

BEFORE THE BOARD OF EDUCATIONAL EXAMINERS
OF THE STATE OF IOWA

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EXECUTIVE DIRECTOR
BOARD OF EDUCATIONAL EXAMINERS

APR 06 2016

In the matter of:) BOEE Case No. 15-162
) Folder # 340979
BARRY L. EBERHARD,)
) **COMBINED STATEMENT OF**
Respondent.) **CHARGES, SETTLEMENT**
) **AGREEMENT, AND FINAL ORDER**

In accordance with the provisions of Iowa Code sections 17A.12(5) and 272.2(4) and 282 IAC 11.4(6), and with full knowledge of the right to demand a formal hearing before the Board upon the pending complaint prior to the imposition of sanction upon his license, the Respondent expressly waives the right to a disciplinary hearing and notifies the Board of his desire to resolve the pending complaint through means of informal disposition.

The Respondent concedes the jurisdiction of the Board for all issues relevant hereto and voluntarily consents to the State's counsel presenting this agreement to the Board with the terms provided. If the Board does not accept the terms of this agreement, the disciplinary hearing will be rescheduled and the stipulations contained herein are not binding upon the Respondent and will not be presented against him at the time of hearing without further agreement of the Respondent.

Board approval of this settlement shall constitute resolution of this matter and will be entered as a FINAL ORDER of the Board.

NOTICE OF HEARING

A hearing in this matter will not be held, as the State and Respondent have entered into the following consent agreement in lieu of scheduling a contested case hearing. If the Board does not accept this Combined Statement of Charges, Settlement Agreement, and Final Order, the matter may be set for hearing in accordance with 282 Iowa Administrative Code rule 11.7.

STIPULATIONS

1. Respondent holds a STANDARD LICENSE (FOLDER # 340979) with the following endorsements: 5-12 American History; 5-12 Geography; 5-12 Sociology. Respondent's license is current and will next expire on September 30, 2016. Respondent also holds a COACHING AUTHORIZATION, which is current and will next expire on November 29, 2019. Respondent also holds an expired Class B License.

2. During the relevant facts of this matter, Respondent was employed with Wapsie Valley Community School District.

3. On October 29, 2015, the Board of Educational Examiners received a complaint against Respondent alleging a violation of the Code of Ethics.

4. On February 12, 2016, the Board found probable cause to proceed to hearing based upon the facts set forth in paragraph 5 below.

5. Investigation revealed Respondent connected on SnapChat, a social media platform, with a student. Subsequently, while Respondent was at a football game and could not account for his phone, a picture of a woman wearing only underwear was sent to the student. Respondent admits he failed to exercise proper control over his phone.

STATEMENT OF CHARGES

Count I

6. The Board voted to charge Respondent with violation of 282 Iowa Administrative Code rule 25.3(1)(e)(4), which prohibits soliciting, encouraging, or consummating a romantic or otherwise inappropriate relationship with a student.

Count II

7. Respondent stipulates to being charged with a violation of Board rule 282 Iowa Administrative Code rule 25.3(6)(c) which prohibits failing to make reasonable effort to protect the health and safety of the student or creating conditions harmful to student learning.

SETTLEMENT AGREEMENT

8. This Combined Statement of Charges, Settlement Agreement, and Final Order constitutes the final resolution of a contested case proceeding and shall have the force and effect of a disciplinary order entered following a contested case hearing.

9. In order to resolve this matter without proceeding to hearing, Respondent agrees to the following conditions:

- a. Respondent accepts a **WRITTEN REPRIMAND**.
- b. Respondent agrees to successfully complete at least fifteen in-person contact hours in "Ethics for Educators." This course is offered by the ISEA. Respondent is responsible for all costs associated with the completion of the educational course. Respondent shall provide the Board with proof of completion of the Ethics for Educators course within one (1) year of the Board's acceptance of this Combined Statement of Charges, Settlement Agreement, and Final Order.

10. In consideration, the State agrees to dismiss Count I of the Statement of Charges.

LICENSEE DECLARATION

I understand that this Combined Statement of Charges, Settlement Agreement, and Final Order is subject to the approval of the Board and will have no force or effect if it is not accepted by the Board.

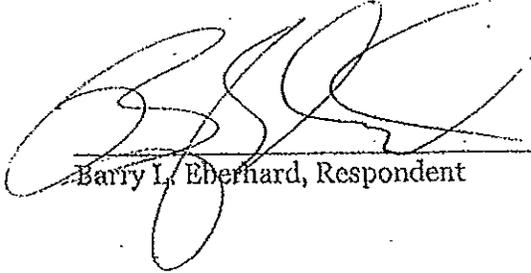
I understand State's counsel will present this Combined Statement of Charges, Settlement Agreement, and Final Order to the Board *ex parte*.

I agree to comply with the requirements set forth in the stipulations and requirements of this Combined Statement of Charges, Settlement Agreement, and Final Order and understand that my failure to do so can result in additional discipline of my teaching license and coaching authorization.

I understand that this Combined Statement of Charges, Settlement Agreement, and Final Order is a public record, which will become part of my permanent licensure file and will be available for public inspection and reproduction.

I understand that my name will be added to the national clearinghouse database kept by the National Association of State Directors of Teacher Education and Certification (NASDTEC).

4-5-16
Date


Barry L. Eberhard, Respondent

ORDER

IT IS THE FINAL ORDER OF THE IOWA BOARD OF EDUCATIONAL EXAMINERS THAT:

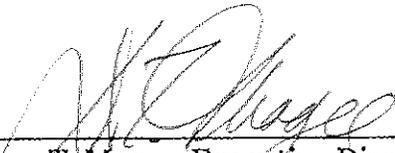
1. Count I is DISMISSED.

2. The conduct with which Respondent has been charged in Count II constitutes a violation of the Code of Professional Conduct and Ethics governing the teaching profession. Respondent is REPRIMANDED for the charged conduct.

3. Respondent shall successfully complete at least fifteen in-person contact hours in "Ethics for Educators." Respondent is responsible for all costs associated with the completion of the educational course. Respondent shall provide the Board with proof of completion of the Ethics for Educators course within one (1) year of the date of this Order.

4. In determining the appropriate sanction to impose in this case, the Board has considered the nature and seriousness of the allegations as well as mitigating circumstances.

Dated this 8th day of April, 2016.



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

Copies to:

Barry L. Eberhard
RESPONDENT

Jay Hammond
ATTORNEY FOR RESPONDENT

Renner K. Walker
ATTORNEY FOR THE STATE