

# CODES, CASE STUDIES, AND CONUNDRUMS

*The Challenges of Ethical Decision-Making in Education*

Presented by Thomas W. Bailey, Attorney-at-Law and retired social studies teacher &  
Paul K. Fox, PMEA State Retired Member Coordinator and  
Chair of the PMEA Council for Teacher Training, Recruitment & Retention

PMEA Annual Conference – *Together* – April 7, 2022



<https://www.pmea.net/council-for-ttrr/>

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## Presenters



Paul  
Fox



Council for Teacher Training  
"Life cycle of a  
music educator"  
Recruitment and Retention



Thomas  
Bailey

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## CODES, CASE STUDIES, AND CONUNDRUMS





*The Challenges of Ethical Decision-Making in Education*



**Targeted Focus:**

- Code of Ethics
- The *new* PA Code of Professional Practice & Conduct effective 2021
- Interactive Case Studies

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## DO YOU KNOW THE MEANING OF THESE ETHICAL TERMS?

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exemplar misconduct fiduciary

mandatory reporting


harm codes professionalism

ethical equilibrium boundaries

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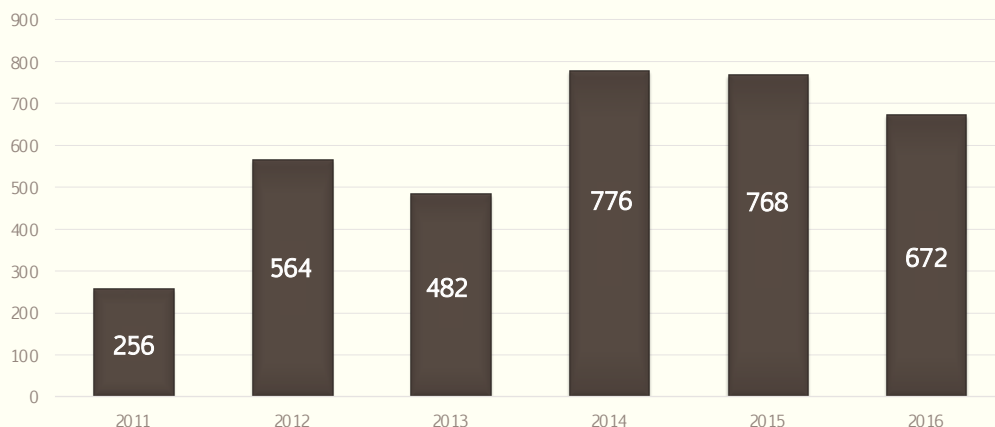
WHY IS THIS DISCUSSION ON  
ETHICS SO IMPORTANT?

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## PA Educator Misconduct Complaints Filed



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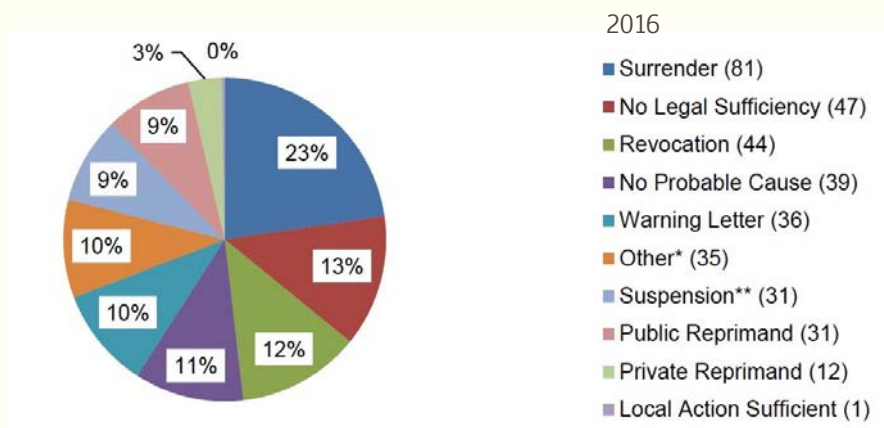
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## PA Educator Disciplinary Case Resolutions



357 in 2016

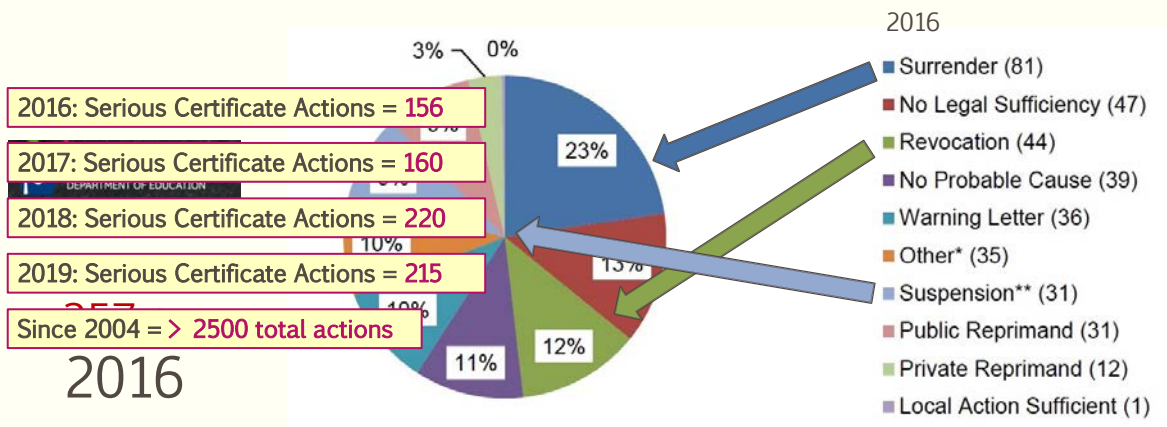


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## PA Educator Disciplinary Case Resolutions



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# WHAT'S THE DIFFERENCE BETWEEN A MORAL & AN ETHICAL STANDARD?

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## REVIEW: The Definitions... Clear as Mud?

Foundations of what's "right or wrong" – Troy Hutchings

- Personal **Morality**: "Personal values and beliefs derived from one's life experiences... subjective and may or may not align with community mores."
- Regulations of **Law**: "Policies, statutes, and judicial activity that articulate conduct absolutes."
- Professional **Ethics**: "Professional ethical standards that assist practitioners within situation and systemic contexts in choosing the best course-of-action."
- Professional **Dispositions**: "Agreed upon professional attitudes, values and beliefs to be held by educational practitioners."



<https://www.ets.org/s/proethica/pdf/r-eal-clear-articles.pdf>

"Ethics is knowing the difference between what you have a right to do and what is right to do."  
– Potter Stewart

"Ethical behavior is doing the right thing when no one else is watching – even when doing the wrong thing is legal." – Aldo Leopold

**"Ethical Equilibrium"**

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## Which standard is it? Mostly a **moral** or an **ethical** value?

### 1. Morality =

- Principles to judge right and wrong
- Often used to define personal character
- More abstract, subjective, more personal, may or may not be religious

A teacher decides not to drink a beer when he sees a student enter the same restaurant.



### 2. Ethical

Code of Conduct =

- Behavior expected by the group or profession
- Practical, shared principles promoting fairness and expectations

<http://www.sai-iowa.org/Educator%20Ethics%20Facilitator%20Handbook%202017.pdf>



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## Which standard is it? Mostly a **moral** or an **ethical** value?

### 1. Morality =

- Principles to judge right and wrong
- Often used to define personal character
- More abstract, subjective, more personal, may or may not be religious

A teacher calls in sick to extend her vacation.

?



### 2. Ethical

#### Code of Conduct =

- Behavior expected by the group or profession
- Practical, shared principles promoting fairness and expectations

<http://www.sai-iowa.org/Educator%20Ethics%20Facilitator%20Handbook%202017.pdf>



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## Which standard is it? Mostly a **moral** or an **ethical** value?

### 1. Morality =

- Principles to judge right and wrong
- Often used to define personal character
- More abstract, subjective, more personal, may or may not be religious

A coach posts pictures of herself online wearing only a bikini while on a beach vacation.

?



### 2. Ethical

#### Code of Conduct =

- Behavior expected by the group or profession
- Practical, shared principles promoting fairness and expectations

<http://www.sai-iowa.org/Educator%20Ethics%20Facilitator%20Handbook%202017.pdf>



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## Which standard is it? Mostly a **moral** or an **ethical** value?

### 1. Morality =

- Principles to judge right and wrong
- Often used to define personal character
- More abstract, subjective, more personal, may or may not be religious

A principal changes  
an old letter of  
recommendation to  
show current dates.



### 2. Ethical Code of Conduct =

- Behavior expected by the group or profession
- Practical, shared principles promoting fairness and expectations

<http://www.sai-iowa.org/Educator%20Ethics%20Facilitator%20Handbook%202017.pdf>



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## High moral standards = **more vulnerable?**

Are you more apt to commit ethics violations or professional misconducts trying to “do good” for your students with the best of intentions?

- Wanting a student to do well results in changing the student’s grade or test scores
- An educator gives out his personal cell phone and states that, “He is there to help, anytime, 24-7.”
- A counselor gives pre-natal vitamins to a student she knows is pregnant, but the parents do not know of the pregnancy.
- A vegan teacher rants on Facebook about farm animal rights while teaching in a community based in agriculture.
- A principal pays for a student to attend a summer camp.

<http://www.sai-iowa.org/Educator%20Ethics%20Facilitator%20Handbook%202017.pdf>





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## WHAT'S THE DIFFERENCE BETWEEN A CODE OF CONDUCT AND A CODE OF ETHICS?


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## Codes of Conduct vs. Codes of Ethics

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- Similarities: Self-regulation and guidance of (un)acceptable behaviors
- Code of Ethics outlines a set of principles that influence **decision making**
- Code of Conduct outlines specific behaviors that are required or prohibited and govern **actions**



<http://smallbusiness.chron.com/difference-between-code-ethics-conduct-2724.html>  
<https://www.whistleblowersecurity.com/code-of-ethics-and-code-of-conduct-whats-the-difference/>

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## Codes of Conduct vs. Codes of Ethics

#	Violations of IA Code of Conduct	#	NY State Code of Ethics
1	Crimes, sexual or other immoral; conduct with or toward a student.	1	Educators nurture the intellectual, physical, emotional, social, and civic potential of each student.
2	Misrepresentation of information.	2	Educators create and maintain challenging learning environments for all.
3	Misuse of public property.	3	Educators develop and sustain learning communities in order to develop student achievement.
4	Violations of professional standards.	4	Educators collaborate with colleagues and other professionals in the interest of student learning.
5	Unethical practices with members of the profession, parents, students, and the community.	5	Educators collaborate with parents and community, building trust and respecting confidentiality.
6	Incompetence.	6	Educators advance the intellectual and ethical foundation of the learning community.

Mark, Michael L. and Madura, Patrice: *Music Education in Your Hands* (Routledge 2010)

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## DO EDUCATORS HAVE A “CODE OF ETHICS?”

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## Model Code of Ethics for Educators

- National Association of State Directors of Teacher Education and Certification
- Principles
  - I. Responsibility to the Profession
  - II. Responsibility for Professional Competence
  - III. Responsibility to Students
  - IV. Responsibility to the School Community
  - V. Responsible and Ethical Use of Technology


PDE has endorsed MCEE.  
PMEA has adopted MCEE.

### Development Partners

- ▶ American Association of Colleges of Teacher Education
- ▶ American Federation of Teachers
- ▶ Association of Teacher Educators
- ▶ Council for Accreditation of Educator Preparation
- ▶ Council of Chief State School Officers
- ▶ National Association of Elementary School Principals
- ▶ National Association of Secondary School Principals
- ▶ National Board of Professional Teaching Standards
- ▶ National Education Association
- ▶ National Network of State Teachers of the Year

[http://www.nasdtcc.net/?page=MCEE\\_Doc](http://www.nasdtcc.net/?page=MCEE_Doc)

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**Principle I: Responsibility to the Profession**

The professional educator is aware that trust in the profession depends upon a level of professional conduct and responsibility that may be higher than required by law. This entails holding one and other educators to the same ethical standards.

The professional educator demonstrates responsibility to oneself as an ethical professional by:

1. Acknowledging that lack of awareness, knowledge, or understanding of the Code is not, in itself, a defense to a charge of unethical conduct; ➡ "I didn't know it was wrong..." (I, A, 1)
2. Knowing and upholding the procedures of the Code regardless of personal views;
3. Holding oneself responsible for ethical conduct;
4. Monitoring and maintaining sound mental, physical, and emotional health necessary to perform duties and services of any professional assignment; and taking appropriate measures when personal or health-related issues may interfere with work-related duties;
5. Refraining from professional or personal activity that may lead to reducing one's effectiveness within the school community; ➡ "I didn't break the law!" (I, A, 5)
6. Avoiding the use of one's position for personal gain;
7. Taking responsibility and credit for one's actions and contributions made by or for others.

**B. The professional educator fulfills the obligation to address and attempt to resolve ethical issues by:**

1. Confronting and taking reasonable steps to resolve conflicts between the Code and the implicit or explicit demands of a person or organization;
2. Maintaining fidelity to the Code by taking proactive steps when having reason to believe that another educator may be approaching or involved in an ethically compromising situation; ➡ "I'm not a rat..." (I, B, 2)
3. Neither discriminating nor retaliating against a person on the basis of having made a report;
4. Neither filing nor encouraging frivolous ethical complaints solely to harm or retaliate against a person;
5. Cooperating fully during ethics investigations and proceedings.

**C. The professional educator promotes and advances the profession within and beyond the school community by:**

1. Influencing and supporting decisions and actions that positively impact teaching and learning, educational leadership and student services;
2. Engaging in respectful discourse regarding issues that impact the profession;
3. Enhancing one's professional effectiveness by staying current with ethical principles and decisions from relevant sources including professional organizations; ➡ "What's in it for me?" (I, C, 3 & 4)
4. Actively participating in educational and professional organizations;
5. Advocating for adequate resources and facilities to ensure equitable educational opportunities for all students.

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**Principle II: Responsibility for Professional Competence**

The professional educator is committed to the highest levels of professional and ethical practice, including demonstration of the knowledge, skills and dispositions required for professional competence.

**A. The professional educator demonstrates commitment to high standards of practice through:**

1. Incorporating into one's practice state and national standards, including those specific to one's discipline; ➡ "What's the big deal about standards?" (II, A, 1)
2. Maintaining and updating one's knowledge, skills, and dispositions; ➡ "I needed to give him credit?" (II, B, 1)
3. Seeking and using evidence, instructional data, research, and professional knowledge to inform practice;
4. Creating, maintaining, disseminating, storing, retaining and disposing of records and data relating to one's research and practice, in accordance with district policy, state and federal laws; and
5. Using data, data sources, or findings accurately and reliably.

**B. The professional educator demonstrates responsible use of data, materials, research and assessment by:**

1. Appropriately recognizing others' work by citing data or materials from published, unpublished, or electronic sources when disseminating information; ➡ "I just do music in my class! Don't ask me to do anything else" (II, C, 2)
2. Using developmentally appropriate assessment strategies;
3. Conducting research in an ethical and responsible manner;
4. Seeking and using evidence, instructional data, research, and professional knowledge to inform practice;
5. Creating, maintaining, disseminating, storing, retaining and disposing of records and data relating to one's research and practice, in accordance with district policy, state and federal laws; and
6. Using data, data sources, or findings accurately and reliably.

**C. The professional educator acts in the best interest of all students by:**

1. Increasing students' access to the curriculum, activities, and resources in order to provide a quality and equitable educational experience;
2. Working to engage the school community to close achievement, opportunity, and attainment gaps; ➡ "Never touch a student!" (III, A, 6)
3. Protecting student privacy.

**Principle III: Responsibility to Students**

The professional educator promotes the physical, emotional and social well-being of all students.

**A. The professional educator respects the rights and dignity of students by:**

1. Respecting students by taking into account their age, gender, culture, setting and socioeconomic context;
2. Interacting with students with transparency and in appropriate settings; ➡ "It's just a gift..." (III, A, 5)
3. Considering the implication of accepting gifts from or giving gifts to students; ➡ "Never touch a student!" (III, A, 6)
4. Engaging in physical contact with students only when there is a clearly defined purpose that benefits the student and continually keeps the safety and well-being of the student in mind; ➡ "Never touch a student!" (III, A, 6)

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7. Avoiding multiple relationships with students which might impair objectivity and increase the risk of harm to student learning or well-being or decrease educator effectiveness. **My students are my friends!** (III, A, 7) **c or sexual student, the possible**

8. Acknowledging the relationships with: **"My students are my friends!"** (III, A, 7)

9. Considering the risk of impact on the educator's career. The professional educator ensures that the adult relationship was not started while the former student was in school.

B. The professional educator demonstrates an ethic of care through:

1. Seeking to understand students' educational, academic, personal and social needs as well as students' values, beliefs, and cultural background;
2. Respecting the dignity, worth, and uniqueness of each individual student including, but not limited to, actual and perceived gender, gender expression, gender identity, civil status, family status, sexual orientation, religion, age, disability, race, ethnicity, socio-economic status, and culture; and **a), and sexual**

**"He's weird..." or "He's not one of us!"** (III, B, 2) **in a**

developmentally appropriate manner and within appropriate limits by:

1. Respecting the privacy of students and the need to hold in confidence certain forms of student communication, documents, or information obtained in the course of professional practice; **in a**
2. Upholding parents'/guardians' legal or legitimate concerns for the well-being of their child; **"Wait 'til you hear what happened in class today!"** (III, C, 1)
3. Protecting the confidentiality of student state and federal laws and local policy

**Principle IV: Responsibility to the School Code**

The professional educator promotes positive relationships and effective interactions, with members of the school community, while maintaining professional boundaries.

A. The professional educator promotes effective and appropriate relationships with parents/guardians by:

1. Communicating with parents/guardians in a timely and respectful manner that represents the students' best interests; **"Don't tell my parents!"** (IV, A, 1) **dating**
2. Demonstrating a diversity among members of the school community;
3. Considering the implication of accepting gifts from or giving gifts to parents/guardians; and
4. Maintaining appropriate confidentiality with respect to student information disclosed by or to parents/guardians unless required by law.

B. The professional educator promotes effective and appropriate relationships with colleagues by:

1. Respecting colleagues as fellow professionals and maintaining civility when differences arise; **"Did you hear what your colleague said about you?"** (IV, B, 1 & 2) **it policy;**

3. Keeping student safety, education, and health paramount by maintaining and sharing educational records appropriately and objectively in accordance with local policies and state and federal laws;

4. Collaborating with colleagues in a manner that supports academic achievement and related goals that promote the best interests of students; **"Not another TEAM meeting?"** (IV, B, 4)

5. Ensuring that students are assigned to positions in accordance with their educational credentials, preparation, and experience in order to maximize students' opportunities and achievement; and

6. Working to ensure a workplace environment that is free from harassment. **"I was just teasing her..."** (IV, B, 8) **stakeholders by:**

1. Advocating for policies and laws that the educator supports as promoting the education and well-being of students and families;
2. Collaborating with community agencies, organizations, and individuals in order to advance students' best interests without regard to personal reward or remuneration; and
3. Maintaining the highest professional standards of accuracy, honesty, and appropriate disclosure of information when representing the school or district within the community and in public communications.

D. "Don't ask for permission... beg for forgiveness!" (IV, C, 3)

1. Respecting intellectual property ownership rights (e.g. original lesson plans, district level curricula, syllabi, gradebooks, etc.) when sharing materials;
2. Exhibiting personal and professional conduct that is in the best interest of the organization, learning community, school community, and profession; and
3. Considering the implications of offering or accepting gifts and/or preferential treatment by vendors or an individual in a position of professional influence or power. **"He's our preferred dealer, and always takes care of us!"** (IV, D, 4) **of harm**

E. The professional educator promotes effective and appropriate relationships with colleagues by:

1. Respecting colleagues as fellow professionals and maintaining civility when differences arise; **"Did you hear what your colleague said about you?"** (IV, B, 1 & 2) **it policy;**

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<p><b>Principal V: Responsible and Ethical Use of Technology</b></p> <p>The professional educator considers the impact of consuming, creating, distributing and communicating information through all technologies. The ethical educator is vigilant to ensure appropriate boundaries of time, place and role are maintained when using electronic communication.</p> <p>A. The professional educator uses technology in a responsible manner by:</p> <ol style="list-style-type: none"> <li>Using social media responsibly, transparently, and primarily for purposes of teaching and learning per school and district policy. The professional educator considers the ramifications of using social media and direct communication via technology on one's interactions with students, colleagues, and the general public.</li> <li>Knowing how to access, document and use proprietary materials and understanding how to recognize and prevent plagiarism by students and educators;</li> <li>Understanding and abiding by the district's policy on the use of technology and communication;</li> <li>Recognizing that some electronic communications are records under the Freedom of Information Act (FOIA) and state public access laws and should consider the implications of sharing sensitive information electronically either via professional or personal devices/accounts; and</li> <li>Exercising prudence in maintaining separate and professional virtual profiles, keeping personal and professional lives distinct.</li> </ol> <p>"Have you Google searched yourself or curated your old Facebook posts?" (V. A. 7)</p> <p>B. The professional educator maintains confidentiality in the use of technology by:</p> <ol style="list-style-type: none"> <li>Taking appropriate and reasonable measures to maintain confidentiality of student information and educational records stored or transmitted through the use of electronic or computer technology;</li> <li>Understanding the intent of Federal Educational Rights to Privacy Act (FERPA) and how it applies to sharing electronic student records; and</li> <li>Ensuring that the rights of third parties, including the right of privacy, are not violated via the use of technologies.</li> </ol> <p>D. The professional educator promotes the appropriate use of technology in educational settings by:</p> <ol style="list-style-type: none"> <li>Advocating for equal access to technology for all students, especially those historically underserved;</li> <li>Promoting the benefits of and clarifying the limitations of various appropriate technological applications with colleagues, appropriate school personnel, parents, and community members; and</li> <li>Promoting technological applications (a) that are appropriate for students' individual needs, (b) that students understand how to use and (c) that assist and enhance the teaching and learning process.</li> </ol>	<p><b>Boundaries:</b> The verbal, physical, emotional and social distances that an educator must maintain in order to ensure structure, security, and predictability in an educational environment. Most often, the boundaries that are transgressed relate to role, time and place. By respecting contracted roles, appropriate working hours, and the location of the learning environment, secure boundaries are in place for all members of the schooling community.</p> <p><b>District/school district:</b> This is often referred to as a "local education agency." A "district" in this document is defined as a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools. This can include charter schools, magnet schools, virtual magnet schools, regional educational school districts, or other entities falling under the definition above.</p> <p><b>Culture:</b> The customary beliefs, social forms, and material traits of a racial, religious, or social group, including the characteristic features of everyday existence shared by people in a place or time.</p> <p><b>Educator:</b> Educators are the target audience for the MCEE, and are defined as licensed educators. These include paraprofessionals, teachers, teacher leaders, student support personnel and administrators. However, others who interact with students who are not under the auspices of an education-related licensing organization such as coaches, school secretaries, custodians or other school staff are encouraged to adopt or adapt this Model Code of Educator Ethics. See a separate definition for Professional Educator.</p> <p><b>Ethic of care:</b> Responding with compassion to the needs of students.</p> <p><b>Ethical Decision-Making Model:</b> A framework utilized by educators to guide decision-making which includes professional dispositions; applicable laws, statutes, and policies; the Model Code of Educator Ethics; and other guidelines that have been adopted and endorsed by educational organizations.</p> <p><b>Fiduciary relationship:</b> A fiduciary relationship is one in which a person justifiably places confidence in another whose aid, advice, or protection is assumed. Inherent in such fiduciary relationships is an imbalance of power. Educators have a unique responsibility, as the relationship between student and teacher differs from other professional/client relationships (e.g., attorneys, physicians, clergy). Educators are entrusted with the safety and welfare of students during and after school hours and serve "in loco parentis."</p> <p><b>Implicit or Explicit Demands of an Organization:</b> Implicit demands are often subjective or implied and reflect the culture of the schooling environment. Explicit demands are clearly articulated through mandates, policies, or statutes.</p> <p><sup>1</sup> <a href="http://www.merriam-webster.com/dictionary/culture">http://www.merriam-webster.com/dictionary/culture</a></p>
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## Sample Ethical Issues in Music Education

### I. Pedagogy

- A. Christmas Concert?
- B.
- C.

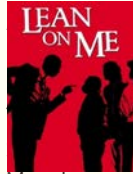


### III. Resource Allocation

- A. Competition?
- B. Gifts?
- C.

### II. Enforcement

- A. association, district, school, policies
- B. issues
- C. licensure and credentials
- D. to break the law
- E. Mandatory reporting



### IV. Relationships

### V. Diversity

- A. with colleagues, mentors, or parents
- B. with students
- C. equality
- D.



Lien, Joelle L. 2012. Ethical dilemmas of in-service music educators. *Action, Criticism, and Theory for Music Education* [http://act.maydaygroup.org/articles/Lien11\\_1.pdf](http://act.maydaygroup.org/articles/Lien11_1.pdf)

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WHAT IS THE NAME OF PA EDUCATORS' "CODE OF CONDUCT?"

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## Blind Justice?



### Documents provided in advance:

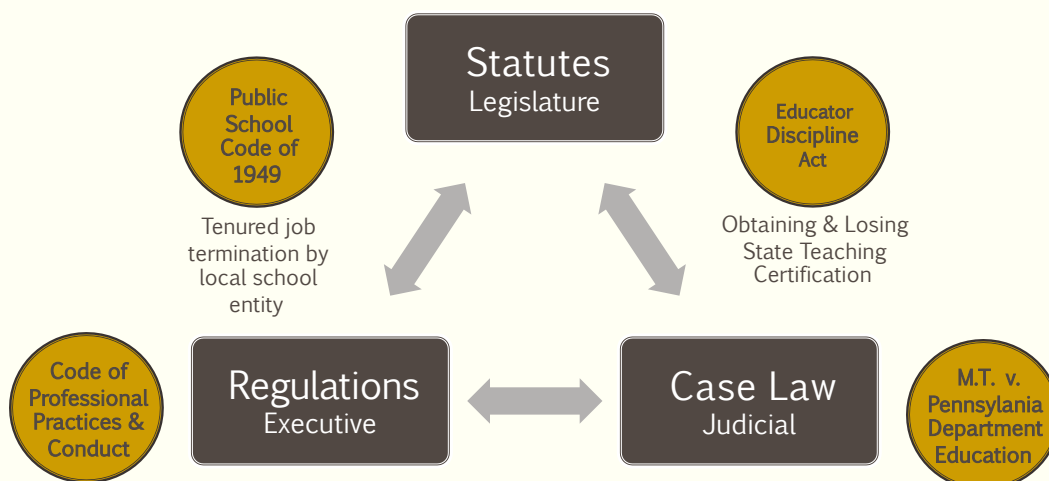
- Link to Educator Discipline Act, Effective 2-18-14.  
<https://www.pspc.education.pa.gov/Documents/Statutes%20Regs%20Forms/Educator%20Discipline%20Act.pdf>
- Code of Professional Practice and Conduct for Educators, Amended June, 2021.  
This is your Code of Conduct!
- \*Select Passages from M.T. v. PA Department of Education, Commonwealth Court published opinion, 56 A.3d 1 (2012)

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## PA Educator Misconduct Laws?



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PA House of Representatives & Senate makeup our General Assembly; LEGISLATIVE BRANCH WRITES STATUTES	Governor Wolfe and Department of Education (PDE); EXECUTIVE BRANCH WRITES REGULATIONS	PA Commonwealth and PA Supreme Courts makeup our Appellate Courts; JUDICIAL BRANCH WRITES CASE LAW
Public School Code of 1949: School Entity's Termination of Educator Contracts; Triggers Loudermill Hearings.		
Educator Discipline Act (EDA) ; Requirements for Certification and Revocation Process;		
Professional Standards & Practices Commission (PSPC) created 1990 to enforce EDA.		

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PA House of Representatives & Senate makeup our General Assembly; LEGISLATIVE BRANCH WRITES STATUTES	Governor Wolfe and Department of Education (PDE); EXECUTIVE BRANCH WRITES REGULATIONS	PA Commonwealth and PA Supreme Courts makeup our Appellate Courts; JUDICIAL BRANCH WRITES CASE LAW
Public School Code of 1949: School Entity's Termination of Educator Contracts; Triggers Loudermill Hearings.	Terminated educators may appeal School Entity decision to PDE for review	
Educator Discipline Act (EDA) ; Requirements for Certification and Revocation Process;	Educator Misconduct Complaint filed with PDE; PDE discretion to file Notice of Charges with Professional Standards & Practices Commission (PSPC)	
Professional Standards & Practices Commission (PSPC) created 1990 to enforce EDA.	1992 PSPC wrote Code of Conduct. Amended in 2021.	

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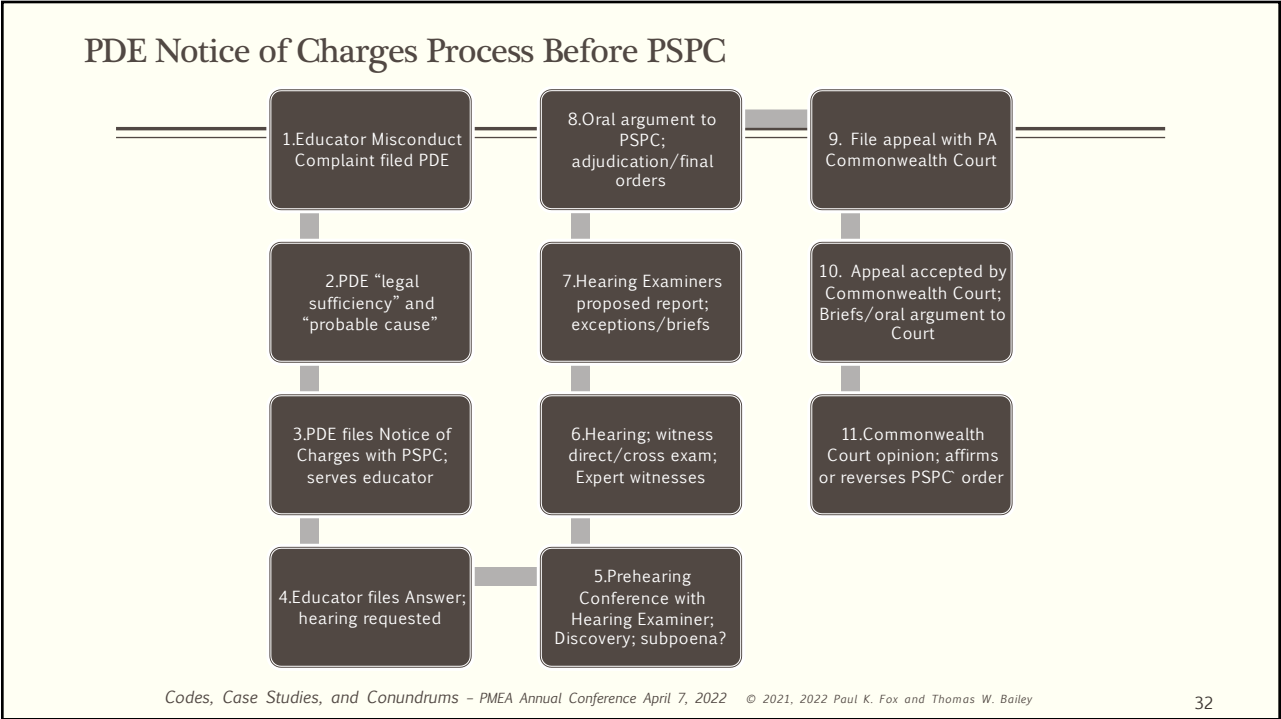
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PA House of Representatives & Senate makeup our General Assembly; LEGISLATIVE BRANCH WRITES STATUTES	Governor Wolfe and Department of Education (PDE); EXECUTIVE BRANCH WRITES REGULATIONS	PA Commonwealth and PA Supreme Courts makeup our Appellate Courts; JUDICIAL BRANCH WRITES CASE LAW
Public School Code of 1949: School Entity's Termination of Educator Contracts; Triggers Loudermill Hearings.	Terminated educators may appeal School Entity decision to PDE for review	Terminated educators may appeal PDE decision to Commonwealth Court
Educator Discipline Act (EDA) ; Requirements for Certification and Revocation Process;  Professional Standards & Practices Commission (PSPC) created 1990 to enforce EDA.	Educator Misconduct Complaint filed with PDE; PDE prosecutes Notice of Charges against educator before Professional Standards & Practices Commission (PSPC) as judge; 1992 PSPC wrote Code of Conduct. Amended in 2021.	Educators whose certification has been suspended or revoked by PSPC may appeal PSPC decision to Commonwealth Court
		Educators may appeal Commonwealth Court decision to PA Supreme Court.

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<div><div><div><div><div><div></div><div><b>PENNSYLVANIA'S CODE OF PROFESSIONAL PRACTICE AND CONDUCT FOR EDUCATORS</b></div></div></div><div><div><div><div><div><div></div><div><b>§ 235.1. Mission.</b></div><div>The Professional Standards and Practices Commission (PSPC) is committed to providing leadership for improving the quality of education in this Commonwealth by establishing high standards for preparation, certification, practice and ethical conduct in the teaching profession.</div></div></div><div><div><div><div><div><div></div><div><b>§ 235.2. Introduction.</b></div><div>a. Professional conduct defines interactions between the individual educator and students, the employing agencies and other professionals. Generally, the responsibility for professional conduct rests with the individual educator. However, in this Commonwealth, the Professional Standards and Practices Commission (PSPC) is charged with the duty to adopt and maintain a code for professional practice and conduct that shall be applicable to any educator. See section 5(a)(10) of the Educator Discipline Act (act) (24 P.S. § 2070.5(a)(10)).</div><div>b. In recognition of the magnitude of the responsibility inherent in the education process and by virtue of the desire to maintain the respect and confidence of their colleagues, students, parents and the community, educators shall be guided in their conduct by their commitment to their students, colleagues and profession.</div></div></div></div></div></div><div><div><div><div><div><div></div><div><b>§ 235.3a. Definitions.</b></div><div>The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:</div><div>Act—The Educator Discipline Act (act) (24 P.S. §§ 2070.1a–2070.18c).</div><div>Boundaries—The verbal, physical, emotional and social distances between an educator and a student.</div><div>Educator—As defined in section 1.2 of the act (24 P.S. § 2070.1b).</div><div>Electronic communication—A communication transmitted by means of an electronic device such as a telephone, cellular telephone, computer, computer network, personal data assistant or pager, including e-mails, text messages, instant messages and communications made by means of an Internet web site, such as social media and social networking web sites, or mobile device applications.</div><div>Harm—The impairment of learning or any physical, emotional, psychological, sexual or intellectual damage to a student or a member of the school community.</div><div>School entity—As defined in section 1.2 of the act (24 P.S. § 2070.1b).</div><div>Sexual misconduct—As defined in section 1.2 of the act (24 P.S. § 2070.1b).</div><div>Unauthorized drugs—Any controlled substance or other drug possessed by a person not authorized by law to possess such controlled substance or other drug.</div></div></div><div><div><div><div><div><div></div><div><b>§ 235.5a. Commitment to students.</b></div><div>a. The primary professional obligation of educators is to the students they serve.</div><div>b. In fulfillment of the commitment to students, educators:</div><div><div><div>1. Shall exercise their rights and powers in good faith and for the benefit of the student.</div><div>2. Shall maintain appropriate professional relationships and boundaries with all students at all times, both in and outside the classroom.</div><div>3. Shall not sexually harass students or engage in sexual misconduct.</div><div>4. Shall exert reasonable effort to protect students from harm.</div><div>5. Shall not intentionally expose a student to disparagement.</div></div></div></div></div></div><div><div><div><div><div><div></div><div><b>§ 235.5b. Commitment to colleagues.</b></div><div>In fulfillment of the commitment to colleagues, educators:</div><div><div><div>1. Shall not knowingly and intentionally deny or impede a colleague in the exercise or enjoyment of a professional right or privilege in being an educator.</div><div>2. Shall not knowingly and intentionally distort evaluations of colleagues.</div><div>3. Shall not sexually harass a colleague.</div><div>4. Shall not unlawfully discriminate against colleagues.</div><div>5. Shall not interfere with a colleague's exercise of political or civil rights and responsibilities.</div><div>6. Shall not use coercive means or promise special treatment to influence professional decisions of colleagues.</div><div>7. Shall not threaten, coerce or discriminate against a colleague who in good faith reports or discloses to a governing agency actual or suspected violations of law, agency regulations or standards.</div><div>8. Shall respect a colleague's right to privacy and comply with all Federal and State laws and regulations, and local policies concerning confidential health or personnel information.</div></div></div></div></div></div><div><div><div><div><div><div></div><div><b>§ 235.5c. Commitment to the profession.</b></div><div>In fulfillment of the commitment to the profession, educators:</div><div><div><div>1. Shall comply with all Federal, State, and local laws and regulations and with written school entity policies.</div><div>2. Shall apply for, accept or assign a position or a responsibility on the basis of professional qualifications and abilities.</div><div>3. Shall not knowingly assist entry into or continuance in the education profession of an unqualified person or recommend for employment a person who is not certificated appropriately for the position.</div><div>4. Shall not intentionally or knowingly falsify a document or intentionally or knowingly make a misrepresentation on a matter related to education, criminal history, certification, employment, employment evaluation or professional duties.</div><div>5. Shall not falsify records or direct or coerce others to do so.</div><div>6. Shall accurately report all information required by the local school board or governing board, State education agency, Federal agency or State or Federal law.</div><div>7. Shall not knowingly or intentionally withhold evidence from the proper authorities and shall cooperate fully during official investigations and proceedings.</div></div></div></div></div></div><div><div><div><div><div><div></div><div><b>§ 235.5d. Commitment to the community.</b></div><div>In fulfillment of the commitment to the community, educators:</div><div><div><div>1. Shall exhibit consistent and equitable treatment and shall not unlawfully discriminate against students.</div><div>2. Shall not interfere with a student's exercise of political or civil rights and responsibilities.</div><div>3. Shall not knowingly or intentionally distort or misrepresent evaluations of students or facts regarding students.</div><div>4. Shall not knowingly or intentionally misrepresent subject matter or curriculum.</div><div>5. Shall respect a student's right to privacy and comply with all Federal and State laws and regulations, and local policies concerning student records and confidential communications of students.</div><div>6. Shall not be on school premises or at a school-related activity involving students, while under the influence of, possessing or consuming alcoholic beverages or illegal or unauthorized drugs.</div><div>7. Shall not furnish, provide, or encourage students or underage persons to use, possess or unlawfully distribute alcohol, tobacco, vaping products, illegal or unauthorized drugs or knowingly allow any student or underage person to consume alcohol, tobacco, vaping products, or illegal or unauthorized drugs in the presence of the educator.</div></div></div></div></div></div></div></div></div></div></div></div></div></div></div></div></div></div></div></div></div></div></div>	33
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## Educator Discipline Act “sexual misconduct” definition

“**Sexual misconduct**” shall mean any act, including, but not limited to, any verbal, nonverbal, written or electronic communication or physical activity, directed toward or with a child or a student that is designed to establish a romantic or sexual relationship with the child or student. Such prohibited acts include, but are not limited to, the following:

- 1. sexual or romantic invitations;
- 2. dating or soliciting dates;
- 3. engaging in sexualized or romantic dialogue;
- 4. making sexually suggestive dialogue;
- 5. self-disclosure or physical exposure of a sexual, romantic or erotic nature; or
- 6. any sexual, indecent, romantic or erotic nature with the child or student.

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# WHAT WOULD YOU DO? INTERACTIVE DISCUSSION ON CASE STUDIES!

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## Degrees of Misconduct

**Additional Ethical Reflections:**

A. *In this situation, what are potential negative consequences for the teacher, students, & parents?*

B. *How would this episode affect a teacher's efficacy in her classroom, demean the employing school entity, or damage her position as a moral exemplar in the community?*

+ Consequences

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## Mock Jury – Code of Conduct Scenarios

### Degrees of Misconduct

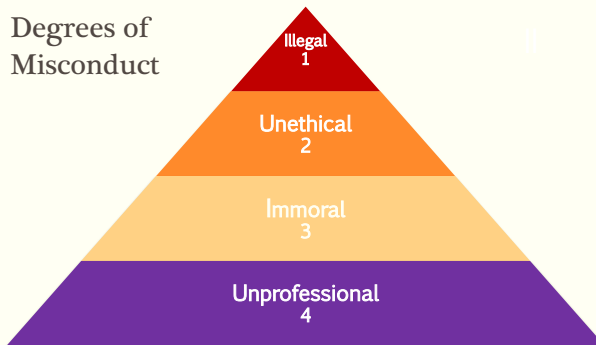
*Jane S. was a second-grade general music teacher who took a sick day to compete in a bikini contest on the Howard Stern show. In addition to appearing in a bikini on the show, Mrs. S. also discussed her sexual relationship with her husband. Although winning the contest, she had to resign from her teaching position after school administrators were informed of the incident. She was also discharged "with cause" based on a violation of her contract. PA CPPC Section 235.5a, (b), 13.*

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## Mock Jury – Code of Conduct Scenarios

Degrees of  
Misconduct



*James C. is a middle school band director who was arrested for drunk driving. He goes to court and is found guilty of the offense. When the district moves to have him fired for his second-time DUI conviction, Mr. C argues that this offense has no influence over his ability to instruct his students. Also, the violation happened during the weekend on his private time.*

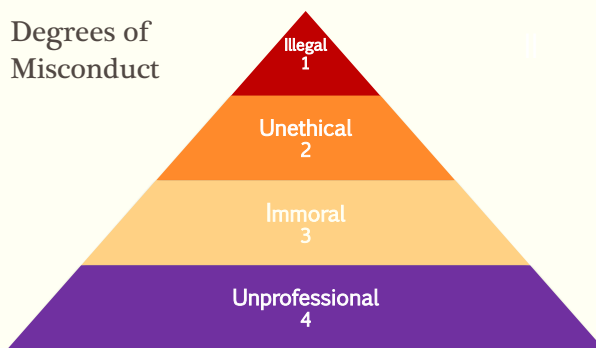
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## Mock Jury – Code of Conduct Scenarios

Degrees of  
Misconduct



If the report of criminal history record information or a form submitted by an employee under subsection (j) indicates the person has been convicted more than once for an offense under 75 Pa.C.S. § 3802(a), (b), (c) or (d) (relating to driving under influence of alcohol or controlled substance) and the offense is graded as a misdemeanor of the first degree under 75 Pa.C.S. § 3803 (relating to grading), the person shall be eligible for current or prospective employment only if a period of three years has elapsed from the date of expiration of the sentence for the most recent offense.

— Public School Code of 1949

*He did not win his argument...*

*He loss his job and faced criminal penalties! While he may still hold his teaching certificate, it is unlikely he will ever be rehired as a teacher in any state. PA CPPC Section 235.5c, 1 and Public School Code of 1949, Section 111, e, 2.*

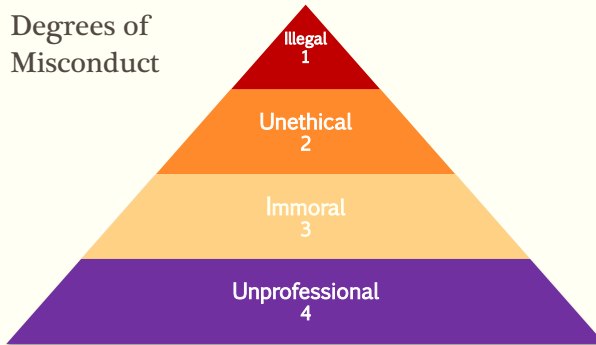
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## Mock Jury – Code of Conduct Scenarios

Degrees of  
Misconduct



*Mrs. K is a high school choral director whose husband recently divorced her. During a lesson one day, Mrs. K breaks down emotionally in front of her class. To calm everybody, she explains her emotional state to her students and discusses the end of her marriage. After school that day, a male student visits Mrs. K to see if she has recovered. The student explains that his parents are also divorcing, and he understands her feelings. The student begins stopping in to see Mrs. K more frequently and the pair begins spending more time outside of class supporting each other. Her colleagues become suspicious of her relationship with the student and report the teacher's actions to their principal.*

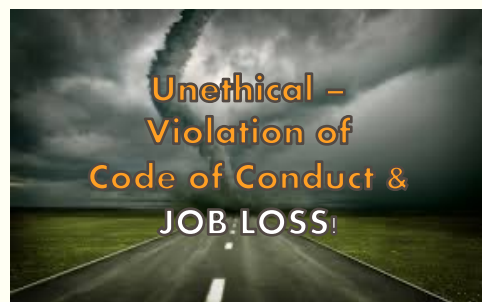
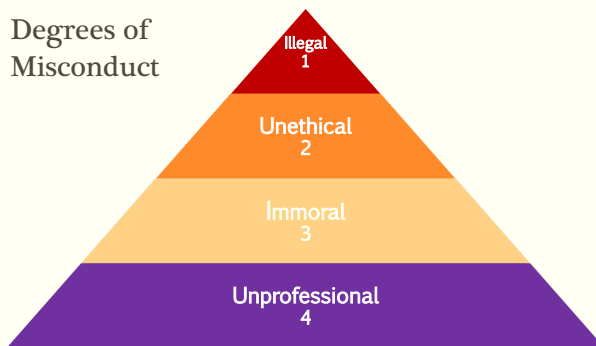
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## Mock Jury – Code of Conduct Scenarios

Degrees of  
Misconduct






*Sharing her home life with her students, does this sound like she has only reached the level of being unprofessional? After investigation, she was asked to resign from her position, and she complied. She did not lose her certificate... but could have depending on state or district regulations and the extent of her off-school behavior. PA CPPC Section 235.5a, (b), 2 and 13.*

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## DID M.T.'S CONDUCT VIOLATE THE CODE OF CONDUCT? INTERACTIVE DISCUSSION!

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## Your Assignment

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- Mr. Fox will assign a specific passage from M.T. v. PDE for your group to focus on Educator's alleged conduct toward student.
- Do any of the Code of Conduct sections or "sexual misconduct" definition apply to your specific passage? If so, which one(s)?
- In your opinion, would the PSPC find M.T.'s alleged conduct, in your specific passage, to have violated the Code of Conduct?
- Do all group members agree with each other's responses to these questions?

**"Sexual misconduct"** shall mean any act, including, but not limited to, any verbal, nonverbal, written or electronic communication or physical activity, directed toward or with a child or a student regardless of the age of the child or student that is designed to establish a romantic or sexual relationship with the child or student. Such prohibited acts include, but are not limited to, the following:

- 1. sexual or romantic invitations;
- 2. dating or soliciting dates;
- 3. engaging in sexualized or romantic dialogue;
- 4. making sexually suggestive dialogue;
- 5. self-disclosure or physical exposure of a sexual, romantic or erotic nature; or
- 6. any sexual, indecent, romantic or erotic nature with the child or student.

— Educator Discipline Act, Section 1b, Definitions

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## Take-Aways



- Review the **Education Discipline Act** and **PA Code of Professional Practice & Conduct** “ignorance is no excuse”
- Read and unpack the ideals in the NASDTEC **Model Code of Ethics for Educators**
- Share this information and discussions with colleagues – music education methods classes, PCMEA programs, music staff or faculty meetings, etc.
- Recreate discussions about ethics with your peers – find individual(s) you can trust to talk about issues that come up in your day-to-day decision-making
- Need help? Just ask! Contact **Paul Fox** or **Thomas Bailey**  
Email: [paulkfoxusc@gmail.com](mailto:paulkfoxusc@gmail.com)  
Websites: <https://paulfox.blog/category/ethics>,  
<https://twbaileylaw.com/> & <https://www.pmea.net/council-for-tttr/>

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## Additional PDE Documents/Links

- Act 126 Child Abuse Recognition and Reporting Act
  - <https://www.pspc.education.pa.gov/Promoting-Ethical-Practices-Resources/Act-126-Training/Pages/default.aspx>
  - [http://lms.pdesas.org/content/courses/Act126/\\_shared/demo/Introduction/introduction.php](http://lms.pdesas.org/content/courses/Act126/_shared/demo/Introduction/introduction.php)
- Code of Professional Practice and Conduct  
<https://www.pspc.education.pa.gov/Statutes-Regulations-Policies-Forms/Code-of-Professional-Practice-Conduct/Pages/default.aspx>
- Commission Publications  
<https://www.pspc.education.pa.gov/Promoting-Ethical-Practices-Resources/Commission-Publications/Pages/default.aspx>
- Educator Discipline Act  
<https://www.pspc.education.pa.gov/Documents/Statutes%20Regs%20Forms/Educator%20Discipline%20Act.pdf>



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We are grateful for the contributions of Thomas W. Bailey providing his legal insight for several PMEA webinars and workshops. He offers PDE Act 48 courses at <https://twbaileylaw.com>.

Guitar music by Daryl Shawn, "The Monsoon Replied" from *Safe in Sound* album

Song "The Choices We Make" from *A Bronx Tale – the New Musical*

## SPECIAL THANKS

- Pennsylvania Department of Education, PA Professional Standards & Practices Commission
- Nebraska Professional Practices Commission
- Iowa Board of Educational Examiners
- Connecticut's Teacher Education & Mentoring Program

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## THE CHOICES WE MAKE...

*You said that you had things to teach me.  
And now, I see it all so clear.  
We're led, each moment that we live in,  
To the only choice we're given.  
Will we live by love or fear?  
And you, you knew it's never easy.  
It's never black or white,  
Just shades of grey.  
All we do, is face up to those choices,*

*And obey our inner voices  
And hope we find our way.  
And all the choices we make  
Will shape our lives forever,  
Ev'ry path we take  
When push comes down to shove,  
Ev'ry moment counts.  
It's always now or never.  
And although, god knows,*

*You chose the life you chose,  
I'm here because, just once,  
You chose to love...*



For additional information or copies of these slides, please go to <https://www.pmea.net/council-for-ttr/>

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