

MISSOURI STATE BOARD OF EDUCATION AGENDA ITEM:**October 2014**

CONSIDERATION TO DISCIPLINE THE
LICENSE TO TEACH OF LOUIS SOLA, CASE # HR 13-022

STATUTORY AUTHORITY:

Section 168.071, RSMo

Consent
ItemAction
ItemReport
Item**DEPARTMENT GOAL NO. 3:**

Missouri will prepare, develop, and support effective educators.

SUMMARY:

Louis Sola, Respondent, holds a substitute certificate set to expire on October 21, 2014.

The Respondent grabbed the student by the neck, choked him and threw him to the floor. The Missouri Children's Division found by a preponderance of the evidence that the Respondent had abused a child and Respondent's name was added to the Central Registry.

Respondent was not present at his hearing.

PRESENTER(S):

Mark Allan Van Zandt, General Counsel, will participate in the presentation and discussion of this agenda item.

RECOMMENDATION:

It is recommended that the State Board of Education revoke the substitute teaching certificate of Louis Sola pursuant to its authority under Mo. Rev. Stat. § 168.071(3) (Supp. 2013).

BEFORE THE STATE BOARD OF EDUCATION

STATE OF MISSOURI

IN THE MATTER OF:)
)
Department of Elementary and)
Secondary Education)
)
Petitioner,)
)
v.) **Case No. HR 13-022**
)
Louis Sola,)
)
Respondent.)

Introduction

This matter was held on July 31, 2014, before Cynthia Quetsch, Hearing Officer designated by the Commissioner of Education. Those present were:

Curtis Schube, Counsel for Department of Elementary and Secondary Education;
Margery Tanner, Director, Educator Certification, Department of Elementary and
Secondary Education; and
Dana Keilholz, Legal Assistant, Department of Elementary and Secondary Education.

Findings of Fact

1. Louis Sola, Respondent, holds a substitute certificate issued on October 21, 2010, which expires on October 21, 2014. Respondent’s certificate is current and active and was so during all times material herein (Petitioner’s Exhibit 23) (Transcript page 11, line 8 to page 12, line 10).
2. By letter dated November 5, 2013, Respondent received notice of the complaint. By an order dated June 26, 2014, Respondent was notified of a hearing scheduled for July 31, 2014 (Petitioner’s Exhibit 1) (Transcript page 7, line 21 to page 8, line 20).
3. On July 31, 2014, a hearing was held before Cynthia Quetsch, designated Hearing Officer. The Respondent was not present either personally or through counsel (Transcript page 5, lines 23-25).
4. On August 25, 2011, Respondent grabbed a student by the neck, choked him and threw him to the floor. The student was taken to the hospital where it was documented he

had petechia (non-raised hemorrhage) on his neck and pain in his leg. (Petitioners Exhibit 3)

5. On September 19, 2011, the Missouri Children's Division found by a preponderance of the evidence that Respondent had abused the student. Respondent appealed that determination to the Child Abuse/Neglect Board. In his appeal letter, Respondent admits that he lost his temper and restrained a student. Respondent reported that he had anger management issues and had told the school district that placing him in a setting known for "gang related violence and intimidation was a potential liability for both myself, the district and the students." Respondent admitted that he lost his temper and acted aggressively towards the student. On March 15, 2012, the Review Board upheld the preponderance of the evidence finding that Respondent had abused or neglected a child and added Respondent's name to the Central Registry. (Petitioner's Exhibit 3)

Conclusion of Law

1. The actions of Louis Sola, Respondent, in assaulting a student was child abuse as defined in Mo. Rev. Stat. § 210.110.
2. These charges were set for hearing and notice was served on the Respondent in compliance with the requirements of Mo. Rev. Stat. § 536.067 (2000).
3. Mo. Rev. Stat. § 168.071.1 (3) (Supp. 2013) provides the following authority to the State Board of Education:

The state board of education may refuse to issue or renew a certificate, or may, upon hearing, discipline the holder of a certificate of license to teach for the following causes: (3) There is evidence of incompetence, immorality, or neglect of duty by the certificate holder;

4. The Missouri Administrative Hearing Commission has defined incompetence as "a general lack of disposition to use a professional ability." *Office of Athletics v. Davis*, p. 3, No. 06-1069 AT (Mo. Admin. Hrg. Comm'n, 2007). Abusing a child is an act of incompetence.
5. The Missouri Court of Appeals for the Southern District stated that immorality relates to a:

Wrongful intent or conscious disregard of established mores such that the act itself bespeaks or permits the presumption of knowledge of its wrongful character. Howard v. State Board of Education, 913 S.W.2d 887, 891 (Mo. App. S.D., 1995).

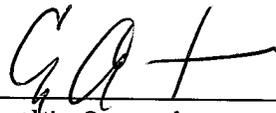
Respondent's admission that he lost his temper and was aggressive toward a child shows an admission of the wrongful character of his actions.

6. Respondent's conduct demonstrates evidence of incompetence and immorality.
7. Based upon the notice of hearing and the finding of Respondent's immoral and incompetent conduct, the State Board of Education, pursuant to Mo. Rev. Stat. § 168.071 (Supp. 2013), is authorized to suspend or revoke the teaching certificate of Louis Sola.

Recommendation

It is recommended that the State Board of Education revoke the substitute teaching certificate of Louis Sola pursuant to its authority under Mo. Rev. Stat. § 168.071(3) (Supp. 2013).

Submitted this 29th day of September 2014, by
the designated Hearing Officer for the
Commissioner of Education.



Cynthia Quetsch
Hearing Officer

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BEFORE THE STATE BOARD OF EDUCATION
STATE OF MISSOURI

DEPARTMENT OF ELEMENTARY AND)
SECONDARY EDUCATION,)

Petitioner,)

vs.) No. 13-022

LOUIS SOLA,)

Respondent.)

HEARING
BEFORE HEARING OFFICER CYNTHIA QUETSCH
TRANSCRIPT OF PROCEEDINGS
TAKEN ON BEHALF OF PETITIONER
JULY 31, 2014

(The proceedings began at 10:05 a.m.)

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WITNESS: DANA KEILHOLZ PAGE

Direct Examination by Mr. Schube 6

WITNESS: MARGERY TANNER PAGE

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Reporter's Certificate 17

E X H I B I T S

EXHIBIT DESCRIPTION OFFERED ADMITTED

1	Letters, Notices,	9	9
	Mailing Receipts		
2	Certification Record	11	11
3	Investigative Report	14	14
4	Affidavit of Lucy		

(Original exhibits were retained by the Hearing Officer.)

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BEFORE THE STATE BOARD OF EDUCATION
STATE OF MISSOURI

DEPARTMENT OF ELEMENTARY AND)
SECONDARY EDUCATION,)

Petitioner,)

vs.) No. 13-022

LOUIS SOLA,)

Respondent.)

HEARING
BEFORE HEARING OFFICER CYNTHIA QUETSCH
TRANSCRIPT OF PROCEEDINGS

Thursday, July 31, 2014
10:05 a.m.
205 Jefferson Street
Jefferson City, MO 65102

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A P P E A R A N C E S

For Petitioner:

Mr. Curtis Schube
Office of the Attorney General
P.O. Box 899
221 W. High Street
Jefferson City, MO 65102
(573) 751-1024

SIGNATURE INSTRUCTIONS: No signature required.

EXHIBIT INSTRUCTIONS: Original exhibits were retained by the
Hearing Officer.

Court Reporter:
Monnie S. Mealy, CCR, CSR, RPR
Midwest Litigation Services
3432 W. Truman Boulevard, Suite 207
Jefferson City, MO 65109
(573) 636-7551

1 TRANSCRIPT OF PROCEEDINGS

2 HEARING OFFICER: This hearing is in the
3 matter of the Missouri Department of Elementary and
4 Secondary Education versus Louis Sola and has been
5 designated Hearing 13-0220.

6 This hearing is being held pursuant to
7 Section 168.071 of the Revised Statutes of
8 Missouri, which authorizes the States Board of
9 Education to suspend or revoke a license a
10 certificate or license to teach of the certificate
11 holder if there is evidence of incompetence,
12 immorality or neglect of duty.

13 The Administrative Rules adopted by the
14 State Board of Education pursuant to the statute
15 authorize the Commissioner of Education to
16 designate a Hearing Officer in these matters.
17 My name is Cynthia Quetsch, and I have been
18 designated to hear this case.

19 Unless otherwise provided under Section
20 168.071, this hearing is being held pursuant to the
21 Procedural Rules of Chapter 536, the Administrative
22 Procedures Act.

23 The certificate holder, Louis Sola, is not
24 present at the hearing either in person or through
25 Counsel.

1 Assistant Attorney General Curtis Schube
2 is present on behalf of the State. Mr. Schube, did
3 you want to make an opening statement?

4 MR. SCHUBE: I've got a short one.

5 OPENING STATEMENT

6 BY MR. SCHUBE:

7 MR. SCHUBE: This case is about a teacher,
8 Louis Sola, who attacked a student. The evidence
9 which will be presented will establish that
10 Mr. Sola's behavior constitutes incompetence,
11 immortality or neglect of duty in violation of
12 Section 168.071.13.

13 HEARING OFFICER: All right. Call your
14 first witness.

15 MR. SCHUBE: I call Dana Keilholz.

16 DANA KEILHOLZ,
17 being first duly sworn to testify the truth, the whole
18 truth, and nothing but the truth, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. SCHUBE:

21 **Q Can you please state and spell your name**
22 **for the record?**

23 A Dana Keilholz, D-a-n-a K-e-i-l-h-o-l-z.

24 **Q And by whom are you employed?**

25 A Legal Assistant for Governmental Affairs

1 with the Department of Education.

2 **Q Okay. And what are your responsibilities**
3 **-- responsibilities or duties as a Legal Assistant?**

4 A One of the duties is to set up discipline
5 hearings, to notify the appropriate parties and
6 send out the information.

7 **Q Okay. So you serve notices of those**
8 **hearings on --**

9 A I do serve notices.

10 **Q -- to the Respondent?**

11 A Yes.

12 **Q Okay. And did you send such a notice to**
13 **Mr. Sola for this hearing today?**

14 A Yes.

15 **Q And do you have a copy of Exhibit 1?**

16 A No.

17 **Q Okay. I'll bring one over to you. Do you**
18 **recognize Exhibit 1?**

19 A Yes.

20 **Q And what is it?**

21 A It is the notice that -- the file copy --
22 copies of the files that I use to prove that we
23 have sent the information out.

24 **Q Okay. And, specifically, what -- what are**
25 **these documents?**

1 A It includes the letter, the original
2 letter, that we sent to Mr. Sola letting him know
3 that his hearing has been scheduled, the time, the
4 place and a copy of the complaint that was filed
5 against him.

6 That's sent certified mail and First
7 Class. I received the copy of the certified mail
8 back that showed that someone had picked up that
9 letter, and it was signed.

10 And then the hearing was continued for a
11 settlement, so there was another order that was
12 issued when a settlement couldn't be reached
13 setting a different date and time of the hearing.
14 And that was also sent certified mail and First
15 Class mail.

16 **Q Okay. And the second order that you're**
17 **referring to is for today's hearing, correct?**

18 A For today's hearing. And we did receive
19 the green card back that it was signed, that it was
20 picked up.

21 **Q All right. Do you -- does the Department**
22 **maintain these documents as records made in the**
23 **ordinary course of business?**

24 A Yes.

25 **Q And are you a person of -- with knowledge**

1 and information as to these notices?

2 A Yes.

3 Q And is this a true -- are these true and
4 accurate copies of the letter sent and the -- the
5 green card received back?

6 A Yes.

7 Q And the order for this hearing today?

8 A Yes.

9 MR. SCHUBE: Okay. All right. I move to
10 admit Exhibit 1 into evidence. And I'll hand you a
11 copy so you can look at it.

12 HEARING OFFICER: It is received.

13 (Exhibit 1 was offered and admitted into
14 evidence.)

15 MR. SCHUBE: All right. Thank you,
16 Ms. Keilholz. I don't have any further questions
17 for you. Call the second witness, Margery Tanner.

18 MARGERY TANNER,
19 being first duly sworn to testify the truth, the whole
20 truth, and nothing but the truth, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. SCHUBE:

23 Q Can you please state your name and spell
24 it for the record, please?

25 A Margery Tanner, M-a-r-g-e-r-y T-a-n-n-e-r.

1 **Q And by whom are you employed?**

2 A I'm employed by the Department of
3 Elementary and Secondary Education.

4 **Q And what is your position with the**
5 **Department?**

6 A I'm a Director for Educator Certification.

7 **Q And what are your responsibilities in that**
8 **position?**

9 A I license educators for the State of
10 Missouri.

11 **Q Okay. And do your duties include**
12 **maintaining teacher certification records?**

13 A Yes.

14 **Q All right. And you have a copy of what's**
15 **been marked as Exhibit 2; is that correct?**

16 A I do.

17 **Q And do you recognize those documents?**

18 A Yes.

19 **Q And what are they?**

20 A The certification record for Louis Anthony
21 Sola.

22 **Q Okay. And is this record kept by the**
23 **Department in the regular course of business?**

24 A Yes, it is.

25 **Q And is this a true and accurate copy of**

1 the records that are kept by the Department?

2 A Yes.

3 MR. SCHUBE: All right. I move to admit
4 Exhibit 2.

5 HEARING OFFICER: It is received.

6 (Exhibit 2 was offered and admitted into
7 evidence.)

8 Q (By Mr. Schube) Okay. And does the
9 Respondent, Mr. Sola, hold any certificates?

10 A Yes, he does.

11 Q What type of certificate?

12 A He holds a Content Substitute Certificate.

13 Q Okay. When was this certificate issued?

14 A It was issued October 21st, 2010.

15 Q Okay. And when is this certificate set to
16 expire?

17 A October 21st, 2014.

18 Q So as of today, the certificates are
19 active and current --

20 A Yes.

21 Q -- is that correct?

22 A Yes.

23 Q And were they current as of the 2011 and
24 2012 school year?

25 A Yes.

1 **Q** **Does the record reflect whether Mr. Sola**
2 **is currently teaching as an administrator or**
3 **teacher in Missouri?**

4 A No. Not currently.

5 **Q** **Okay. Does it reflect where he was**
6 **teaching as of -- the 2011 and 2012 school year?**

7 A It shows for the 2011 school year the
8 Kansas City Missouri Public School District
9 reported him as a paraprofessional for their
10 district.

11 MR. SCHUBE: Okay. Thank you, Ms.
12 Tanner. I don't have any further questions for
13 you. Here's Exhibit 2.

14 CROSS-EXAMINATION

15 BY HEARING OFFICER:

16 **Q** **Ms. Tanner, does the record show if he was**
17 **teaching anywhere for the '12/'13 school year?**

18 A It does not.

19 **Q** **Is there any record that he ever used the**
20 **certificate for employment?**

21 A Yes. It was issued in 2010. And he was
22 working for -- or as reported by Kansas City Public
23 that he was working for the '09/'10 school year as
24 well as the '10/'11 school year.

25 **Q** **But in -- all right. And then '11/'12, he**

1 **was reported as just being a para?**

2 A Right. Well, he's always been a para.

3 Yeah.

4 **Q Okay.**

5 A And that -- that would require the
6 substitute certificate for him to be the para.

7 **Q Oh, okay.**

8 A Yes.

9 HEARING OFFICER: Do you have any further
10 questions?

11 MR. SCHUBE: No.

12 HEARING OFFICER: You're dismissed.

13 Thanks.

14 MS. TANNER: Okay.

15 HEARING OFFICER: Do you have another
16 witness?

17 MR. SCHUBE: I have no more witnesses. I
18 have two pieces evidence to offer.

19 HEARING OFFICER: All right. Let the
20 record reflect it's now 10:10. The hearing began
21 after 10:00, which was the time noticed for the
22 hearing, and Mr. Sola was not present and he is
23 still not present. You may offer your --

24 MR. SCHUBE: Yes. First, I would like to
25 offer Exhibit 3. Exhibit 3 is the investigative

1 report of the attack Mr. -- involving Mr. Sola and
2 a student. It has a business records affidavit
3 attached to it.

4 HEARING OFFICER: Okay. And you're
5 offering this?

6 MR. SCHUBE: Yes.

7 HEARING OFFICER: It is received.

8 (Exhibit 3 was offered and admitted into
9 evidence.)

10 HEARING OFFICER: Anything else?

11 MR. SCHUBE: Yes. I'd also like to offer
12 Exhibit 4. Exhibit 4 is an affidavit of Lacy Hill,
13 who is a teacher who witnessed the incident in
14 question.

15 The affidavit is signed by Ms. Hill and
16 notarized. I offer it pursuant to Section
17 536.070(12).

18 HEARING OFFICER: It is received.
19 Mr. Schube, can you examine this exhibit and tell
20 me if you think it's complete? The numbers are not
21 sequential on the actual --

22 MR. SCHUBE: I -- I believe that it would
23 be complete. I -- I don't know why --

24 HEARING OFFICER: Let's go off the record.

25 (Discussion off the record.)

1 HEARING OFFICER: Exhibit 4 is received in
2 the condition in which it's received.

3 (Exhibit 4 was offered and admitted into
4 evidence.)

5 HEARING OFFICER: Anything else?

6 MR. SCHUBE: That's all of our evidence.

7 HEARING OFFICER: Did you want to make a
8 closing statement?

9 MR. SCHUBE: I'll make a short one.

10 CLOSING STATEMENT

11 BY MR. SCHUBE:

12 MR. SCHUBE: The evidence establishes that
13 Mr. Sola's attack on a student constitutes
14 incompetence, immorality and/or neglect of duty by
15 Mr. Sola.

16 The State requests that cause for
17 discipline be found and for the Board to impose an
18 appropriate discipline.

19 HEARING OFFICER: Are you interested in
20 briefing this?

21 MR. SCHUBE: No. Unless you feel it's
22 necessary.

23 HEARING OFFICER: What is your philosophy
24 on why it's incompetence or immorality or neglect
25 of duty?

1 MR. SCHUBE: I think it's neglect of duty
2 because he has a duty to -- to take care of the
3 students. And attacking a student and causing them
4 to go to the hospital would be a neglect of duty.

5 It also would be incompetent for the same
6 reason. A teacher has -- again, as a part of their
7 duties is to care for the students.

8 They're the -- I would say it's not
9 competency for a teacher to attack a student no
10 matter what the cause would be. And -- what was
11 the third one?

12 HEARING OFFICER: Immorality.

13 MR. SCHUBE: It would also be immoral for
14 a student to be attacked by a student -- or by a
15 teacher.

16 HEARING OFFICER: All right. Thank you
17 very much. If there's nothing further, the hearing
18 will be concluded. Thank you.

19 (The proceedings were concluded at 10:15 a.m. on
20 July 31, 2014.)

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1 REPORTER'S CERTIFICATE

2

3 STATE OF MISSOURI)

) ss.

4 COUNTY OF OSAGE)

5

6 I, Monnie S. Mealy, Certified Shorthand Reporter,
7 Certified Court Reporter #0538, and Registered Professional
8 Reporter, within and for the State of Missouri, do hereby
9 certify that I was personally present at the proceedings as
10 set forth in the caption sheet hereof; that I then and there
11 took down in stenotype the proceedings had at said time and
12 was thereafter transcribed by me, and is fully and accurately
13 set forth in the preceding pages.

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Monnie S. Mealy, CSR, CCR #0538

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Registered Professional Reporter

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