § 5.15:

Preponderance of the Evidence is the greater weight of the relevant evidence; superior evidentiary weight that, though sufficient to free the mind wholly from all reasonable doubt, is still sufficient to [induce] a fair and impartial mind to one side of the issue rather than the other. It is determined by considering all of the relevant evidence and deciding which evidence is more credible. A preponderance of the evidence is not necessarily determined by the greater number of witnesses or documents presented. If, on any allegation against an educator, it cannot be determined whether the allegation is more likely true than not true, the allegation cannot be considered to have been proved.

Subsequent to the January 9, 2015 evidentiary hearing, the Ethics Subcommittee entered its Final Determination and Recommendation in which it found that Educator Vaughn violated Standard 3 of the Code of Ethics by filing a fraudulent affidavit concerning the administration of the Arkansas Comprehensive Testing Assessment and Accountability Program (“ACTAAP”) concerning portfolios for students with disabilities. The Ethics Subcommittee recommended that the State Board suspend Educator Vaughn’s license for two (2) years; and (ii) assess a one-hundred dollar (\$100.00) fine.

IV. Findings

On or about June 25, 2013, the Arkansas Department of Education-Office of Student Assessment (“ADE-OSA”) was contacted by Questar regarding fourteen Alternate Portfolio Assessments submitted, from the Pine Bluff School District (“PBSD”), for the 2012-2013 school year. Questar contacted the ADE-OSA as thirteen out of the fourteen assessments did not indicate independent student work.

The thirteen portfolio assessments belonged to students in Educator Vaughn’s class; Educator Vaughn was responsible for assembling the portfolios. Educator Vaughn signed the ACTAAP affidavit, thereby certifying that the portfolios she assembled contained the authentic work of the students and followed the Arkansas Alternate Portfolio Assessment requirements. The parties agree that the portfolios Educator Vaughn assembled did not comply with the ACTAAP rules and did not reflect the independent

work of each student. The parties stipulated that for the 2011-2012 school year, Educator Vaughn prepared her portfolios in the same manner as she did during the 2012-2013 school year.

Educator Vaughn's request for review was based on the sole premise that the evidence presented during the evidentiary hearing demonstrated that it was more likely than not that she was not dishonest, but woefully inept at assembling portfolios. More specifically, Educator Vaughn asserts that there was no evidence of deceitful conduct committed intentionally or knowingly. The PLSB countered that the preponderance of the evidence demonstrated the opposite.

Educator Vaughn has approximately nineteen years of teaching experience; for eight of those years, Educator Vaughn prepared and assembled portfolios. In every year of her involvement with the portfolio process, Educator Vaughn either received or had access to the Teacher Administration Manual, which thoroughly explained the portfolio process. Educator Vaughn testified that she read through the Teacher Administration Manual in the earlier years, but skimmed through it during the last few years of her portfolio work. Educator Vaughn also received training on the portfolio process at least once or twice a year.

Educator Vaughn's intentional or knowing deceit is found in the absence of reliable factual evidence indicating a good faith reasonable mistake, action taken in accordance at the reasonable direction of a superior, and an honest mistake. While the State Board is concerned that the PBSB continuously failed to notice the submission of inadequate portfolios, there was no verified evidence presented indicating that Educator Vaughn was ever informed, by anyone, that allowing students to copy an answer key constituted the authentic and independent work of the students. It is highly unbelievable that an educator with nineteen years of experience was incapable of grasping the concept of "independent" and "authentic" student work and ineptly believed that copied work was an acceptable measure of a student's level of comprehension.

The State Board finds that the preponderance of evidence supports a finding that Educator Vaughn failed to honestly fulfill reporting obligations associated with her professional practice. However, the State Board does not find that the facts warrant a sanction of a two (2) year licensure suspension.

V. Conclusion and Sanctions

The State Board adopts the Ethics Subcommittee's finding of a Standard 3 ethical violation committed by Educator Vaughn. The State Board rejects the Ethics Subcommittee's recommended sanction of a two (2) year suspension and payment of a one-hundred dollar (\$100.00) fine.

During the regular session, the State Board moved, seconded, and unanimously agreed to impose the following sanctions on Educator Vaughn: (i) probation of license for two (2) years; (ii) payment of a seventy-five dollar (\$75.00) fine; and (iii) professional development as identified in the Agreed Order on Recommended Portfolio Assembly and Assessment Training.

IT IS SO ORDERED.


Toyce Newton, Chair
Arkansas State Board of Education

Date

BEFORE THE ARKANSAS STATE BOARD OF EDUCATION

IN RE: SIMONE S. VAUGHN

PLSB CASE NO.: T13-015B

**AGREED ORDER ON RECOMMENDED PORTFOLIO ASSEMBLY AND ASSESSMENT
TRAINING**

On June 11, 2015, during a regular meeting of the Arkansas State Board of Education ("State Board"), the State Board heard and considered Educator Simone S. Vaughn's ("Educator Vaughn") request for review from the Professional Licensure Standards Board ("PLSB") Ethics Subcommittee's ("Ethics Subcommittee") February 6, 2015 Evidentiary Hearing Determination and Recommendation.

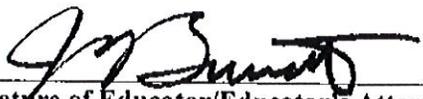
At the conclusion of the hearing, the State Board adopted the Ethics Subcommittee's finding that Educator Vaughn violated Standard 3 of the Code of Ethics for Arkansas Educators. However, the State Board rejected the Ethics Subcommittee's recommended sanction of licensure suspension for two (2) years and the payment of a one-hundred (\$100.00) dollar fine.

During the regular session, the State Board moved, seconded, and unanimously agreed to impose the following sanctions on Educator Vaughn: (i) probation of license for two (2) years; (ii) payment of a seventy-five dollar (\$75.00) fine; and (iii) professional development in the area portfolio assembly and assessment.

The State Board directed the parties to recommend appropriate training. As such, the parties agree and recommend that the State Board adopt the following as the training to be completed by Educator Vaughn:

1. Prior to the end of her probationary period, Educator Vaughn shall complete no less than six (6) hours of portfolio assembly and assessment training ("portfolio training").

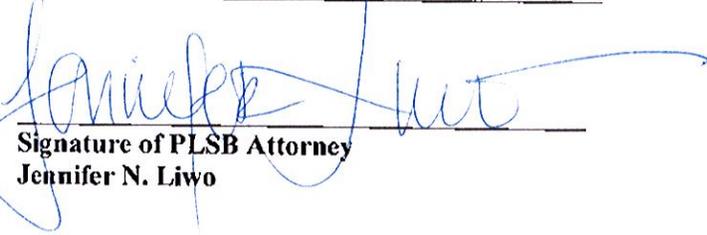
2. Any portfolio training received by Educator Vaughn must address the preparation, alignment, and scoring of portfolios. More specifically, the portfolio training must provide instruction on: (i) developing study topics; (ii) aligning each portfolio to each individual student's IEP; (iii) demonstrating student comprehension and independent work; (iv) assembling portfolios; and (v) assessing/evaluating portfolios.
3. Educator Vaughn shall: (i) contact her local education cooperative to schedule her attendance at one or more portfolio training sessions; and/or (ii) request that her school district's superintendent include her on the list of teachers scheduled to receive the portfolio training provided through the collaborative efforts of the ADE-Office of Student Assessment and Questar.
4. The portfolio training shall be in addition to all other required professional development.
5. Educator Vaughn shall bear all costs associated with securing her attendance at portfolio trainings.
6. Prior to the end of her probationary period, Educator Vaughn shall provide the Professional Licensure Standards Board with proof of her successfully completed portfolio training.



 Signature of Educator/Educator's Attorney
 Printed Name: John L. Burnett

7-31-15

 Date



 Signature of PLSB Attorney
 Jennifer N. Liwo

7/31/15

 Date

IT IS SO ORDERED.



 Toyce Newton, Chair
 Arkansas State Board of Education
8/13/15

 Date