

BEFORE THE SCHOOL BOARD OF BREVARD COUNTY, FLORIDA

BREVARD COUNTY SCHOOL BOARD,)
)
 Petitioner,)
)
 v.)
)
 SYLVESTER JONES,)
)
 Respondent.)
 _____)

BOARD AGENDA ITEM NO. E-11
AUGUST 22, 2006
DOAH CASE NO. 06-1033

FILED
2006 AUG 25 A 11:41
DIVISION OF
ADMINISTRATIVE
HEARINGS

FINAL ORDER

THIS CAUSE was referred to the Division of Administrative Hearings for a formal administrative hearing. The assigned Administrative Law Judge ("ALJ") has submitted a Recommended Order to the Agency, Brevard County School Board ("School Board"). The Recommended Order of June 30, 2006, entered herein is incorporated by reference. Exceptions were filed by the Respondent.

RULING ON EXCEPTIONS

In a Section 120.57(1) proceeding an agency's Final Order is entered after a hearing is held, evidence is received, and the ALJ has submitted a Recommended Order. The general rule of deference to the ALJ's findings of fact is that an agency may reject or modify a finding of fact only if the finding is not supported by competent, substantial evidence. The agency has no authority to reweigh conflicting evidence. Section 120.57(1)(1), Fla. Stat.,

See e.g. Heifetz v. Department of Business Regulation, 475 So.2d 1277, 1281 (Fla. 1st DCA 1985). The agency may adopt the recommended order as the final order of the agency. Section 120.57(1)(1), Fla. Stat.

The merits of Respondent's exceptions will now be addressed.

RESPONDENT'S EXCEPTIONS TO FINDINGS OF FACT

Respondent excepts to findings of fact expressed in paragraphs 19, 20, 21, 22, 25 and 26 of the Recommended Order. The challenged findings are supported by competent, substantial evidence; therefore the exceptions are denied.

FINDINGS OF FACT

The School Board hereby adopts the findings of fact set forth in the Recommended Order.

RESPONDENT'S EXCEPTIONS TO CONCLUSIONS OF LAW

Respondent excepts to the conclusions of law expressed in paragraphs 48, 49 and 52 of the Recommended Order. The conclusions of law in paragraphs 48, 49 and 52 are correct; therefore, the exceptions are denied.

CONCLUSIONS OF LAW

The School Board hereby adopts the conclusions of law set

forth in the Recommended Order.

THE PENALTY

Respondent excepts to the recommended penalty set forth in the Recommended Order that Respondent's employment be terminated. The School Board denies Respondent's exception and adopts the recommended penalty that Respondent's annual contract with the School Board be terminated effective March 14, 2006.

IT IS THEREUPON ORDERED that Respondent, **Sylvester Jones**, is dismissed from employment and his annual contract as an instructional employee is terminated effective March 14, 2006.

DONE AND ORDERED this 22 day of August, 2006, in Viera, Brevard County, Florida.

**THE SCHOOL BOARD OF BREVARD
COUNTY, FLORIDA**

BY: 

ROBERT L. JORDAN, JR., Chairman

RIGHT TO APPEAL

Parties to this Final Agency Action are hereby advised of their right to seek judicial review of this Final Agency Action pursuant to Section 120.68, Florida Statutes, and Florida Rules of Appellate Procedure 9.030(b)(1)(C) and 9.110. To initiate an

appeal, one copy of a Notice of Appeal must be filed, within the time period stated in the Florida Rule of Appellate Procedure 9.110, with the Clerk of the School Board of Brevard County, 2700 Judge Fran Jamieson Way, Viera, Florida 32940. The second copy of the Notice of Appeal, together with the filing fee, must be filed with the appropriate District Court of Appeal.

Filed with the clerk in the office of the Superintendent this 22 day of August, 2006.

CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy of the foregoing Final Order has been furnished by U. S. Mail to the persons named below on this 23 day of August, 2006.

Hon. Daniel M. Kilbride
Administrative Law Judge
Division of Administrative Hearings
1230 Apalachee Parkway
Tallahassee, FL 32399-1550

Elizabeth F. Swanson, Esquire
Egan, Lev & Siwica, P.A.
P. O. Box 2231
Orlando, FL 32802

Hon. Benjamin B. Garagozlo
Brevard County Courthouse
50 S. Nieman Avenue
Melbourne, FL 32901

Dr. Richard A. DiPatri, Superintendent
Brevard County School District
2700 Judge Fran Jamieson Way
Viera, FL 32940



HAROLD T. BISTLINE