STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

MIAMI-DADE COUNTY SCHOOL BOARD,	)	
	)	
Petitioner,	)	
	)	
vs.	)	Case No. 04-2156
	)	
LARRY J. WILLIAMS,	)	
	)	
Respondent.	)	
	)	

RECOMMENDED ORDER

This case came before Administrative Law Judge John G. Van Laningham for final hearing on October 6, 2004, in Miami, Florida.

APPEARANCES

For Petitioner: Madelyn P. Schere, Esquire
Miami-Dade County School Board
1450 Northeast Second Avenue, Suite 400
Miami, Florida 33132

For Respondent: Mark Herdman, Esquire
Herdman & Sakellarides, P.A.
2595 Tampa Road, Suite J
Palm Harbor, Florida 34684

STATEMENT OF THE ISSUE

The issue in this case is whether a district school board is entitled to suspend a teacher without pay for just cause based principally upon the allegation that he slapped a student.

PRELIMINARY STATEMENT

At its regular meeting on June 16, 2004, Petitioner School Board of Miami-Dade County suspended Respondent Larry J. Williams for 30 workdays, without pay, from his position as a member of the district's instructional staff. This action resulted from allegations that on January 30, 2004, Mr. Williams had knocked a student named J. L. out of his desk, causing the student to hit his head on the floor, and then had slapped the student after J. L. uttered a profanity.

Having been notified in advance of Petitioner's likely decision, Mr. Williams' legal counsel had requested a formal hearing by letter dated June 11, 2004. Thus, on June 18, 2004, the matter was referred to the Division of Administrative Hearings ("DOAH") for further proceedings. There, the final hearing was scheduled for October 6 and 7, 2004.

At the final hearing, Petitioner called the following witnesses: Paul Greenfield, District Director, Office of Professional Standards; and seven minor students, including the alleged victim, J. L. In addition to these witnesses, Petitioner offered into evidence Petitioner's Exhibits 1 through 11, all of which were admitted.

Mr. Williams testified on his own behalf and offered no exhibits.

The final hearing transcript was filed on October 29, 2004. Each party timely filed a Proposed Recommended Order before the established deadline, which was November 8, 2004.

Unless otherwise indicated, citations to the Florida Statutes refer to the 2004 Florida Statutes.

FINDINGS OF FACT

1. The Miami-Dade County School Board ("School Board"), Petitioner in this case, is the constitutional entity authorized to operate, control, and supervise the Miami-Dade County Public School System.

2. As of the final hearing, Respondent Larry J. Williams ("Williams") had been employed as a teacher in the Miami-Dade County Public School System for approximately 16 years. At all times relevant to this case, Williams was assigned to Parkway Middle School, where he taught students with disabilities.

3. The events giving rise to this case occurred on January 30, 2004. About 20 minutes into one of Williams' sixth grade classes that day, the assistant principal brought a student named J. L. into the room. (J. L. had been roaming the hallways without authorization.) Upon his late arrival, J. L. took a seat, put his head down, and promptly fell asleep.

4. Williams walked over to J. L.'s desk and shook it, asking J. L. if he were all right. Evidently startled, J. L. jumped up and shouted at Williams: "What the fuck are you

doing? You ain't my daddy, you black ass nigger," or words to that effect.[1]

5. Williams, who is a black man, was taken aback. "What did you say?" he replied.

6. "What the fuck are you bothering me for, you black ass nigger?" answered the student, who was now standing close to Williams.

7. At that point, Williams quickly pushed J. L. away. Williams made physical contact with J. L. and probably touched his face or head. This contact was, it is found, more of a shove than a blow.[2] J. L. then left the classroom and went to the office, to report that Williams had hit him.[3]

8. After J. L. had left, a student remarked, "Oh Mr. Williams, you [sic] in trouble now." Not wanting to lose control of his classroom, Williams tried to downplay the incident, telling the student that nothing had happened. The undersigned rejects as unfounded the School Board's allegation that Williams told his class to lie about the matter.

9. Before the period was over, the school administration, acting on the word of J. L, a student who less than an hour earlier had been wondering about the halls and hence needed to be hauled into class by an assistant principal, pulled Williams out of his room and sent him home.[4] Williams was not allowed to return to work until September 23, 2004. He therefore missed

about seven months of school, namely the remainder of the 2003-04 school year plus the beginning of the 2004-05 school year.

10. For using vulgar language and brazenly insulting Williams with a hateful racial epithet, J. L. was suspended for five days.

11. At its regular meeting on June 16, 2004, the School Board voted to accept the recommendation of Williams' principal that the teacher be suspended without pay for 30 workdays. (This means docking six weeks' worth of Williams' wages, or 12 percent of his annual salary.)

Ultimate Factual Determinations

12. Williams did not fail to make a reasonable protective effort to guard J. L. against a harmful condition, in violation of Florida Administrative Code Rule 6B-1.006(3)(a).

13. Williams did not violate School Board Rule 6Gx13-4A-1.21, which prohibits unseemly conduct and abusive or profane language.

14. Williams' conduct on January 30, 2004, did not entail threats, threatening behavior, or acts of violence. Therefore, he did not violate School Board Rule 6Gx13-4-1.08, which proscribes violence in the workplace.

15. Williams committed a technical violation of School Board Rule 6Gx13-5D-1.07, pursuant to which the administration of corporal punishment is strictly prohibited. This violation

was not so serious, however, as to impair Williams' effectiveness in the school system.

16. Accordingly, it is determined that Williams is not guilty of misconduct in office, an offense defined in Florida Administrative Code Rule 6B-4.009(3).

CONCLUSIONS OF LAW

17. The Division of Administrative Hearings has personal and subject matter jurisdiction in this proceeding pursuant to Sections 1012.33(6)(a)2., 120.569, and 120.57(1), Florida Statutes.

18. In an administrative proceeding to suspend or dismiss a teacher, the school board, as the charging party, bears the burden of proving, by a preponderance of the evidence, each element of the charged offense(s). See McNeill v. Pinellas County School Bd., 678 So. 2d 476, 477 (Fla. 2d DCA 1996); Sublett v. Sumter County School Bd., 664 So. 2d 1178, 1179 (Fla. 5th DCA 1995); MacMillan v. Nassau County School Bd., 629 So. 2d 226 (Fla. 1st DCA 1993).

19. Williams' guilt or innocence is a question of ultimate fact to be decided in the context of each alleged violation. McKinney v. Castor, 667 So. 2d 387, 389 (Fla. 1st DCA 1995); Langston v. Jamerson, 653 So. 2d 489, 491 (Fla. 1st DCA 1995).

20. In its Notice of Specific Charges served on June 22, 2004, the School Board advanced four theories for suspending

Williams: Conduct Unbecoming a School Board Employee (Count I); Administration of Corporal Punishment (Count II); Violence in the Workplace (Count III); and Misconduct in Office (Counts IV, V, and VI).

21. In the following discussion, the charged offenses will first be examined one-by-one, putting aside momentarily the element of "resulting ineffectiveness," which, being common to all counts, will thereafter be addressed separately.

A. Misconduct in Office

22. The School Board is authorized to suspend or dismiss

> [a]ny member of the instructional staff . . . at any time during the term of [his teaching] contract for just cause . . . . The district school board must notify the employee in writing whenever charges are made against the employee and may suspend such person without pay; but, if the charges are not sustained, the employee shall be immediately reinstated, and his or her back salary shall be paid.

§ 1012.33(6)(a), Fla. Stat. The term "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.

§ 1012.33(1)(a), Fla. Stat.

23. The term "misconduct in office" is defined in Florida Administrative Code Rule 6B-4.009, which prescribes the

"criteria for suspension and dismissal of instructional personnel" and provides, in pertinent part, as follows:

> (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, F.A.C., and the Principles of Professional Conduct for the Education Profession in Florida as adopted in Rule 6B-1.006, F.A.C., which is so serious as to impair the individual's effectiveness in the school system.

24. The Code of Ethics of the Education Profession (adopted in Florida Administrative Code Rule 6B-1.001) and the Principles of Professional Conduct for the Education Profession in Florida (adopted in Florida Administrative Code Rule 6B-1.006), which are incorporated in the definition of "misconduct in office," provide in pertinent part as follows:

> 6B-1.001 Code of Ethics of the Education Profession in Florida.
> (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.
>
> * * *
>
> 6B-1.006 Principles of Professional Conduct for the Education Profession in Florida.
> (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.

25. As shown by a careful reading of Rule 6B-4.009,[5] the offense of misconduct in office consists of three elements: (1) A serious violation of a specific rule[6] that (2) causes (3) an impairment of the employee's effectiveness in the school system. The second and third elements can be conflated, for ease of reference, into one component: "resulting ineffectiveness."

26. The School Board alleges that Williams violated Florida Administrative Code Rule 6B-1.006(3)(a), which imposes on teachers the affirmative duty to protect students from harmful conditions. The standard against which a teacher's performance of this duty is measured is an objective one: he must make a "reasonable effort." Therefore, a teacher's

subjective intent is not determinative of whether Rule 6B-1.006(3)(a) was violated. See John Rolle v. Charlie Crist, Commissioner of Education, DOAH Case No. 01-2644, 2001 WL 1638505, *9 (Fla.Div.Admin.Hrgs. Dec. 14, 2001), adopted in toto, Feb. 28, 2002.

27. The specific standard of care owed under legal duty is typically a question of fact. See Dennis v. City of Tampa, 581 So. 2d 1345, 1350 (Fla. 2d DCA), rev. denied, 591 So. 2d 181 (Fla. 1991); Spadafora v. Carlo, 569 So. 2d 1329, 1331 (Fla. 2d DCA 1990). As such, it is susceptible to ordinary methods of proof. Accordingly, when a teacher is charged with having failed to make a reasonable protective effort under Rule 6B-1.006(3)(a), Florida Administrative Code, the School Board must adduce: (1) evidence regarding the teacher's actual actions in the face of a harmful condition; (2) evidence from which the trier of fact can conceptualize a standard of conduct in the form of the action of a "reasonable teacher" under the same or similar circumstances; and (3) a comparison of the teacher's conduct against the theoretical, objectively reasonable standard of conduct. See Rolle, 2001 WL 1638505 at *9; cf. Wal-Mart Stores, Inc. v. King, 592 So. 2d 705, 707 (Fla. 5th DCA 1991), rev. denied, 602 So. 2d 942 (Fla. 1992)(enumerating facts that must be proved in trial of premises liability action).

28. The School Board has not clearly articulated what, exactly, it believes was the harmful condition. The evidence shows, however, that J. L. created a harmful condition by telling Williams, in effect, to "fuck off" and calling the teacher a "black ass nigger." By using such foul and derogatory language——fighting words, basically——J. L. exposed himself to retaliation. The question, then, becomes whether Williams acted reasonably to protect J. L. from himself——or, put another way, whether Williams acted reasonably to prevent J. L. from behaving in such a way as to endanger himself.

29. Alternatively, one might argue (though the School Board has not) that the teacher, having been inflamed by J. L.'s vulgar and racist taunting, was the harmful condition, under which theory the question would be whether Williams acted reasonably to protect J. L. from Williams——or, put differently, whether Williams exercised reasonable self-restraint in the face of extreme provocation.

30. As to the question whether Williams acted reasonably to prevent J. L. from misbehaving, there is no persuasive evidence of a standard of conduct, and even more fundamental, no evidence that J. L.'s outburst was reasonably foreseeable. There is, therefore, no sufficient basis for a finding that Williams failed to make a reasonable effort to prevent J. L. from exposing himself to harm.

31. As for the alternative theory, there is no persuasive evidence from which the undersigned can conceptualize a standard of conduct in the form of action a reasonable teacher should take upon being called a "black ass nigger" in front of his class. Perhaps a more patient teacher would have handled J. L.'s extraordinarily malicious verbal abuse with greater skill and aplomb. On the other hand, Williams did, in fact, exercise self-restraint, in that he did not do anything to hurt J. L., under circumstances in which a less disciplined and composed teacher might well have. At bottom, the undersigned is not persuaded that Williams failed to make a reasonable protective effort to protect J. L. from Williams.

B. Conduct Unbecoming a School Board Employee

32. The School Board grounded its charge of "conduct unbecoming a school board employee" on Williams' alleged violation of School Board Rule 6Gx13-4A-1.21, which provides as follows:

> All persons employed by the School Board of Miami-Dade County, Florida are representatives of the Miami-Dade County Public Schools. As such, they are expected to conduct themselves, both in their employment and in the community, in a manner that will reflect credit upon themselves and the school system.
>
> Unseemly conduct or the use of abusive and/or profane language in the workplace is expressly prohibited.

33. This particular offense is not one of the just causes enumerated in Section 1012.33(1)(a), Florida Statutes, although that statutory list, by its plain terms, is not intended to be exclusive. Yet, the doctrine of ejusdem generis[7] requires that "conduct unbecoming" be treated as a species of misconduct in office, so that, to justify suspension or termination, a violation of School Board Rule 6Gx13-4A-1.21 must be "so serious as to impair the individual's effectiveness in the school system." See Miami-Dade County School Board v. Michael W. DePalo, DOAH Case No. 03-3242, 2004 WL 1151002, *9 (Fla.Div.Admin.Hrgs. May 20, 2004), adopted in toto, July 14, 2004; Miami-Dade County School Bd. v. Wallace, DOAH Case No. 00-4392, 2001 WL 335989, *12 (Fla.Div.Admin.Hrgs. Apr. 4, 2001), adopted in toto, May 16, 2001.

34. This case does not involve allegations of abusive or profane language in the workplace (by the teacher). Thus, the question whether Williams violated School Board Rule 6Gx13-4A-1.21 turns on whether his conduct was "unseemly."

35. Unfortunately for those who must abide by and apply it, the Rule does not define the term "unseemly conduct." The word "unseemly," however, usually suggests inappropriateness manifesting indecency, bad taste, or poor form (e.g. a crude joke in mixed company). See DePalo, 2004 WL 1151002 at *9. In this instance, it was the student's conduct, not the teacher's,

which was unseemly, if not outrageous. There is, moreover, no persuasive evidence that Williams' relative restraint in the face of the student's angry racist outburst failed in some specific way to reflect credit upon himself.

C. Violence in the Workplace

36. The School Board accused Williams of violating School Board Rule 6Gx13-4-1.08, which provides in pertinent part:

> Nothing is more important to Dade County Public Schools (DCPS) than protecting the safety and security of its students and employees and promoting a violence-free work environment. Threats, threatening behavior, or acts of violence against students, employees, visitors, or other individuals by anyone on DCPS property will not be tolerated. Violations of this policy may lead to disciplinary action which includes dismissal, arrest, and/or prosecution.
>
> Any person who makes substantial threats, exhibits threatening behavior, or engages in violent acts on DCPS property shall be removed from the premises as quickly as safety permits, and shall remain off DCPS premises pending the outcome of an investigation. DCPS will initiate an appropriate response. This response may include, but it is not limited to, suspension and/or termination of any business relationship, reassignment of job duties, suspension or termination of employment, and/or criminal prosecution of the person or persons involved.

(Emphasis added.) The School Board neither alleged nor proved that Williams engaged in "threats" or "threatening behavior." The questions at hand, therefore, are: (a) whether Williams

committed an act of violence against J. L.; and, if so, (b) whether the act was "so serious as to impair [Williams'] effectiveness in the school system." Cf. DePalo, 2004 WL 1151002 at *9.

37. The term "violence" is commonly understood to mean an "[u]njust or unwarranted exercise of force, usually with the accompaniment of vehemence, outrage, or fury." Black's Law Dictionary 1408 (5th ed. 1979). In this case, the evidence does not persuade the undersigned that Williams committed an act of violence. Williams is therefore not guilty of violating School Board Rule 6Gx13-4-1.08.

D. Administration of Corporal Punishment

38. Williams stands accused of violating School Board Rule 6Gx13-5D-1.07, pursuant to which the "administration of corporal punishment in Miami-Dade County Public Schools is strictly prohibited." To warrant suspension, a violation of this Rule must be so serious as to impair the teacher's effectiveness in the school system. Cf. DePalo, 2004 WL 1151002 at *9.

39. The Rule does not define "corporal punishment." While the term is arguably broad enough to encompass any penalty inflicted on the person of an offender, in the present context "corporal punishment" would usually be understood to mean paddling or spanking. Williams certainly did not administer corporal punishment of that nature on J. L. While Williams did

touch the student's body, it is debatable whether he did so to "punish" J. L. At most the School Board has established a technical violation of the corporal punishment Rule.

40. As mentioned above, but to repeat for emphasis, to suspend Williams for just cause the School Board needed to show that his conduct not only violated a specific rule, but also that the violation was so serious as to impair his effectiveness in the school system.

41. There was little, if any, direct evidence that Williams' effectiveness in the school system was impaired as a result of the incident of January 30, 2004. On this issue, therefore, the Board must rely on inferences in aid of its proof. Indeed, the Board invokes the concept of res ipsa loquitur, arguing:

> Respondent's loss of control in the classroom speaks for itself. By its very nature, such action demonstrates Respondent's ineffectiveness in the classroom. Respondent's misconduct, being patent and obvious, makes it clear from the record that his effectiveness has been impaired . . . .

Pet. Prop. Rec. Order at 9.

42. For the School Board to profit from an inference of resulting ineffectiveness, it must establish two things: (1) that the violation was not of a private immoral nature, and (2) that, on the basis of past experience as drawn from the fund of

common knowledge, the violation would not, in the ordinary course of events, have failed to impair the individual's effectiveness in the school system. See DePalo, 2004 WL 1151002 at *11; Miami-Dade County School Bd. v. Wallace, DOAH Case No. 00-4392, 2001 WL 335989, *19 (Fla.Div.Admin.Hrgs. Apr. 4, 2001), adopted in toto, May 16, 2001.

43. The allegations against Williams do not involve misconduct of a private immoral nature, so the first condition is satisfied. The undersigned is not persuaded, however, that Williams' response to J. L.'s verbal abuse must have impaired Williams' effectiveness in the school system. Contrary to the School Board's assertion, Williams did not lose control in the classroom or otherwise clearly demonstrate his ineffectiveness, but rather handled himself fairly well in what should be a singular situation. Indeed, the record shows that this was a unique and isolated occurrence; Williams' response to J. L.'s race-baiting was in no way part of a pattern of conduct.

44. Past experience drawn from the fund of common knowledge tells that calling a black man a "black ass nigger" is racist and inexcusable; even for a middle school student, such conduct is beyond the pale. The undersigned agrees with Williams' observation that "[n]o teacher should ever have to stand in a classroom and be called a 'nigger' by his students." Resp. Prop. Rec. Order at 6. In deciding whether to infer

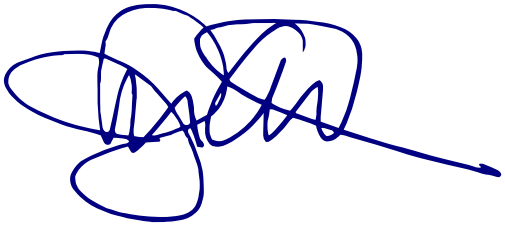
ineffectiveness, therefore, the undersigned has taken account of the flagrant provocation to which Williams was subjected.

45. Ultimately, although an inference of resulting ineffectiveness might be legally permissible under the circumstances of this case, such an inference is not factually justified and hence has not been drawn. Rather, taking into consideration all of the evidence in this case, it is determined that Williams continued to be effective, notwithstanding the incident of January 30, 2004.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Board enter a final order rescinding its previous decision to suspend Williams without pay; awarding Williams back salary, plus benefits, that accrued during the suspension period of 30 workdays, together with interest thereon at the statutory rate; and directing that a written reprimand for violating the corporal punishment rule be placed in Williams' personnel file.

DONE AND ENTERED this 2nd day of December, 2004, in Tallahassee, Leon County, Florida.



JOHN G. VAN LANINGHAM
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675 SUNCOM 278-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 2nd day of December, 2004.

ENDNOTES

[1]/ The allegation that Williams tipped over J. L.'s desk and caused the student to hit his head on the floor was not established by a preponderance of the evidence.

[2]/ The undersigned finds that Williams did not strike or punch J. L.'s face sharply with his open hand, which is how one would typically envision a "slap." At the same time, however, the undersigned is persuaded that, instead of carefully setting his hand on J. L. before pushing the student, Williams landed his hand on J. L.'s person and pushed the student in one quick motion. The undersigned thinks this sort of contact is not quite a slap but possibly could be perceived as such by others.

[3]/ J. L. claims, as do some of his classmates, that Williams slapped J. L. hard across the face. The fact-finder nevertheless has chosen to credit Williams' testimony as more persuasive and credible than the children's. (Many of the students' written statements are ungrammatical, full of

misspellings, and hard to follow——in short, replete with indicia of unreliability.)

The undersigned was struck particularly by one aspect of J. L.'s testimony, which cast doubt on his story. J. L. testified that, after leaving Williams' classroom, he had gone directly to the office, where a school police officer immediately took a photograph of his face as evidence of the red mark supposedly left by Williams' hand. Obviously, a contemporaneous picture of J. L.'s purported injury would have been compelling evidence of the alleged slap, and the School Board surely would have offered it as such. Yet, neither the photograph nor the police officer appeared at final hearing. Two alternative explanations come to mind, both of which undermine the School Board's case: Either J. L. was not photographed as he said, in which case J. L. was less than truthful on the witness stand, or the picture was taken but showed no evidence of a slap.

[4]/ The school would later collect written statements from J. L.'s classmates——not individually, but sitting together as a group in the classroom, talking about what they had seen and heard. This particular method of gathering "evidence" created an obvious opportunity for the students to get their story straight, further compromising the resulting statements, the probative value of which the fact-finder has discounted accordingly. See also endnote 3.

[5]/ Rules 6B-4.009, 6B-1.001, and 6B-1.006, Florida Administrative Code, are penal in nature and must be strictly construed, with ambiguities being resolved in favor of the employee. See Rosario v. Burke, 605 So. 2d 523, 524 (Fla. 2d DCA 1992); Lester v. Department of Professional and Occupational Regulations, 348 So. 2d 923, 925 (Fla. 1st DCA 1977).

[6]/ To elaborate on this a bit, the Rule plainly requires that a violation of both the Ethics Code and the Principles of Professional Education be shown, not merely a violation of one or the other. The precepts set forth in the Ethics Code, however, are so general and so obviously aspirational as to be of little practical use in defining normative behavior. It is one thing to say, for example, that teachers must "strive for professional growth." See Fla. Admin. Code R. 6B-1.001(2). It is quite another to define the behavior which constitutes such striving in a way that puts teachers on notice concerning what conduct is forbidden. The Principles of Professional Conduct accomplish the latter goal, enumerating specific "*do*s" and

"*don't*s." Thus, it is concluded that that while any violation of one of the Principles would also be a violation of the Code of Ethics, the converse is not true. Put another way, in order to punish a teacher for misconduct in office, it is necessary but not sufficient that a violation of a broad ideal articulated in the Ethics Code be proved, whereas it is both necessary and sufficient that a violation of a specific rule in the Principles of Professional Conduct be proved. It is the necessary and sufficient condition to which the text refers.

[7]/ See generally Green v. State, 604 So. 2d 471, 473 (Fla. 1992)("Under the doctrine of ejusdem generis, where an enumeration of specific things is followed by some more general word, the general word will usually be construed to refer to things of the same kind or species as those specifically enumerated."); see also Robbie v. Robbie, 788 So. 2d 290, 293 n.7 (Fla. 4th DCA 2000)(When, in implementing a non-exhaustive statutory listing, the use of an unenumerated criterion is indicated, "that ad hoc factor will have to bear a close affinity with those enumerated in the statute——i.e., the factor employed must be ejusdem generis with the enumerated ones.").

COPIES FURNISHED:

Mark Herdman, Esquire
Herdman & Sakellarides, P.A.
2595 Tampa Road, Suite J
Palm Harbor, Florida 34684

Madelyn P. Schere, Esquire
Miami-Dade County School Board
1450 Northeast Second Avenue, Suite 400
Miami, Florida 33132

Daniel J. Woodring, General Counsel
Department of Education
325 West Gaines Street, Room 1244
Tallahassee, Florida 32399-0400

Jim Winn, Commissioner
Department of Education
Turlington Building, Suite 1514
325 West Gaines Street
Tallahassee, Florida 32399-0400

Dr. Rudolph F. Crew, Superintendent
Miami-Dade County School Board
1450 Northeast Second Avenue, No. 912
Miami, Florida 33132-1394

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.