

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

MIAMI-DADE COUNTY SCHOOL BOARD, )  
 )  
 Petitioner, )  
 )  
 vs. ) Case No. 08-1579  
 )  
 MONIQUE S. WOODS, )  
 )  
 Respondent. )  
\_\_\_\_\_)

RECOMMENDED ORDER

Pursuant to notice, a final hearing was held in this case on November 21, 2008, by video teleconference with connecting sites in Miami and Tallahassee, Florida, and on December 8, 2008, in Miami, Florida, before Errol H. Powell, an Administrative Law Judge of the Division of Administrative Hearings.

APPEARANCES

For Petitioner: Janeen L. Richard, Esquire  
Miami-Dade County School Board  
1450 Northeast Second Avenue, Suite 400  
Miami, Florida 33132

For Respondent: Melissa Mihok, Esquire  
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Post Office Box 75638  
Tampa, Florida 33605

STATEMENT OF THE ISSUE

The issue for determination is whether Respondent should be suspended and dismissed from employment with Petitioner.

PRELIMINARY STATEMENT

By letter dated March 13, 2008, the Miami-Dade County School Board (School Board) notified Monique S. Woods, among other things, that the School Board, at its scheduled meeting on March 12, 2008, took action to suspend her from all employment and commence dismissal proceedings for just cause including, but not limited to, violation of School Board Rules 6Gx13-4A-1.21, Responsibilities and Duties; 6Gx13-5D-1.07, Corporal Punishment-Prohibited; 6Gx13-4-1.08, Violence in the Workplace; and 6Gx13-4A-1.213, Code of Ethics. By letter dated March 12, 2008, Ms. Woods contested the School Board's action being taken on March 12, 2008, and requested a hearing. On March 28, 2008, this matter was referred to the Division of Administrative Hearings.

On May 5, 2008, the School Board filed a Notice of Specific Charges, consisting of five counts. The School Board charged Ms. Woods as follows: Count I, engaging in conduct violating School Board Rule 6Gx13-4A-1.21, constituting just cause for dismissal; Count II, engaging in conduct constituting corporal punishment in violation of School Board Rule 6Gx13-5D-1.07, constituting just cause for dismissal; Count III, engaging in

conduct violating School Board Rule 6Gx13-4A-1.08, constituting just cause for dismissal; Count IV, engaging in conduct violating School Board Rule 6Gx13-4A-1.213; and Count V, engaging in conduct violating School Board Rule 6Gx13-4A-1.213, constituting just cause for dismissal.

On November 21, 2008, Ms. Woods, personally, filed an Emergency Motion for Extension of Time wherein she sought to have the final hearing continued because she was hospitalized and unable to attend the hearing. At the hearing on November 21, 2008, counsel for Ms. Woods made an ore tenus motion for continuance. A continuance of the hearing was granted.

At the final hearing on December 8, 2008, before the taking of testimony and the admission of documentary evidence, Ms. Woods renewed her motion to dismiss, which was denied.<sup>1</sup> Further, at hearing, the School Board presented the testimony of seven witnesses and entered 26 exhibits (Petitioner's Exhibits numbered 1-26) into evidence. Ms. Woods testified in her own behalf and entered 14 exhibits (Respondent's Exhibits numbered 1-14) into evidence.

A transcript of the hearing was ordered. At the request of the parties, the time for filing post-hearing submissions was set for more than ten days following the filing of the transcript. The Transcript, consisting of one volume, was filed

on February 12, 2009. The parties timely filed post-hearing submissions which have been considered in the preparation of this Recommended Order.

#### FINDINGS OF FACT

1. No dispute exists that, at all times material hereto, the School Board was a constitutional entity charged with the duty to operate, control and supervise the public schools within the school district of Miami-Dade County, Florida.

2. No dispute exists that, at all times material hereto, Ms. Woods was employed as a paraprofessional with the School Board. At the time of hearing, Ms. Woods had been a paraprofessional with the School Board for 19 years.

3. No dispute exists that, at all times material hereto, Ms. Woods was a member of the United Teachers of Dade (UTD) and was subject to the terms and conditions of the collective bargaining agreement between UTD and the Miami-Dade County Public Schools (UTD Contract).

4. At all times material hereto, Ms. Woods was assigned as a paraprofessional to Robert Renick Education Center (Robert Renick). She was assigned to assist Alexander Phillips, who is an exceptional student education (ESE) teacher, in an ESE class.

5. Robert Renick is a school for ESE students. All of the students are emotionally, behaviorally disturbed, and some have additional disabilities. They are dually diagnosed with autism

and as educable mentally handicapped and trainable mentally handicapped.

6. Since the 2004-2005 school year, Fred Clermont has been employed at Robert Renick as an ESE teacher. Prior to October 18, 2007, one of Mr. Clermont's students had hit one of the staff members at Robert Renick. Mr. Clermont testified that, after the incident, Ms. Woods told him that, if one of his students ever hit her, she would "fuck [him (Mr. Clermont)] up." Mr. Clermont's testimony is found to be credible.

7. On October 18, 2007, at the time of school dismissal for Robert Renick, Mr. Clermont was escorting one of his students, A. F., who was nonverbal, to the flagpole, a common area for students, whose bus was late, to wait. Because the student was hitting himself and Mr. Clermont and was spitting and kicking, Mr. Clermont shouted for everyone to move back and clear a path through which he (Mr. Clermont) could bring the student. Students and staff were moving out of the way; however, Ms. Woods did not. A. F. struck Ms. Woods in the back or shoulder area. Mr. Clermont testified that Ms. Woods turned around, pushing A. F. to the ground, and struck him (Mr. Clermont) in the chest. Mr. Clermont immediately apologized to Ms. Woods for A. F. hitting her. Mr. Clermont testified that Ms. Woods responded to his apology by shouting obscenities at him and reminding him of what she told him

earlier as to what she would do if one of his students ever hit her. Mr. Clermont's testimony is found to be credible.

8. The student, A. F., became further upset, got out of his harness, and struck another staff member, David Jefferson, Dean of Discipline. Mr. Clermont and Mr. Jefferson were able to bring A. F. under control by holding him down and calming him. Mr. Clermont further testified that, as he was getting up from holding A. F. down, he (Mr. Clermont) was hit on the side of his face by Ms. Wood; that the blow knocked his (Mr. Clermont's) sunglasses off his face and one of his contact lens out of his eye; and that Ms. Woods was shouting obscenities at him (Mr. Clermont)—"Yeah, mother fucker, I told you I would hit your mother fucking ass. I told you, bitch . . . ." Additionally, Mr. Clermont testified that Ms. Woods looked at her cellular telephone and declared that they were off the clock and he (Mr. Clermont) was going to get his "ass whupped now"; and that she kicked-off her shoes and earrings and lunged at him, only to be held back by Mr. Phillips. A. F. was later placed safely on his bus. Mr. Clermont's testimony is found to be credible.

9. Mr. Jefferson testified at the hearing. He testified that, when Mr. Clermont requested persons to move and make a path through which he (Mr. Clermont) could bring A. F., Ms. Woods stated that she was not moving and that, if that "retarded mother fucker hit me, I'm going to hit your punk ass"—

referring to Mr. Clermont. Mr. Jefferson further testified that he witnessed Ms. Woods punch Mr. Clermont in the chest and that Mr. Clermont apologized to Ms. Woods. Additionally, Mr. Jefferson testified that, after he and Mr. Clermont were able to restrain A. F., Ms. Woods hit Mr. Clermont in the face, knocking his (Mr. Clermont's) sunglasses off; that Ms. Woods looked at her cellular telephone and indicated the time, as no longer being within the work day; that Ms. Woods kicked-off her shoes and removed her earrings; and that Ms. Woods was restrained by Mr. Phillips. Mr. Jefferson did not testify that he observed Ms. Woods strike or push the student. Mr. Jefferson's testimony is found to be credible.

10. Mr. Phillips testified at hearing. At the time of the incident on October 18, 2007, he was standing next to Ms. Woods. He testified that he observed Ms. Woods strike Mr. Clermont twice, look at her watch, indicating that the work day had ended, and kick-off her shoes. Mr. Phillips further testified that he grabbed Ms. Woods because she was a good paraprofessional and he did not want to get into trouble. Mr. Phillips did not testify that he observed Ms. Woods strike or push the student. Mr. Phillips testimony is found to be credible.

11. Bernadette Adams, a paraprofessional at Robert Renick, testified at the hearing. She was also standing next to

Ms. Woods at the time of the incident on October 18, 2007.

Ms. Adams testified that she did not observe Ms. Woods push or strike the student. Ms. Adams also testified that she heard Ms. Woods express to Mr. Clermont that she (Ms. Woods) told him would happen if the "autie mother fucker . . . ." hit her and that she (Ms. Woods) was going to "hit [his] punk ass."

Further, Ms. Adams testified that she observed Ms. Woods' arm come down, kick off her shoes, and indicate to Mr. Clermont that they were off the clock. Furthermore, Ms. Adams testified that Mr. Clermont responded to Ms. Woods by asking Ms. Woods whether she (Ms. Woods) was "fucking crazy." Ms. Adams left the scene of the incident. Ms. Adams' testimony is found to be credible.

12. Shayon Tresvant, the indoor suspension teacher at Robert Renick, testified at the hearing. At the time of the incident on October 18, 2007, he was assisting with dismissal and was approximately 10 or 11 feet from Mr. Clermont and Ms. Woods. Mr. Tresvant did not observe Ms. Woods strike or push the student; however, he did observe Ms. Woods acting in an aggressive manner towards Mr. Clermont. Additionally, Mr. Tresvant heard Mr. Clermont ask Ms. Woods why she had hit him (Mr. Clermont) and Ms. Woods mention the timeframe or the time of the day. Mr. Tresvant testimony is found to be credible.



13. Ms. Woods testified at hearing. She admits that she observed Mr. Clermont having problems controlling and calming down student A. F. Ms. Woods testified that she felt a punch or hit to her arm and turned around and, in turning around, that she may have struck the student, but, that, if she did, it was not intentional. Taking into consideration the testimony of other witnesses at hearing, Ms. Woods' testimony, regarding the striking of A. F., is found to be credible.

14. The evidence demonstrates that Ms. Woods did not intentionally strike the student A. F.

15. Further, Ms. Woods testified that she requested Mr. Clermont to get the student under control and that she observed Mr. Clermont laughing. As a result, Ms. Woods testified that she concluded that Mr. Clermont was joking with her and playfully punched him and told him to "stop playing." Ms. Woods' testimony is not found to be credible.

16. Additionally, Ms. Woods testified that, after Mr. Clermont and Mr. Jefferson got the student under control and on the bus, she (Ms. Woods') touched Mr. Clermont's neck in a playful manner and that Mr. Clermont began screaming and cursing at her. Ms. Woods testified that she vocally objected to Mr. Clermont raising his voice to her, looked at her watch and indicated that they were not off work until 3:50 p.m., and told Mr. Clermont not to "play with her." Also, Ms. Woods testified

that, at no time, did she intentionally strike Mr. Clermont.

Ms. Woods' testimony is not found to be credible.

17. The evidence demonstrates that Ms. Woods intentionally struck Mr. Clermont.

18. After placing the student A. F. on the bus, Mr. Clermont reported the incident with Ms. Woods to the principal of Robert Renick, Allison Harley, Ed.D. While reporting the incident to Dr. Harley, Mr. Clermont was highly emotional, distraught, and "crying." At that time, Mr. Clermont was not certain of the action that he wanted to take.

19. The following day, October 19, 2007, Mr. Clermont indicated to Dr. Harley that he wanted to report the incident to the school police. He prepared a written statement, which was witnessed by Dr. Harley.

20. On October 19, 2007, Mr. Clermont was referred to a Workers' Compensation physician. Mr. Clermont was diagnosed with a skull contusion.

21. On October 19, 2007, Mr. Clermont made a formal complaint to the school police.

22. The procedure for employee investigations is set forth in the School Board's Personnel Investigative Model (PIM), which has been adopted by the UTD. Pursuant to the PIM, once an allegation is made, the site administrator (here, the principal, Dr. Harley) contacts the school police. Additionally, the

accused employee is notified verbally of allegations within 24 hours and in writing within 48 hours.

23. Further, pursuant to the PIM, as to investigations which may lead to suspension or dismissal of an employee, only the Superintendent or the Superintendent's designee may authorize the investigation. When an officer of the school police is assigned to investigate the allegation(s), the officer meets with the complainant, interviews witnesses, and generates a report, referred to as a lead sheet. For a criminal allegation, the school police's General Investigative Unit (GIU) maintains the lead sheet, conducts the investigation, and presents the lead sheet to the State Attorney's Office. At the conclusion of the investigation, the accused employee is notified of the outcome of the investigation; forwarded a copy of the investigative report; advised of his or her right to request a supplemental report; and given five days to file written exceptions, which could possibly change the outcome of the investigation.

24. On October 19, 2007, when the incident was reported to the school police and which was a Friday, Dr. Harley was not able to verbally notify Ms. Woods because Ms. Woods was not at Robert Renick; she was absent. On Monday, October 22, 2007, Dr. Harley notified Ms. Woods verbally of the allegations. By letter, dated October 22, 2007, Dr. Harley notified Ms. Woods in

writing of the allegations, identifying, among other things, the case number, the complainant, and the nature of the complaint, which was "simple battery." By her signature, Ms. Woods acknowledged that she received the written notice; and by dating the written notice, indicated that she (Ms. Woods) received the written notice on October 23, 2007.

25. Pending the outcome of the investigation, Ms. Woods was removed from Robert Renick. She was placed on paid administrative placement in an alternate assignment at FDLRS-South.

26. Detective Rafael Gomez was assigned to and did conduct the investigation regarding the complaint against Ms. Woods. The Superintendent's designee who authorizes investigations which may lead to suspension or dismissal of an employee is the Assistant Superintendent for the Office of Professional Standards (OPS). The lead sheet indicates that Officer Michael Alexander assigned the investigation to Detective Gomez and authorized Detective Gomez to perform the investigation.

27. By letter dated October 26, 2007, the School Police notified Ms. Woods, among other things, that a criminal investigation was being conducted, that the complainant was Mr. Clermont, that the nature of the complaint was "Battery on [a] School Employee," and that she would have an opportunity to provide a formal statement, but that she had a right to decline

to give a formal statement. Ms. Woods declined to give a formal statement on the advice of counsel. Having completed the investigation, Detective Gomez determined that probable cause existed to support the allegation that Ms. Woods violated School Board Rules 6Gx13-5D-1.07, Corporal Punishment-Prohibited and 6Gx13-4-1.08, Violence in the Workplace.

28. The investigative report was submitted by GIU to OPS. By letter dated November 9, 2007, OPS notified Ms. Woods, among other things, that probable cause was found as a result of the investigation, simultaneously providing a copy of the investigative report, and that she had an opportunity, within five days to submit written exceptions. Ms. Woods acknowledged receipt of the letter on November 13, 2007, by signing and dating the letter.

29. Subsequently, a conference-for-the-record (CFR) is held with the affected employee by OPS to provide an opportunity for the employee to respond to allegations. At the conclusion of the CFR, the affected employee is informed that the case will be presented to the Assistant Superintendent of OPS and the employee's site supervisors to obtain a recommendation for disciplinary action. A summary of the CFR is forwarded to the affected employee and the affected employee is advised within the summary that he/she has a right to append any additional information that was not included in the summary. Prior to

School Board action, a meeting is held with the affected employee, during which he/she is verbally notified of the recommended disciplinary action and of his/her right to request a hearing after the School Board takes official action.

30. On December 7, 2007, a CFR was held with Ms. Woods by OPS to discuss the finding of probable cause and her future employment with the School Board. In addition to Ms. Woods, attendees at the CFR included, among others, Ana Rasco, Ed.D., Administrative Director of OPS; Will Gordillo, Assistant Superintendent, Division of Special Education; Sonja Clay, Executive Director, Division of Special Education; Dr. Harley; and members of UTD, Sherri Daniels, UTD Union Representative, and Joy Jackson, UTD Steward, Robert Renick. During the CFR, Ms. Woods stated that she did not intend to strike the student A. F., and that she was attempting to avoid being struck by A. F. when she allegedly struck him. Additionally, during the CFR, Ms. Woods was provided information regarding the options of resignation or retirement, but she declined to exercise either one of the options. At the conclusion of the CFR, the recommendation was to terminate Ms. Woods. A summary of the CFR was prepared and a copy was provided to Ms. Woods.

31. Even though Dr. Harley had written favorable recommendations on Ms. Woods' behalf prior to the incident, she (Dr. Harley) still agreed with the recommendation made at the

CFR meeting. Dr. Harley testified at hearing that no such incident had occurred at the time that she wrote the recommendations; that violence in the workplace could not be tolerated; that staff was teaching children not to be aggressive; and that staff must exhibit what they teach. Dr. Harley's testimony is found to be credible.

32. By memorandum dated January 29, 2008, Maria Rojas, Associate Superintendent of OPS, advised Dr. Rudolph Crew, Superintendent of Schools, among other things, of the allegations, the investigation, and the finding of probable cause. Ms. Rojas' recommendation was to suspend Ms. Woods employment with the School Board, without pay, and to begin dismissal proceedings against Ms. Woods, effective at the close of the workday on March 12, 2008.

33. By memorandum dated February 22, 2008, Ms. Woods was directed to attend a meeting at OPS on February 26, 2008, to address the recommendation to be made at the School Board meeting on March 12, 2008. She was notified at the meeting on February 26, 2008, that termination of her employment would be recommended at the School Board meeting.

34. By letter dated February 27, 2008, Ms. Woods was provided written notification that, at the School Board meeting on March 12, 2008, the Superintendent of Schools would recommend suspension, without pay, and the initiation of dismissal

proceedings against her for just cause for, not only the two original violations, but, also, for violating School Board Rules 6Gx13-4A-1.21, Responsibilities and Duties, and 6Gx13-4A-1.213, Code of Ethics.

35. OPS prepared an agenda School Board item for the School Board meeting being held on March 12, 2008, regarding the recommended action against Ms. Woods. The agenda item, among other things, quoted verbatim the information contained in the letter dated February 27, 2008. OPS did not provide Ms. Woods a copy of the agenda item. The standard operating procedure of OPS is to not provide a copy of such agenda item to the affected employee.

36. At its meeting on March 12, 2008, the School Board accepted the recommendation and took action to suspend Ms. Woods and to initiate dismissal proceedings against her from all employment with it. The School Board's decision was based upon the violations set forth in the agenda item.

37. Ms. Woods timely protested the action taken by the School Board and requested an administrative hearing.

38. On May 5, 2008, the School Board filed in the instant matter a Notice of Specific Charges. Ms. Woods was served a copy of the Notice of Specific Charges.

39. As a result of the allegations against Ms. Woods, she was arrested. She was charged with one felony and two



misdemeanors, but, at the time of the CFR, only one misdemeanor remained, with "no action" being taken on the other charges. Ms. Woods pled no contest to the remaining misdemeanor charge, with the court, among other things, withholding adjudication and placing her on probation. Additionally, the court entered a Stay Away Order, Non-Domestic Violence against Ms. Woods on behalf of Mr. Clermont and the student A. F.

40. Ms. Woods has not been the subject of prior disciplinary action by the School Board.

41. The evidence demonstrates that, prior to the incident on October 18, 2007, Ms. Woods was perceived by the principal and assistant principal at Robert Renick as an outstanding and effective paraprofessional.

42. The evidence also demonstrates that, prior to the incident on October 18, 2007, Ms. Woods had never been engaged in physical contact with a student or co-worker.

#### CONCLUSIONS OF LAW

43. The Division of Administrative Hearings has jurisdiction over the subject matter of this proceeding and the parties thereto pursuant to Sections 120.569 and 120.57(1), Florida Statutes (2008).

44. The School Board has the burden of proof to show by a preponderance of the evidence that Ms. Woods committed the offenses in the Notice of Specific Charges. McNeil v. Pinellas

County School Board, 678 So. 2d 476 (Fla. 2d DCA 1996); Dileo v. School Board of Dade County, 569 So. 2d 883 (Fla. 3d DCA 1990).

45. No dispute exists that at all times material hereto, Ms. Woods was subject to the rules and regulations of the School Board and that her employment was also subject to the terms and conditions of the UTD Contract. UTD's Contract at Article V (Employer Rights), Section 1 (Exclusive Management Authority), provides that certain rights are reserved exclusively to the School Board and the Superintendent, including the " . . . separation, suspension, dismissal, and termination of employees for just cause . . . ."

46. At all times material hereto, Ms. Woods was employed with the School Board as a paraprofessional.

47. Section 1012.01, Florida Statutes (2007), provides in pertinent part:

(2) INSTRUCTIONAL PERSONNEL. -  
"Instructional personnel" means any K-12 staff member whose function includes the provision of direct instructional services to students. Instructional personnel also includes K-12 personnel whose functions provide direct support in the learning process of students. Included in the classification of instructional personnel are the following K-12 personnel:

\* \* \*

(e) Education paraprofessionals. --  
Education paraprofessionals are individuals who are under the direct supervision of an instructional staff member, aiding the

instructional process. Included in this classification are classroom paraprofessionals in regular instruction, exceptional education paraprofessionals, career education paraprofessionals, adult education paraprofessionals, library paraprofessionals, physical education and playground paraprofessionals, and other school-level paraprofessionals.

48. Section 1012.40, Florida Statutes (2007), provides in pertinent part:

(1) As used in this section:

(a) "Educational support employee" means any person employed by a district school system who is employed as a teacher assistant, an education paraprofessional

. . . .

(b) "Employee" means any person employed as an educational support employee.

(2) (a) Each educational support employee shall be employed on probationary status for a period to be determined through the appropriate collective bargaining agreement or by district school board rule in cases where a collective bargaining agreement does not exist.

(b) Upon successful completion of the probationary period by the employee, the employee's status shall continue from year to year unless the district school superintendent terminates the employee for reasons stated in the collective bargaining agreement . . . .

(c) In the event a district school superintendent seeks termination of an employee, the district school board may suspend the employee with or without pay. The employee shall receive written notice and shall have the opportunity to formally appeal the termination. The appeals process shall be determined by the appropriate collective bargaining process . . . .

49. Article XXI (Employee Rights and Due Process), Section 3 (Procedures for Continued Employment of Educational Support Personnel), of the UTD Contract provides in pertinent part:

A. Educational support personnel include . . . paraprofessional personnel.

\* \* \*

D. Upon successful completion of the probationary period, the employees'[sic] employment status shall continue from year to year, unless . . . the employee is terminated for just cause. Just cause includes, but is not limited to, misconduct in office, incompetency, gross insubordination, willful neglect of duty, immorality, and/or conviction of a crime involving moral turpitude. Such charges are defined, as applicable, in State Board Rule 6B-4.009.

50. The School Board's interpretation of its own rules is given great deference unless it amounts to an unreasonable interpretation or is clearly erroneous. Woodley v. Department of Health and Rehabilitative Services, 505 So. 2d 676, 678 (Fla. 1st DCA 1987).

51. School Board Rule 6Gx13-4A-1.21, Responsibilities and Duties, provides in pertinent part:

I. Employee Conduct  
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.

52. The evidence demonstrates that Ms. Woods used profane language on school grounds and in the presence of staff and students.

53. The evidence demonstrates that Ms. Woods intentionally struck Mr. Clermont twice and exhibited behavior in the manner of preparing to fight Mr. Woods.

54. Regarding Ms. Woods pleading no contest to the misdemeanor charge, a no contest plea does not constitute an admission of guilt and may not be used as direct evidence of guilt in an administrative proceeding. Kelly v. Department of Health and Rehabilitative Services, 610 So. 2d 1375, 1377 (Fla. 2d DCA 1992). Disregarding the no contest plea, as indicated, the evidence demonstrates in the instant case that Ms. Woods intentionally struck Mr. Clermont twice and committed the offense.

55. The evidence fails to demonstrate that Ms. Woods intentionally struck the student A. F.

56. The evidence demonstrates that Ms. Woods violated School Board Rule 6Gx13-4A-1.21, Responsibilities and Duties, through her use of profane language on school grounds and in the presence of staff and students and through her conduct on school

grounds of striking Mr. Clermont twice and exhibiting behavior preparing to fight.

57. School Board Rule 6Gx13-4.108, Violence in the Workplace, 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, guests, or other individuals by anyone on DCPS [sic] 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 [sic] property shall be removed from the premises as quickly as safety permits, and shall remain off DCPS [sic] premises pending the outcome of an investigation. DCPS will initiate an appropriate response. This response may include, but 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.

Dade County Public Schools [sic] employees have a right to work in a safe environment. Violence or the threat of violence by or against students and employees will not be tolerated.

58. The evidence demonstrates that Ms. Woods violated School Board Rule 6Gx13-4-1.08, Violence in the Workplace, through her conduct on school grounds of striking Mr. Clermont

twice and exhibiting behavior preparing to fight. Additionally, Mr. Clermont suffered a skull contusion as a result of being struck by Ms. Woods.

59. Section 1002.20, Florida Statutes (2007), provides in pertinent part:

(4) Discipline

\* \* \*

(c) Corporal punishment.—In accordance with the provisions of s. 1003.32, corporal punishment of a public school student may only be administered by a teacher or school principal within guidelines of the school principal and according to district school board policy. . . .

60. The School Board's policy is reflected in School Board Rule 6Gx13-5D-1.07, Corporal Punishment - Prohibited, which provides in pertinent part:

The administration of corporal punishment in Miami-Dade County Public Schools is strictly prohibited. Miami-Dade County Public Schools has implemented comprehensive programs for the alternative control of discipline. These programs include, but are not limited to, counseling, timeout rooms, in-school suspension centers, student mediation and conflict resolution, parental involvement, alternative education programs, and other forms of positive reinforcement.

In addition, suspensions and/or expulsions are available as administrative disciplinary actions depending upon the severity of the misconduct. . . .

61. The evidence fails to demonstrate that Ms. Woods violated School Board Rule 6Gx13-5D-1.07, Corporal Punishment - Prohibited, in that the evidence failed to demonstrate that Ms. Woods intentionally struck the student.

62. School Board Rule 6Gx13-4A-1.213, Code of Ethics, provides in pertinent part:

I. INTRODUCTION

All members of The School Board of Miami-Dade County, Florida, administrators, teachers and all other employees of Miami-Dade County Public Schools, regardless of their position, because of their dual roles as public servants and educators are to be bound by the following Code of Ethics. . . .

As stated in the Code of Ethics of the Education Profession in Florida (State Board of Education Rule 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, students, parents, and other members of the community, the educator strives to achieve and sustain the highest degree of ethical conduct.

\* \* \*



## II. APPLICATION

This Code of Ethics applies to all members of The School Board of Miami-Dade County, Florida, administrators, teachers, and all other employees. The term "employee," as used herein, applies to all these groups regardless of full or part time status. . . .

\* \* \*

## III. FUNDAMENTAL PRINCIPLES

The fundamental principles upon which this Code of Ethics is predicated are as follows:

Citizenship - Helping to create a society based upon democratic values; e.g., rule of law, equality of opportunity, due process, reasoned argument, representative government, checks and balances, rights and responsibilities, and democratic decision-making.

Cooperation - Working together toward goals as basic as human survival in an increasingly interdependent world.

Fairness - Treating people impartially, not playing favorites, being open-minded, and maintaining an objective attitude toward those whose actions and ideas are different from our own.

Honesty - Dealing truthfully with people, being sincere, not deceiving them nor stealing from them, not cheating or lying.

Integrity - Standing up for your beliefs about what is right and what is wrong and resisting social pressure to do wrong.

Kindness - Being sympathetic, helpful, compassionate, benevolent, agreeable, and gentle toward people and other living things.

Pursuit of Excellence - Doing your best with the talents you have, striving toward a goal, and not giving up.

Respect - Showing regard for the worth and dignity of someone or something, being courteous and polite, and judging all people on their merits. It takes three major forms: respect oneself, respect for other people, and respect for all forms of life and the environment.

Responsibility - Thinking before you act and being accountable for your actions, paying attention to others and responding to their needs. Responsibility emphasizes our positive obligations to care for each other.

Each employee agrees and pledges:

1. To abide by this Code of Ethics, making the well-being of the students and the honest performance of professional duties core guiding principles.
2. To obey local, state and national laws, codes and regulations.
3. To support the principles of due process to protect the civil and human rights of all individuals.
4. To treat all persons with respect and to strive to be fair in all matters.
5. To take responsibility and be accountable for his or her actions.
6. To avoid conflicts of interest or any appearance of impropriety.
7. To cooperate with others to protect and advance the District and its students.
8. To be efficient and effective in the delivery of job duties.

63. The evidence demonstrates that Ms. Woods violated School Board Rule 6Gx13-4A-1.213, Code of Ethics, through her use of profane language on school grounds and in the presence of staff and students; through her conduct on school grounds of striking Mr. Clermont twice and exhibiting behavior preparing to fight; and through her commission of a criminal offense.

64. Ms. Woods argues that the investigation was not authorized by the Superintendent or the Superintendent's designee, and, therefore, her due process rights were violated; and consequently, the instant case should be dismissed. The evidence fails to demonstrate that the Superintendent or the Superintendent's designee, who was the Assistant Superintendent of OPS, authorized the investigation pursuant to the PIM. However, the evidence further demonstrates that the investigative report was submitted to OPS by GUI and that OPS was involved in the entire process thereafter. Consequently, the failure of the Superintendent or the Assistant Superintendent of OPS to officially authorize the investigation is considered harmless error.

65. Furthermore, Ms. Woods argues that her due process rights were violated subsequent to the investigation. However, the evidence demonstrates that, except for the authorization involving the investigation, Ms. Woods was afforded all of her due process rights under the UTD contract, the PIM, and the

applicable statutory provisions and rules. Consequently, her argument is not persuasive.

66. Hence, the School Board demonstrated that just cause exists for the suspension and termination of Ms. Woods.

67. However, in terms of termination of Ms. Woods, mitigating factors should be considered. She has been a paraprofessional with the School Board for 19 years and, during that 19-year period, Ms. Woods has had no disciplinary action. Furthermore, prior to the incident, Ms. Woods was perceived at Robert Renick as an outstanding and effective paraprofessional by the principal and assistant principal, provided written recommendations, and had never engaged in physical contact with a student or co-worker. Under such circumstances, suspension, without pay, may be more appropriate than termination.

#### RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that the Miami-Dade County School Board enter a final order suspending Monique S. Woods without pay from March 12, 2008, through the end of the 2008-2009 school term and under other terms and conditions deemed appropriate by the Miami-Dade County School Board.

DONE AND ENTERED this 30th day of April 2009, in  
Tallahassee, Leon County, Florida.

*Errol H. Powell*

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Filed with the Clerk of the  
Division of Administrative Hearings  
this 30th day of April, 2009.

ENDNOTE

<sup>1/</sup> Ms. Woods filed a Motion to Dismiss prior to hearing, and the School Board filed a response in opposition. A telephone conference was held on the motion at which this Administrative Law Judge denied the motion.

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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.