

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

BROWARD COUNTY SCHOOL BOARD,)
)
 Petitioner,)
)
 vs.) Case No. 01-0020PL
)
 JAMES M. McMILLAN,)
)
 Respondent.)
 _____)

RECOMMENDED ORDER

Robert E. Meale, Administrative Law Judge of the Division of Administrative Hearings, conducted the final hearing in Fort Lauderdale, Florida, on July 12 and 13, 2001.

APPEARANCES

For Petitioner: Carmen Rodriguez
Carmen Rodriguez, P.A.
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Miami, Florida 33157

For Respondent: Robert F. McKee
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STATEMENT OF THE ISSUE

The issue is whether Petitioner should discipline Respondent for immorality, misconduct in office, or incompetency in connection with his supervision, as a high school baseball coach, of a team trip, during which hazing occurred, and his subsequent investigation of the incident.

PRELIMINARY STATEMENT

By Administrative Complaint dated November 17, 2000, Petitioner alleged that Respondent was aware of and condoned hazing while supervising the Coconut Creek High School baseball team that he coached during a trip to Orlando. The Administrative Complaint alleges that, on the first night of the trip, an assistant coach informed Respondent that he had found a student athlete, D. B., in his room acting abnormal and angry. The assistant coach allegedly informed Respondent that D. B. had marks on his back and there was a problem.

The Administrative Complaint alleges that Respondent and the assistant coach went to D. B.'s room, where they found him standing by an air conditioning fan with his boxer shorts open, and asked him if there was a problem. D. B. allegedly replied "no." Respondent allegedly failed to take any action to investigate further.

The Administrative Complaint alleges that, the next day, D. B. approached Respondent and told him, "my parts are on fire. I'm hurting bad." Respondent allegedly failed to investigate or assist the student in pain. Instead, Respondent allegedly questioned a few students, who denied that anything had happened.

The Administrative Complaint alleges that Respondent did not investigate until an assistant coach told him that D. B. had

told his parents that he had been hazed. At a team meeting, students allegedly informed Respondent that hazing had taken place and identified who was involved.

The Administrative Complaint alleges that Respondent subsequently tried to conceal his knowledge of the hazing by tampering with a witness. Respondent allegedly asked an assistant coach to say that he did not know what happened in the meeting if the incident was investigated.

The Administrative Complaint alleges that Respondent was guilty of immorality, in violation of Section 231.36(1)(a), Florida Statutes, and Rule 6B-4.009, Florida Administrative Code; misconduct in office, in violation of Section 231.36(1), Florida Statutes, and Rule 6B-4.009(3), Florida Administrative Code; and incompetency, in violation of Section 231.36(1)(a), Florida Statutes, and Rule 6B-4.009(1).

The Administrative Complaint seeks to impose a two-week unpaid suspension, a prohibition against coaching for two years, and a probationary period of three years at the end of the two-year period of ineligibility.

The Joint Pre-hearing Statement filed July 3, 2001, sets forth Petitioner's statement of the case by restating the above-stated factual allegations, but omitting the statutes and rules allegedly violated.

This case was consolidated with Charlie Crist v. James M. McMillan, DOAH Case No. 01-1919PL. The Administrative Law Judge is issuing a separate recommended order to the Education Practices Commission in that case.

At the hearing, Petitioner and Charlie Crist jointly called eight witnesses. Petitioner offered into evidence five exhibits: Petitioner Exhibits 1-5. Charlie Crist offered into evidence nine exhibits: DOE Exhibits 1-9. Respondent called two witnesses and offered into evidence two exhibits: Respondent Exhibits 1 and 2. All exhibits were admitted except Petitioner Exhibit 1 and DOE Exhibit 7. Petitioner Exhibit 2, DOE Exhibit 5, and Respondent Exhibit 2 were not admitted for the truth of their contents.

Petitioner's exhibits are part of the record in this case and DOAH Case No. 01-1919PL, and Charlie Crist's exhibits in DOAH Case No. 01-1919PL are part of the record of that case and this case. The Administrative Law Judge therefore requests each petitioner to copy its original exhibits and forward the copy to the other petitioner as soon as possible after the receipt of the record in each case from the Division of Administrative Hearings.

The court reporter filed the transcript on August 17, 2001. The parties filed their proposed recommended orders by September 10, 2001.

FINDINGS OF FACT

1. Respondent has been a teacher and a coach for 27 years. He taught and coached in Illinois for 11 years before moving to Florida, where he has taught and coached for the past 16 years. He currently is teaching health, and he sometimes teaches physical education. Respondent holds Florida Educator's Certificate 551145, which is valid through June 30, 2005, and he is certified in health education, physical education, and social science.

2. Respondent has coached basketball, football, and baseball. Most recently, Respondent was the head baseball coach at Coconut Creek High School where he was the Fort Lauderdale Sun-Sentinel Coach of the Year for Broward County three years ago. He coached baseball four years at Coconut Creek High School and the preceding eight or nine years at Fort Lauderdale High School. The events in this case arose during the 2000 season; Respondent did not coach during the 2001 season.

3. During spring break of 2000, Respondent took his baseball team to Orlando and Sebring. The purpose of the trip was to allow the team to play two high-school baseball games against teams from different regions of the state and to visit an Orlando theme park. The trip took place toward the end of the season, prior to the commencement of the district tournament.

4. The Orlando trip extended from Sunday, April 16, through Wednesday, April 19. Twenty-four student athletes went on the trip. In addition to Respondent, the other adults supervising the students were assistant coaches Reynaldo Nieves, Joseph Leone, and Rex Nottage. Respondent's wife was also with him, as were several parents, but they did not share with Respondent and the assistant coaches supervisory responsibility for the students.

5. On arriving in the Orlando area early in the morning, the group first visited Islands of Adventure, a theme park. They finally reached their hotel at about 8:00 p.m. Respondent gathered the students together and gave them directions as to where they could go. He told them they could not leave the motel property without the permission of a coach. Some students wanted to eat; most wanted to shower. Respondent told them they had to be in their rooms by 11:00 p.m. and their lights must be out by midnight. Respondent warned them that he and the other coaches would perform bed checks at these times.

6. Respondent and his wife had arranged the rooms so that the group was together at the motel. Their rooms were on the second or third floor of the motel. Each room accommodated four students. Respondent and his wife were in a room, Mr. Leone was in a room, and Mr. Nieves and Mr. Nottage shared a room. The

students' rooms were between the rooms of the adults to enable the adults to exercise closer control over the students.

7. At some point prior to the first bed check, the older students began entering the rooms of the younger students, by trick or by force. A large group of the older students would then overpower the younger student and, typically, apply Icy Hot liniment to a towel and then to the testes of the student.

8. The students were aware that this hazing was likely to occur during this trip. Seven of the students were hazed by nearly all of the remainder of the team.

9. Prior to being hazed himself, D. B. was aware that other students had been hazed and was aware of the form of the hazing because some of the other students had come to D. B.'s room and asked to use the shower. D. B. was a junior, but this was his first year on the varsity, and he knew that the older students would try to haze him too. However, he did not try to contact one of the coaches or parents to intervene in the half hour that D. B. estimates elapsed between the hazing of the last of the other students and his hazing.

10. As had happened to most of the other hazed students, most, if not all, of the older students on the team entered D. B.'s room, pulled down his pants, and applied Icy Hot and shaving cream to his genital area. D. B. yelled and struggled against four or five students on various parts of his prone

body. He sustained some minor scratches while he was held down for about one minute.

11. As soon as he was released, D. B. took a shower. He chased the remaining students out of his room, swinging a belt and yelling. While in the shower, D. B. was so angry that he threw soap and shampoo containers in the shower stall.

12. About ten minutes after D. B. was hazed, Mr. Nieves was roaming the rooms and entered D. B.'s room. Petitioner contends that Respondent had allowed Mr. Nieves and Mr. Nottage to leave the motel for dinner from 8:00 p.m. to 10:45 p.m. If so, Respondent, his wife, and Mr. Leone could adequately supervise the students occupying the six rooms between them. However, D. B. testified that the hazing took place around 9:00 to 9:30 p.m., so, if Mr. Nieves arrived ten minutes later, he was gone only until 9:10 to 9:40 p.m. Either way, the record does not reveal any irresponsibility on Respondent's part in allowing his two assistant coaches to leave him, his wife, and Mr. Leone to supervise 24 students for even three hours.

13. When Mr. Nieves looked into D. B.'s room, he found D. B. in a bad mood, angrily throwing things around the bathroom. The door to D. B.'s room was open, so Mr. Nieves walked inside and asked if he was okay. D. B., who was wearing only a towel wrapped around his waist, did not answer, but left the bathroom and stood in front of the wall air conditioning,

unit, which was blowing cold air. Mr. Nieves saw about five marks on D. B.'s back and saw that D. B. was beet red. The marks appeared as though someone had been grabbing him. Mr. Nieves offered to get Respondent, and D. B. said to do so.

14. Mr. Nieves thought that D. B. had been wrestling or something. His visit to D. B.'s room had occurred not long before the first room check. Mr. Nieves walked down the hall to Respondent's room and found Respondent inside. Mr. Nieves informed Respondent that D. B. wanted to talk to him. He told Respondent that it looked like something was wrong.

15. Respondent and Mr. Nieves returned to D. B.'s room. They arrived there about three minutes from the time that Mr. Nieves had left the student's room. Respondent entered D. B.'s room ahead of Mr. Nieves and found D. B. standing in front of the air conditioning fan, holding the towel open like he was cooling down. In a conversation that lasted about 30 seconds, Mr. Nieves said to D. B., "Coach is here. Tell him what's wrong." Respondent added, "What's wrong?" To these inquiries, D. B. replied, "Nothing. Don't worry about it." Mr. Nieves and Respondent asked about the red marks, but D. B. said they were nothing and everything was fine.

16. D. B. testified that he did not disclose the hazing because he knew that Respondent would punish the team. He assumed that the team would be upset with D. B. for telling the

coach that they had done something of which Respondent disapproved.

17. Somewhat irritated that D. B. had asked to see Respondent and three minutes later declined to tell him anything, Mr. Nieves left the room with Respondent. They then completed the bed check, and Mr. Nieves did not see Respondent again that night.

18. However, Mr. Nieves returned to D. B.'s room about a half hour later. He found D. B. still standing by the air conditioning fan. Mr. Nieves told D. B. that it was not fair to Mr. Nieves to say to Respondent that nothing was wrong. Mr. Nieves then asked if something was wrong. D. B. replied, "They got me, coach." Mr. Nieves did not know what he meant, but thought that D. B. meant some sort of rough-housing. Mr. Nieves asked D. B. why did you not say something to Respondent. Mr. Nieves spent about 15 minutes in D. B.'s room, but did not learn anything more specific. However, D. B. expressed considerable anger to Mr. Nieves.

19. The Icy Hot that came into contact with D. B.'s penis was most painful. The next morning, the pain was somewhat reduced. Early that morning, the team went to a baseball field to prepare for a game that day. They did a lot of situational baserunning so the fielders could practice. Because D. B. was not a starter, he and the other nonstarters had to do much of

the baserunning. He displayed no problems running in the morning.

20. However, hours later, during the pregame practice, a ball was hit toward D. B. in the outfield. He charged it, but it got by him. Instead of turning and running after the ball, as Respondent required of all players, D. B. turned and walked toward the ball.

21. Seeing D. B. and another student not hustling, Respondent pulled them off the field. When Respondent demanded to know why D. B. had not run after the ball, D. B. said that "my balls are on fire." D. B. had a poor attitude at times and was stubborn. Without responding meaningfully to D. B.'s explanation, Respondent benched both players for the entire game. D. B.'s explanation is discredited due to his ability to run without impediment in the morning.

22. D. B. had called his parents Monday at around noon and had told them what had happened the prior evening. D. B. called them again after the afternoon game. During the first call, D. B.'s parents told him to defend himself if necessary and not to worry about talking to Respondent about the hazing.

23. Respondent had not been feeling well Sunday night. By the time of practice Monday morning, his throat was so sore that he had to have his assistant coaches direct the students on the field and yell instructions. After the game, in which

Respondent's team had played poorly and lost, Respondent spoke only briefly to the team and allowed Coach Nottage to yell at the students to fire them up and make them work harder.

24. After the team had returned to the motel, Mr. Nieves talked to D. B.'s roommates. He was somewhat concerned about D. B. because, after the game, when he had asked the student what was wrong, D. B. had only laughed as if he were mad. The roommates talked vaguely about Icy Hot, but they were unwilling to be more specific.

25. Around 8:00 or 9:00 p.m. Monday at the motel, D. B. came to Respondent's room and asked if he could talk to the coach for a minute. Respondent said he could. D. B. then told Respondent that he had had Icy Hot put on his testes. Whispering, Respondent asked if he was alright and what did D. B. want Respondent to do about it. The record is unclear whether he asked this in a challenging or inquisitive tone. D. B. did not add more details.

26. On Tuesday morning, the team departed Orlando in vans headed for Sebring, where they were to play another game Tuesday night. Respondent had been quite sick Monday night, unable to swallow or talk. By Tuesday, he was even more sick. No one spoke to him about D. B. or hazing. With considerable effort, Respondent was able to escort the team to the Sebring motel, and then he went directly to a nearby hospital emergency room.

Diagnosed as having pharyngitis, Respondent obtained an injection of antibiotics, which provided him relief the next day.

27. Scheduling problems resulted in postponing the Sebring game, so that the team did not return to the motel until after 11:00 p.m. Respondent directed the students to go directly to their rooms and told them that there would be a midnight bed check.

28. Late the next morning, Wednesday, the team left Sebring to return to Fort Lauderdale, where they arrived at 3:00 p.m. One of the parents traveling with the team told Respondent at a gas stop that D. B. had called his parents. Respondent summoned D. B. and complained about D. B. calling his parents without first informing Respondent of the problem. The conversation was brief because the group was waiting in their vans. D. B. replied, "Well, coach, you know what happens." Respondent answered, "I don't know what happens. Go get in your van."

29. On the way back to Fort Lauderdale, Mr. Nieves told Respondent what he knew about hazing in the form of older students applying Icy Hot to the genitalia of younger students and, in some cases, paddling younger students. Respondent expressed his frustration that D. B. had not complained to him about the hazing.

30. When they returned to Fort Lauderdale, Respondent told D. B. that he wanted to speak to him and his father, who was there to pick him up. However, D. B. and his father left the school without speaking to Respondent.

31. Respondent decided to call a team meeting to find out what had happened. Respondent called D. B.'s mother to assure that D. B. would come to the meeting, but she said that he was at work and that she had already called the school board. D. B. was not at work.

32. In the team meeting, Respondent warned the students that hazing was very serious. He asked for those persons directly and indirectly involved to identify themselves. Various students began raising their hands, admitting to various levels of involvement, and Mr. Nottage recorded their names, at Respondent's direction. Respondent then warned the students that the school board was involved and there could be criminal punishments for certain persons. He told the students that there was nothing that he could do about these consequences, but he would take his own actions. At this point, many of the students began retracting admissions. Feeling that the notes had become useless, Respondent obtained the notes from Mr. Nottage and discarded them later that weekend.

33. Prominent among the many differences in testimony concerning the events of this trip and its immediate aftermath

is a difference in recollection between Respondent and Mr. Nieves concerning a conversation between the two of them following the meeting. Mr. Nieves testified that Respondent instructed him to deny that the notes existed, and Respondent denied that this is true. Such dishonesty, if true, would merit punishment.

34. It is possible that Respondent did ask Mr. Nieves to conceal the truth in order to protect Respondent's students, who had made confessions prior to understanding the potential administrative and criminal consequences. Perhaps Respondent regretted his role in securing this inculpatory information.

35. On the other hand, Mr. Nottage, as well as over 22 students were at this meeting (another student had failed to attend), so Respondent had to know that such a concealment was unlikely to go undetected. Most importantly, though, Mr. Nieves was a most unconvincing witness. His recollection of details was poor, contradictory, and entirely inconsistent with his apparent intelligence. His demeanor was poor. The Administrative Law Judge was left with the opinion that Mr. Nieves was lying at the time that he first provided statements concerning the events--for some reason, trying unfairly to inculcate Respondent or to exculpate himself--or he was lying at the hearing--belatedly, trying to protect

Respondent. On balance, it is impossible to credit Mr. Nieves' testimony on this crucial point.

36. After talking the matter over with Mr. Nieves and Mr. Nottage (Mr. Leone had already left before the meeting), Respondent decided to punish the students as best he could by making them run. Those who had actually touched the younger students had to run 10 miles. Older students who had stood by and encouraged or supported the hazing had to run an intermediate distance. Even the victims, such as D. B., had to run because they had not reported the hazing, but their distance was the shortest.

37. The team had a game the next morning. Late in the afternoon or early in the evening on Thursday, Respondent called his supervisor for athletics, the Coconut Creek High School athletic director, and reported the hazing in general terms. The athletic director told Respondent that he had done the right thing by calling him and said to come see him Monday, when school was back in session.

38. On Saturday morning, Respondent required the students to run the distances that he had determined appropriate. He also informed the team that he would be recommending to the principal that the baseball team not take field trips. The athletic director later suggested that Respondent not make that recommendation.

39. D. B. and his parents have filed a civil action against the school board for damages arising out of the incident.

40. School officials have known that hazing has been a problem in the past at Coconut Creek High School, although more with the soccer team. In 1997, the athletic director asked Respondent, as the baseball head coach, to draft a letter stating a policy prohibiting hazing. Addressed to the parents of baseball players, the letter states in part: "The athletic department has a policy of zero tolerance when it comes to "initiating" or "hazing" a fellow student. Anyone guilty of participating in a hazing or a form of initiation will be immediately dismissed from the team." Respondent and the athletic director signed the letter.

41. At the start of the 2000 season, Respondent warned the students on the team that he would not tolerate any sort of misbehavior, including hazing. Respondent had not been aware of any hazing incidents on the baseball team since 1997. As already noted, other students knew of the continuation of the practice. Some of the parents of the older students also knew of the practice, at least as it had been inflicted on their sons. However, it does not necessarily follow that what a student shares with a parent, he also shares with his coach.

42. Petitioner has failed to prove incompetency, lack of fitness, inefficiency, or incapacity on the part of Respondent. Nor has Petitioner proved immorality. The evidence does not establish that Respondent knew or had reason to know that hazing was about to occur or that hazing had occurred. At all times, Respondent was in charge of 24 students, and, most of the time, he was sick--after Sunday, very sick. The scrutiny that Respondent could reasonably be expected to give the D. B. situation, especially given the student's reluctance to make a straightforward declaration of what happened, must be assessed in light of these circumstances.

43. As the last person to be hazed, D. B. had ample opportunity to alert the coaches. After the hazing, D. B. repeatedly declined to disclose the problem to Respondent. D. B. knew that Respondent did not condone hazing. D. B. knew that, rather than ignore a hazing complaint, Respondent would punish the responsible players, and this would draw unwanted attention to D. B. Seeking advice from his parents, D. B. was reinforced in his earlier determination not to seek the effective remedies that he knew were available within the structure of the team.

44. Petitioner has also failed to prove misconduct in office. Again, Respondent's supervision of the students was adequate. His investigation was sufficient for imposing intra-

team discipline. His apparent departure from school policy of dismissal from the team may be explained by Respondent's awareness that the school board and possibly law enforcement would also investigate the matter and impose their own sanctions; presumably, the athletic department policy was intended to operate in isolation.

45. Although Respondent could have informed the athletic director of the problem Wednesday night or Thursday morning, Respondent did so later Thursday. This brief delay caused no prejudice, as Respondent's supervisor assured Respondent that he had done the right thing and he would visit him the next Monday.

CONCLUSIONS OF LAW

46. The Division of Administrative Hearings has jurisdiction over the subject matter. Sections 120.57(1) and 231.36(6)(a)2, Florida Statutes. (All references to Sections are to Florida Statutes. All references to Rules are to the Florida Administrative Code.)

47. Section 231.36(1)(a) provides:

Each person employed as a member of the instructional staff in any district school system shall be properly certificated pursuant to s. 231.17 or employed pursuant to s. 231.1725 and shall be entitled to and shall receive a written contract as specified in chapter 230. All such contracts, except continuing contracts as specified in subsection (4), shall contain provisions for dismissal during the term of the contract only for just cause. Just

cause includes, but is not limited to, the following instances, as defined by rule of the State Board of Education: misconduct in office, incompetency, gross insubordination, willful neglect of duty, or conviction of a crime involving moral turpitude.

48. Section 231.36(6)(a) provides for Respondent's dismissal at anytime during his contract for any of the reasons stated in Section 231.36(1)(a).

49. Section 240.1325(1) provides a good definition of hazing:

As used in this section, "hazing" means any action or situation which recklessly or intentionally endangers the mental or physical health or safety of a student for the purpose of initiation or admission into or affiliation with any organization operating under the sanction of a postsecondary institution. Such term includes, but is not limited to, any brutality of a physical nature, such as whipping, beating, branding, forced calisthenics, exposure to the elements, forced consumption of any food, liquor, drug, or other substance, or other forced physical activity which could adversely affect the physical health or safety of the student, and also includes any activity which would subject the student to extreme mental stress, such as sleep deprivation, forced exclusion from social contact, forced conduct which could result in extreme embarrassment, or other forced activity which could adversely affect the mental health or dignity of the student.

50. Rule 6B-4.009(1), (2), and (3) provides:

The basis for charges upon which dismissal action against instructional personnel may be pursued are set forth in Section 231.36,

Florida Statutes. The basis for each of such charges is hereby defined:

(1) Incompetency is defined as inability or lack of fitness to discharge the required duty as a result of inefficiency or incapacity. Since incompetency is a relative term, an authoritative decision in an individual case may be made on the basis of testimony by members of a panel of expert witnesses appropriately appointed from the teaching profession by the Commissioner of Education. Such judgment shall be based on a preponderance of evidence showing the existence of one (1) or more of the following:

(a) Inefficiency: (1) repeated failure to perform duties prescribed by law (Section 231.09, Florida Statutes); (2) repeated failure on the part of a teacher to communicate with and relate to children in the classroom, to such an extent that pupils are deprived of minimum educational experience; or (3) repeated failure on the part of an administrator or supervisor to communicate with and relate to teachers under his or her supervision to such an extent that the educational program for which he or she is responsible is seriously impaired.

(b) Incapacity: (1) lack of emotional stability; (2) lack of adequate physical ability; (3) lack of general educational background; or (4) lack of adequate command of his or her area of specialization.

(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.

(3) Misconduct in office is defined as a violation of the Code of Ethics of the Education Profession as adopted in Rule 6B-1.001, FAC., and the Principles of Professional Conduct for the Education Profession in Florida as adopted in Rule 6B-1.006, FAC., which is so serious as to impair the individual's effectiveness in the school system.

51. Rule 6B-1.001 provides:

(1) The educator values the worth and dignity of every person, the pursuit of truth, devotion to excellence, acquisition of knowledge, and the nurture of democratic citizenship. Essential to the achievement of these standards are the freedom to learn and to teach and the guarantee of equal opportunity for all.

(2) The educator's primary professional concern will always be for the student and for the development of the student's potential. The educator will therefore strive for professional growth and will seek to exercise the best professional judgment and integrity.

(3) Aware of the importance of maintaining the respect and confidence of one's colleagues, of students, of parents, and of other members of the community, the educator strives to achieve and sustain the highest degree of ethical conduct.

52. Rule 6B-1.006 provides in part:

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

(2) Violation of any of these principles shall subject the individual to revocation or suspension of the individual educator's

certificate, or the other penalties as provided by law.

(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.

(b) Shall not unreasonably restrain a student from independent action in pursuit of learning.

(c) Shall not unreasonably deny a student access to diverse points of view.

(d) Shall not intentionally suppress or distort subject matter relevant to a student's academic program.

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

53. Rule 6B-1.006(5)(a) provides that the "[o]bligation to the profession of education requires that the individual . . . [s]hall maintain honesty in all professional dealings."

54. Petitioner must prove the material allegations by a preponderance of the evidence. Dileo v. School Board of Dade County, 569 So. 2d 883 (Fla. 3d DCA 1990).

55. Using the statutory definition as guidance, it is clear that hazing occurred on this team trip. However, for the reasons already stated, Petitioner has failed to prove the material allegations against Respondent.

RECOMMENDATION

It is

RECOMMENDED that the School Board of Broward County, Florida, enter a final order dismissing the Administrative Complaint.

DONE AND ENTERED this 20th day of September, 2001, in Tallahassee, Leon County, Florida.

ROBERT E. MEALE
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 20th day of September, 2001.

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 must be filed with the agency that will issue the final order in this case.