

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

TOM GALLAGHER, as Commissioner)
of Education,)
)
Petitioner,)
)
vs.) Case No. 00-3888PL
)
STEPHEN ROSENTHAL,)
)
Respondent.)
_____)

RECOMMENDED ORDER

Pursuant to notice, a formal hearing was held in this case before Larry J. Sartin, an Administrative Law Judge of the Division of Administrative Hearings, by telephone on November 27, 2000.

APPEARANCES

For Petitioner: Bruce P. Taylor, Esquire
Post Office Box 131
St. Petersburg, Florida 33731-0131

For Respondent: No Appearance

STATEMENT OF THE ISSUE

The issue in this case is whether Respondent, Stephen H. Rosenthal, committed the offenses alleged in an Administrative Complaint issued on or about December 22, 1999, by Petitioner, Tom Gallagher, as Commissioner of Education and, if so, what penalty should be imposed upon Respondent.

PRELIMINARY STATEMENT

Petitioner issued an Administrative Complaint on or about December 22, 1999, recommending that the Education Practices Commission impose appropriate disciplinary sanctions on the educator's certificate of Respondent pursuant to Sections 231.262 and 231.28, Florida Statutes, and Rule 6B-1.006, Florida Administrative Code, due to certain conduct alleged in the Administrative Complaint. Respondent filed an unexecuted Election of Rights form and a letter in response to the Administrative Complaint. Although Respondent did not specifically request an administrative hearing, he did dispute the material facts of the Administrative Complaint. Therefore, the Administrative Complaint, the Election of Rights form, and Respondent's letter were filed with the Division of Administrative Hearings on September 19, 2000, with a request that the matter be assigned to an administrative law judge. The request was designated DOAH Case No. 00-3888PL and was assigned to Judge Michael M. Parrish. The case was subsequently transferred to the undersigned.

The formal hearing was scheduled for November 27, 2000, by a Notice of Telephonic Hearing entered October 11, 2000. The hearing was scheduled to be conducted by telephone.

On November 13, 2000, Respondent filed a pleading titled "Notice to Cease and Desist 'Notice of Telephonic Hearing' and

any Hearing Regarding Stephen Rosenthal's Florida Teaching Certificate." On November 20, 2000, an Order Denying Request to Cease and Desist was entered. The Order indicated that, to the extent that Respondent was requesting that no final hearing be held in this case, the request was denied.

By Order entered November 20, 2000, official recognition of a number of documents which had been requested in Petitioner's Request for Judicial Notice was taken.

As directed in the Notice of Telephonic Hearing, Petitioner made an appearance at the appointed time. After waiting a reasonable period of time for Respondent to make an appearance, the undersigned telephoned the correctional institution in which Respondent is incarcerated and spoke to Respondent. Respondent was informed that the hearing had commenced and was asked several times to indicate whether he intended to participate in the final hearing of this matter. Respondent refused to answer the undersigned's question. After asking Respondent several times for an answer, Respondent was informed that he would be given one last opportunity to indicate whether he intended to participate in the hearing and that, if he refused to indicate his intent, the hearing would proceed without Respondent's participation. Respondent refused to answer the question.

After returning to the scheduled telephonic hearing, Petitioner was informed of the undersigned's efforts to get

Respondent to indicate whether he intended to participate in the final hearing. Petitioner indicated a desire to proceed without Respondent and the undersigned agreed. At no time during the hearing did Respondent make any known effort to participate in the hearing.

Petitioner presented the testimony of Susan Ranew, Personnel Director for the St. Lucie County School District; Todd Schrader, a sergeant with the City of Port St. Lucie Police Department; and Paul E. Griffith, a detective with the City of Port St. Lucie Police Department. Petitioner offered eight exhibits which were accepted into evidence.

On November 28, 2000, an Order Establishing Filing Date for Proposed Recommended Orders was entered. The parties were informed that proposed orders were to be filed on or before ten days after the filing of the transcript in this case.

The Transcript of the hearing, consisting of one volume, was filed on December 12, 2000. Petitioner filed Petitioner's Proposed Recommended Order on December 21, 2000. No proposed order has been filed by Respondent. Petitioner's post-hearing submittal has been fully considered in entering this Recommended Order.

FINDINGS OF FACT

1. Respondent, Stephen Rosenthal, holds a valid Florida Educator's Certificate, Number 644646. Respondent's Certificate

covers the areas of Elementary Education and Mathematics and is valid through June 30, 2001.

2. At all times relevant to this matter, Respondent was employed as a fifth-grade teacher at Manatee Elementary School, an elementary school in the St. Lucie County School District.

3. During the fall of 1997 Paul E. Griffeth, a detective with the Port St. Lucie Police Department, was informed that Respondent had been in contact through the internet with a detective of the Keene, New Hampshire Police Department, that Respondent believed that he was communicating with a minor, and that Respondent had sent the Keene detective pornographic pictures via the Internet.

4. Based upon the information Officer Griffeth received, a search warrant was obtained. The search warrant authorized a search of an address where Respondent was believed to reside.

5. Officer Griffeth, Todd Schrader, then a detective with the Port St. Lucie Police Department, and a Detective Calabrese attempted to execute the search warrant. When they served the search warrant on Respondent they learned that Respondent no longer lived at the address identified in the search warrant.

6. Respondent informed Detectives Schrader and Griffeth of his new residence address and agreed to allow them to search his residence without obtaining a new warrant.

7. Respondent inquired into the reason for the search warrant and was told that it was believed that he was suspected of having sent child pornography on the internet and of having files on his computer and computer disks in his residence that contained child pornography. Respondent initially denied these allegations.

8. Detective Schrader asked Respondent if he knew who "Luke 14" was. Respondent admitted that he believed that "Luke 14" was a 14-year-old male. Detective Schrader told Respondent that "Luke 14" was a police detective. Respondent shook his head and said, "No, no." Respondent later admitted that he had sent pornographic pictures, including pictures of Respondent naked, to "Luke 14," believing he was a 14-year-old boy.

9. Respondent then admitted to Detective Schrader that he had a number of pictures that he had downloaded from the internet and acknowledged that some of the pictures could be construed as child pornography. Respondent also admitted that he had numerous diskettes with pictures of minors that he had downloaded from the internet.

10. When the detectives entered Respondent's residence, they found two pictures of two individual nude males, with their genitalia exposed, which the detectives believed to be between the ages of 12 to 16. Respondent admitted that he believed that

that was the age of the boys. Respondent also admitted that he had downloaded the pictures off the internet and that he had printed them.

11. A number of diskettes were found at Respondent's residence which contained pictures of males with their genitalia exposed. Although some of the males pictured appeared to be minors, the evidence failed to prove that they were in fact pictures of minors. 1/

12. On November 3, 1997, Respondent was arrested. He was charged in an Indictment filed before the United States District Court for the Southern District of Florida (hereinafter referred to as the "U.S. District Court") with eight counts of Knowingly Receiving a Visual Depiction of a Minor Engaged in Sexually Explicit Conduct that had been transported and shipped in Interstate Commerce by Computer and one count of Having Possession of Three or More Visual Depictions of a Minor Engaged in Sexually Explicit Conduct that had been transported and shipped in Interstate Commerce by Computer.

13. In March 1998 Respondent entered into a Plea Agreement in the U.S. District Court, agreeing, in part, to the following:

1. The [Respondent] agrees to plead guilty to Counts 1 and 3 of the Indictment, which charges the defendant with the knowing receipt of child pornography in interstate commerce by computer, that is, visual depictions of minors engaged in sexual

conduct The [Respondent] admits that he is, in fact, guilty of this offense.

14. On March 12, 1998, Respondent appeared before the Honorable James C. Paine, United States District Court Judge for the Southern District of Florida. Respondent was questioned extensively concerning the Plea Agreement and Respondent's understanding of the charges to which he had admitted. During this proceeding, the essential facts relating to Counts 1 and 3 were summarized and Respondent was asked whether he agreed with those facts. Respondent agreed with all the summarized facts; except the allegation that he thought that Luke 14 was a minor. 2/ Among the summarized facts which Respondent admitted to are the following:

a. That Respondent knowingly received a visual depiction; the visual depiction was shipped or transported by interstate commerce by any means, including computer; that the visual depiction was of a minor engaged in sexually explicit conduct; and that Respondent knew that the visual depiction was of a minor engaged in sexually explicit conduct;

b. That Respondent sent several sexually explicit pictures to Luke 14. The pictures were of the Respondent, naked; and

c. That Respondent had photographs of two nude minors in his residence.

15. Respondent entered a plea of guilty to Counts 1 and 3 of the Indictment, was adjudicated guilty of the two counts, and was sentenced to 70 months in prison on each Count to run concurrently. The other seven counts were dismissed. The evidence failed to prove that Respondent's plea of guilty was made as the result of any threat, coercion, or fraud.

16. By entering a plea of guilty to Count 1 of the Indictment, Respondent admitted to the following:

On or about February 5, 1997, in St. Lucie County, in the Southern District of Florida, the defendant,

STEPHEN H. ROSENTHAL,

did knowingly receive a visual depiction that had been transported and shipped in interstate commerce by computer . . . depicting a minor engaging in sexually explicit conduct . . . to wit:

a depiction of a minor male engaging anal-genital sexual intercourse with an adult male,

the production of which involved the use of a minor engaging in sexually explicit conduct.

17. By entering a plea of guilty to Count 3 of the Indictment, Respondent admitted to the following:

On or about April 15, 1997, in St. Lucie County, in the Southern District of Florida, the defendant,

STEPHEN H. ROSENTHAL,

did knowingly receive a visual depiction that had been transported and shipped in interstate commerce by computer . . . depicting minors engaging in sexually explicit conduct . . . to wit:

a depiction of two minor males engaging oral-genital sexual intercourse,

the production of which involved the use of a minor engaging in sexually explicit conduct.

18. By pleading guilty to Counts 1 and 3 of the Indictment and admitting to Judge Paine that he had committed those offenses, Respondent admitted that he had been in possession of child pornography and that he had downloaded the child pornography from the Internet.

19. Respondent subsequently attempted to withdraw his plea. This effort was rejected.

20. Respondent is currently incarcerated at FCC Coleman serving his 70-month sentence.

21. The arrest and subsequent conviction of Respondent resulted in adverse and widespread publicity in St. Lucie County. Respondent's arrest and conviction and the resulting adverse publicity were sufficiently notorious to disgrace the teaching profession and seriously reduce Respondent's effectiveness as a teacher. Respondent's employment with the St. Lucie County School Board was terminated due to the foregoing incidents.

22. Petitioner issued an Administrative Complaint on or about December 22, 1999, in which Petitioner recommended that the Education Practices Commission impose appropriate disciplinary sanctions on Respondent's educator's certificate pursuant to Sections 231.262 and 231.28, Florida Statutes, and Rule 6B-1.006, Florida Administrative Code, due to the following alleged facts:

3. During the 1996-1997 and 1997-1998 school year, Respondent was in possession of child pornography and down loaded the child pornography from the Internet onto his home computer. On or about November 3, 1997, Respondent was arrested and charged with 8 counts of Knowingly Receiving a Visual Depiction of Minor Engaged in Sexually Explicit Conduct that had been transported and shipped in Interstate Commerce by Computer, and one count of Having Possession of Three or More Visual Depictions of a Minor Engaged in Sexually Explicit Conduct that had been transported and shipped in Interstate Commerce by Computer. On or about June 2, 1998, Respondent pled Guilty to two of the counts of receiving the photographs. The court dismissed all other charges and adjudicated Respondent Guilty on the remaining two. Respondent was sentenced to 70 months on each count to run concurrently, to receive health/psychiatric counseling during incarceration, 3 years of supervised release, not possess a firearm and pay \$3200 in fines and fees. On or about November 25, 1997, Respondent was terminated from his position with the St. Lucie County School Board.

23. Respondent filed an unexecuted Election of Rights form and a letter in response to the Administrative Complaint.

Although Respondent did not specifically request an administrative hearing, he did dispute the material facts of the Administrative Complaint.

24. The Administrative Complaint and Respondent's letter were filed with the Division of Administrative Hearings on September 19, 2000, with a request that the matter be assigned to an administrative law judge.

CONCLUSIONS OF LAW

A. Jurisdiction.

25. The Division of Administrative Hearings has jurisdiction of the parties to, and the subject matter of, this proceeding. Section 120.57, Florida Statutes (2000).

B. The Burden and Standard of Proof.

26. The burden of proof, absent a statutory directive to the contrary, is on the party asserting the affirmative of the issue in this proceeding. Antel v. Department of Professional Regulation, 522 So. 2d 1056 (Fla. 5th DCA 1988); and Department of Transportation v. J.W.C. Co., Inc., 396 So. 2d 778 (Fla. 1st DCA 1981).

27. In this proceeding, it is Petitioner that is asserting the affirmative: that Respondent committed the offenses alleged in the Administrative Complaint. Petitioner, therefore, has the burden of proof in this proceeding.

28. Petitioner was required to meet his burden by clear and convincing evidence. See Ferris v. Turlington, 510 So. 2d 292 (Fla. 1987); and Dileo v. School Board of Dade County, 569 So. 2d 882 (Fla. 3rd DCA 1990).

29. To be considered clear and convincing, the evidence must be "so clear, direct and weighty and convincing as to enable [the fact finder] to come to a clear conviction, without hesitancy, of the truth of the precise facts in issue." Slomowitz v. Walker, 429 So. 2d 797, 800 (Fla. 4th DCA 1983).

C. The Administrative Complaint.

30. Based upon the facts alleged in the Administrative Complaint, Respondent has been charged with having committed the following violations of Chapter 231, Florida Statutes:

a. Section 231.28(1)(c), Florida Statutes, "in that Respondent has been guilty of gross immorality or an act involving moral turpitude";

b. Section 231.28(1)(f), Florida Statutes, "in that Respondent, upon investigation, has been found guilty of personal conduct which seriously reduces his effectiveness as an employee of the school board";

c. Section 231.28(1)(i), Florida Statutes, "in that Respondent has violated the Principles of Professional Conduct for the Education Profession in Florida prescribed by [the] State Board of Education"; and

d. Section 231.28(2), Florida Statutes, by entering a plea of guilty to offenses which would constitute the grounds for revocation of a teaching certificate provided for in Section 231.28(1), Florida Statutes.

31. The Principles of Professional Conduct for the Education Profession in Florida have been adopted as Rule 6B-1.006, Florida Administrative Code. Respondent has been charged in the Administrative Complaint with having violated the following Principles:

a. Rule 6B-1.006(3)(a), Florida Administrative Code, "in that Respondent failed to make reasonable effort to protect the student from conditions harmful to learning and/or to the student's mental health and/or physical safety";

b. Rule 6B-1.006(3)(e), Florida Administrative Code, "in that Respondent intentionally exposed a student to unnecessary embarrassment or disparagement"; and

c. Rule 6B-1.006(3)(h), Florida Administrative Code, "in that Respondent exploited a relationship with a student for personal gain or advantage."

D. Section 231.28(1)(c), Florida Statutes; Gross Immorality and Act Involving Moral Turpitude.

32. Section 231.28(1)(c), Florida Statutes, authorizes disciplinary action against a teaching certificate if the holder

of the teaching certificate has been guilty of "gross immorality" or "an act involving moral turpitude."

33. The terms "gross immorality" and "an act involving moral turpitude" are not defined in Chapter 231, Florida Statutes, or the rules adopted by Petitioner. See Sherborne v. School Board of Suwannee County, 455 So. 2d 1057, 1061 (Fla. 1st DCA 1984).

34. Rule 6B-4.009, Florida Administrative Code (dealing with dismissal actions initiated by school boards against instructional personnel pursuant to Section 231.36, Florida Statutes), however, includes a definition of "immorality" which may be used as guidance in ascertaining the meaning of the terms as they are used in Section 231.28(1)(c), Florida Statutes. See Castor v. Lawless, 1992 WL 880829, 10 (EPC Final Order 1992).

35. Rule 6B-4.009(2), Florida Administrative Code, defines "immorality" as follows:

(2) Immorality is defined as conduct that is inconsistent with the standards of public conscience and good morals. It is conduct sufficiently notorious to bring the individual concerned or the education profession into public disgrace or disrespect and impair the individual's service in the community.

36. In order to find a teacher guilty of "immorality":
. . . the factfinder must conclude: a) that the teacher engaged in conduct inconsistent with the standards of public conscience and good morals, and b) that the conduct was

sufficiently notorious so as to disgrace the teaching profession and impair the teacher's service in the community.

McNeil v. Pinellas County School Board, 678 So. 2d 476, 477

(Fla. 2d DCA 1996). A teacher's impairment may be inferred if the immoral conduct occurred in the classroom or in the presence of students, but not if the misconduct was of a "private nature" not involving students. See Walker v. Highlands County School Board, 2000 WL 256154 (Fla. 2d DCA, March 8, 2000).

37. "Gross immorality, as the terms suggest, is misconduct that is more egregious than mere "immorality." It is "immorality which involves an act or conduct that is serious, rather than minor in nature, and which constitutes a flagrant disregard of proper moral standards." See Castor v. Lawless, 1992 WL 880829, 10 (EPC Final Order 1992); and Turlington v. Knox, 3 FALR 1373A, 1374A (EPC Final Order 1981).

38. Rule 6B-4.009, Florida Administrative Code, also contains a definition of "moral turpitude." This definition is found in subsection (6), which provides:

(6) Moral turpitude is a crime that is evidenced by an act of baseness, vileness or depravity in the private and social duties, which, according to the accepted standards of the time a man owes to his or her fellow man or to society in general, and the doing of the act itself and not its prohibition by statute fixes the moral turpitude.

Unlike "immorality," an act of moral turpitude does not require notoriety or impaired ability for service in the community. See Gallagher v. Powell, 1999 WL 1483626, n. 16 (Fla. DOAH 1999).

39. The evidence in this case established that, during the 1996-1997 and 1997-1998 school year, Respondent was in possession of child pornography and that he down-loaded the child pornography from the Internet onto his home computer. The evidence also established that Respondent admitted that he had committed one count of Knowingly Receiving a Visual Depiction of a Minor Engaged in Sexually Explicit Conduct that had been transported and shipped in Interstate Commerce by Computer, and one count of Having Possession of Three or More Visual Depictions of a Minor Engaged in Sexually Explicit Conduct that had been transported and shipped in Interstate Commerce by Computer. Respondent's actions were sufficiently notorious to disgrace the teaching profession and impair his service in the community. Respondent's actions constitute acts of gross immorality and acts of moral turpitude.

40. Based upon the foregoing, it is concluded that Respondent violated Section 231.28(1)(c), Florida Statutes, as alleged in the Administrative Complaint.

E. Section 231.28(1)(f), Florida Statutes; Personal Conduct Seriously Reducing Effectiveness as a School Board Employee.

41. Section 231.28(1)(f), Florida Statutes, authorizes disciplinary action against a teaching certificate if the holder of the teaching certificate has been guilty of personal conduct which seriously reduces the teacher's effectiveness as a school board employee.

42. As a result of the actions committed by Respondent in this case, he was terminated as an employee of the St. Lucie County School Board. He is currently incarcerated serving his sentence for the acts he committed, which were well known and publicized.

43. Based upon the foregoing, it is concluded that Respondent violated Section 231.28(1)(f), Florida Statutes, as alleged in the Administrative Complaint.

F. Section 231.28(1)(i), Florida Statutes; The Principles of Professional Conduct for the Education Profession in Florida; Rule 6B-1.006, Florida Administrative Code.

44. Section 231.28(1)(i), Florida Statutes, authorizes disciplinary action against a teaching certificate if the holder of the teaching certificate has been guilty of violating the Principles of Professional Conduct for the Education Profession

in Florida, as established in Rule 6B-1.006, Florida Administrative Code.

45. In this case, Respondent has been charged with having violated Principles (a), (e) and (h), of Rule 6B-1.006(1), Florida Administrative Code:

(1) The following disciplinary rule shall constitute the Principles of Professional Conduct for the Education Profession in Florida.

. . . .

(3) Obligation to the student requires that the individual:

(a) Shall make reasonable effort to protect the student from conditions harmful to learning and/or to the student's mental and/or physical health and/or safety.

. . . .

(e) Shall not intentionally expose a student to unnecessary embarrassment or disparagement.

. . . .

(h) Shall not exploit a relationship with a student for personal gain or advantage.

46. The foregoing principles all involve a teacher's responsibility to his or her students. The evidence in this case failed to prove that any of the minors depicted in the pictures in Respondent's possession were students or, more importantly, that they had any student-teacher relationship to Respondent.

47. Based upon the foregoing, it is concluded that the evidence failed to prove that Respondent violated Section 231.28(1)(i), Florida Statutes, as alleged in the Administrative Complaint.

G. Section 231.28(2), Florida Statutes; A Plea of Guilty in Any Court or Decision of Guilty by any Court of Grounds for Revocation of a Teaching Certificate.

48. Section 231.28(2), Florida Statutes, does not provide a separate offense for which the holder of a teacher's certificate can be disciplined. It merely provides that a plea of guilty in any court or a decision of guilty by any court of any offense which constitutes a ground for revocation of a teaching certificate set out in Section 231.28(1), Florida Statutes, will constitute prima facie proof of the grounds for revocation of a teaching certificate provided in Section 231.28(1)(a) through (k), Florida Statutes, absent proof that the plea of guilty or admission of guilt was caused by threats, coercion, or fraudulent means.

49. The evidence in this case proved that Respondent entered a plea of guilty and was found guilty of offenses that constitute offenses for which his teaching certificate may and should be disciplined pursuant to Section 231.28(1), Florida Statutes. Accordingly, prima facie proof of the grounds for revocation of a teaching certificate provided in Section

231.28(1)(a) through (k), Florida Statutes, was presented by Petitioner in this case.

50. The evidence failed to prove that Respondent's plea of guilty and the finding of guilt by the court was the result of any threat, coercion, or fraud. Respondent, therefore, failed to overcome the prima facie proof that he is guilty of an offense for which his teaching certificate may be revoked.

H. The Appropriate Penalty.

51. Section 281.28(1), Florida Statutes, provides that the teaching certificate of any individual holding a certificate that violates the provisions of Section 281.28(1)(a) through (k), Florida Statutes, may be suspended for three years, revoked for a period not to exceed ten years, or permanently revoked.

52. Rule 6B-11.007, Florida Administrative Code, provides guidelines for the imposition of penalties for violating Chapter 231, Florida Statutes, and the Principles of Professional Conduct for the Education Profession.

53. The guideline for committing criminal acts and/or convictions in violation of Section 231.28(1)(c) or (f), Florida Statutes, is suspension to revocation if the act or violation constitutes a felony. Rule 6B-11.007(2)(g), Florida Administrative Code.

54. The guideline for sexual misconduct with any minor in violation of Section 231.28(1)(c) or (f), Florida Statutes, is

suspension to revocation. Rule 6B-11.007(2)(i), Florida Administrative Code.

55. Rule 6B-11.007(3), Florida Administrative Code, also provides for a consideration of certain mitigating and aggravating circumstances when determining an appropriate penalty. Those mitigating and aggravating circumstances, to the extent supported by the evidence, have been considered in this case.

56. Taking into account the penalty guidelines and the mitigating and aggravating circumstances of Rule 6B-11.007, Florida Administrative Code, it is concluded that Respondent's teaching certificate should permanently revoked.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that a final order be entered finding that Respondent, Stephen H. Rosenthal, violated Sections 231.28(1)(c) and (f), Florida Statutes. It is further

RECOMMENDED that the final order dismiss the charge that Respondent violated Section 231.28(1)(i), Florida Statutes. It is further

RECOMMENDED that Respondent's Florida Educator's Certificate, Number 644646, be permanently revoked.

DONE AND ENTERED this 10th day of January, 2001, in
Tallahassee, Leon County, Florida.

LARRY J. SARTIN
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 10th day of January, 2001.

ENDNOTES

^{1/} Petitioner has relied upon the testimony of Detective Griffeth at hearing and the opinion of the St. Lucie County medical examiner, who did not testify at the hearing, to support proposed findings of fact concerning the age of the males depicted in the pictures found in Respondent's possession. Detective Griffeth's testimony and the hearsay opinion of the unnamed medical examiner do not constitute competent substantial evidence of the ages of the males depicted in those pictures.

^{2/} Although Respondent denied that he had told Detective Schrader that he thought Luke 14 was a minor during his appearance before Judge Paine, Detective Schrader's testimony that Respondent did make such a statement was credible and has been relied upon in making finding of fact 8 of this Recommended Order.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this recommended order. Any exceptions to this recommended order should be filed with the agency that will issue the final order in this case.