
Cory Day
Revocation, Automatic, Permanent

The Background:

Prior History: N/A

Facts: Mr. Day, an elementary school teacher with Scott County Schools, was suspended in January 2019 for allegations of explicit inappropriate communication with a minor being investigated by the Federal Bureau of Investigation (“FBI”). In August 2019, Mr. Day was indicted in the United States District Court, Eastern District of Tennessee for enticement and travel with intent to engage in illicit sexual conduct pursuant to 18 U.S.C. § 2432(a). On March 10, 2020, Mr. Day pleaded guilty to both counts noted above and was sentenced to ten (10) years in prison for each count to run concurrently followed by twelve (12) years of supervised release.

Applicable Rule: 0520-02-03-.09(1)(a) defines conviction as a judgment entered by a court upon a plea of guilty, a plea of nolo contendere, a finding of guilt by a jury or the court notwithstanding any pending appeal or habeas corpus proceeding arising from the judgment. Conviction includes, but is not limited to, a conviction by a federal court or military tribunal, including a court-martial conducted by the armed forces of the United States, and a conviction, whether upon a plea of guilty, a plea of nolo contendere, or a finding of guilt by a jury or the court, in any other state of the United States, other jurisdiction, or other country. Conviction also includes a plea taken in conjunction with § 40-35-313 or its equivalent in any other jurisdiction.

0520-02-03-.09(1)(c) defines explicit inappropriate communication as any communication between an educator and a student that describes, represents, or alludes to sexual activity or any other illicit activity. This shall not be construed to prevent an educator from communication regarding sexual or illicit activities for educational purposes such as in teaching family- life curriculum pursuant to T.C.A. §§ 49-6-1307 et seq. or drug abuse resistance education pursuant to T.C.A. § 49-1-402.

0520-02-03-.09(1)(k) defines good cause as conduct that calls into question the fitness of an educator to hold a license including, but not limited to, noncompliance with security guidelines for Tennessee Comprehensive Assessment Program (TCAP) or successor tests pursuant to T.C.A. § 49-1-607, failure to report licensure actions as required under paragraph (2), or 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.

0520-02-03-.09(3)(a) provides that the Board 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)(g) provides that the Board 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 this rule.

0520-02-03-.09(3)(h) provides that the Board may revoke, suspend, formally reprimand, or refuse to issue or renew an educator's license for any offense contained in paragraph (5) of this rule.

0520-02-03-.09(4)(a)(1) 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 licensed educator together with a certified copy of a criminal record showing that the licensed educator has been convicted of any the following offenses listed at T.C.A. § 39-17-417, a sexual offense or a violent sexual offense as defined in T.C.A. § 40-39-202, any offense in title 39, chapter 13, T.C.A. § 39-14-301 and T.C.A. § 39-14-302, T.C.A. § 39-14-401 and T.C.A. § 39-14-404, T.C.A. § 39-15-401 and T.C.A. § 39-15-402, T.C.A. § 39-17-1320, or any other offense in title 39, chapter 17, part 13 (including conviction for the same or similar offense in any jurisdiction).

0520-02-03-.09(5)(a)(1)(i) provides that upon receiving notification that an individual has been convicted of a felony, the educator shall be subject to a disciplinary action within the range of a revocation or permanent revocation.

0520-02-03-.09(5)(a)(5)(ii) provides that an individual holding an educator's license who is found to have engaged in inappropriate communication of an explicit nature with a student shall be subject to permanent revocation.

0520-02-03-.09(5)(a)(8) provides that an individual holding an educator's license who is found to have violated the teacher code of ethics shall be subject to a disciplinary action within the range of a suspension for no less than one (1) year up to and including revocation.

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

Board Action Consistency Considerations:

N/A

The Recommendation:

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