

**STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE BOARD OF TEACHING**

In the Matter of the Teaching License
of Daniel R. LeBre

**FINDINGS OF FACT,
CONCLUSIONS AND
RECOMMENDATION**

Administrative Law Judge Bruce H. Johnson conducted a prehearing conference in this contested case proceeding beginning at 10:30 a.m. on Wednesday, August 25, 2004, at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota.

Bernard E. Johnson, Assistant Attorney General, Suite 1800 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101-2134, represented the Disciplinary Committee (the Committee) of the Board of Teaching (the Board) at the prehearing conference. The Respondent, Daniel R. LeBre, did not appear at the prehearing conference, nor did anyone appear at the prehearing conference on his behalf. The record closed on August 25, 2004, when the prehearing conference ended.

NOTICE

This Report is only a recommendation to the Board of Teaching and is not a final decision. The Board will make its final decision after reviewing this report and the hearing record. In making that decision the Board may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendation that appear in this report.

Under Minnesota Law,¹ the Board may not make its final decision until after the parties have had access to this Report for at least ten days. During that time the Board must give any parties adversely affected by this Report an opportunity to file objections to the Report and to present argument supporting their positions. Parties should contact the office of Dr. George Maurer, Executive

¹ Minnesota Statutes, section 14.61. (Unless otherwise specified, all references to Minnesota Statutes are to the 2002 edition.)

Director, Minnesota Board of Teaching, 1500 Highway 36 West, Roseville, MN 55113-4266, to find out how to file exceptions or present argument.

The record of this contested case proceeding closes upon the filing of exceptions to the report and the presentation of argument to the Board, or upon the expiration of the deadline set by the Board for doing so. The Board must notify the parties and the Administrative Law Judge of the date on which the record closes. If the Board fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision.² Upon a showing of good cause by a party or the Board, the Chief Administrative Law Judge may order a reasonable extension of that 90-day deadline.

STATEMENT OF THE ISSUES

Whether the Board should impose disciplinary action against Mr. LeBre's teaching licenses for immoral conduct on his part in violation of applicable teaching licensure statutes and rules.

Based upon the record in this matter, the Administrative Law Judge (ALJ) makes the following:

FINDINGS OF FACT

1. On July 19, 2004, the Committee's attorney began this contested case proceeding by serving Daniel R. LaBre with the Notice and Order for Hearing and Prehearing Conference (Notice of Hearing) by U. S. Mail, with sufficient postage to assure delivery, directed to the address that Mr. Anderson had most recently supplied to the Board, namely: 1104 Trailwoods South, Hopkins, MN 55343.

2. The Notice of Hearing scheduled a prehearing conference in this contested case proceeding beginning at 10:30 a.m. on Wednesday, August 25, 2004 at the Office of Administrative Hearings, Suite 1700, 100 Washington Avenue South, Minneapolis, Minnesota. The Notice of Hearing also contained the following warning in boldface type:

"The Respondent's failure to appear at the prehearing conference or the hearing may result in a finding that the Respondent is in default, that the Board's allegations contained in this Notice and Order may be accepted as true, and its proposed action may be upheld."

² See Minnesota Statutes, § 14.62, subd. 2a.

3. The U. S. Postal Service did not return Mr. LeBre's copy of the Notice of Hearing to the Committee as undelivered or undeliverable.

4. Neither Daniel R. LeBre nor anyone else representing him appeared at the August 25, 2004, prehearing conference, nor did he make a request to the ALJ to be excused from appearing at that prehearing conference or to have it rescheduled for a later date.

5. Mr. LeBre's failure to appear at the prehearing conference is a violation of Minnesota rules. On motion of the Committee, the ALJ therefore take the facts alleged in the Notice of Hearing as true, and the ALJ hereby incorporates allegations Nos. 1 through 3, as set forth in the Notice of Hearing, into these Findings by reference.

6. The Administrative Law Judge adopts as Findings any Conclusions that are more appropriately described as Findings.

Based upon these Findings of Fact, the ALJ makes the following:

CONCLUSIONS

1. Minnesota law³ gives the ALJ and the Board authority to conduct this proceeding, to consider the issues raised here, and to make findings, conclusions, and orders.

2. The Committee gave proper and timely notice of the prehearing, and it also fulfilled all procedural requirements of law and rule so that this matter is properly before the Administrative Law Judge.

3. Daniel R. LeBre was given proper and timely notice of the prehearing conference that was scheduled for March 9, 2000.

4. Under the Office of Administrative Hearings' rules,⁴ Mr. LeBre is in default because he failed to appear at the scheduled prehearing conference without being excused by the ALJ.

5. Under those rules, when a party defaults, the ALJ may take the facts alleged in the Notice of Hearing as true and no longer in dispute.

6. Based upon the facts alleged in the Notice of Hearing, which the ALJ has taken as true, Mr. LeBre has violated the Minnesota statutes and rules

³ Minnesota Statutes, section 14.50, section 122A.20, subdivision 1(a) and section 214.10.

⁴ Minnesota Rules, part 1400.6000.

that govern his teaching licenses.⁵ The law therefore allows the Board to take disciplinary action against those licenses.

7. The Administrative Law Judge adopts as Conclusions any Findings which are more appropriately described as Conclusions.

Based upon these Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

The Administrative Law Judge recommends that the Board take such disciplinary action against the short call substitute teaching license of Daniel R. LeBre as may be appropriate.

Dated this 25th day of August 2004.

S/ Bruce H. Johnson

BRUCE H. JOHNSON
Administrative Law Judge

NOTICE

Under Minnesota law,⁶ the Board must serve its final decision upon each party and the Administrative Law Judge by first-class mail.

⁵ Namely, Minnesota Statutes, section 122A.20, subdivision 1(a) (1) and (5).

⁶ Minnesota Statutes, section 14.62, subdivision 1.