IOWA BOARD OF EDUCATIONAL EXAMINERS

LEWIS CENTRAL COMMUNITY SCHOOLS,	)	**Case No. 05-33**
	)	**DIA No. 06BEE002**
Complainant,	)	**License No. 338452**
	)	
CHAD STALZER,	)	
	)	**FINAL ORDER**
Respondent.	)	

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. The hearing was held before Administrative Law Judge Margaret LaMarche on January 30, 2006. On February 3, 2006, Judge LaMarche issued a proposed decision. The proposed decision was served upon the Respondent, the Complainant, and the Board.

The Board considered the proposed decision at its regular meeting on March 3, 2006. After examining the proposed decision, the Board unanimously approved a motion not to initiate review of the proposed decision. No appeal was received by the Board within the time allowed by rule.

ORDER

THEREFORE, pursuant to Iowa Code section 17A.15(3) (2005) and 282 IAC 11.27(2), the Proposed Decision recommending a six-month suspension of the Respondent's teaching license stands as the Board's final ruling in this matter. Teaching license number 338452 issued to Chad Michael Stalzer and all endorsements associated with the license are hereby **SUSPENDED for a minimum period of six months from the date of this Order**. In order to reinstate his license at the conclusion of the six-month minimum period of suspension, the Respondent must make application for reinstatement, pursuant to 282 IAC 11.34.

Dated this 6 day of April, 2006.

George J. Mauer, Ed.D., Executive Director
On behalf of the Board

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LEWIS CENTRAL COMMUNITY SCHOOLS,	)	DIA NO. 06BEE002
	)	CASE NO. 05-33
COMPLAINANT,	)	
	)	LICENSE NO. 338452
AND	)	
	)	
CHAD STALZER,	)	PROPOSED DECISION
	)	
RESPONDENT.	)	

On September 12, 2005, Mark Schweer, Superintendent of the Lewis Central Community Schools (Complainant), filed a Complaint with the Iowa Board of Educational Examiners (Board). The Complaint alleged that Chad Stalzer (Respondent) abandoned his written professional employment contract without a prior unconditional release from Complainant, in violation of 282 IAC 25.3(5).

On December 9, 2005, the Board found probable cause to order a hearing to determine whether Respondent had violated 282 IAC 25.3(5)(a)(3). On December 19, 2005, a Hearing Notice was sent to Complainant and Respondent by restricted certified mail. The hearing was held before the undersigned administrative law judge on January 30, 2006 at 9:05 a.m. Complainant appeared for the hearing by telephone and was represented by attorney Brett Nitzschke. Respondent did not appear for the hearing and did not make arrangements to appear by telephone. The hearing proceeded in Respondent's absence. Complainant's Exhibits A-E were admitted. The Complainant's Motion for Default Judgment on the violation of 282 IAC 25.3(5) was granted. Complainant presented testimony on the sanction issue. The hearing was recorded.

THE RECORD

The record includes the Complaint and attachments filed 9/12/05; the Hearing Notice and Proof of Service; Complainant Response, 1/11/06; Answer, filed 1/11/06; ALJ Letter to Parties, 1/13/06; Complainant Letter, 1/25/06 with proposed exhibits; the testimony of Mark Schweer; and the following exhibits:

Exhibit A: Contract with Respondent, 2005-06 school year

Exhibit B: Respondent Resignation

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Exhibit C: Board Policy 402.5, Resignation of Licensed Personnel

Exhibit D: Letter dated 8/24/05 (Complainant to Respondent)

Exhibit E: Lewis Central Board of Directors, Board Meeting, Official Minutes, 9/12/05

FINDINGS OF FACT

1. Respondent currently holds Iowa teaching license no. 338452, with endorsements as a K-12 Athletic Coach and K-6 Teacher. On May 26, 2005, Respondent signed a contract to teach at the Lewis Central Community Schools for the 2005-2006 school year. Respondent was assigned to teach 7th Grade Mathematics. Respondent previously taught at Lewis Central Community Schools for seven years. (Testimony of Mark Schweer; Complaint; Answer; Exhibit A)

2. On Friday, August 19, 2005, Respondent submitted a written resignation of his teaching and coaching positions to the Associate Middle School Principal. This was the third day of classes. The stated reason for the resignation was that Respondent had accepted a job with ASI-modulex in Omaha. Respondent did not teach after August 19, 2005. (Testimony of Mark Schweer; Exhibit B)

3. The written policy of the Lewis Central Community Schools provides licensed personnel must give sixty (60) days notice when requesting release from a signed contract and must provide a valid reason, as determined by the Board. The employee is expected to continue providing services under the contract until a suitable replacement is placed under contract, and the Board issues a written release. (Testimony of Mark Schweer; Exhibit C)

4. On August 24, 2005, Complainant wrote to Respondent and reminded him of his contract terms. Respondent was warned that after August 30, 2005, Complainant would notify the Board of Educational Examiners and seek disciplinary action if Respondent did not fulfill the terms of his contract. Respondent did not reply to this letter and did not return to work. (Testimony of Mark Schweer; Exhibit D)

5. Complainant hired a long-term substitute teacher, with an endorsement in Mathematics, two weeks after Respondent submitted his resignation. The substitute later became Respondent's permanent replacement. (Testimony of Mark Schweer)

6. Respondent admits that he did not meet the expectations of his teaching contract. (Answer)

CONCLUSIONS OF LAW

I. Failure to Appear

282 IAC 11.7(1) provides, in part, that a notice of hearing may be served by personal service as provided in the Iowa Rules of Civil Procedure or by certified mail, return receipt requested. Respondent was properly served with Notice of Hearing by restricted certified mail.

282 IAC 11.23(1) provides that if a party fails to appear in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party. Respondent filed an Answer but failed to appear for the hearing. The undersigned was authorized to grant Complainant's Motion for Default and to conduct the hearing in Respondent's absence.

II. The Violation

The legislature created the Board of Educational Examiners and delegated to it exclusive licensing authority, including 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... Iowa Code section 272.2(1)(a)(2005).

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. Iowa Code section 272.2(4)(2005).

Pursuant to its statutory authority, 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:

> **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.

Complainant's Motion for Default Judgment on the violation was granted, and the record established that Respondent abandoned his written professional employment contract without receiving a prior unconditional release, in violation of 282 IAC 25.3(5)"a"(3).

III. Sanction

Complainant has asked the Board to revoke Respondent's teaching license. Board rules provide for a range of sanctions, including but not limited to license revocation, license suspension and a public letter of reprimand. 282 IAC 11.33. The Board of Educational Examiners has typically issued a public letter of reprimand for a first violation of 282 IAC 25.3(5)"a"(3), absent significant mitigating or aggravating factors. However, there are aggravating factors present in this case that justify a more severe sanction than a public reprimand. Although Respondent's contract required sixty days notice for any resignation, Respondent did not give any advance notice since his last day of work was the same day that he submitted his resignation. He placed the school district and his students in a very difficult position.

Moreover, Respondent offers no explanation for why he did not provide more notice to the school district. In his Answer, Respondent states that his new position provided a higher salary and enabled him to spend more time with his family, but these personal reasons do not justify abandoning his contract with the school district without any advance notice. In addition, Respondent failed to appear for the hearing, either in person or by telephone. These aggravating factors justify a more severe sanction than a public reprimand. However, the circumstances do not merit a license revocation, as requested by Complainant.

ORDER

IT IS THEREFORE ORDERED that for abandoning a professional written employment contract prior to receiving an unconditional release from his employer, in violation of 282 IAC 25.3(5)"a"(3), License no. 338452, issued to Respondent Chad Stalzer, shall be SUSPENDED for a period of six (6) months. The six-month suspension period shall begin when this Proposed

Decision becomes a Final Decision of the Board. 282 IAC 11.33(6).

Appeal Rights

Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final agency action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated within the time provided by rule 11.28. (17A,272). A motion to vacate shall state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion. 282 IAC 11.23(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 60 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 and any other exceptions to the decision and order, the relief sought, and the grounds for relief.

Dated this 3rd day of February, 2006.

Margaret LaMarche
Administrative Law Judge
Division of Administrative Hearings
Iowa Department of Inspections and Appeals
Lucas State Office Building-Third Floor
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