

IOWA BOARD OF EDUCATIONAL EXAMINERS

IN THE MATTER OF:

Ruth Runde,

Respondent.

Case No. 15-151

DIA No. 16BEE013  
(Folder No. 186124)

Order Regarding Proposed  
Decision

This matter came before the Board of Educational Examiners upon Complaint. An investigation was conducted and the Board found probable cause to move the case forward to hearing. A telephonic hearing took place before Administrative Law Judge Margaret LaMarche on April 26, 2016. On May 24, 2016, Judge LaMarche issued a proposed decision. The proposed decision was served upon the Respondent, the Complainant, and the Board.

At its regular meeting on June 17, 2016, the Board voted to accept the proposed decision without modification. Neither party appealed within the time allowed by 282 Iowa Administrative Code 11.28(1).

ORDER

**THEREFORE**, the Board accepts the Proposed Decision in the matter as the Board's final ruling.

Dated this 23<sup>rd</sup> day of June, 2016.

  
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Duane T. Magee, Executive Director  
On behalf of the Board

Copies to:

Ruth E. Runde (first-class mail and restricted certified mail)  
RESPONDENT

Joe Crozier, Chief Administrator  
Grant Wood Area Education Agency (electronic mail)  
COMPLAINANT

Andrew J. Bracken (electronic mail)  
Ahlers & Cooney, P.C.  
ATTORNEY FOR COMPLAINANT



Strategist I: Mild/Moderate) Respondent's Iowa license is permanent so it will not expire. Respondent also holds an expired temporary license. (Attachments to Complaint; Complainant Exhibit 1; Respondent testimony)

Grant Wood Area Education Agency (GWAEA) is one of 9 regional area education agencies in the state of Iowa that serves students from birth through age 21 in a variety of settings. GWAEA is located in Cedar Rapids, Iowa. It provides services to 32 public and non-public schools in the areas of special education and media, technology, curriculum, and school improvement support. GWAEA's professional staff members are typically "itinerant" in that they serve multiple schools within GWAEA's service area. The majority of GWAEA's staff members are out in the schools providing direct service for educators and/or students. Jackie Schreder is GWAEA's Human Resources Coordinator, and she is responsible for the support and facilitation of the agency's employment practices and procedures. (Schreder testimony)

At the time relevant to this decision, Respondent had been employed GWAEA for 28 years. For the first 19 years, Respondent's position was under the category of Special Education Consultant. After July 2006, Respondent's position was under the category of Teacher: Off-Site Programs. Teachers: Off-Site Programs and Special Education Consultants are both covered by the GWAEA's Master Contract and Collective Bargaining Agreement. Article 4 of the Collective Bargaining Agreement pertains to Grievance Procedures and Article 10 pertains to the Transfer Procedures. (Schreder, Respondent testimony; Complainant Exhibit 3)

From July 2006 until Spring of 2013, Respondent was a classroom teacher, initially serving at the Linn County Youth Shelter and later at the GWAEA's River Ridge Facility. Respondent also taught at additional locations, as assigned. In the spring of 2013, Respondent applied for and was given a teacher leadership assignment within the same employment category of "Teachers:Off-Site Programs." With this new assignment, Respondent was no longer providing direct instruction. Respondent provided consultative support to teachers, students, and parents regarding best practices in instruction, progress monitoring, and curriculum, etc. at the River Ridge facility. Respondent was in classrooms daily and her position was busy and varied. She was occasionally called to step in when teachers were absent from their classrooms. (Schreder, Respondent testimony)

On April 21, 2015, Respondent signed an employment contract with the GWAEA to serve as a "Teacher-Off-Site Programs and such other duties connected with Grant Wood Area Education Agency as may be assigned by the Board or its duly authorized

representative." The contract was for the school year that would begin on July 1, 2015 and end on June 30, 2016. GWAEA agreed to pay Respondent \$73,109.49 in annual salary. Respondent's expectation was that during the 2015-2016 school year she would be continuing in her leadership role and providing consultative support at the River Ridge Facility to teachers, parents and students. (Schreder, Respondent testimony; Complainant Exhibit 2)

At the time that contracts are offered in April, employees are notified that they have a 21 day window to unilaterally resign from their positions. After that 21 day window, any resignation is subject to Board approval to release the employee from their employment contract. The GWAEA tries to complete all hiring by the beginning of June when there is a larger pool of available candidates who have not yet signed a contract for the upcoming year. (Schreder testimony)

On August 17, 2015, Respondent attended GWAEA's opening day meeting and an off-site regional meeting. At the end of the day, Respondent was asked to meet with her supervisor and was informed that she would have a new assignment for the upcoming year. Respondent would be continuing as the teacher leader at the River Ridge facility in Cedar Rapids for 2 days a week, but she was also assigned to serve as a Special Education Consultant at the Center Point/Urbana School District for 3 days a week. Respondent was one of 5 staff members who were notified that their assignments would have to be shifted in order to meet the agency's changing service needs. These assignment changes were implemented to manage a significant staffing issue that had arisen late in the summer. In the opinion of GWAEA, the new assignment still fell within Respondent's employment category of "Teacher: Off-Site Programs." She was not subject to any change in salary, benefits, or status. (Schreder, Respondent testimony)

Respondent questioned whether GWAEA was legally authorized to unilaterally make these changes to her assignment. She was very concerned about her ability to perform the duties of Special Education Consultant because she had not performed those duties since 2006. There had been many changes in how students are identified for special education services ("Child Find") since that time. Respondent asked to meet with the administration at Center Point/Urbana to find out what the Special Education Consultant position would entail. Respondent had this meeting on August 18, 2015. She learned that the prior Special Education Consultant had worked 5 days a week, had served both the middle school and high school, and "did everything" for them. A major part of the position would involve "Child Find," which is something that Respondent had not participated in since 2006. Since 2006, Respondent had been

working with students with severe disabilities who had long been identified as needing special education services. (Respondent testimony)

Center Point/Urbana was 15-20 miles away from the River Ridge facility. After speaking to the administrator at Center Point/Urbana, Respondent was completely convinced that she would not be able to adequately perform the duties of both assignments that she was being given. Both assignments had previously been full-time positions, and Respondent did not feel that she was adequately prepared to perform the duties of the Special Education consultant position. In addition, the River Ridge facility position would present extra challenges because that facility had just received a resignation from one classroom teacher, and it had just hired a new graduate for a math position. Respondent testified that she felt "backed into a corner." (Respondent testimony)

On August 18, 2015, Respondent submitted a letter of resignation to the Regional Administrator of the GWAEA. In her letter, Respondent states "This is formal notice, that effective immediately, I am resigning the position of Gwaea Off Site teacher." Respondent testified that she did not resign out of any ill will or malice. She was 61 years old and had no intention of retiring, but she felt that the new position would have been a "killer" for her, both professionally and personally. She did not want to spend the last years of her profession doing a "lousy job" in two places. (Complainant Exhibit 4; Respondent testimony)

On August 20, 2015, the GWAEA's Human Resources Coordinator sent a letter to Respondent acknowledging receipt of her notice of intent to resign effective August 18, 2015. Respondent was advised that GWAEA would be submitting her request to the Board at their next regularly scheduled meeting on September 9, 2015. Respondent was further advised that the Associate Administrator would be recommending denial of Respondent's request for release from her contract. Respondent was also advised that since she had elected not to report to work after submitting her resignation, the Board of Educational Examiners would be notified of her contract violation. (Complainant Exhibits 5, 6; Schreder testimony)

GWAEA Board Policy 4260 (Contract Fulfillment) provides, in part, that the Agency Board of Directors expects that all employees who are issued individual employment contracts shall fulfill their contract obligations. Individual requests for contract release may be approved at the sole discretion of the Board. Considerations for contract release may include timeliness of the request or impact on the quality and availability of services provided by the Agency. Release from contract obligation shall become

effective only upon Board approval. Employees requesting release from a contract will be liable for expenses incurred to locate and hire a suitable replacement. In the event an employee terminates without appropriate release, the chief administrator is directed to advise the Iowa Board of Educational Examiners. (Complainant Exhibit 7)

GWAEA Board Policy #4260A (Contract Fulfillment) states that employees with individual contracts requesting release from an executed contract are expected to give forty-five (45) days' written notice to the Administrator. Associate Administrators are required to provide the Administrator with a written recommendation regarding contracted staff requests for release from contract. (Complainant Exhibit 8)

At the time of Respondent's resignation, the school year was already under way. Respondent's abrupt resignation disrupted GWAEA's ability to provide services to schools and students. In this case, the GWAEA did not attempt to replace Respondent following her resignation. Some of her duties were reassigned and others were absorbed by existing staff. (Complainant Exhibit 4; Schreder testimony)

Respondent has not applied for another teaching position since she resigned her position with the GWAEA. Respondent testified that she would love to return to the teaching profession but she did not want to apply for a new position when she did not know what would happen during the disciplinary process. (Respondent testimony)

## CONCLUSIONS OF LAW

### *I. Violation of 282 IAC 25.3(5)(a)(3).*

The legislature created the Board of Educational Examiners and delegated to it the authority to develop a code of professional rights and responsibilities, practices, and ethics, which shall, among other things, address the failure of a practitioner to fulfill contractual obligations under section 279.13.<sup>1</sup> In a case alleging the failure of a practitioner to fulfill contractual obligations, the person who files a complaint with the Board, or the complainant's designee, shall represent the complainant in a disciplinary hearing conducted in accordance with this chapter.<sup>2</sup>

The Board has promulgated the Code of Professional Conduct and Ethics at 282 IAC chapter 25. 282 IAC 25.3(5)(a)(3) provides, in relevant part:

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<sup>1</sup> Iowa Code section 272.2(1)(a)(2015).

<sup>2</sup> Iowa Code section 272.2(4)(2015).

25.3(5) *Standard V- violations of contractual obligations*

a. Violation of this standard includes:

...

(3) Abandoning a written professional employment contract without prior unconditional release by the employer.

In addressing complaints based upon contractual obligations, the Board is required to consider factors beyond the practitioner's control. For purposes of enforcement of the standard, a practitioner will not be found to have abandoned an existing contract if:

- (1) the practitioner obtained a release from the employing board before discontinuing services under the contract; or
- (2) the practitioner provided notice to the employing board no later than the latest of the following dates:
  1. The practitioner's last work day of the school year;
  2. The date set for return of the contract as specified in statute; or
  3. June 30.<sup>3</sup>

The preponderance of the evidence establishes that Respondent violated 282 IAC 25.3(5)(a)(3) by abandoning her written professional employment contract without first obtaining prior unconditional release from the Grant Wood Area Education Agency (GWAEA). On April 21, 2015, Respondent signed and returned a binding contract for the 2015-2016 school year. Respondent agreed to perform the duties of "Teacher: Off-Site Programs and such other duties connected with Grant Wood Area Education Agency as may be assigned by the Board or its duly authorized representative." Respondent subsequently submitted her letter of resignation on August 18, 2015 and left her position with the GWAEA without obtaining an unconditional release. Respondent's resignation was clearly prompted by a substantial change in her assigned duties. It does appear that this was a permissible assignment of duties, given the very broad contract language that described Respondent's position. Rather than resign her position, Respondent should have elected to file a grievance, as allowed by her collective bargaining agreement.

## *II. Sanction*

The Board's rules provide for a range of disciplinary sanctions, including but not limited to revocation, license suspensions, and public letters of reprimand.<sup>4</sup> Absent

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<sup>3</sup> 282 IAC 25.3(5)(b).

significant mitigating or aggravating factors, the usual sanction for a first violation of 282 IAC 25.3(5)(a)(3) has been the placement of a public letter of reprimand in the licensee's permanent licensure file.

Examples of relevant mitigating factors may include the serious illness of the licensee or an immediate family member, the unexpected job transfer of the licensee's spouse to another city or state, and the availability of a suitable replacement for the licensee. Examples of relevant aggravating factors may include the licensee's failure to respond to the charges, the lack of any compelling reason for the untimely resignation, and the difficulty of finding a suitable replacement.

Respondent's abrupt resignation adversely affected GWAEA's ability to provide special education services to the schools in its region, which was an aggravating circumstance. Nevertheless, this case also presents some significant mitigating circumstances. Respondent had a reasonable basis for her belief that she would be professionally and personally unable to adequately perform the assignments that were given to her on August 17, 2015. In addition, Respondent was a very long term and dedicated employee of the GWAEA. She did not resign her position to advance her career, and she has not applied for another teaching position since leaving GWAEA. It was clear from her testimony that Respondent did not want to end her long and successful career at GWAEA with this resignation but that she sincerely believed that she had no choice. The circumstances of Respondent's violation warrant a written letter of reprimand to be placed in her permanent licensure file.

#### ORDER

IT IS THEREFORE ORDERED that Respondent Ruth Runde (Folder #186124) shall be issued a written letter of reprimand to be placed in her permanent licensure file as a sanction for her violation of 282 IAC 25.3(5)(a)(3).

282 IAC 11.28 provides that a proposed decision may be appealed to the Iowa Board of Educational Examiners (Board) by a party who is adversely affected by the decision. An appeal is commenced by serving a notice of appeal on the Board within 30 days after the issuance of the proposed decision. The notice of appeal must be signed by the appealing party or a representative of that party, and must contain a certificate of service. The notice shall specify the parties initiating the appeal, the proposed decision or order appealed from, the specific findings or conclusions to which exception is taken

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<sup>4</sup> 282 IAC 11.33.

and any other exceptions to the decision and order, the relief sought, and the grounds for relief.

Dated this 24th day of May, 2016.

*Margaret LaMarche*

Margaret LaMarche  
Administrative Law Judge  
Division of Administrative Hearings  
Iowa Department of Inspections and Appeals  
Wallace State Office Building-Third Floor  
Des Moines, Iowa 50319

cc: Andrew J. Bracken, Ahlers & Cooney, P.C., 100 Court Avenue, Suite 600, Des Moines, Iowa 50309 (CERTIFIED)

Ruth E. Runde, 2710 Franklin Ave. NE, Cedar Rapids, Iowa 52402 (RESTRICTED CERTIFIED)

Duane T. Magee, Executive Director, Iowa Board of Educational Examiners, Grimes State Office Building (LOCAL)

**BEFORE THE BOARD OF EDUCATIONAL EXAMINERS  
OF THE STATE OF IOWA**

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In the matter of	)	Case No. 15-151
	)	Folder No. 186124
<b>RUTH E. RUNDE,</b>	)	
	)	<b>NOTICE OF HEARING</b>
Respondent.	)	<b>AND STATEMENT OF CHARGES</b>

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**YOU ARE HEREBY NOTIFIED** that the Iowa Board of Educational Examiners, exercising the jurisdiction conferred by Iowa Code chapters 17A and 272, has found probable cause of a violation of Board rules and ordered this matter scheduled for hearing.

**A. TIME, PLACE AND NATURE OF HEARING**

1. Hearing will be held on Tuesday, April 26, 2016, before Administrative Law Judge Margaret LaMarche, acting on behalf of the Iowa Board of Educational Examiners. The hearing shall begin at 9:00 a.m. in Department of Inspections and Appeals, Wallace State Office Bldg, Third Floor, 502 E. 9<sup>th</sup> Street (East 9<sup>th</sup> and Grand Avenue), Des Moines, Iowa. You should report to the third floor Iowa Department of Inspections and Appeals' (DIA) receptionist prior to 9:00 a.m. to obtain the room assignment.

2. Answer. Within twenty (20) days of the date of service of this Notice of Hearing, you are required to file an Answer specifically admitting, denying, or otherwise responding to the allegations included within the Factual Allegations. In that Answer, you should also state whether you will require an adjustment of the date and time of the hearing. A copy of the Answer shall be provided by the Respondent to the Assistant Attorney General identified below.

3. Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 282 Iowa Administrative Code (IAC) chapter 11. At hearing, you may appear personally or be represented by an attorney, at your own expense. You will be allowed the opportunity to respond to the charges against you. Each party will be allowed to testify, examine and cross-examine witnesses, and present documentary evidence. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence. If you need to request an alternative time or date for hearing, you must comply with the requirements of 282 IAC 11.19.

If either party wishes to present telephonic testimony or to participate in the hearing by telephone, arrangements must be made at least ten (10) days in advance of the hearing date by filing a written request with the presiding Administrative Law Judge, Department of Inspections and Appeals, Wallace State Office Building, Des Moines, Iowa 50319, or by faxing a written request to (515) 281-4477. A copy of the

request for telephonic testimony must be served on the Board and all parties. Any resistance to the request for telephone testimony must be filed within five (5) days of service of the notice.

4. Pre-hearing conference. Either party may request a pre-hearing conference to discuss evidentiary issues related to the hearing. The Board rules regarding pre-hearing conferences are found in 282 IAC 11.18.

5. Prosecution. The Complainant is responsible for prosecuting and representing the public interest (the State) in this proceeding. Pleadings shall be filed with the Board and copies should be provided to the Complainant at the following address:

Grant Wood Area Education Agency  
4401 Sixth St. SW  
Cedar Rapids, IA 52404  
Telephone: (319) 399-6700

6. Communications. You may not contact Board members by phone, letter, facsimile, e-mail, or in person about this Notice of Hearing or the pending charges. Board members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve on all parties in the case. You should direct any questions about this proceeding to Duane T. Magee, the Board's Executive Director, at (515) 281-5849.

## **B. SECTIONS OF STATUTES AND RULES INVOLVED**

### **Count I**

7. Respondent is charged with abandoning a written professional employment contract without prior unconditional release by the employer, in violation of Board rule 282 IAC 25.3(5)(a)(3).

## **C. JURISDICTION AND LEGAL AUTHORITY**

8. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A and 272. If any of the allegations against you are proven at hearing, the Board has authority to take disciplinary action against you under Iowa Code chapters 17A and 272, and 282 IAC chapter 11.

## **D. FACTUAL CIRCUMSTANCES**

9. Respondent holds a PERMANENT PROFESSIONAL (FOLDER # 186124) with the following endorsements: Special Education (K-12); K-8 Behavioral Disorders; 5-12 Behavioral Disorders; K-8 Mental Disabilities Mild/Moderate; 5-12 Mental Disabilities Mild/Moderate; K-8 Multicategorical Resource Mild; K-8 Multicategorical Special Class with Integration; 5-12 Multicategorical Special Class with Integration; K-12

Instructional Strategist II: BD/LD; K-8 Instructional Strategist I: Mild/Moderate; 5-12 Instructional Strategist I: Mild/Moderate. Respondent's license is permanent so does not expire. Respondent also holds an expired temporary license.

10. Respondent was initially employed with the Grant Wood Area Education Agency on April 9, 2015. Respondent remained in this position until her resignation on August 18, 2015.

11. On October 19, 2015, the Board of Educational Examiners received a complaint against Respondent alleging a violation of the Code of Ethics. On January 14, 2016, the Board found probable cause to proceed to hearing based upon the facts set forth herein and delineated in further detail within the complaint and investigation file compiled by the Board.

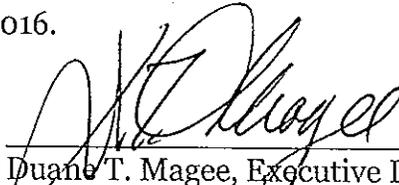
12. Investigation revealed Respondent submitted a letter in which she resigned effective immediately on August 18, 2015.

13. Respondent did not obtain a release from the Grant Wood Area Education Agency prior to her resignation, as required by 282 IAC 25.3(5)(b)(1), and did not provide notice to the Grant Wood Area Education Agency in accordance with 282 IAC 25.3(5)(b)(2).

#### E. SETTLEMENT

14. This matter may be resolved by surrender of your license or an agreement to accept a lesser sanction. The procedural rules governing the Board's settlement process are found at 282 IAC 11.4(6). If you are interested in pursuing settlement of this matter, please contact the Complainant identified in Section A, above.

Dated this 24<sup>th</sup> day of February, 2016.

  
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Duane T. Magee, Executive Director  
Iowa Board of Educational Examiners

Copies to:

Ruth E. Runde (first-class mail and restricted certified mail)  
RESPONDENT

Grant Wood Area Education Agency (electronic mail)  
COMPLAINANT

Andrew Bracken (electronic mail)  
ATTORNEY FOR COMPLAINANT