

12-4-01

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

PINELLAS COUNTY SCHOOL BOARD,

Petitioner,

AP

vs.

DOAH CASE NO:01-2456

WADE RAGLAND

Respondent.

FILED
2004 JUN 18 P 1:39
ADMINISTRATIVE HEARINGS
DIVISION OF ADMINISTRATIVE HEARINGS

FLB-CWS

FINAL ORDER

This matter having come before the School Board of Pinellas County, Florida, sitting as a quasi-judicial body, and the Board having reviewed the entire record consisting of Petitioner's Findings of Fact, Conclusions of Law and Supporting Memorandum, the Respondent's Findings of Fact, Conclusions of Law and Supporting Memorandum, the transcript of the hearing, the Administrative Law Judge's Recommended Order, and the Superintendent's Exceptions to the Recommended Order, and the Board having heard arguments of counsel, considered the recommendations of the Superintendent, and being otherwise advised in the premises, it is

ORDERED AND ADJUDGED, that the Administrative Law Judge's Recommended Order dated December 4, 2001, attached hereto as Exhibit "A" and incorporated herein, be adopted as this Board's Final Order, with the exception of the following:

1. The Administrative Law Judge interpreted School Board administrative rule 8.23(3)(e)2, to require a finding that the employee's refusal to submit to the drug test constitutes insubordination before the employee may be terminated.
2. School Board administrative rule 8.23(3)(e)2 provides in part as follows:

An employee who refuses to submit to a required alcohol or controlled substances test will be immediately suspended and recommended for dismissal.
3. The School Board finds that the Administrative Law Judge has misinterpreted administrative rule 8.23(3)(e)2 to require a finding of insubordination
4. The School Board finds that it is as reasonable or more reasonable to interpret administrative rule 8.23(3)(e)2 to not include a requirement that there be a finding of insubordination in addition to proving by preponderance of evidence that the


employee refused to immediately report for a random drug test after notification by proper authority.

5. The School Board finds that this interpretation is as reasonable or more reasonable because such an interpretation is consistent with the strict provisions of the federal law and regulations being implemented by the administrative rule.
6. Based upon the finding in paragraph #61 of the Recommended Order that it was established by competent substantial evidence that the Respondent refused to immediately report for a random drug test after being notified by proper authority, the School Board finds that the Respondent violated administrative rule 8.23(3)(e)2, and Respondent's employment is hereby terminated.
7. Respondent is hereby notified of his right to appeal this Order to the Second District Court of Appeal by filing notice of the intent to do so upon the Clerk of the Court and the Clerk of the School Board within thirty (30) days of the date of this Order.

DONE AND ORDERED this 12th day of February, 2002.

THE SCHOOL BOARD OF PINELLAS
COUNTY, FLORIDA

By: 
Chairman

Attest: 
Ex-officio Secretary