

3-30-04

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

FILED
04 MAY 24 PM 2:03
TALLAHASSEE

ESCAMBIA COUNTY SCHOOL BOARD,

Petitioner,

vs.

DOAH Case No.: 03-4410

FSR-CLOS

SAM SCALLAN,

AT

Respondent.

_____ /

**FINAL ORDER ADOPTING THE FINDINGS OF FACT AND CONCLUSIONS
OF LAW OF THE ADMINISTRATIVE LAW JUDGE**

Pursuant to notice, a formal hearing was held in this matter on February 12-13, 2004, before the Division of Administrative Hearings, by Administrative Law Judge, Florence Snyder Rivas, in Pensacola, Florida. The subject matter of the hearing was the termination of Respondent's contract of employment with Petitioner for violating Escambia County School Board Rule 2.05, an ethics policy which prohibits offensive sexual innuendo in the workplace.

Judge Rivas issued a Recommended Order on March 30, 2004. Judge Rivas determined that Petitioner had just cause to terminate Respondent's employment contract, and recommended termination. Judge Rivas made findings of fact and conclusions of law which are supported by the record in support of this recommendation.

Respondent filed exceptions to Judge Rivas' Order on April 14, 2004.

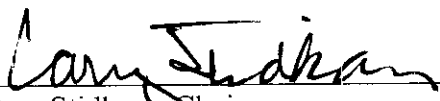
Respondent objects to credibility determinations and evidence weighting made by Judge Rivas. As the Judge presiding over the hearing in this case, Judge Rivas is in a unique

position to assess the credibility of witnesses, not only by their spoken testimony, but also by their demeanor; accordingly, her credibility determinations cannot be second-guessed.

Pursuant to Section 120.57(1)(1), *Fla.Stat.*, the School Board of Escambia County hereby adopts the conclusions of fact, findings of law, and recommended sanction contained in the Recommended Order which is specifically incorporated by reference and attached at Appendix 1.

Petitioner has thirty (30) days from the rendition of this Order to file a notice of appeal in accordance with Section 120.68, *Fla.Stat.*

ADOPTED by the School Board of Escambia County, at Pensacola, Florida, in open meeting, this 18th day of May, 2004.


Cary Stidham, Chair

Attest:


Jim Paul, Superintendent

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail this 20th day of May, 2004, to:

Clerk of the Division of Administrative Hearings, Division of Administrative Hearings,
The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, FL 32399-3060

Florence Snyder Rivas, Administrative Law Judge, Division of Administrative Hearings,
The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, FL 32399-3060

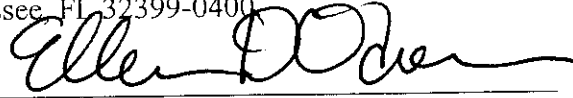
Debra Dawn Cooper, Esquire, 1008 West Garden Street, Pensacola, FL 32501

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