

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

MIAMI-DADE COUNTY SCHOOL BOARD, )  
 )  
 Petitioner, )  
 )  
 vs. ) Case No. 08-5402  
 )  
 RAIMUNDO MODIA, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

RECOMMENDED ORDER

Pursuant to notice, a formal administrative hearing was conducted on February 11, 2009, by video teleconference between Tallahassee and Miami, Florida, before Administrative Law Judge Claude B. Arrington of the Division of Administrative Hearings (DOAH).

APPEARANCES

For Petitioner: Janene L. Richard, Esquire  
Miami-Dade County School Board  
1450 Northeast 2nd Avenue, Suite 400  
Miami, Florida 33132

For Respondent: Mark Herdman, Esquire  
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STATEMENT OF THE ISSUE

Whether Petitioner has just cause to suspend Respondent's employment for thirty days without pay based on the allegations in the Notice of Specific Charges.

PRELIMINARY STATEMENT

At its regularly scheduled meeting on October 15, 2008, the School Board of Miami-Dade County, Florida (the School Board) voted to suspend the employment of Raimundo Modia (Respondent) for 30 days without pay based on allegations of misconduct in office and violation of School Board Rules 6Gx13-4A-1.21 (pertaining to Responsibilities and Duties) and 6Gx13-4A-1.213 (pertaining to the Code of Ethics) and 6Gx13-6A-1.22 (pertaining to Field Trips). In taking that action, the School Board relied upon the provisions of Sections 1001.32, 1012.22(1)(f), 1012.33, and 447.209, Florida Statutes.<sup>1</sup>

Respondent timely requested a formal administrative hearing to challenge the School Board's action, the matter was referred to DOAH, and this proceeding followed.

At all times relevant to this proceeding, Respondent was the band director of Nautilus Middle School (Nautilus).<sup>2</sup> On January 21, 2009, the School Board filed its Notice of Specific Charges which alleged certain facts pertaining to an out-of-state field trip led by Respondent in April 2008 (the subject Field Trip). Under circumstances to be described below,

Respondent permitted a high school student to participate in the subject Field Trip with the Nautilus middle school students without listing the high school student on the subject Field Trip roster and without obtaining written permission from the high school student's parents. Based on those alleged facts, the School Board alleged that it had just cause to suspend Respondent's employment without pay for a period of one month.

At the final hearing, the School Board presented the testimony of Matthew Welker (former principal of Nautilus); Dr. Roseann Sidener (principal of Miami Beach Senior High School); Dr. Allyn Bernstein (principal of Nautilus); Terri Chester (Investigator for the School Board's Civilian Investigation Unit); Paul Greenfield (Director of the School Board's North Regional Center); and Joyce Castro (District Director of the School Board's Office of Professional Standards). The School Board's pre-marked Exhibits 1-10 and 13-30 were admitted into evidence. The School Board withdrew its pre-marked Exhibits 11 and 12 following objections to those Exhibits by Respondent.

Respondent testified on his own behalf and offered the additional testimony of Ruben Coto (the father of two students who had been taught by Respondent and a chaperone on the subject Field Trip), and Fred Goldberg (the father of a student taught by Respondent and a chaperone on the subject Field Trip).

Respondent offered two Exhibits, both of which were admitted into evidence.

A Transcript of the proceedings, consisting of one volume, was filed on April 27, 2009. Each party filed a Proposed Recommended Order, which has been duly-considered by the undersigned in the preparation of this Recommended Order.

FINDINGS OF FACT

1. At all times material hereto, Petitioner was the constitutional entity authorized to operate, control, and supervise the public schools in Miami-Dade County, Florida.

2. Petitioner has continuously employed Respondent since 1984 as the band director at Nautilus. The band curriculum taught by Respondent consists of beginning band, concert band, jazz band, beginning guitar, guitar ensemble, and classical guitar ensemble. Respondent runs a very good band program at Nautilus. Ms. Bernstein, the current principal at Nautilus, opined that Respondent has done a remarkable job with his band students.

3. Throughout his 24 years at Nautilus, Respondent has taken hundreds of field trips both in-state and out-of-state with band students. As a result of these trips, Respondent is fully aware of the paperwork required by the School Board to authorize band students to go on field trips. With the exceptions to be discussed below, Respondent has correctly

filled out the required paperwork and has otherwise complied with School Board policies pertaining to field trips.

4. The School Board has developed specific field trip procedures that have been adopted as School Board Rule 6Gx13-6A-1.22 (Field Trips). The rule provides, in relevant part, as follows:

Trips for students are permitted which have value in meeting educational objectives, are directly related to the curriculum . . .

In the planning of field trips, absences from school should be restricted to the least number of school days possible. The educational purpose and length of the filed trip must be approved by the principal. Provisions for students to make up assignments for classes missed due to participation in field trips must be in accordance with procedures outlined in Board Rule 6Gx-5A-1.04 - - Student Attendance. A signed parental permission form must be on file at the school prior to student's participation.

. . . A roster is to be submitted along with the field trip application request that includes the names, addresses and telephone numbers of all students who are eligible to participate in the field trip regardless of the student's decision to participate in said trip. . . .

5. The School Board has also adopted a Field Trip Handbook, which sets forth the responsibilities of the field trip sponsor under the heading "Sponsor's Responsibilities" (Petitioner's Exhibit 25, at Bates stamp page 168). Among the delineated Sponsor's Responsibilities, the sponsor is to secure

completed and signed parent permission form from each student who will participate in the field. The sponsor is to place emphasis on complete medical information. The sponsor is to ensure that all chaperones have available and accessible to them during the trip a copy of all parental permission forms with emergency contact information.

#### 2005 Field Trip

6. Matthew Welker served as principal of Nautilus during the 2004-2005 school year. During the Spring term of the 2004-2005 school year, Respondent sponsored a field trip for the Nautilus band to attend a music festival in Tennessee. Prior to the field trip, Mr. Welker was informed by parents of band students that Respondent intended to take one or more high school students on the field trip. Mr. Welker met with Respondent prior to the field trip to remind him of the field trip procedures and further advised him that he should arrange to ensure that only Nautilus students attend the festival.

7. While the field trip was in progress, Mr. Welker learned that Respondent had permitted a former Nautilus band student to participate in the festival with the Nautilus band. The former Nautilus student was in high school when he was permitted to participate in the festival with the Nautilus band. Prior to seeing him at the festival, Respondent did not know that the former Nautilus student, who had traveled to the

festival independently of the Nautilus band, would be at the festival. Respondent did not violate the festival rules by permitting the former student to participate in the festival.

8. On or about May 31, 2005, following Respondent's return to Nautilus, Mr. Welker conducted a "Conference for the Record" with Respondent, which was memorialized by a Memorandum (Petitioner's exhibit 1).<sup>3</sup> The Memorandum provides, in relevant part, as follows:

. . . On Friday, August 13, 2004, you received documentation and in-service training regarding District and school site Field Trip procedures.

On Friday, April 15, 2005, I conducted a personal conversation in my office with you regarding information that I received regarding the possibility that two former Nautilus Middle School students who are currently enrolled at Miami Beach High School would be participating with our students at the Smokey Mountain Music Festival in Tennessee. You indicated that you needed their presence to fill out the band. I stated to you that these students were not authorized to participate in the field trip nor were they eligible to participate in the festival as representatives of Nautilus Middle School. I further stated to you that no student or person who is not enrolled or directly affiliated with Nautilus Middle School may attend or participate in the festival. You stated that you understood.

On April 29, 2005, I received information regarding the presence of a Miami Beach Senior High School student who was allowed by you to participate in the festival competition representing Nautilus Middle School. The student was also allowed to

represent the school in both the ensemble and solo musical performances.

On Wednesday, May 11, 2005, I questioned you regarding the participation of the students and you confirmed the fact the student was present at the festival and participated in performances representing Nautilus Middle School. I asked why you permitted the student to attend and perform after I gave you specific directions to the contrary. You responded that you needed the student to fill out the band.

\* \* \*

Action Taken

1. You were advised that this incident represents a violation of School Board Rule 6Gx-4A-1.21 Responsibilities and Duties.
2. You were directed to follow all School Board and school-site rules and policies regarding field trips.
3. You were directed that no student who is not enrolled as a seventh or eighth grade student at Nautilus Middle School may participate in any extra-curricular activity, co-curricular activity, performance, or field trip.

These directives remain in effect as of the date of the conference and are restated to prevent adverse impact to the operation of the work unit and the services provided to students. Any non-compliance by you with respect to these directives will necessitate further review and the possible imposition of disciplinary measures. . . .

Copies of the following documents were given to you and discussed at the conference:

- Miami-Dade County School Board Rule 6Gx-4A-1.21 Responsibilities and Duties
- The Code of Ethics of the Education Profession in Florida
- Field Trip Procedures
- Common sense suggestion for instructional personnel . . .



9. The Memorandum also contained the following statement:

You were advised that the information presented in the conference is confidential and you were directed not to disclose or discuss the information presented with students and staff.

10. The Memorandum contains no statement that the Respondent had been reprimanded or otherwise disciplined because of the 2005 field trip.

#### 2008 Field Trip

11. Respondent sponsored the subject Field Trip for certain members of the Nautilus band to the Fiesta Val National Festival in Gatlinburg, Tennessee, in April 2008. The subject Field Trip left on Wednesday, April 23, 2008, and returned on Sunday, April 27, 2008. The Nautilus band participants consisted of members of the following: the concert band, jazz band, guitar ensemble, and classical guitar ensemble. The participants included Respondent, the band students, and volunteer, adult chaperones.

12. Respondent, his students, and parents of band members began planning for the trip in October 2007. Fund raisers were held to help defray the costs of the trip. Respondent and the band members worked hard to prepare for the trip.

13. As the sponsor of the subject Field Trip, Respondent was required to complete several forms, including a Field Trip

Request Form, a Field Trip Chaperone List, Field Trip Permission Request Form, Travel Expense Report, and a Field Trip Roster.

14. The Field Trip Permission Request Form (School Board's Exhibit 7) includes the following statement:

PARENT PERMISSION SLIPS for participating students must be on file in the Office of the Principal prior to the field trip.  
[Emphasis is in the original.]

15. Both the School Board Rule on field trips and the Field Trip Handbook clearly require a signed parental permission form for each participating student prior to the field trip.

16. The parental permission forms for the subject Field Trip required the parent or guardian to give permission for the student to participate in the subject Field Trip, provide emergency contact information, and authorize medical treatment for the student in the event of accident or illness.<sup>4</sup>

17. The Field Trip Roster, which identifies all student participants, is used to excuse the days the students are absent from school because of the field trip.

18. As of the afternoon of April 22, 2008, Respondent had completed or otherwise secured all appropriate paperwork. The subject Field Trip had been approved by Dr. Bernstein as the principal of Nautilus and by the appropriate Regional Director.

19. At approximately 3:00 p.m. on April 22, 2008, Respondent heard that a drummer who had been scheduled to go on

the subject Field Trip may have gotten into trouble. Because he was packing musical instruments and equipment for the trip, Respondent did not further investigate. Between 4:30 p.m. and 5:15 p.m. on April 22,<sup>5</sup> Dr. Bernstein reached Respondent on his cell phone and informed him that a band member who played drum for the jazz band and the guitar ensemble had been suspended from school (the suspended drummer) and would not be permitted to go on the subject Field Trip, which was scheduled to leave early the next day. Dr. Bernstein stated that Respondent would have to find one of his other students to fill in.

20. The jazz band and the guitar ensemble could not have performed without a replacement for the suspended drummer. The concert band and the classical guitar ensemble could have performed without the suspended drummer.

21. Shortly after his conversation with Dr. Bernstein on the afternoon of April 22, 2008, Respondent began receiving calls from parents of band students who were worried that the subject Field Trip would be cancelled. Rueben Coto, a band parent and volunteer chaperon for the subject Field Trip, called Respondent between 5:30 and 6:00 p.m. on April 22. Respondent was uncertain as to what would happen and stated to Mr. Coto: "Look, I don't think we're going to be able to pull this off because we don't have a drummer. We can't perform without a drummer." (Transcript, page 157, beginning at line 14).

22. Mr. Coto located a replacement drummer for the suspended drummer. The replacement drummer (a male) was an ex-Nautilus band member who in April 2008 was a senior at Miami Beach Senior High School. Respondent told Mr. Coto to get something in writing from the replacement drummer's parents giving permission for the replacement drummer to go on the subject Field Trip. The replacement drummer's mother never gave written permission for her son to go on the subject Field Trip. Mr. Coto did not follow up on Respondent's request to obtain written permission from the replacement drummer's mother.

23. On the morning of April 23, 2008, Respondent knew that the replacement drummer's mother had not signed a written parental permission form.<sup>6</sup> Respondent did not attempt to contact Dr. Bernstein or any other administrator after learning that the replacement drummer did not have written permission to participate in the subject Field Trip. Respondent permitted the replacement drummer to travel with the other students on the bus to and from Tennessee and to participate in certain of the activities of the Fiesta Val.

24. While the subject Field Trip was in progress, Dr. Sidener, principal of Miami Beach Senior High, received a complaint from the band director at her school that the replacement drummer was absent from school and did not attend band rehearsal because he was on the subject Field Trip.

Dr. Sidener immediately called Dr. Bernstein to determine whether she knew that the replacement drummer was participating in the subject Field Trip.

25. Dr. Sidener did not excuse the replacement drummer's absences from Miami Beach Senior High for the school days on which the replacement drummer participated in the subject Field Trip. The subject Field Trip was unrelated to the replacement drummer's curriculum at Miami Beach Senior High.

26. The subject Field Trip participants returned to Miami as scheduled on April 27, 2008.

27. Prior to Dr. Sidener's call, Dr. Bernstein was unaware that the replacement drummer was on the subject Field Trip. Respondent did not inform Dr. Bernstein before or during the subject Field Trip that the replacement drummer would be participating in the subject Field Trip.

28. Immediately after Dr. Sidener's call, Dr. Bernstein requested that the School Board's Civilian Investigation Unit (CIU) conduct an investigation as to the replacement drummer's participation in the subject Field Trip.<sup>7</sup>

29. The CIU investigation report was forwarded to the School Board's Office of Professional Standards (OPS) for a CFR with Respondent. After the CFR, OPS sought input as to the appropriate discipline from Dr. Bernstein and Mr. Greenfield (the Administrative Director for the North Regional Center).

OPS convened a disciplinary review team, which reviewed all available information. The disciplinary review team recommended to the Superintendent that Respondent's employment be suspended without pay for 30 days. Following his review, the Superintendent adopted the recommendation from the disciplinary review team and forwarded the recommendation to the School Board. At its meeting of October 15, 2008, the School Board voted to suspend Respondent's employment for a period of 30 days without pay.

30. The School Board followed all relevant procedures leading up to its vote to discipline Respondent by suspending his employment for 30 days. Although Respondent has served his 30-day suspension without pay, Respondent timely requested a formal administrative hearing to challenge the suspension.

#### CONCLUSIONS OF LAW

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

32. Because Petitioner seeks to suspend without pay Respondent's employment and does not involve the loss of a license or certification, Petitioner has the burden of proving the allegations in its Administrative Complaint by a preponderance of the evidence, as opposed to the more stringent standard of clear and convincing evidence. McNeill v. Pinellas

County School Board, 678 So. 2d 476 (Fla. 2d DCA 1996); Allen v. School Board of Dade County, 571 So. 2d 568, 569 (Fla. 3d DCA 1990); Dileo v. School Board of Lake County, 569 So. 2d 883 (Fla. 3d DCA 1990).

33. The preponderance of the evidence standard requires proof by "the greater weight of the evidence," Black's Law Dictionary 1201 (7th ed. 1999), or evidence that "more likely than not" tends to prove a certain proposition. See Gross v. Lyons, 763 So. 2d 276, 289 n.1 (Fla. 2000)(relying on American Tobacco Co. v. State, 697 So. 2d 1249, 1254 (Fla. 4th DCA 1997) quoting Bourjaily v. United States, 483 U.S. 171, 175 (1987)).

34. In Count I of the Notice of Specific Charges, Petitioner has charged Respondent with "misconduct in office." The State Board has defined the term "misconduct in office" by Florida Administrative Code Rule 6B-4.009(3), 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.

35. In prosecuting Count I, Petitioner relies on Florida Administrative Code Rule 6B-1.001, which sets forth the Code of Ethics of the Education Profession in Florida, as follows:

(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.

36. In prosecuting Count 1, Petitioner also relies on Florida Administrative Code Rule 6B-1.006, which sets forth the Principles of Professional Conduct for the Education Profession in Florida and provides, in relevant part, as follows:

(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.

\* \* \*

(4) Obligation to the public requires that the individual:

\* \* \*



(b) Shall not intentionally distort or misrepresent facts concerning an educational matter in direct or indirect expression.

(c) Shall not use institutional privileges for personal gain or advantage.

\* \* \*

(5) Obligation to the profession of education requires that the individual:

(a) Shall maintain honesty in all professional dealings.

37. It is appropriate to discuss the violations alleged in Counts II, III, and IV before determining whether Respondent is guilty of misconduct in office as that term is defined by State Board rules.

38. There can be no meaningful debate as to whether Respondent's failure to comply with the Field Trip protocol constituted a violation of School Board Rule 6Gx13-6A-1.22 (pertaining to Field Trips), as alleged in Count IV of the Notice of Specific Charges. The failure clearly constituted a violation of the rule pertaining to Field Trips.

39. The School Board established that Respondent's failure to comply with the Field Trip protocol should be considered to be more than a mere paperwork snafu. The chaperones on the subject Field Trip had no emergency contact information for the replacement drummer and no authorization to seek medical treatment for him in the event of an accident or illness. Further, with Respondent's knowledge and permission, the

replacement drummer was absent without authorization from his school on a field trip unrelated to his high school curriculum.

40. In Count II of the Notice of Specific Charges, Petitioner has charged Respondent with violation of School Board rule 6Gx13-4A-1.21, which sets forth policy pertaining to the responsibilities and duties of School Board employees. As a School Board employee, Respondent is expected to comply with the Rule, 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.

41. As to Count II, Respondent's failure to comply with the Field Trip protocol reflected poorly on Respondent and on the School Board, thereby establishing the violation alleged in Count II. There was no allegation and no proof that Respondent engaged in unseemly conduct or the use of abusive and/or profane language.

42. As to Count III, Respondent's failure to comply with the Field Trip protocol violated School Board Rule 6Gx13-4A-1.213, which requires School Board employees to comply with all regulations, to be efficient and effective in the delivery of

job duties, and to honestly perform his professional duties as alleged in Count III. Despite the extenuating circumstances, the undersigned concludes that Respondent knowingly failed to comply with the Field Trip protocol. There is no doubt that Respondent knew that a written permission form was required for the replacement drummer; he knew the replacement drummer did not have a written permission form; and, despite that knowledge, he permitted the replacement drummer to participate in the subject Field Trip without informing his principal or any other administrator of the situation. Consequently, it is concluded that the School Board established the violation alleged in Count III of the Notice of Specific Charges.

43. The conclusions reached as to Counts II, III, and IV underpin the conclusion reached as to Count I and establish that Respondent engaged in misconduct in office by violating the Code of Ethics of the Education Profession as adopted in Florida Administrative Code Rule 6B-1.001 and the Principles of Professional Conduct for the Education Profession in Florida as adopted in Florida Administrative Code Rule 6B-1.006, as alleged in Count I. The School Board established that Respondent failed to exercise the best professional judgment, he failed to discharge his responsibilities with integrity, and he knowingly failed to comply with rules designed to protect students and the school system.

44. The School Board also established that Respondent's misconduct was sufficiently serious to impair his effectiveness in the school system.<sup>8</sup>

45. The School Board has the discretion to discipline Respondent. The School Board can suspend Respondent's employment without pay for a period of 30 days or it can impose a lesser form of discipline, such as a reprimand. The recommendation that follows is based on a total review of the facts including, without limiting, to the serious nature of Respondent's misconduct, the prior instructions Respondent had been given as to field trip protocol, the Respondent's distinguished career with the School Board, and the extenuating circumstances that surround the subject Field Trip.

#### RECOMMENDATION

Based on the foregoing findings of fact and conclusions of Law, it is RECOMMENDED that Petitioner enter a final order adopting the Findings of Fact and Conclusions of Law contained in this Recommended Order. It is further RECOMMENDED that the final order uphold the suspension of Respondent's employment without pay for 30 days.

DONE AND ENTERED this 2nd day of June, 2009, in  
Tallahassee, Leon County, Florida.



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CLAUDE B. ARRINGTON  
Administrative Law Judge  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 2nd day of June, 2009.

ENDNOTES

- <sup>1/</sup> All statutory references are to Florida Statutes (2008).
- <sup>2/</sup> Each school referred to in this Recommended Order is a public school in Miami-Dade County, Florida.
- <sup>3/</sup> The Memorandum is dated March 31, 2005, which appears to be a scriviner's error since the Memorandum is signed on May 31, 2005, and the events discussed in the Memorandum occurred after March 31, 2005.
- <sup>4/</sup> The School Board also requires the parent or guardian to sign a form which purports to release the School Board, Nautilus, and the sponsor of "any responsibility in the case of an accident or illness while on this trip." Such written releases of responsibility are of dubious legality.
- <sup>5/</sup> There was a conflict in the evidence as to the time on April 22 when the conversation between Dr. Bernstein and Respondent occurred. At one point, Respondent testified that he talked to Dr. Bernstein around 5:30 (Transcript, page 154, line 18) and he later testified that the conversation occurred at approximately 4:36 p.m. (Transcript, page 155, line 8).

Dr. Bernstein did not remember the time of the conversation. (Transcript, page 56, line 21).

<sup>6/</sup> At page 58 of the Transcript, beginning at line 15, Respondent testified as follows in response to questions from his attorney:

Q. So, it was your understanding that night [April 22, 2008] that the mother was going to give permission to Mr. Coto.

A. Oh, yeah.

Q. Did you check the next morning to see whether that happened [sic].

A. I asked N. [the replacement drummer] the next morning, and he told me, "Yeah, my mother let me go."

And I even asked him for the note, but he never brought it in. He said that the mother never did anything. She didn't have time. She was packing and they went to sleep. Because everything happened so fast [sic].

<sup>7/</sup> In its Proposed Recommended Order, the School Board proposed findings of fact that suggest Respondent misled the CIU investigator. The undersigned has declined to adopt those proposed findings because the Notice of Specific Charges does not allege that Respondent lied to or misled the investigator. Due process prohibits a district school board from disciplining a teacher based on matters not alleged in the notice of charges, unless those matters have been tried by consent. See Lusskin v. Agency for Health Care Administration, 731 So. 2d 67, 69 (Fla. 4th DCA 1999). Further, Respondent was not formally disciplined by Mr. Welker for the 2005 field trip and his response to the investigator was not false or misleading.

<sup>8/</sup> This conclusion is based on the testimony presented by the school administrators and on existing case law that permits a conclusion that effectiveness has been impaired where the conduct the teacher engaged in speaks for itself in terms of its seriousness and its adverse impact on the teacher's effectiveness. See Walker v. Highlands County School Board, 752, So. 2d 127, 128-129 (Fla. 2d DCA 2000); Purvis v. Marion County School Board, 766 So. 2d 492, 498 (Fla. 5th DCA 2000); and Summers v. School Board of Marion County, 666 So. 2d 175, 175-176 (Fla. 5th DCA 1995).

COPIES FURNISHED:

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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.