

BEFORE THE SCHOOL BOARD OF BAY COUNTY, FLORIDA

FILED

2007 APR 20 A 11:25

**JAMES E. MCCALISTER, SR.,
AS SUPERINTENDENT OF THE BAY
COUNTY SCHOOL DISTRICT**

Petitioner,

DOAH Case No. 06-003301

vs.

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

Respondent,

and

LARRY BOLLINGER,

Intervenor.

FINAL ORDER

THIS CAUSE coming on to be heard before THE SCHOOL BOARD OF BAY COUNTY, FLORIDA (hereafter referred to as "SCHOOL BOARD") at its meeting conducted on March 21, 2007, to consider the Recommended Order filed on January 22, 2007 by Suzanne F. Hood, Administrative Law Judge of the State of Florida Division of Administrative Hearings consisting of Findings of Fact, Conclusions of Law, and a Recommendation; the Petitioner's Exceptions to Recommended Order filed on February 5, 2007 by Petitioner James E. McCallister, Sr., as Superintendent of the Bay County School District (hereafter referred to as "Petitioner"); the Respondent and Intervenor's Joint Exceptions to Recommended Order filed on February 6, 2007 by Respondent and Intervenor (hereafter referred to as "Respondent and Intervenor"); Petitioner's Response to Respondent and Intervenor's Exceptions filed by Petitioner on February 15, 2007; and the Respondent and Intervenor's Joint Response to Petitioner's Exceptions filed by the Respondent and Intervenor on February 16, 2007, and having considered the record, and the SCHOOL BOARD

being fully advised in the Premises:

IT IS THEREUPON Ordered and Adjudged as Follows:

1. Petitioner's Exception 1 was stipulated to and agreed to by all parties during the School Board's consideration of Petitioner's Exceptions to the Recommended Order and is therefore adopted as a correction to Finding of Fact 8 of the Recommended Order.
2. Petitioner's Exception 2 was withdrawn *ore tenus* by the Petitioner during the School Board's consideration of Petitioner's Exceptions to the Recommended Order.
3. Petitioner's Exception 3 was rejected as the Findings of Fact identified therein are supported by competent substantial evidence.
4. Petitioner's Exception 4 was rejected as the Findings of Fact identified therein are supported by competent substantial evidence.
5. Petitioner's Exception 5 was stipulated to and a modification of language agreed to by all parties during the School Board's consideration of Petitioner's Exceptions to the Recommended Order with the modification from "The Superintendent would not reveal the name of the person who would replace Bolinger as principal at Bay High" to "The Superintendent did not reveal the name of the person who would replace Bolinger as principal at Bay High" being adopted as a correction to Finding of Fact 39 of the Recommended Order.
6. Petitioner's Exception 6 was stipulated to and agreed to by all parties during the School Board's consideration of Petitioner's Exceptions to the Recommended Order and is therefore adopted as a correction to Finding of Fact 48 of the Recommended Order.

7. Petitioner's Exception 7 was stipulated to and agreed to by all parties during the School Board's consideration of Petitioner's Exceptions to the Recommended Order and is therefore adopted as a correction to Finding of Fact 49 of the Recommended Order.

8. Petitioner's Exception 8 was rejected as the findings of fact identified therein are supported by competent substantial evidence.

9. Petitioner's Exception 9 was rejected as the findings of fact identified therein are supported by competent substantial evidence.

10. Petitioner's Exception 10 was rejected as the findings of fact identified therein are supported by competent substantial evidence.

11. Petitioner's Exception 11 as to Findings of Fact 42, 44 and 45 was withdrawn ore tenus by the Petitioner during the School Board's consideration of Petitioner's Exceptions to the Recommended Order. Petitioner's Exception 11 as to Findings of Fact 43, 46, and 47 are rejected as the findings of fact are supported by competent substantial evidence. Petitioner's Exception 11 as to the Conclusions of Law 76 and 77 are rejected as the conclusions of law identified therein are supported by competent legal authority.

12. Petitioner's Exception 12 was rejected as the conclusions of law identified therein are supported by competent legal authority.

13. Respondent and Intervenor's Exceptions 1 and 2 were merged by ore tenus motion of the Respondent and Intervenor and are accepted as the requested modifications to the Conclusions of Law of the Recommended Order by adding the Conclusions of Law paragraphs 78 through 93 identified therein which are supported by competent legal authority upon issues within the

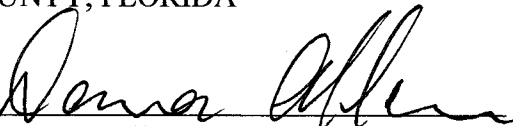
substantive jurisdiction of the School Board and it was the finding of the School Board that the modifications to the Conclusions of Law are necessary to fully address the issue of the case and are entirely consistent conclusions based upon the Findings of Fact and further the School Board finds that the Conclusions of Law, once modified, are as or more reasonable than the Conclusions of Law in the Recommended Order.

The SCHOOL BOARD OF BAY COUNTY, FLORIDA therefore accepts, approves and adopts in their entirety the Findings of Fact, Conclusions of Law and Recommendation contained in the Recommended Order subject only to the corrections and modifications as outlined in this Final Order and rejects the Superintendent's recommendation to transfer Larry Bolinger from his position as Principal of Bay High School and further because the Superintendent accepted the benefits of his agreement with Larry Bolinger by assigning him to Bay High School, orders that the Superintendent is precluded from removing Larry Bolinger from the Principal position at Bay High School for the 2007-2008 and 2008-2009 school years subject to the provisions of Bay County School Board Policy 4.113 entitled Suspensions or Dismissal.

DONE AND ORDERED in Panama City, Bay County, Florida this 19th day of April, 2007.

THE SCHOOL BOARD OF BAY
COUNTY, FLORIDA

By



Donna Allen, Chair

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APPEAL OF FINAL ORDER

THIS FINAL ORDER may be appealed by filing notices of appeal and a filing fee, as set out in Section 120.68(2), Florida Statutes, and Rules 9.110(b) and (c), Florida Rules of Appellate Procedure, within thirty (30) days of the entry of this Final Order.

Filed in Official School Board Records the
19th day of April, 2007.

Sharon A. Smith
School Board Recording Secretary