

IN THE COURT OF APPEALS OF TENNESSEE  
AT JACKSON  
September 13, 2022 Session

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Appellate Courts

**JON BECK v. DYER COUNTY BOARD OF EDUCATION ET AL.**

**Appeal from the Chancery Court for Dyer County  
No. 2018-CV-96 R. Lee Moore, Jr., Judge**

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**No. W2021-01136-COA-R3-CV**

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A tenured teacher appealed his dismissal for insubordination, neglect of duty, and unprofessional conduct. Among other things, he argued that the decision of the Board of Education lacked evidentiary support. After a de novo review, the trial court affirmed the Board's decision. We conclude that the evidence does not preponderate against the trial court's factual findings. And the record supports the teacher's dismissal for insubordination, neglect of duty, and unprofessional conduct. So we affirm.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court Affirmed**

W. NEAL MCBRAYER, J., delivered the opinion of the court, in which J. STEVEN STAFFORD, P.J., W.S., and KENNY ARMSTRONG, J., joined.

William A. Wooten, Covington, Tennessee, for the appellant, Jon Beck.

T. William A. Caldwell and Hayley E. Vos, Nashville, Tennessee, for the appellees, Dyer County Board of Education, Larry Lusk, and Laura Brimm.

**OPINION**

**I.**

**A.**

Jon Beck was a tenured teacher at Dyer County High School. He taught driver's education and physical education while also serving as an assistant basketball coach. For ten years, Peggy Dodds, the school principal, allowed Mr. Beck to leave the school campus

every day during his lunch break to take care of his dog. And she excused Mr. Beck from complying with the faculty sign-out policy for his mid-day trips.

Mrs. Dodds retired in December 2015 but remained on staff for the remainder of the school year to assist the new principal, Laura Brimm. During her first semester as principal, Mrs. Brimm observed numerous teachers freely “coming and going throughout the day.” With 1,200 students on campus, Mrs. Brimm believed that a strong faculty presence during the school day was important for student safety and supervision, especially in emergency situations. And she resolved to make some changes.

At the outset of the new school year, Mrs. Brimm informed the faculty that she expected them to abide by the policies in the faculty handbook. And the teachers acknowledged in writing that they were responsible for knowing the policies. She emphasized the policy on teachers leaving campus during the school day. According to the handbook, “[t]eachers [we]re expected to remain on the campus during the school day.” And “[p]ersonal business should not take a teacher away from school unless it [wa]s an emergency.” Mrs. Brimm stressed that any teacher leaving campus during the school day was required to first notify an administrator and then sign the faculty book in the main office when leaving and returning to campus.

In mid-September, Mrs. Brimm called Mr. Beck in for a meeting. David Armstrong, one of the assistant principals, was also present. As Mrs. Brimm later explained, Mr. Beck was not following all of her faculty directives. She knew that he had missed in-service training. So she wanted to make sure he understood her expectations. Among other things, she reviewed the policy for leaving campus during the day, particularly the sign-out procedure. After receiving a report that Mr. Beck had posted a video of one of his student drivers on snapchat, Mrs. Brimm also warned him not to “snapchat[ ] [or take] student videos and pictures” without express approval from the administration.

Mr. Beck agreed to stop taking pictures and videos of his students. But he insisted he needed to go home mid-day to take care of his dog. Mrs. Brimm explained that this routine would have to change now that she was principal. An occasional absence was acceptable as long as he followed the handbook policy. But she would not authorize a daily absence during the school day. Upset at this turn of events, Mr. Beck walked out of the meeting without signing the letter of warning.

For the next few months, Mr. Beck continued to disregard the new administration’s policy on leaving campus. At a second meeting in February 2017, Mrs. Brimm told Mr. Beck that he could no longer leave campus for personal reasons during the day. In her view, she had tried to work with him the previous semester. But he remained uncooperative. She warned him that he would be officially reprimanded if he left without authorization again. Undaunted, Mr. Beck left campus as usual a few hours later. When he returned, Mrs. Brimm presented him with an official reprimand.

Mr. Beck never adhered to the administration's policy on leaving campus. All told, he had 172 unauthorized absences during the 2016-2017 school year. He recorded his absence in the faculty sign-out book only 84 times. And he received a total of six written reprimands for this behavior.

At the end of the school year, Mr. Beck met with Mrs. Brimm and Dr. Larry Lusk, director of the Dyer County school system. Mr. Beck's unauthorized absences were the main topic of discussion. Dr. Lusk reminded Mr. Beck that he was required to follow his principal's instructions. Mr. Beck responded that his former principal had authorized his absences. He believed Mrs. Brimm's policy was unreasonable. And he complained that other teachers regularly left campus during the day without being disciplined. Dr. Lusk gave Mr. Beck a choice—resign or face dismissal. Another meeting was scheduled for June, but Mr. Beck did not attend.

Shortly thereafter, Dr. Lusk submitted a letter to the Dyer County Board of Education ("Board") charging Mr. Beck with insubordination, neglect of duty, and unprofessional conduct. Tenn. Code Ann. § 49-5-511(a)(2), (4) (2020). The Board determined that the charges, if proven, warranted Mr. Beck's dismissal. *Id.* § 49-5-511(a)(5). Mr. Beck demanded a hearing before an impartial hearing officer. *Id.* § 49-5-512(a) (2020).

## B.

### 1. Unexcused Absences

During the hearing, Mrs. Brimm explained the safety concerns that motivated her strict policy on leaving campus during the school day. Staff needed to be present throughout the day to supervise the school's 1,200 students and in case an emergency arose. She recognized that the previous administration had not enforced the handbook policy on leaving campus. So she repeatedly stressed the importance of complying with this policy at in-service training, faculty meetings, and leadership team meetings throughout the fall semester. As for Mr. Beck, she felt that she made her expectations "abundantly clear" at the September meeting. Yet he continued to deviate from her announced policy. As she recalled, she discussed this issue directly with Mr. Beck at least a dozen times during the fall semester. Still, she observed no change in his behavior.

So at the February meeting, she instructed him to stop leaving campus during his lunch break. She turned down his request for a grace period because she believed she had already given him an entire semester to make other arrangements. She warned him that the next step was an official reprimand. But he was openly defiant. When she presented him with his first reprimand, he told her that she could reprimand him every day. He would

still leave. In his words, “If I get fired, I guess I’ll get fired.” Mr. Armstrong, who witnessed these encounters, confirmed Mrs. Brimm’s account.

Mr. Beck admitted that he left campus during the day 172 times without authorization from the current administration. He pointed out that he followed the sign-out procedure for 84 of those absences. But he conceded that he did not complete his entries at the times that he actually left or returned. Instead, he made the entries earlier in the day and always recorded his absence as exactly 11:40 to noon.

According to Mr. Beck, he never read the faculty handbook. And, until the February meeting, he was unaware that the new administration expected the faculty to adhere to the handbook policy on leaving campus. He agreed that he met with Mrs. Brimm several times during the fall semester. But he claimed they never discussed his daily absences or reviewed the handbook policy. As he told it, their meetings that fall mostly concerned “petty stuff.” So he was shocked when Mrs. Brimm told him in February that he could no longer go home at lunch. He denied that he was ever openly angry and defiant with Mrs. Brimm. Rather, he “begged” her to work with him to find a reasonable solution for his dog. But she refused.

Mr. Beck insisted that Mrs. Brimm singled him out for punishment. In his view, the female teachers who violated the same policy received more favorable treatment. His witnesses identified several teachers who repeatedly left campus during the day without apparent consequences. And another teacher echoed Mr. Beck’s sentiment.

Mrs. Brimm acknowledged that other teachers violated the policy. She had conversations with at least 29 teachers about leaving campus without permission. For many teachers, a verbal warning was enough to ensure compliance. She also issued three written reprimands to the chronic offenders. After that, every teacher except for Mr. Beck adhered to the policy. Mr. Beck was the only one that remained stubbornly in compliant despite numerous warnings and six official reprimands.

Mr. Beck maintained that he had a binding agreement with Mrs. Dodds. And he confined his absences to his “duty-free” lunch period. He claimed that he was never late for class. But other witnesses disagreed. They claimed that Mr. Beck routinely left early and returned late even though the sign-out sheet indicated he was only gone for 20 minutes.

Mrs. Dodds confirmed that she allowed Mr. Beck to go home at lunch to let his dog out when she was principal. But she acknowledged she did not have the authority to make a contract with Mr. Beck on behalf of the Board. And her management authority ended when she retired. In her view, the new principal was free to make her own rules.

## 2. Student Videos

Mrs. Brimm also elaborated on her concerns about Mr. Beck taking pictures and videos of his students. In the fall semester, a parent reported to the administration that Mr. Beck shared a video on snapchat that showed a driver's education student answering trivia questions while behind the wheel of the school vehicle. Another teacher also saw the video on snapchat. Mrs. Brimm was concerned that making videos of students without parental consent and posting them on snapchat could violate federal nondisclosure laws. So she warned Mr. Beck not to take any pictures, videos or "snaps" of his students without approval from the administration.<sup>1</sup> And Mr. Beck agreed. But that spring, another parent complained that Mr. Beck was laughing and taking videos of the students in one of his physical education classes. The parent's child, who had low self-esteem, found his actions upsetting. When the administration investigated the new claim, other students in the class confirmed the parent's report. And several female students reported that they were "uncomfortable" being filmed in class. This time, Mr. Beck received an official verbal warning.

Mr. Beck admitted that he made a few snapchat videos of his driver's education students playing a trivia game at the request of a school official. But he vehemently denied making any videos of his physical education students. Even so, another physical education teacher testified that he saw Mr. Beck take pictures or videos in his physical education classes about ten times throughout the school year.

### C.

The hearing officer found proof of insubordination, neglect of duty, and unprofessional conduct. And he concluded that dismissal was appropriate under the circumstances.

Mr. Beck appealed the hearing officer's decision to the Board. Tenn. Code Ann. § 49-5-512(c)(1). After a hearing, the Board voted to sustain the decision. *Id.* § 49-5-512(c)(3). Mr. Beck then filed a petition for writ of certiorari in the Dyer County Chancery Court. *Id.* §§ 49-5-512(c)(4), -513(a) (2020). In his petition, Mr. Beck sought a de novo review of the Board's decision as well as a ruling on a new claim for damages for sex discrimination under state and federal law. He also sought compensatory damages and attorney's fees under 42 U.S.C. § 1983.

The trial court determined that Mr. Beck was entitled to a de novo review of the Board's decision to dismiss him from his position as a tenured teacher. But judicial review

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<sup>1</sup> Shortly after receiving this warning, Mr. Beck blocked the other faculty members from viewing his snapchats.

was limited to the written record from the Board proceedings. *Id.* § 49-5-513(g). New evidence was only admissible to establish that the Board acted arbitrarily or capriciously or in violation of statutory and constitutional rights. *Id.* So the court precluded Mr. Beck from presenting evidence on his federal law claims.

The trial court ultimately upheld the Board’s decision. The court determined that the Board met its burden of proving insubordination, neglect of duty, and unprofessional conduct. And it concluded that dismissal was “reasonable and justified under the circumstances.”

## II.

Mr. Beck lists a myriad of issues in his statement of the issues on appeal.<sup>2</sup> For the most part, he challenges the trial court’s determination that he was guilty of insubordination, neglect of duty, and unprofessional conduct. He also complains that dismissal was not warranted under the circumstances.

We apply the familiar standard of review for appeals after a bench trial. *Emory v. Memphis City Sch. Bd. of Educ.*, 514 S.W.3d 129, 142 (Tenn. 2017). We presume that the trial court’s factual findings are correct unless the preponderance of the evidence is otherwise. TENN. R. APP. P. 13(d). We review questions of law de novo, with no presumption of correctness. *Emory*, 514 S.W.3d at 142.

Whether the facts established in the trial court meet the statutory standard for dismissing a tenured teacher is a mixed question of law and fact. We review that determination “de novo with a presumption of correctness applying only to the trial court’s findings of fact and not to the legal effect of those findings.” *Bidwell ex rel. Bidwell v. Strait*, 618 S.W.3d 309, 318 (Tenn. 2021).

### A.

#### 1. Insubordination

Insubordinate conduct typically involves “a defiance of authority.” *Morris v. Clarksville-Montgomery Cnty. Consol. Bd. of Educ.*, 867 S.W.2d 324, 327 (Tenn. Ct. App. 1993). A teacher who refuses or fails “to carry out specific assignments . . . when the . . .

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<sup>2</sup> Mr. Beck also asks us to review whether the Board’s decision was arbitrary and capricious or in violation of his statutory and constitutional rights. And he contends the trial court erred in dismissing his federal law claims. But he made no argument in support of these issues. *See* TENN. R. APP. P. 27(a)(7). So we deem the issues waived. *Hodge v. Craig*, 382 S.W.3d 325, 335 (Tenn. 2012) (“An issue may be deemed waived, even when it has been specifically raised as an issue, when the brief fails to include an argument satisfying the requirements of Tenn. R. App. P. 27(a)(7).”).

assignment[ ] [is] reasonable and not discriminatory” may be insubordinate. Tenn. Code Ann. § 49-5-501(7)(A) (2020). To warrant dismissal of a tenured teacher on this basis, the teacher must have refused or failed “to obey some order which a superior . . . is entitled to give and have obeyed.” *Morris*, 867 S.W.2d at 327.

The trial court determined that Mr. Beck was guilty of insubordination in “willfully and repeatedly disregarding the policy that faculty were to remain on campus during the school day.” Mr. Beck concedes that he repeatedly refused to obey Mrs. Brimm’s directive to remain on campus. But he offers several reasons why his disobedience does not constitute insubordination.

First, he claims that he had a contractual right to leave campus during lunch based on his agreement with Mrs. Dodds. And he insists that this agreement was binding on the Board. We cannot agree. As Mrs. Dodds readily admitted, she lacked the authority to amend Mr. Beck’s employment contract. *See generally* Tenn. Code Ann. § 49-2-303 (2020).

Although principals “are key figures in the orderly and efficient operation of the schools,” the school board “is the supreme authority.” *Fleming v. Wade*, 568 S.W.2d 287, 290 (Tenn. 1978); *Howard v. Bogart*, 575 S.W.2d 281, 283 (Tenn. 1979). When it comes to employment-related decisions, the school board is “the master and not the servant.” *State v. Yoakum*, 297 S.W.2d 635, 640 (Tenn. 1956); *Sanders v. Vinson*, 558 S.W.2d 838, 842-43 (Tenn. 1977). The board “fix[es] the salaries of and make[s] written contracts with the teachers.” Tenn. Code Ann. § 49-2-203(a)(1) (Supp. 2022). Principals, on the other hand, manage and supervise the personnel assigned to their schools. *Id.* § 49-2-303(b)(1). They “make decisions regarding the specific duties” of the teachers in their purview. *Id.* § 49-2-303(b)(3). But these decisions must be consistent with the board’s “policies, rules [and] contracts.” *Id.*

Nor did Mr. Beck prove that Mrs. Dodds had apparent authority to modify his employment agreement. *See V. L. Nicholson Co. v. Transcon Inv. & Fin. Ltd., Inc.*, 595 S.W.2d 474, 483 (Tenn. 1980) (describing “apparent authority” as authority that “the principal knowingly permits the agent to assume or which he holds the agent out as possessing” (quoting *Rich Printing Co. v. McKellar’s Est.*, 330 S.W.2d 361, 376 (Tenn. Ct. App. 1959))). Mr. Beck insists that Mrs. Dodds had apparent authority because their agreement “spanned ten years without issue” and the director of schools had “no issues with Mrs. Dodds’ leadership.” But apparent authority must be shown “through the acts of the principal rather than those of the agent or through the perception of a third party.” *Boren ex rel. Boren v. Weeks*, 251 S.W.3d 426, 433 (Tenn. 2008). There is no proof that the Board was aware of this agreement or of any conduct by the Board that would lead a

reasonable person to believe Mrs. Dodds had the authority to modify Mr. Beck's employment contract.<sup>3</sup> *Cf. V. L. Nicholson Co.*, 595 S.W.2d at 483.

Next, Mr. Beck asserts he was free to leave campus during his duty-free lunch period. *See* Tenn. Code Ann. § 49-1-302(e)(1) (Supp. 2022); Tenn. Comp. R. & Regs. 0520-04-03-.03 (2021). By statute, the State Board of Education must adopt regulations "to achieve a duty-free lunch period for all teachers." Tenn. Code Ann. § 49-1-302(e)(1). During a duty-free lunch period, "teachers shall have no other assigned responsibilities." Tenn. Comp. R. & Regs. 0520-04-03-.03.

Citing a previous opinion of this Court, Mr. Beck argues that teachers are "off duty" during their duty-free lunch period and thus "free to come and go from school." *See Polk Cnty. Bd. of Educ. v. Polk Cnty. Educ. Ass'n*, No. E2001-02390-COA-R3-CV, 2002 WL 1357062, at \*5 (Tenn. Ct. App. June 21, 2002). But the cited decision does not aid our analysis. The issue then before the court was the arbitrability of a dispute over changes to the length of the workday for Polk County teachers. *Id.* at \*3. The court did not squarely address the meaning of the duty-free lunch requirement. *See id.* at \*4-6.

The Board points us to decisions from other state courts construing similar requirements.<sup>4</sup> *See Griffin-Spalding Cnty. Sch. Sys. v. Daniel*, 451 S.E.2d 480, 481 (Ga. Ct. App. 1994); *Windham Tchrs. Ass'n v. Windham Bd. of Educ.*, No. 892, 1979 WL 208120, at \*1 (Ohio Ct. App. June 11, 1979). These courts concluded that a duty-free lunch period does not afford teachers an unconditional right to leave campus during the school day. *See Griffin-Spalding Cnty. Sch. Sys.*, 451 S.E.2d at 481; *Windham Tchrs. Ass'n*, 1979 WL 208120, at \*1. The courts reasoned that a duty-free lunch period only ensured a time free of "instructional, administrative, or supervisory responsibilities." *Griffin-Spalding Cnty. Sch. Sys.*, 451 S.E.2d at 481. And an administrative requirement that teachers "receive permission to leave the school property" during their duty-free lunch did not violate the state statute. *Windham Tchrs. Ass'n*, 1979 WL 208120, at \*1. We find this reasoning persuasive. We conclude that Mr. Beck was not entitled to disregard Mrs. Brimm's directive based on his right to a duty-free lunch.

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<sup>3</sup> We find Mr. Beck's promissory estoppel argument equally unavailing. *See Barnes & Robinson Co., Inc. v. OneSource Facility Servs., Inc.*, 195 S.W.3d 637, 645 (Tenn. Ct. App. 2006) (discussing the limits of promissory estoppel). He contends that he lost his tenured position in detrimental reliance on his former principal's promise. Under the circumstances, his reliance on the alleged promise was unreasonable. *See Calabro v. Calabro*, 15 S.W.3d 873, 879 (Tenn. Ct. App. 1999) (explaining that "the plaintiff must show not only that a promise was made, but also that the plaintiff reasonably relied on the promise to his detriment").

<sup>4</sup> *See* Ga. Code Ann. § 20-2-218(b)(1) (West, Westlaw through 2023 Reg. Sess.) (mandating a "duty-free lunch period" for teachers during which time they "shall not be assigned any responsibilities"); Ohio Rev. Code Ann. § 3319.072 (West, Westlaw through 135th Gen. Assemb.) (providing that teachers "shall not be required to perform any school activity" during their lunch period).



Finally, Mr. Beck argues that he cannot be considered insubordinate for violating the policy on leaving campus because Mrs. Brimm applied the policy in a discriminatory manner. *See* Tenn. Code Ann. § 49-5-501(7)(A). But the evidence does not preponderate against the trial court’s finding that the policy was uniformly enforced. Mrs. Brimm spoke with numerous teachers about their deviations from the policy. And the administration issued verbal warnings and reprimands to the repeat offenders. The rest of the faculty then adhered to the policy.

We agree with the trial court that Mr. Beck was guilty of insubordination for repeatedly ignoring his principal’s directive to remain on campus during the school day. It was reasonable for Mrs. Brimm to expect the faculty to remain on campus during the school day. Mr. Beck was the only teacher that insisted on leaving campus every day for personal reasons. Mrs. Brimm gave him several months to make alternative arrangements. When he failed to do so, she instructed him to remain on campus during the day. As the trial court found, Mr. Beck “understood the instructions and understood the consequences for failure to comply.” Yet he repeatedly defied his principal’s specific instruction.

The trial court also determined that Mr. Beck was insubordinate for continuing to make unauthorized videos of his students after Mrs. Brimm instructed him to stop. Mr. Beck complains that the alleged videos are not in the record. So he contends the proof on this charge fell short. But the evidence does not preponderate against the trial court’s finding that Mr. Beck made unauthorized videos of his students after Mrs. Brimm’s directive. There was ample testimony on this point. We agree that making additional videos of his students contrary to Mrs. Brimm’s directive was also insubordinate.

## 2. Neglect of Duty

Mr. Beck also challenges the trial court’s ruling that he neglected his duties. He points to testimony that he was a good teacher with a history of exemplary classroom evaluations. He reiterates his argument that he was free to leave campus during his duty-free lunch. And he insists that he confined his absences to that twenty-minute period.

Even so, the trial court found that Mr. Beck’s repeated unexcused absences constituted a neglect of duty. “Neglect of duty,” as defined in the Tenure Act, expressly includes the “continued unexcused or unnecessary absence from duty.” Tenn. Code Ann. § 49-5-501(8). Dyer County High School teachers were expected to be on campus throughout the school day to ensure proper supervision of students and in case of an emergency. During the 2016-2017 school year, Mr. Beck left campus without authorization on 172 days. Although Mr. Beck insists he was only absent during his lunch period, another teacher testified that he was late returning to class more than half the time. And while he had no assigned responsibilities during lunch, he was expected to be available

in case of an emergency. We agree with the trial court that his repeated absences constituted a neglect of duty.

### 3. Unprofessional Conduct

Unprofessional conduct for a tenured teacher may include immorality, dishonesty, felony convictions, ethical violations, or improper use of intoxicants. Tenn. Code Ann. § 49-5-501(3). It encompasses all “conduct that violates the rules or the ethical code of a profession or that is unbecoming a member of a profession in good standing, or which indicates a teacher’s unfitness to teach.” *Morris*, 867 S.W.2d at 329 (quoting 68 AM. JUR. 2D *Schools* § 161 (1993)). Here, the trial court found that Mr. Beck ignored his principal’s directive and repeatedly took pictures and videos of students. In the court’s view, this conduct violated the federal Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. § 1232g, and the Tennessee Teacher Code of Ethics, Tenn. Code Ann. § 49-5-1003(b) (2020).

The evidence does not preponderate against the court’s finding that Mr. Beck took photos and videos of his students both in the driver’s education vehicle and his physical education classes. And he posted at least one of those videos on snapchat without approval of the administration. Even so, he did not violate the federal statute.

FERPA “protects the privacy of students’ education records” from unauthorized disclosure. *State ex rel. McQueen v. Metro. Nashville Bd. of Pub. Educ.*, 587 S.W.3d 397, 403 (Tenn. Ct. App. 2019); *see also United States v. Miami Univ.*, 294 F.3d 797, 817-18 (6th Cir. 2002). But it does so “by conditioning receipt of federal funding on an educational agency or institution’s compliance with the statute.” *State ex rel. McQueen*, 587 S.W.3d at 403; *see also Gonzaga Univ. v. Doe*, 536 U.S. 273, 278 (2002). Thus, it prohibits funding for educational institutions that have “a policy or practice of permitting the release of [students’] education records” or “any personally identifiable information” in those records without parental consent. 20 U.S.C. § 1232g(b)(1)-(2).

As the Supreme Court has noted, FERPA speaks “in terms of institutional policy and practice, not individual instances of disclosure.” *Gonzaga Univ.*, 536 U.S. at 288. It addresses “systematic, not individual, violations of students’ privacy.” *Jensen v. Reeves*, 45 F.Supp.2d 1265, 1276 (D. Utah 1999), *aff’d*, 3 F. App’x. 905 (10th Cir. 2001); *Daniel S. v. Bd. of Educ. of York Cmty. High Sch.*, 152 F. Supp. 2d 949, 954 (N.D. Ill. 2001). And the administration did not authorize Mr. Beck to post his student video on snapchat.

Although we disagree with the trial court’s determination that Mr. Beck violated FERPA, we agree that his conduct violated the ethical code of his profession. Educators are expected to “adhere to the highest ethical standards.” Tenn. Code Ann. § 49-5-1002(1) (2020). The Tennessee Teacher Code of Ethics prohibits teachers from disclosing “information about [a] student obtained in the course of the educator’s professional service,

unless disclosure of the information is permitted, serves a compelling professional purpose, or is required by law.” *Id.* § 49-5-1003(b)(12). It also requires teachers to “[m]ake reasonable effort to protect the emotional well-being of the student” and “[n]ot intentionally expose the student to embarrassment or disparagement.” *Id.* § 49-5-1003(b)(8)-(9).

Without administrative approval, Mr. Beck posted a video of a student driver on snapchat. After being warned against taking pictures and videos of students without authorization, Mr. Beck disregarded that instruction and videoed the students in his physical education class. This time, a parent reported that his antics made her daughter feel self-conscious and “very uncomfortable.” This activity made other students in the class uncomfortable as well. This was not an isolated incident. Another teacher saw Mr. Beck filming students in his physical education classes around ten times. Mr. Beck disputes this testimony, but the evidence does not preponderate against the court’s factual finding. We conclude that these repeated ethical violations constituted unprofessional conduct.

### B.

Mr. Beck contends that his conduct did not merit dismissal. “Whether dismissal is warranted . . . must be determined on a case by case basis after a careful review of attendant circumstances.” *Ripley v. Anderson Cty. Bd. of Educ.*, 293 S.W.3d 154, 157 (Tenn. Ct. App. 2008). In our view, dismissal was an appropriate sanction here.

We recognize that Mr. Beck had no disciplinary issues before the 2016-2017 school year. By all accounts, he has been a good teacher and coach. But he repeatedly and blatantly disregarded the policies and directives of his new principal. He was given several months to adjust to the new administration’s policies. Still, he refused to change his behavior. He left campus without authorization 172 times despite numerous warnings and six official reprimands. And he was openly defiant to his principal. He also disclosed information about a student without authorization. And he continued to film his students without authorization even after his principal specifically warned him not to do so.

### III.

The evidence supports the trial court’s findings of insubordination, neglect of duty, and unprofessional conduct. And dismissal was appropriate under the circumstances. So we affirm.

s/ W. Neal McBrayer  
W. NEAL MCBRAYER, JUDGE