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SCHOOL BOARD OF PALM BEACH COUNTY

AT

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OCT 30 1 44 PM '01
DIVISION OF
ADMINISTRATIVE
HEARINGS

PALM BEACH COUNTY)
SCHOOL BOARD,)
Petitioner,)
)
)
vs.)
)
)
BORIS V. BANKS,)
Respondent)
/

DOAH CASE NO. 00-5115PL

CA-CLOS

FINAL ORDER

THIS MATTER, came to be heard by the **SCHOOL BOARD OF PALM BEACH COUNTY**, Florida, for the purpose of adopting the Final Order in connection with the above-styled cause. In consideration of the recommendation of the Superintendent and the Division of Administrative Hearings' ("DOAH") Administrative Law Judge, and the attached Recommended Order, Exhibit A, the **SCHOOL BOARD** finds as follows:

BACKGROUND

At the times pertinent to this proceeding, Respondent was employed by the Petitioner as a Behavioral Interventionist Assistant. The School Board, acting on the recommendation of the Superintendent voted on December 6, 2000 to suspend Respondent's employment without pay effective December 7, 2000, and to terminate his employment effective upon the expiration of

fifteen (15) days thereafter. The School Board alleged that Respondent had sexually harassed co-workers constituting just cause for termination of his employment pursuant to Sections 231.3605(2)(b) and 231.44 Florida Statutes; School Board Policy 3.19 and School Board Policy and Directive 3.27, 6B-1.006(3)(a), (e) or 5(d), 6B-4.009(3) or (6) Florida Administrative Code. On October 12, 1999 Respondent attended the School Board's new employee orientation at which a film was presented and a discussion held on the issue of sexual harassment in the workplace. The School Board's sexual harassment policy and its import were discussed at the orientation session. Respondent's first job assignment was at Indian Ridge School in the fall of 1999-2000. Shortly after arriving at the school, Respondent made lewd comments of a sexual nature to a middle school teacher. Despite her efforts to rebuff Respondent, he continued to make inappropriate comments and gestures with sexual overtones to the teacher. This kind of behavior also continued with other female employees at Indian Ridge Center. On or about May 4, 2000, a professional standards investigation was initiated concerning Respondent, based in part on allegations of inappropriate comments towards female employees at Indian Ridge. On May 18, 2000 Respondent was placed on administrative leave with pay and assigned to his home. After the investigation was completed a committee of senior administrators determined that probable cause existed to sustain the allegations and recommended that Respondent's employment be suspended for ten days without pay. This was rejected by the School Board as being too lenient. The School Board ultimately accepted a recommendation for fifteen days suspension. The Respondent served the fifteen days

suspension without filing a grievance or any other appeal. Respondent was subsequently transferred to Seminole Trails Elementary in October 2000.

Shortly after arriving at Seminole Trails, Respondent was accused of making inappropriate comments and gestures about a teacher. The teacher was offended and immediately complained to the Assistant Principal. Respondent is also accused of making inappropriate comments and gestures to another employee at Seminole Trails. Despite being rebuffed, Respondent continued making inappropriate comments and gestures towards his fellow female employees. Another investigation was initiated and concluded with a finding that Respondent had made inappropriate comments and sexually harassed the employees in question.

FINDINGS OF FACT

1. **PALM BEACH COUNTY SCHOOL BOARD**, Florida, finds that the Administrative Law Judge's Findings of Fact are supported by competent substantial evidence in the record as a whole and that the proceedings upon which the Findings of Fact are based complied with the essential requirements of law.
2. Respondent has not filed exceptions to the Findings of Fact set forth in the Recommended Order issued by the Administrative Law Judge, pursuant to Chapter 120.57, Florida Statutes.

THE SCHOOL BOARD hereby adopts the Administrative Law Judge's Findings of Fact as prescribed in Section 120.57(1)(j) Florida Statutes.

CONCLUSIONS OF LAW

1. **SCHOOL BOARD OF PALM BEACH COUNTY**, Florida, has jurisdiction over the subject matter and the parties hereto.
2. **SCHOOL BOARD** finds that the Administrative Law Judge's Conclusions of Law are correct as a matter of law and that the proceedings upon which the Conclusions of Law are based complied with the essential requirements of the law.
3. Respondent has not filed exceptions to the recommended Conclusions of Law set forth in the Recommended Order issued by the Administrative Law Judge, pursuant to Section 120.57, Florida Statutes.


THE SCHOOL BOARD hereby adopts the Administrative Law Judge's Conclusions of Law as prescribed in Section 120.57(1)(j) Florida Statutes.

IT IS THEREFORE ORDERED AND ADJUDGED that the Administrative Law Judge's Recommended Order be adopted and incorporated by reference in this Final Order of the School Board. The employment of the Respondent, Boris V. Banks, be terminated effective December 6, 2000. An appeal of this order must be made pursuant to Section 120.68, Florida Statute, by filing a Notice of Appeal with the **SCHOOL BOARD** and the Fourth District Court of Appeals within thirty (30) days of the date of this order.

DONE AND ORDERED, this 17th day of October, 2001.


SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA

BY:

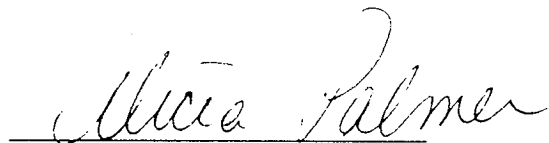

Thomas Lynch, Chairman

(SEAL)

Attest:


Arthur C. Johnson, Secretary

Filed with the Clerk of the School Board
this 19th day of October, 2001.


Alicia Palmer, Clerk

COPIES FURNISHED:

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