

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

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In the matter of	)	Case No. 20-108 & 20-111
	)	Folder No. 336624
Thomas Ahart,	)	
	)	<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 Thursday, May 20, 2021, before Administrative Law Judge David Lindgren, acting on behalf of the Iowa Board of Educational Examiners. The hearing shall begin at 9:00 a.m. at the Department of Inspections and Appeals, Wallace State Office Bldg. Auditorium, Second Floor (in order to enable sufficient social distancing), 502 E. 9<sup>th</sup> Street (East 9th and Grand Avenue), Des Moines, Iowa. Please enter the Wallace Building at the main entrance on the east side. Public parking is available in the parking ramp on the west side of the Wallace Building. If the building is locked upon your arrival, please wait and someone will let you in momentarily. You may also call (515) 281-6468 upon arrival. This location is subject to change prior to the hearing. You will be notified should there be a change in location. Included with this Notice of Hearing and Statement of Charges is a copy of the Administrative Hearings Division In-Person Hearing Pandemic Protocol that will be in place at the time of the hearing.

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 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 Iowa Administrative Code rule 11.19.

This hearing may be held telephonically or by some other electronic means with consent of all the parties. If either party wishes to present telephonic testimony or to participate in the hearing by telephone (or other electronic means), 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 telephonic 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 Iowa Administrative Code rule 11.18.

5. Prosecution. The office of the Attorney General 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 counsel for the State at the following address:

Jesse Ramirez  
Assistant Attorney General  
Iowa Department of Justice  
2<sup>nd</sup> Floor, Hoover State Office Building  
Des Moines, Iowa 50319  
Telephone (515) 281-3395

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 Michael D. Cavin, the Board's Interim Executive Director, at (515) 281-5849 or to Assistant Attorney General Ramirez at (515) 281-3395.

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

### **Count I**

7. Respondent is charged with failing to comply with federal, state, and local laws applicable to the fulfillment of professional obligations, in violation of 282 Iowa Administrative Code rule 25.3(6)(m).

## **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 Iowa Administrative Code chapter 11.

#### **D. FACTUAL CIRCUMSTANCES**

9. Respondent holds a Professional Administrator License (FOLDER # 336624) that is current with the following endorsements: PK-8 Principal; 5-12 Principal; Evaluator; PK-12 Superintendent & AEA Administrator. Respondent's license is current and will next expire on 06/30/2024. Respondent also holds an expired Standard License and Regional Exchange License.

10. During all material events of this case, Respondent was employed as a Superintendent with the Des Moines Public School District.

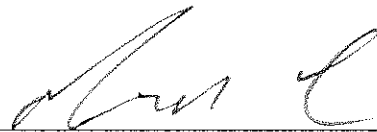
11. On September 30, 2020, the Board of Educational Examiners received complaint (20-111) against Respondent alleging various violations. On October 21, 2020, the Board of Educational Examiners received complaint (20-108). On January 14, 2021, the Board found probable cause to proceed to hearing based upon the facts set forth herein and delineated in further detail within the complaint and investigation file compiled by the Board.

12. Investigation revealed that the Respondent failed to comply with Iowa law, specifically Senate File 2310 (2020) (partially codified at Iowa Code § 279.10(3)) and/or applicable provisions of the Proclamation of Disaster Emergency dated July 17, 2020 by failing to submit and/or implement a lawful return-to-learn plan for the 2020-2021 school year.

#### **E. SETTLEMENT**

13. 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 Iowa Administrative Code rule 11.4(6). If you are interested in pursuing settlement of this matter, please contact the Assistant Attorney General identified in Section A, above.

Dated this 3<sup>rd</sup> day of February, 2021.



Michael D. Cavin, Interim Executive Director  
Iowa Board of Educational Examiners

Copies to:

Dr. Thomas Ahart (first-class mail and certified mail)  
RESPONDENT

Dustin Zeschke (electronic mail)  
ATTORNEY FOR RESPONDENT

Jesse Ramirez (electronic mail)  
ATTORNEY FOR THE STATE

KIM REYNOLDS, GOVERNOR  
ADAM GREGG, LT. GOVERNOR

LARRY JOHNSON JR., DIRECTOR

### ADMINISTRATIVE HEARINGS DIVISION IN-PERSON HEARING PANDEMIC PROTOCOL

The Department of Inspections & Appeals Administrative Hearings Division (AHD) has developed the following protocol—consistent with guidance from the Iowa Judicial Branch and the Department of Public Health—to allow for resumption of in-person hearings:

- **Judge's Discretion:** The presiding Judge retains the inherent discretion, within the context and parameters of any agency's rules, to hold the hearing in a manner in which he or she believes will promote personal safety for all participants. These considerations will guide the conduct of any hearing.
- **Hearing Room Location:** Until further notice, in-person hearings will not be held at the AHD offices. AHD will designate an alternate location for in-person hearings within the State Capitol Complex to ensure spaces are configured to provide at least six feet of distance between all parties and attendees. Scheduling may be affected by the availability of suitable hearing rooms.
- **Hearing Attendance:** The parties are strongly encouraged to utilize telephonic testimony for witnesses. Prior to hearing, all parties must identify witnesses they propose to appear in person. The Judge holds ultimate discretion on personal appearances of witnesses. Those witnesses approved to appear at the in-person hearing may be asked to wait in their vehicles or other designated location until notified by the assigned Judge.
- **Hearing Room Distancing:** Hearing space will be configured so that at least six feet of distance separates all participants. Occupancy will be limited to ensure six feet of distance in all directions between all attendees. Movement within the hearing room will be limited. Attendees must maintain six feet of distance in all directions between themselves and others. It is the Judge's discretion to allow closer contact of parties with their attorney or representative.
- **Hearing Attendee Health Questioning:** Attorneys must certify that they have asked the following questions of their participants prior to hearing. Each attendee must answer the following questions before allowed entry to the hearing room:
  1. Have you tested positive for COVID-19 in the last 14 days?
  2. Have you recently been in close contact with someone who has COVID-19?
  3. Are you experiencing symptoms consistent with COVID-19 per CDC guidelines?

If the answer to any of these questions is yes, the attendee will not be allowed to enter the hearing room.

More instructions on back side.

- **Personal Protective Equipment:** Attendees must wear masks upon entry to the public building where the hearing is located. Attendees must sanitize their hands upon entry to the hearing room. If directed by the judge, masks may be removed while addressing the Judge or testifying, assuming sufficient social distancing is maintained. All attendees are required to sanitize the location they occupied during the hearing. Sanitizing materials will be provided for this purpose.
- **Hearing Procedure:** Limited breaks may be scheduled to ensure the hearing will conclude as efficiently as possible. Attendees are advised to bring their own liquids and refreshments as drinking fountains and vending machines may not be available.

Passing of exhibits between persons should be strictly limited. Electronic exhibits should be used whenever possible. If not possible, attorneys and parties must bring sufficient numbers of copies to allow for one set of exhibits per individual.

- **Compliance:** Failure to comply with the terms reflected above and/or Judge's directives prior to and during hearing will result in removal of the attendee from the hearing. If, prior to hearing, attendees know they cannot or will not comply with the terms reflected above, they must immediately advise the assigned Judge so alternative hearing arrangements can be made. The parties are free at any time to ask that the hearing be held via telephone.
- **Post-Hearing Compliance:** Hearing participants must immediately inform the assigned Judge if they test positive for COVID-19 or experience symptoms consistent with COVID-19 within 14 days after hearing.

This protocol is intended to promote the safety and well-being of all attendees. Any questions regarding the protocol for a particular hearing should be directed to the Judge assigned to the case. General questions should be directed to the Chief Administrative Law Judge.