

**Jared Whitby**  
**Revocation, Automatic, Permanent**

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**The Background:**

*Prior History:* N/A

*Facts:* Mr. Whitby had an inappropriate physical and sexual relationship with a minor student (age 17). On August 9, 2021, Mr. Whitby pled guilty under judicial diversion to Statutory Rape (T.C.A. 39-13-506, E felony) and was sentenced to two (2) years supervised probation. Mr. Whitby's employment was terminated by the Weakley County School Board effective June 3, 2021. Due to the nature of the misconduct, Tenn. Code Ann. § 49-5-417(a)(2), § 49-5-413(e), and Board Rule 0520-02-03-.09(4)(a)(2) requires the automatic permanent revocation of Mr. Whitby's license.

*Applicable Rule*

*/Law:* Tenn. Code. Ann. § 49-5-417(a)(2), § 49-5-413(e), and Board rule 0520-02-03-.09(4)(a)(2) specify conduct that requires the State Board of Education to automatically revoke or automatically permanently revoke an educator's license.

Tenn. Code. Ann. § 49-5-413(d)(3)(B)(i)(b) provides that no employer, or employee of the employer to whom this subsection (d) applies, shall come in direct contact with school children or with children in a childcare program or enter the grounds of a school or child care center when children are present if the criminal history records check indicates that the employer or employee has ever been convicted of any offense in title 39, chapter 13.

Tenn. Code. Ann. § 49-5-417(a)(1)(l) provides that the State Board of Education shall automatically revoke, without the right to a hearing, the license of an educator upon receiving verification of the identity of the teacher or administrator together with a certified copy of a criminal record showing the teacher or school administrator has been convicted of a felony offense in title 39, chapter 13.

0520-02-03-.09(1)(f) defines Inappropriate Physical Contact as unlawful and/or unjustified physical contact with a student. Examples of such inappropriate physical contact include, but are not limited to, sexual contact, physical altercations, horseplay, tickling, improper use of corporal punishment, and rough housing.

0520-02-03-.09(1)(g) defines Inappropriate Physical Contact with Harm as inappropriate physical contact as described in subparagraph (f) above that results in physical or mental harm.

0520-02-03-.09(1)(k) defines other good cause as conduct that calls into question the fitness of an educator to hold a license including, but not limited to, violation of any provision in the Teacher Code of Ethics as contained in T.C.A. §§ 49- 5-1001, et seq.

0520-02-03-.09(1)(l) defines “permanent revocation” as the nullification of an educator’s license without eligibility for future restoration. Permanent revocation also includes the voluntary permanent surrender of an educator’s license without eligibility for future restoration.

0520-02-03-.09(3)(a) provides the State Board of Education may revoke, suspend, formally reprimand, or refuse to issue or renew an educator’s license for conviction of a felony.

0520-02-03-.09(3)(i) provides the State Board of Education may revoke, suspend, formally reprimand, or refuse to issue or renew an educator’s license for other good cause as defined in subparagraph (1)(k) of the rule.

0520-02-03-.09(3)(j) provides the State Board of Education may revoke, suspend, formally reprimand, or refuse to issue or renew an educator’s license for any offense contained in paragraphs (4) and/or (5) of the rule.

0520-02-03-.09(4)(a)(1)(ix) provides that the State Board of Education shall automatically revoke or automatically permanently revoke, without the right to a hearing, the license of an educator upon receiving verification of the identity of the licensed educator together with a certified copy of a criminal record showing that the licensed educator has been convicted of a felony offense in T.C.A. title 39, chapter 13.

0520-02-03-.09(4)(a)(2) provides that the State Board of Education shall automatically revoke or automatically permanently revoke, without the right to a hearing, the license of an educator who has been identified by the Department of Children’s Services (DCS), after having exhausted or waived all due process rights available to the licensed educator as having committed child abuse, severe child abuse, child sexual abuse, or child neglect as stated in T.C.A. § 49-5-413.

0520-02-03-.09(5)(a)(1) provides that upon receiving notification that an individual has been convicted of a felony, the educator shall be subject to disciplinary action within the range of a suspension of not less than two (2) years up to and including permanent revocation of the convicted individual’s educator license

0520-02-03-.09(5)(a)(6)(i) provides an individual holding an educator’s license who is found to have engaged in inappropriate physical contact with a student that does not result in harm or potential harm to the student shall be subject to a disciplinary action within the range of a formal reprimand up to and including suspension for two (2) years.

0520-02-03-.09(5)(a)(6)(ii) provides an individual holding an educator’s license who is found to have engaged in inappropriate physical contact with a student that results in harm or potential harm to the student shall be subject to a disciplinary action within the

range of a suspension for not less than two (2) years up to and including permanent revocation.

0520-02-03-.09(5)(a)(8) provides an individual holding an educator's license who is found to have violated the teacher code of ethics contained in T.C.A. Title 49, Chapter 5, Part 10 shall be subject to a disciplinary action within the range of a formal reprimand up to and including revocation

*Status:* Respondent was notified by certified mail of the Board's intent to **automatically and permanently revoke** his educator license based upon these findings. Respondent received said notice.

**Board Action Consistency Considerations:**

October 2021 – The Board voted to approve the automatic revocation of an educator's license for conduct specified in Tenn. Code. Ann. § 49-5-417(a)(2), § 49-5-413(e), and Board rule 0520-02-03-.09(4)(a)(2).

**The Recommendation:**

The Board staff recommends the automatic and permanent revocation of Respondent's Tennessee educator license.