

When the Professional Standards Commission comes knocking...

By: Michael C. Daniel

Most Educators are generally familiar with the Professional Standards Commission (“PSC”), and understand that the PSC regulates their certification for teaching. However, it has been my experience that Educators have numerous questions when they become the subject of a PSC investigation. With the self reporting requirement placed on school officials, the PSC investigations are becoming more and more common. It is important to recognize that PAGE provides legal representation to its members during these investigations. Typically, the process starts when an Educator is referred to the PSC for alleged ethics violation. The offense may also be a violation of local board policy and the Educator may have already been disciplined by the local Board.

The PSC’s process starts with the receipt of a Notice of PSC’s Investigation. After the investigation, the PSC makes a recommendation of a proposed sanction, if any. At that point, the Educator can appeal the sanction. I have found through my representation of PAGE members over the years that the following are the frequently asked questions regarding the PSC’s investigation, sanctions, and appeals processes:

Notice of Investigation

What do I do when I receive the Notice of Investigation?

You should immediately contact the PAGE legal office so that they can provide you representation.

The Notice asks me to call the investigator to set up an appointment for an interview. Should I do that before I contact PAGE?

No. Many times when the member calls the investigator to set up the appointment, the call becomes an impromptu interview. You do not want to be interviewed until you have consulted with a PAGE attorney.

How long does the investigation last? Typically the investigator may take up to 45 days to conduct the investigation.

Do I get to see the investigation report?

Not at the initial phase. If an appeal follows the PSC investigation, at the discretion of the ALJ, you are entitled to favorable or exculpatory evidence obtained by the investigator.

Do I get to submit matters to the PSC before they review the investigation? You can submit matters to the investigator, but you are not entitled to present matters at the PSC meeting when the investigation is considered, and the PSC recommends its sanction.

What are the possible sanctions?

The PSC will consider the investigation and may find that there is no probable cause for a violation and dismiss the case. On the other hand, if the PSC finds probable cause that there has been a violation, they will issue a recommended sanction. The PSC can impose the following sanctions: a warning, a reprimand, monitoring the educator, or suspending or revoking the educator's certificate.

I was sanctioned by my local school, isn't this double punishment?

Yes, but it is allowed under the law. Misconduct, which violates the Code of Ethics by Georgia Educators and the school system's policy, may be punished by the school system and also referred to the PSC. However, in most instances, the PSC takes into account the sanctions imposed by the local system.

Notice of Sanction

Once I receive the Notice of Sanction, what are my options?

You should contact your PAGE attorney to consider your options. Generally, you have the option to accept the sanction or appeal the sanction to an ALJ through the Office of State Administrative Hearings ("OSAH"). OSAH is an independent State agency set up for hearing appeals on a variety of matters, including PSC determination.

What do I do if I want to accept the proposed sanction?

Again before making a decision you should confer with your PAGE attorney, but if you want to accept the proposal, you can either do nothing and the sanction will go into effect automatically, or you can sign the consent order which is attached to the Notice of Sanction letter.

If I accept the sanction, how will that impact my career?

The impact a sanction has on your career depends on the incident giving rise to the investigation and the severity of the sanction. If you have received a contract and your school system is satisfied with your performance, it is unlikely that the sanction will have an impact. However, if you have been non-renewed, or are non-renewed later, the sanction will be a part of your record and you will have an obligation to identify that your certificate was sanctioned. Whether a prospective school system employer will deny employment depends on a myriad of considerations, including the circumstances leading to the sanction, how much time has passed since the sanction and your overall performance since the incident leading to the sanction.

Appeal

How do I Appeal?

To appeal a sanction, your PAGE attorney should file a request for hearing within 30 days of the Notice of Sanction.

If I Appeal how long will it take?

The wheels of justice move very slowly at OSAH. It is likely that the appeal process will take 18-24 months.

How much time will I have to be away from work?

The time varies depending on the facts of each case, but on average you can anticipate meeting with your PAGE attorney for 4-8 hours to prepare for the appeals hearing and missing 1-2 days work for the hearing.

Will a jury make the determination? No. Under the OSAH procedures, the ALJ makes the decision. However, the proceedings are very similar to a trial with the exception that there will be no jury.

Where will the hearing be conducted? The hearing will be conducted in the County of the local school system. Typically, the hearing is conducted in the local courthouse or government building.

Is the hearing open to the public? Yes. Anyone can attend the hearing including the media.

If I appeal, how will that affect my career? The fact that you have appealed the decision, in and of itself, will have no impact. However, if you are seeking employment with another school system, essentially every school system requires that you identify whether you have a matter pending before the PSC. So, the fact that the PSC has proposed sanctions can impact your career. Whether a pending PSC matter would impact employment in other fields would depend on the application process for that field.



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