



THE SCHOOL DISTRICT OF LEE COUNTY

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FILED

2009 MAY -8 A 10:38

DIVISION OF
ADMINISTRATIVE
HEARINGS

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JAMES W. BROWDER, ED.D.
SUPERINTENDENT
KEITH B. MARTIN, ESQ.
BOARD ATTORNEY

May 6, 2009

Division of Administrative Hearings
Clerk of the Division
The Desoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060

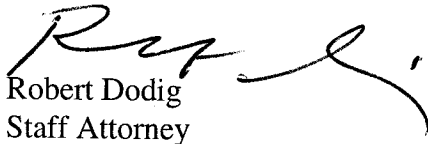
Re: James W. Browder, Superintendent v. Valerie Strawder
DOAH Case No.: 08-5085

Dear Clerk:

Attached for filing please find the Final Order of the School Board of Lee County in the above matter.

If you have any questions please contact me.

Very truly yours,


Robert Dodig
Staff Attorney

RD/tw

Attachments

THE SCHOOL BOARD OF LEE COUNTY, FLORIDA

FILED

2009 MAY -8 A 10:39

DIVISION OF ADMINISTRATIVE HEARINGS

JAMES W. BROWDER, Ed.D.,)
SUPERINTENDENT OF SCHOOLS)
FOR LEE COUNTY,)

Petitioner,)

v.)

VALERIE STRAWDER,)

Respondent.)

Case No. 09-0004
DOAH Case No. 08-5085

FINAL ORDER

THIS CAUSE came to be heard on this the 5th day of May, 2009, before the School Board of Lee County, Florida, and said School Board finds as follows:

1. Respondent is employed by The School Board as a Food Service Worker at Riverdale Senior High School. Respondent is an "educational support employee," as defined by § 1012.40(1)(a), Florida Statutes, and is a member of the Support Personnel Association of Lee County ("SPALC"). Her employment is governed by the collective bargaining agreement between SPALC and the School Board of Lee County.

2. During the afternoon of May 16, 2008, the Respondent was working on the prep table in the kitchen at Riverdale High School when she spotted a student that she recognized speaking with one of the other food service workers.

3. Words were exchanged between the student and the Respondent and a physical altercation ensued between the student and the Respondent in a doorway between the kitchen and the cafeteria. The Respondent and the student struck each other. A teacher then pulled the student away from the Respondent and took the student to the Student Affairs Office.

4. On May 16, 2008, the Respondent was suspended with pay and benefits pending the outcome of the District's investigation into the incident.

5. A predetermination conference, per the SPALC Agreement, was held with Respondent on August 21, 2008. The Respondent attended the predetermination conference and was provided an opportunity to respond to the allegations.

6. Subsequent to the predetermination conference, a determination was made that probable cause existed to discipline Respondent for her conduct. A certified letter was provided to the Respondent advising her that a recommendation would be made to the Superintendent that Respondent be terminated from her employment with the District.

7. On October 7, 2008, the School Board considered the Petition for Termination and took action to suspend the Respondent without pay. The Petition was then forwarded to the Division of Administrative Hearings and a Final Hearing was set.

8. The Final Hearing took place on January 15, 2009, before Administrative Law Judge (ALJ) William F. Quattlebaum.

9. The ALJ issued his Recommended Order on April 13, 2009.

10. The ALJ found in his Recommended Order that the School Board established by a preponderance of the evidence that the Respondent committed misconduct in office and violated State Board of Education Rule 6B-1.006 (3)(a), F.A.C., which requires an employee to make reasonable efforts to protect a student from conditions harmful to learning and/or to the student's mental and/or physical health and/or safety and State Board of Education Rule 6B-1.006(3)(g), F.A.C., which requires an employee to make reasonable efforts to protect a student from harassment or discrimination. The foregoing violations constitute just cause for the Respondent's termination.

11. On the basis of these findings, the ALJ recommended that the School Board enter a final order terminating Respondent from her position as an employee with the School District of Lee County.

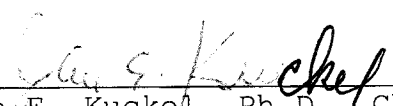
ACCORDINGLY, the Board adopts the ALJ's findings of fact, conclusions of law and the recommended penalty and incorporates them into this Final Order by reference.

It is ORDERED as follows:

12. Respondent's employment with the School District of Lee County is terminated effective end of the day May 5, 2009.

13. This Order may be appealed to the District Court of Appeal of Florida, Second District, P.O. Box 327, 1005 E. Memorial Boulevard, Lakeland, Florida 33802, telephone number (863) 499-2290. The appeal must be filed within thirty (30) days of the date of this Order by filing a Notice of Appeal with the School Board and a second copy with the District Court of Appeals. For further information, contact Robert Dodig, Jr., Staff Attorney, 2855 Colonial Boulevard, Fort Myers, Florida 33966, telephone number (239) 335-1447.

ENTERED on this the 5th day of May, 2009.



Jane E. Kuckel, Ph.D., Chairman

Copies to:

Robert Dodig, Jr., Staff Attorney
Robert J. Coleman, Attorney for Respondent
Division of Administrative Hearings
Personnel File