

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

JIM HORNE, AS COMMISSIONER OF)
EDUCATION,¹)
)
Petitioner,)
)
vs.) Case No. 04-0477PL
)
SANFORD H. HAYES,)
)
Respondent.)
_____)

RECOMMENDED ORDER

Notice was provided and on April 19, 2004, a formal hearing was held in this case. Authority for conducting the hearing is set forth in Sections 120.569 and 120.57(1), Florida Statutes (2003). The hearing location was the Okaloosa County Courthouse, Board of County Commissioners Meeting Room 120, U.S. Highway 90, 101 East James Lee Boulevard, Crestview, Florida. The hearing commenced at 9:30 a.m. (C.T.). The hearing was conducted by Charles C. Adams, Administrative Law Judge.

APPEARANCES

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For Respondent: Ronald G. Meyer, Esquire
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STATEMENT OF THE ISSUE

Should Petitioner impose discipline on Respondent's Florida Educator's Certificate No. 635967, based upon the allegations in the Administrative Complaint, Case No. 012-1824-V, before the State of Florida, Education Practices Commission?

PRELIMINARY STATEMENT

On December 17, 2002, Charlie Crist, then Commissioner of Education, executed the Administrative Complaint. Respondent selected a settlement option in reply, followed by a request for formal hearing if the case did not settle. Settlement was not achieved. Therefore, it is left to be considered the allegations in paragraphs 3, 4, and 5, and all allegations set forth in Counts 1 through 7, to the Administrative Complaint. Since that time some other factual allegations in the Administrative Complaint have been conceded by Respondent through a pre-hearing stipulation to be discussed in greater detail. Some facts remain in dispute in the case that has been forwarded to the Division of Administrative Hearings for formal hearing in accordance with Sections 120.57(1) and 231.262, Florida Statutes.²

The case was assigned and the hearing conducted on the aforementioned date.

At hearing, Petitioner presented the testimony of Robert Rosado, Jr.; Valarie Rutland; Hyum Kim; William Head, Evangelina Rosado; Martin Knopes; and Arden Farley. Petitioner's Exhibits numbered 1, 2, 4, 9 through 17, and 19 through 23, were admitted. Petitioner's Exhibits numbered 5, 6, 8, and 18, were denied admission. Ruling was reserved on the admission of Petitioner's Exhibits numbered 3 and 7. Having considered those exhibits post-hearing, Petitioner's Exhibit numbered 3, is denied admission. Petitioner's Exhibit numbered 7, is admitted. Petitioner's exhibits denied admission are forwarded with the record.

Respondent testified in his own behalf. Respondent presented testimony from Robert Jones, Dean Sullivan, and Robert Parish. Respondent's Exhibits numbered 1 through 3 were admitted. As with those Petitioner's exhibits denied admission, Respondent's Exhibit numbered 4, was not admitted but is sent forward with the record.

Concerning Petitioner's Exhibit numbered 1, the deposition transcript of Respondent as reported on April 8, 2004, Respondent was allowed to read and revise the deposition. He exercised that option making changes which are included with the

exhibit. As well, Petitioner was allowed to submit the audiotape of the deposition session, which is included with this record for consideration.

A pre-hearing order was entered requiring the parties to submit certain information in accordance with the instructions set forth. This included the obligation to arrive at those factual stipulations acceptable to the parties. The parties through counsel offered 22 separate factual stipulations. Those factual stipulations are accepted and are included in the fact finding to the Recommended Order.

On April 29, 2004, a hearing transcript was filed. The parties filed Proposed Recommended Orders which have been considered in preparing the Recommended Order.

FINDINGS OF FACT

Stipulated Facts

1. Respondent holds Florida Educator's Certificate No. 635967, covering the areas of Educational Leadership and Elementary Education, which is valid through June 30, 2005.
2. At all times pertinent hereto, Respondent was employed as an administrator at Crestview Senior High School in the Okaloosa County School District.
3. On or about February 1, 2000, the principal and the school administrators met to discuss heightened security for the

Crestview Senior High School and Pace High School basketball game. At the meeting, all administrators were asked to attend the game.

4. At the game on the night of or about February 1, 2000, extra law enforcement was present.

5. Roberto Rosado, Jr., was a student on February 1, 2000, and his date of birth is October 10, 1981.

6. Respondent approached Robert Rosado, Jr., after observing Mr. Rosado make obscene gestures at the opposing team or fans of the opposing team.

7. Law enforcement officers escorted Mr. Rosado from the gym.

8. Mr. Rosado was taken to the hallway by the boys' locker room.

9. Mr. Rosado was handcuffed by the police; Respondent was not present when that occurred.

10. Respondent wrote a sworn statement stating that Mr. Rosado had "pushed [him] away" during the altercation.

11. Law enforcement officers arrested Mr. Rosado for battery on a school official and took him to jail.

12. On or about February 2, 2000, the school administrators and the school principal met to discuss the appropriate discipline for Mr. Rosado.

13. On or about February 2, 2000, the school principal suspended Mr. Rosado for ten days based on the incident at the basketball game and recommended to the Superintendent that Mr. Rosado be expelled; Mr. Rosado remained on suspension until the expulsion proceedings were completed.

14. On or about February 7, 2000, the Superintendent wrote a letter to Mr. Rosado's mother informing her that after reviewing the principal's recommendation and pertinent documents, he would be recommending to the Okaloosa County School Board that Mr. Rosado be expelled for assaulting a school administrator.

15. At a later date, the Okaloosa County School Board did charge Mr. Rosado with assaulting a school district administrator as well as willful disobedience of a school district administrator and open defiance of the authority of a school district administrator.

16. On or about March 9, 2000, an attorney representing Mr. Rosado in his civil suit against the Okaloosa County School Board took Respondent's deposition.

17. In his deposition, Respondent stated that "R.R., pushed him [Hayes] away with his arm."

18. On or about March 22, 2000, the Okaloosa County School Board held Mr. Rosado's expulsion in abeyance stating that Mr. Rosado could graduate, but had to earn one remaining credit hour needed to graduate at another school.

19. Mr. Rosado, a high school senior, was not allowed to participate in senior class activities, attend the prom, or attend graduation with his class.

20. During the week prior to Mr. Rosado's criminal trial, a videotape of the altercation was provided to Mr. Rosado's attorney.

21. The criminal charges against Mr. Rosado were dismissed.

22. Respondent continues to be employed by Crestview Senior High School.

Additional Facts

23. Crestview High School (Crestview) and Pace High School (Pace) played a basketball game at Pace on a date before February 1, 2000. It was reported that there was an altercation between a Pace player and Crestview player near the end of that game that was closely contested. As a result, fans came out of the stands and resource officers had to be involved together with Pace administrators to restore order. This led to the

meeting between the principal at Crestview and other school administrators to discuss the need for extra security for the return game between Crestview and Pace to be held at Crestview.

24. The return game took place on February 1, 2000. In addition to Okaloosa County Deputy Sheriff Dean Sullivan, the school resource officer for Crestview, Deputy Dustin Adams from that office, and Officer Frank Bergeron from the Crestview Police Department attended the game to provide security.

25. Respondent was among several administrators who attended the basketball game on February 1, 2000, to maintain surveillance and order. Other administrators from Crestview who came to the game were Booker Matthews, Robert Jones and Robert Parish.

26. On February 1, 2000, the student Robert Rosado, Jr., was seated about mid-court, down front on the home side of the gymnasium. He was seated among other students. As with their earlier game, the teams were very evenly matched.

27. Pace had its fans in attendance across the court from where Mr. Rosado was seated.

28. Among the fans in attendance supporting Pace were its junior varsity basketball team members.

29. There was a lively exchange between the fans cheering for their respective teams. This included yelling back and forth across the court. Some comments made by the fans were not flattering to the opponents supporters.

30. Among the comments from the Pace side were remarks such as, "just kiss my ass." The Crestview students responded in kind.

31. One person participating in the cheering and insults was Mr. Rosado. He and other Crestview fans had been provided what are referred to as "Spirit Sticks." These are inflated plastic implements several feet long that are banged together to make noise. During the course of the event Mr. Rosado had another use in mind for his "Spirit Sticks." He took those sticks and pointed them at his crotch in a manner that could be seen by the fans from Pace. While pointing at his crotch, Mr. Rosado used words to the effect, "suck it" or "suck this." He yelled these words. This performance was both seen and heard by Respondent from his vantage point in the gym. Respondent proceeded to move from his location to Mr. Rosado's location to address what he properly considered as being misconduct by Mr. Rosado.

32. When Respondent arrived in front of Mr. Rosado at mid-court, he told Mr. Rosado, that Mr. Rosado had to leave the game. Respondent also grabbed Mr. Rosado's left bicep with

Respondent's right hand. His hold was hard enough to leave red marks. Mr. Rosado's reaction was to vigorously pull away from the grip in an upward motion. When that occurred Respondent released Mr. Rosado's arm. Mr. Rosado did not in this encounter, push, shove, hit, punch, or otherwise physically strike Respondent. Respondent was not injured in this encounter. During this brief incident, Respondent and Mr. Rosado argued back and forth. Among his remarks, Mr. Rosado yelled at Respondent, "Don't ever touch me again." This is taken to refer to Respondent grabbing Mr. Rosado by the arm.

33. Respondent began to escort Mr. Rosado from the gym. He was joined in the act by Booker Matthews, another Crestview administrator, Deputy Adams, and Officer Bergeron. The choice to remove Mr. Rosado from the gym was appropriate. As Mr. Rosado exited the gym he was excited and agitated, speaking in a loud voice.

34. On the way out Mr. Matthews told Mr. Rosado to "go," to "just leave."

35. Mr. Rosado was led through the inner doors to the gym and from there to the outer doors and outside the gym where the officers placed him in handcuffs with his arms and hands behind his back. This was in public view. Again, to this point, Mr. Rosado's treatment, to the extent that Respondent was responsible, was acceptable.

36. Mr. Rosado was brought by the officers back into the gym building in a hall area by the boys' locker room.

37. Mr. Rosado had been brought into the area near the boys' locker room to get him away from public attention. The decision to put him in the area near the boys' locker room was made by Deputy Sullivan. When asked by Deputy Adams "What should be done?" with Mr. Rosado, Deputy Sullivan had in mind to locate Respondent and Robert Parish, to determine what those administrators wanted done with Mr. Rosado.

38. When Deputy Sullivan first encountered Mr. Rosado outside the gym before he was brought back into the area near the boys' locker room, Mr. Rosado was being belligerent, cursing loudly. Deputy Sullivan accompanied Mr. Rosado into the hallway area near the boys' locker room.

39. Subsequently, Deputy Sullivan found Respondent and Mr. Parish in the gym proper and brought them back to Mr. Rosado's location in the back hallway.

40. This time Deputy Sullivan came into the back hallway immediately before Respondent and made remarks to Mr. Rosado that led Mr. Rosado to believe that Respondent had accused Mr. Rosado of physical contact instituted by Mr. Rosado directed to Respondent. Mr. Rosado denied that he had done anything

untoward; instead he told Deputy Sullivan that Respondent had grabbed Mr. Rosado. At that moment Respondent entered the back hallway.

41. In response to Deputy Sullivan's question about what was to be done with Mr. Rosado, Respondent replied, "We'll take care of him in the morning." Mr. Rosado accused Respondent of grabbing him, as was the case. Mr. Rosado was cursing Respondent calling him several profane names. Given these circumstances, Respondent told Deputy Sullivan that if Mr. Rosado wanted to act that way, "We'll just go ahead and file charges against him for battery." That being said, Deputy Adams escorted Mr. Rosado to a patrol car and transported him to the local jail.

42. In turn, Deputy Sullivan filled out an offense report with supporting sworn affidavits of complaint executed by Respondent, Booker Matthews, and Robert Parish. Petitioner's Exhibit numbered 16 is constituted of the report and attached affidavits. This led to Mr. Rosado being charged in the Circuit Court of Okaloosa County, Florida, with a violation of Sections 784.03 and 784.081, Florida Statutes, related to a battery upon an employee of a school district, a third degree felony, in Case No. 00-0002168-CF-002.

43. To support the charge, in his affidavit provided to Deputy Sullivan, Respondent said, in pertinent part about his

encounter with Mr. Rosado in the gym." . . . I then touched him on the arm and again asked him to leave the game. Bobby pushed me away" Respondent did more than touch Mr. Rosado on the arm. Most importantly, Respondent was untruthful when he said that Mr. Rosado pushed him away. While the choice was made by Deputy Sullivan to formally write the report leading to Mr. Rosado's arrest for battery, Deputy Sullivan relied in part on Respondent's false affidavit to support that decision. Mr. Rosado did not push Respondent away as the affidavit states.

44. On the morning of February 2, 2000, a meeting was held among administrators at Crestview to discuss the possible discipline to be imposed on Mr. Rosado. At that meeting Respondent made a comment that in essence left the impression that Mr. Rosado had pushed or shoved Respondent during their encounter the night before. The meeting resulted in a disciplinary referral for Mr. Rosado. A form to support that referral was completed by Respondent, Petitioner's Exhibit numbered 19. In describing the specific nature of the offense leading to the referral for discipline, Respondent said in describing the event ". . . he refused to leave. I asked him to leave again and touched him on the arm. Bobby pushed me away from him . . ." Again, Respondent attributes misconduct to Mr. Rosado in relation to pushing him, which is not true.

45. In the February 2, 2000, letter from G. Wayne Ansley, principal at Crestview, directed to Walter Gordon, Superintendent of the Okaloosa County School District recommending Mr. Rosado's expulsion, it is premised to some extent upon the untruthful remarks by Respondent that Respondent had touched Mr. Rosado's arm and that, in turn, Mr. Rosado shoved Respondent. Petitioner's Exhibit Numbered 20.

46. On March 9, 2000, Ms. Evangelina Rosado, Mr. Rosado's mother was informed that the school district of Okaloosa County had charged Mr. Rosado and through that charge called for his expulsion. Petitioner's Exhibit numbered 11. The specific charges were: assault on an administrator, willful disobedience, and open defiance of authority. The charge of assault on an administrator stems from the false claim by Respondent that he had been assaulted.

47. At a disciplinary hearing convened by the Okaloosa County School Board to consider the imposition of discipline against Mr. Rosado, Respondent read from his false remarks in the disciplinary referral form, Petitioner's Exhibit numbered 19. The school board relied upon this information in making its decision to expel Mr. Rosado, reflected in its order entered March 22, 2000. Petitioner's Exhibit numbered 14.

48. While Mr. Rosado's criminal case was pending his attorney, Martin Knopes spoke to Respondent. In the course of that conversation Respondent told Mr. Knopes that he touched Mr. Rosado on the arm while in the gym and that Respondent was pushed backwards by Mr. Rosado. Both remarks are contrary to the truth.

49. In preparation for the criminal case Respondent's deposition was taken by Mr. Knopes. While under oath Respondent said that he touched Mr. Rosado in their encounter somewhere between the elbow and the shoulder. This is as contrasted with what actually happened, in that Respondent grabbed Mr. Rosado's upper arm. Respondent in the deposition was not truthful when he testified that "He pushed me away with his -- with his forearm," referring to Mr. Rosado.

50. In the deposition in the criminal case, Petitioner's Exhibit numbered 2, Respondent explains that as a result of the alleged assault, he was going to go back and talk with Mr. Rosado in the hallway near the boys' locker room and let him go. Then he modifies his testimony to the effect that he was going to go back and talk to him and see how "he" (Mr. Rosado) reacted and let him go. According to the testimony in the deposition the decision to press charges was ". . . because of the remarks he kept making and I saw that I couldn't reason with him is when I asked the police officers to take him away." This

explanation provided in his testimony in the deposition related to the criminal law case affords clear insight into his mindset when he set upon the course that has led to this place in his career.

51. Some discipline could have been expected in relation to Mr. Rosado's conduct given the nature of the charges in the case for expulsion, but the aspect of the discipline related to the alleged assault on a school district administrator comes from the false premise about an assault supplied by Respondent, as did the criminal prosecution. To that end, Respondent is partially responsible for Mr. Rosado's embarrassment and humiliation caused by the incident and the emotional disruption in Mr. Rosado's life.

Disciplinary History

52. There was no indication that Respondent has been subjected to prior discipline.

CONCLUSIONS OF LAW

53. The Division of Administrative Hearings has jurisdiction over the parties and the subject matter in this proceeding in accordance with Sections 120.569 and 120.57(1), Florida Statutes (2003).

54. When the Administrative Complaint in this case was brought, it charged violations of Section 231.2615(1)(c) and (i), Florida Statutes (1999), within Counts 1 and 2,

respectively. The substantive provisions in those counts are now found in Section 1012.795(1)(c) and (i), Florida Statutes (2003). With this change jurisdiction has been retained over the allegations in the original Administrative Complaint. See Solloway v. Department of Professional Regulation, 421 So. 2d 573 (Fla. 3d DCA 1982).

55. The remaining Counts 3 through 7 charge violations of Florida Administrative Code Rules 6B-1.001(2) and (3) and 6B-1.006(3)(a) and (e), and (5)(a), respectively.

56. In turn the above statutes and rules state:

§ 1012.795, Fla. Stat.

(1) The Education Practices Commission may suspend the educator certificate of any person as defined in s. 1012.01(2) or (3) for a period of time not to exceed 3 years, thereby denying that person the right to teach for that period of time, after which the holder may return to teaching as provided in subsection (4); may revoke the educator certificate of any person, thereby denying that person the right to teach for a period of time not to exceed 10 years, with reinstatement subject to the provisions of subsection (4); may revoke permanently the educator certificate of any person; may suspend the educator certificate, upon order of the court, of any person found to have a delinquent child support obligation; or may impose any other penalty provided by law, provided it can be shown that the person:

* * *

(c) Has been guilty of gross immorality or an act involving moral turpitude.

* * *

(i) Has violated the Principles of Professional Conduct for the Education Profession prescribed by State Board of Education rules.

Fla. Admin. Code R. 6B-1.001.

(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.

Fla. Admin. Code R. 6B-1.006.

(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.

* * *

(5) Obligation to the profession of education requires that the individual:

(a) Shall maintain honesty in all professional dealings.

57. The reasons for the alleged violations are set forth in the Administrative Complaint, wherein it is stated:

3. On or about February 1, 2000, Respondent and spectator R.R., became involved in a verbal altercation at a school basketball game. R.R. is a male student whose date of birth is October 10, 1981. Respondent approached R.R. after observing R.R. make obscene gestures at the opposing team. He grabbed R.R.'s arm and a verbal argument ensued. Respondent then had police officers escort R.R. from the gym. The deputies handcuffed R.R. and took him to a side room where the Respondent entered and yelled at R.R. He told R.R. that if he was going to 'play tough guy,' he would press charges. Respondent proceeded to write a sworn statement to the officers stating that R.R. had 'pushed [him] away' during the altercation. R.R. was arrested for felony Battery on a School Official. He was taken to jail where he was searched, fingerprinted, and held overnight. R.R.'s mother was notified of the arrest, and finally learned of the incident four hours later after calling the sheriff's department to report her son missing.

4. On or about February 2, 2000, the school principal suspended R.R. for a period of two weeks based on the incident at the basketball game. R.R. served the suspension from February 2, 2000 through February 15, 2000. On or about February 28, 2000, the Okaloosa County School Board held an expulsion hearing for R.R., charging him with Assault on a School District Administrator, Willful Disobedience of a School District Administrator, and Open Defiance of the Authority of a School District Administrator. As part of the hearing, the Respondent read his previous statement under oath that R.R. pushed him during the incident at the basketball game. On or about March 9, 2000, an attorney

representing R.R. in his civil suit against the Okaloosa County School Board took Respondent's deposition. Respondent stated again that 'R.R. pushed him [Respondent] away with his arm.'" On or about March 14, 2000, the Okaloosa County School Board added the additional charge of Disorderly Conduct against R.R. On or about March 22, 2000, the School Board issued an Order expelling R.R. based on a finding of fact that there was physical contact between R.R. and Respondent. The Board held the expulsion in abeyance, stating that R.R. could graduate, but had to earn one remaining credit hour at another school. R.R., a high school senior, was not allowed to participate in senior class activities, attend the prom, or attend graduation with his class.

5. During the week prior to R.R.'s criminal trial, which was scheduled for June 12, 2000, a spectator at the February 1, 2000, came forward and provided a videotape of the event to R.R.'s attorney. The videotape showed the entire incident, which took place between Respondent and R.R., and clearly showed that R.R. never touched the Respondent. At trial, the judge dismissed the case against R.R. The Respondent continues to be employed.

58. Petitioner bears the burden of proving the allegations in the Administrative Complaint by clear and convincing evidence. Ferris v. Turlington, 510 So. 2d 292 (Fla. 1987). The definition of clear and convincing evidence is found in the case Slomowitz v. Walker, 429 So. 2d 797 (Fla. 4th DCA 1983).

59. In considering the outcome of the case, it is with the recognition that educators are expected to conform to higher moral standards. The court has held, "by virtue of their

leadership capacity, teachers are traditionally held to a higher moral standard in a community." Adams v. Professional Practices Counsel, 46 So. 2d 1170, 1171 (Fla. 1st DCA 1991). As an educator, it is not necessary that Respondent ". . . be charged with or convicted of a crime in order to be subject to revocation of a certificate based on conduct reflecting gross immorality or moral turpitude" Walton v. Turlington, 444 So. 2d 1082, 1084 (Fla. 1st DCA 1984).

60. Count 1 refers to acts of gross immorality or moral turpitude. To understand the meaning of those terms, resort is made to provisions within Florida Administrative Code Chapter 6B-4, which defines terms for the benefit of district school systems in disciplining instructional staff.

61. Florida Administrative Code Rule 6B-4.009(2), defines immorality as: "[C]onduct that is inconsistent with standards of public conscience and good morals. It is conduct sufficiently notorious to bring the individual concerned or the educational profession into public disgrace or disrespect and impair the individual's service in the community." For the conduct to be considered grossly immoral, it would need to be a form of immorality that is obvious and inexcusable.

62. In connection with the discipline to be imposed by a district school system for its instructional staff "moral turpitude" is defined at Florida Administrative Code Rule 6B-4.009(6) as:

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 is prohibition by statutes fixes the moral turpitude.

Again, it is not necessary that a crime be committed in order to demonstrate moral turpitude.

63. When measured against the definitions that have been discussed, clear and convincing proof has been shown that Respondent in falsely accusing Mr. Rosado of striking him in their altercation and Respondent's actions beyond that point constitute gross immorality but are not so severe as to reflect moral turpitude. Respondent violated Section 1012.795(1)(c), Florida Statutes (2003).

64. Respondent would have violated Count 2 to the extent that he violated any of the remaining counts to the Administrative Complaint.

65. The proof is clear and convincing that Respondent violated Count 3, Florida Administrative Code Rule 6B-1.001(2), in that Respondent's treatment of Mr. Rosado, when he suggested

that Mr. Rosado be taken from the hallway near the boys' locker room by the authorities and acted in support of false charges against Mr. Rosado beyond that time was anything but conduct expressing concern for the student and the development of Mr. Rosado's potential. It evidenced terrible judgment and a lack of integrity.

66. Clear and convincing evidence was presented concerning Count 4, that Respondent violated Florida Administrative Code Rule 6B-1.001(3), in that his actions that have been explained ignored the importance of maintaining respect and confidence among colleagues, students, parents, or other members of the community in relation to this incident. Respondent failed to achieve and sustain the highest degree of ethical conduct. In fact, his conduct was most unethical at the point in time when he turned Mr. Rosado over to the authorities and falsely supported charges about an assault by Mr. Rosado, both in the expulsion and the criminal law case.

67. Clear and convincing evidence has been presented to support the allegations in Count 5, to the Administrative Complaint and Respondent has violated Florida Administrative Code Rule 6B-1.006(3)(a), in the failure to make the reasonable effort to protect Mr. Rosado from conditions harmful to Mr. Rosado in his learning and mental health.

68. In relation to Count 6, clear and convincing evidence has been presented to show that Respondent violated Florida Administrative Code Rule 6B-1.006(3)(e), in that Respondent intentionally exposed Mr. Rosado to embarrassment and disparagement for the reasons that have been described.

69. Clear and convincing evidence has been presented to show that Respondent violated Count 7, to the Administrative Complaint pertaining to Florida Administrative Code Rule 6B-1.006(5)(a), in that Respondent did not maintain honesty in his professional dealings as a school administrator when he chose to pursue the course that began when Mr. Rosado was turned over the authorities in the hallway near the boys' locker room and Respondent in a number of instances beyond that point continued to support the notion that Mr. Rosado had physically assaulted Respondent, which was not the truth.

70. Because Respondent violated Counts 3 through 7, clear and convincing evidence has been shown that Respondent violated Count 2 of the Administrative Complaint.

71. In keeping with the expectations set forth in Section 1012.795(1), Florida Statutes (2003), and having in mind the seriousness of these violations, a recommendation for punishment is made.

RECOMMENDATION

Based upon the Findings of Fact and Conclusions of Law reached, it is

RECOMMENDED that a Final Order be entered which finds Respondent in violation of Counts 1 through 7, and revokes Respondent's educator's certificate for a period of one year, subject to reinstatement in accordance with Section 1012.795(4), Florida Statutes (2003).

DONE AND ENTERED this 10th day of June, 2004, in Tallahassee, Leon County, Florida.



CHARLES C. ADAMS
Administrative Law Judge
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Filed with the Clerk of the
Division of Administrative Hearings
this 10th day of June, 2004.

ENDNOTES

^{1/} This case was originally filed by Charlie Crist, as Commissioner of Education. Subsequently he became the Attorney General of Florida and was replaced by Jim Horne, as Commissioner of Education. This correction to the style was agreed upon by counsel for the parties and the undersigned.

^{2/} Those relevant provisions set forth in Section 231.262(6), Florida Statutes, were later found in Section 1012.796(6), Florida Statutes (2002).

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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.