

1 The Board therefore lacks probable cause to proceed with this matter. **MOTION**
2 **CARRIED UNANIMOUSLY.**

3
4 Carol Trueg moved, with a second by Merle Johnson, that in **case number 09-68**,
5 the Board find probable cause to establish a violation of the following provisions of
6 the Code of Professional Conduct and Ethics, 282 IAC 25.3(6) d, and order this
7 case set for hearing. **MOTION CARRIED UNANIMOUSLY.**

8
9 Oscar Ortiz moved, with a second by Laura Stevens, that in **case number 09-69**,
10 while the Board is concerned about the allegations, it finds that the evidence
11 gathered in the investigation, including witness statements and the documentary
12 evidence does not rise to the level necessary to take action against the licensee.
13 The Board therefore lacks probable cause to proceed with this matter. **MOTION**
14 **CARRIED UNANIMOUSLY.**

15
16 Oscar Ortiz moved, with a second by Merle Johnson, that in **case number 09-70**,
17 the Board find that, although one or more of the allegations in the complaint may
18 be substantiated by the witnesses interviewed in the course of the investigation
19 [and/or] the documents gathered in the course of the investigation, and the
20 allegations may constitute a technical violation of the board's statute or
21 administrative rules; the evidence before the board indicates that : *adequate steps*
22 *have been taken at the local level to resolve the issue.* Therefore, the Board will not
23 pursue formal disciplinary action in this matter. **MOTION CARRIED**
24 **UNANIMOUSLY.**

25
26 Laura Stevens moved, with a second by Merle Johnson, that in **case number 09-**
27 **73**, the Board find that, although one or more of the allegations in the complaint
28 may be substantiated by the witnesses interviewed in the course of the
29 investigation [and/or] the documents gathered in the course of the investigation,
30 and the allegations may constitute a technical violation of the board's statute or
31 administrative rules; the evidence before the board indicates that : *steps have been*
32 *taken at the local level.* Therefore, the Board will not pursue formal disciplinary
33 action in this matter. Roll call vote: Almanza-yes, Johnson-yes, Ortiz-yes,

1 Robinson-yes, Smith-yes, Stevens-yes, Trueg-recused, Wortmann-yes. **MOTION**
2 **CARRIED.**

3
4 Oscar Ortiz moved, with a second by Carol Trueg, that in **case number 09-74**, the
5 Board find that the documents gathered in the course of the investigation, and the
6 allegations may constitute a technical violation of the board’s statute or
7 administrative rules; the evidence before the board indicates that : *the alleged*
8 *violation was an isolated incident.* Therefore, the Board will not pursue formal
9 disciplinary action in this matter. **MOTION CARRIED UNANIMOUSLY.**

10
11 Laura Stevens moved, with a second by Carol Trueg, that in **case number**
12 **08-103**, In the Matter of Patrick Wagoner, the Board accept the proposed
13 decision with the following modifications, the Board should delete the
14 paragraph under “Decision and Order” of the Proposed Decision and replace
15 with:

16
17 IT IS THEREFORE ORDERED that the K-12 coaching endorsement issued to the
18 Respondent Patrick Wagner (Folder number 329463) and his expired coaching
19 authorization shall both be suspended for at least 60 days, effective immediately
20 when this proposed decision becomes final. IT IS FURTHER ORDERED that the
21 suspensions shall continue until Respondent attends and provides verification of
22 his successful completion of Professional Ethics for Coaches at North Iowa Area
23 Community College. Roll call vote: Almanza-yes, Johnson-yes, Ortiz-yes,
24 Robinson-yes, Smith-recused, Stevens-yes, Trueg-yes, Wortmann-yes. **MOTION**
25 **CARRIED.** (Julie Bussanmas, Assistant Attorney General, recused herself and did
26 not participate in the discussion of this case.)

27
28 Carol Trueg moved, with a second by Laura Stevens, that in **case number**
29 **08-109 and 08-111**, In the Matter of Terry Christiansen, the Board accept
30 the proposed decision with the following modifications, unnumbered
31 paragraphs 16 an 17 (the two paragraphs under CONCLUSIONS OF LAW)
32 should be stricken from the Board’s final order and should be replaced with
33 the following paragraphs under “CONCLUSIONS OF LAW”:

1 The Respondent objected to the introduction of evidence concerning
2 his prior discipline. The State offered the prior discipline to assist in
3 determining the appropriate sanction – only if the present violation of
4 student abuse had been established.

5
6 It is a long settled that agencies are not bound by technical rules of evidence.
7 McConnell v. Iowa Department of Job Service, 327 N.W. 2d 234, 237 (Iowa
8 1984). The standard for the admissibility of evidence in administrative
9 hearings is set forth in Iowa Code section 17A.14. It states in part:

10
11 Irrelevant, immaterial, or unduly repetitious evidence should be
12 excluded. A finding shall be based upon the kind of evidence on
13 which a reasonably Prudent persons are accustomed to rely for the
14 conduct of their serious Affairs, and may be based upon such
15 evidence even if would be inadmissible in a jury trial.

16
17 Iowa Code section 17A.14(1); see also Hamer v. Iowa Civil Rights
18 Commission, 472 N.W. 2d 259, 272 (Iowa 1991) (holding that prior acts of
19 discriminatory conduct were admissible and relevant in current
20 discrimination claim). “The administrative law judge may base the decision
21 upon evidence that would ordinarily be deemed inadmissible or irrelevant.”
22 Clark v. Iowa Department of Revenue and Finance, 644 N.W. 2d 310, 320
23 (Iowa 2002).

24
25 The Respondent’s prior discipline was both close in time and similar in
26 circumstance to the alleged conduct in this case. The evidence is obviously both
27 relevant and material to the case and therefore is admissible to determine an
28 appropriate sanction. **MOTION CARRIED UNANIMOUSLY.** (Julie Bussanmas,
29 Assistant Attorney General, recused herself and did not participate in the
30 discussion of this case.)

31
32 Merle Johnson moved, with a second by Oscar Ortiz, that in **case number 09-05**,
33 the Board accept the Respondent’s waiver of hearing and agreement to accept a

1 lesser sanction, and issue an order imposing the agreed upon sanction. **MOTION**
2 **CARRIED UNANIMOUSLY.**

3

4 Carol Trueg moved, with a second by Merle Johnson, that in **case number 09-18,**
5 the Board accept the Respondent's waiver of hearing and agreement to accept a
6 lesser sanction, and issue an order imposing the agreed upon sanction. **MOTION**
7 **CARRIED UNANIMOUSLY.**

8

9 Laura Stevens moved, with a second by Carol Trueg, that in **case number 09-28,**
10 the Board accept the Respondent's waiver of hearing and agreement to accept a
11 lesser sanction, and issue an order imposing the agreed upon sanction. **MOTION**
12 **CARRIED UNANIMOUSLY.**

13

14 Merle Johnson moved, with a second by Oscar Ortiz, that in **case number 09-38,**
15 the Board accept the Respondent's waiver of hearing and agreement to accept a
16 lesser sanction, and issue an order imposing the agreed upon sanction. **MOTION**
17 **CARRIED UNANIMOUSLY.**

18

19 Laura Stevens moved, with a second by Carol Trueg, that in **case number 09-65,**
20 the Board accept the Respondent's waiver of hearing and agreement to accept a
21 lesser sanction, and issue an order imposing the agreed upon sanction. **MOTION**
22 **CARRIED UNANIMOUSLY.**

23

24 Laura Stevens moved, with a second by Carol Trueg, that in **case number 09-40,**
25 the Board accept the Respondent's waiver of hearing and voluntary surrender and
26 that the Board issue an order permanently revoking the Respondent's license with
27 no possibility of reinstatement. **MOTION CARRIED UNANIMOUSLY.**

28

29 Oscar Ortiz moved, with a second by Merle Johnson, that in **case number 09-64,**
30 the Board accept the Respondent's waiver of hearing and voluntary surrender and

1 that the Board issue an order permanently revoking the Respondent's license with
2 no possibility of reinstatement. **MOTION CARRIED UNANIMOUSLY.**

3

4 Laura Stevens moved, with a second by Merle Johnson, that in **case number**
5 **09-63 and 09-66**, the Board extend the 180-day deadline for issuance of the
6 final decision based upon the extraordinary amount of time needed to
7 schedule the hearing, allow review of the proposed decision, and issue a final
8 decision. **MOTION CARRIED UNANIMOUSLY.**

9

10 Board Reports:

11 There were no board reports.

12

13 Public Comment:

14 There were no public comments.

15

16 Executive Director's Report:

17 Dr. Maurer presented the financial report.

18

19 Dr. Maurer informed the Board that letters were sent out to those flagged on the
20 BEDS report as having a licensure violation. The majority of the violations have
21 since been resolved.

22

23 Dr. Maurer updated the Board regarding the complaint rule. He and Beth Myers
24 went to the Administrative Rules Committee and they put the issue on session
25 delay which means that the rule does not go into effect until either the statute is
26 changed or the session is over. Proposed legislation has already been sent over to
27 the legislature to comply with the Administrative Rules Committee request.

28

29 Rules:

30 Bev Smith moved, with a second by Richard Wortmann, to adopt the proposed
31 changes to Chapter 13.3 Applicants from recognized non-Iowa institutions with
32 additional changes. **MOTION CARRIED UNANIMOUSLY.**

1 Items for Discussion:

2 The proposed changes to Chapter 13.10 Specific requirements for a Class A license
3 was discussed and will be brought back to the March meeting for noticing.

4
5 The proposed changes to Chapter 18.4 General requirements for an administrator
6 license were discussed and will be brought back to the March meeting for noticing.

7
8 The proposed changes to Chapter 27.4 Specific requirements for a Class B license
9 was discussed and will be brought back to the March meeting for noticing.

10
11 Petitions for Waiver:

12 Merle Johnson moved, with a second by Bev Smith, that in **PFW 09-22**, Jackie
13 Lawrence, the Board deny the Petition for Waiver. Roll call vote: Almanza-yes,
14 Johnson-yes, Ortiz-yes, Robinson-yes, Smith-yes, Stevens-yes, Trueg-yes,
15 Wortmann-recused. **MOTION CARRIED.**

16
17 Merle Johnson moved, with a second by Carol Trueg, that in **PFW 10-01**, Laurie
18 Gann, the Board grant the Petition for Waiver. **MOTION CARRIED**
19 **UNANIMOUSLY.**

20
21 Reports/Approvals:

22 Board Retreat

23 The Board Retreat is scheduled for June 17-18. Dr. Maurer will set up meetings
24 with constituent groups with questions identified by the Board to review during the
25 retreat. Board members are to e-mail Dr. Maurer regarding discussion topics. Dr.
26 Maurer will bring back a tentative schedule for the retreat at the March meeting.

27
28 DE Teacher Shortage Report to USDOE

29 The Board received information regarding the annual report from the Department of
30 Education to the U.S. Department of Education. Due to staff cuts in the DE, Dr.
31 Borlaug from our staff developed the report for the DE.

1 Set Praxis Test Score to Meet HQT Requirements

2 Dr. Maurer informed the Board that in order to be in compliance with the federal
3 regulations of No Child Left Behind, we had to develop a rule for Highly Qualified
4 Teacher (HQT) for elementary teacher. It needs to be established there needs to be
5 a cut score.

6
7 Merle Johnson moved, with a second by Richard Wortmann, to establish a cut
8 score of 151 on Praxis II Test 0011 and 142 on Praxis II Test 0014 for those
9 individuals that qualify. **MOTION CARRIED UNANIMOUSLY.**

10
11 Merle Johnson moved, with a second by Julio Almanza, to adjourn the meeting.
12 **MOTION CARRIED UNANIMOUSLY.**

13
14 There being no further business the meeting was adjourned at 12:56 p.m.
15
16