

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

MANATEE COUNTY SCHOOL BOARD,)
)
 Petitioner,)
)
vs.) Case No. 09-2270
)
STEPHANIE WAITERS,)
)
 Respondent.)

)

RECOMMENDED ORDER

Pursuant to notice, a formal hearing was held in this case on September 10 and 11, 2009, in Bradenton, Florida, before Lawrence P. Stevenson, the designated Administrative Law Judge of the Division of Administrative Hearings.

APPEARANCES

For Petitioner: Erin G. Jackson, Esquire
Thompson, Sizemore, Gonzalez &
Hearing, P.A.
201 North Franklin Street, Suite 1600
Tampa, Florida 33602-5246

For Respondent: Adam Tebrugge, Esquire
2337 Ixora Avenue
Sarasota, Florida 34234

STATEMENT OF THE ISSUE

The issue is whether Petitioner, the Manatee County School Board (the "School Board"), may terminate Respondent's employment as a non-instructional employee for "just cause" as defined in Section 6.11 of the School Board's Policies and

Procedures Manual, based upon the conduct alleged in the Amended Administrative Complaint filed at the Division of Administrative Hearings on June 9, 2009.

PRELIMINARY STATEMENT

On April 2, 2009, School Board Superintendent Timothy McGonegal served a letter on Respondent Stephanie Waiters. The letter informed Ms. Waiters that the Superintendent intended to recommend the termination of Ms. Waiters' employment at the next meeting of the School Board on April 27, 2009. Served with the letter was a copy of an Administrative Complaint detailing the factual allegations supporting the Superintendent's recommendation. On April 25, 2009, Ms. Waiters timely filed a request for an administrative hearing to contest the Superintendent's recommendation. On April 27, 2009, the School Board placed Ms. Waiters on temporary assignment in its print shop pending the outcome of the requested administrative hearing. The matter was forwarded to the Division of Administrative Hearings ("DOAH") on April 28, 2009.

On May 28, 2009, the School Board filed a Motion for Leave to File an Amended Administrative Complaint, based on additional facts obtained through investigation conducted after the filing of the initial Administrative Complaint. Over Respondent's objection, the motion was granted by Order dated June 4, 2009. On June 9, 2009, the School Board filed its Amended

Administrative Complaint, which contained the following factual allegations:

1. Waiters has been employed with the School District of Manatee County since August 6, 1996. She is currently on temporary assignment at the print shop with pay pending the hearing on her termination.
2. At all times pertinent to the allegations of this administrative complaint, Waiters was an area coordinator in the Transportation Department.
3. Due to the absence of the regular school bus driver, Carol Hindman ("Hindman") of school bus #537 on Monday, February 9, and Tuesday, February 10, 2009, substitute bus driver Jose Rodriguez ("Rodriguez") drove said bus on the morning run to Palmetto High School.
4. During the bus route on both days, the students on the bus reportedly engaged in misbehavior such as screaming and yelling, talking at the railroad tracks, and directing racial slurs toward Rodriguez.
5. Rodriguez reported this information to the regular driver, Hindman and Waiters on Tuesday, February 10, 2009.
6. As a result of the information related to Hindman and Waiters by Rodriguez, on the morning of Wednesday, February 11, 2009, Waiters rode bus #537 along with Hindman and Rodriguez on the bus bound for Palmetto High School.
7. At the direction of Waiters, the bus stopped at 29th Street and 9th Avenue Drive East (the fourth stop of the run) whereupon the students were permitted to board the bus for transportation to Palmetto High School.

8. However, Waiters ordered that the bus not proceed to Palmetto High School and instead she read aloud a list of students provided to her by substitute driver Rodriguez. Waiters stated that the students she read from the list should enjoy the ride because it would be "their last day riding the bus, ever."

9. Waiters then called an unidentified party from her cell phone and requested that the Sheriff's Department report to 29th Street and 9th Avenue Drive East whereupon Waiters advised the students that she would be releasing them either to their parents or the Sheriff. Waiters directed the students that if they had a cell phone, they should call their parents to pick them up.

10. After checking student identification, Waiters released several students on the list to their parents.

11. Shortly thereafter, a Manatee County Sheriff's Deputy boarded the bus and explained to the remaining students that they were not permitted to disembark the bus because the School Board was responsible for their safety.

12. Shortly thereafter, the Palmetto High School resource officer and assistant principal arrived at the bus stop and assisted in transporting to Palmetto High School the students who had been unable to reach their parents for transportation to that school.

13. Waiters did not provide Assistant Principal Carl Auckerman ("Auckerman") with bus referrals prior to refusing to permit students from riding bus #537 to Palmetto High School and releasing them to their parents. Nor had said students been suspended from riding the bus by anyone with the authority to do so.

14. Waiters unilaterally, summarily removed and thus suspended students from being transported to Palmetto High School on their school bus on the morning of Wednesday, February 11, 2009, in violation of the Standard Operating Procedures Manual of the Transportation Department of the School District of Manatee County as well as Florida Statutes. Waiters had absolutely no authority to detain the bus once it was en route to Palmetto High School.

15. As a result of Waiters' actions, the health, welfare and safety of the students who were removed from the bus was jeopardized as was that of the students who were waiting to be picked up by bus #537 at subsequent stops along the side of the road.

16. Waiters directed students on the bus to use their cell phones when riding the school bus in violation of the Standard Operating Procedures Manual of the Transportation Department of the School District of Manatee County.

17. As a result of Waiters' unauthorized detaining of bus #537, all of the students on the bus route were late for school inasmuch as the bus arrived at Palmetto High School at 7:57 a.m. after school had started at 7:45 a.m. due to Waiters' unauthorized action.

18. Waiters' actions individually and cumulatively, constitute just cause for discipline under section 6.11 of the Policies and Procedures Manual of the School Board of Manatee County.

19. Prior to this incident, Waiters was reprimanded and suspended without pay for previous instances of misconduct.

Based on these factual allegations, the Amended Administrative Complaint charged Ms. Waiters with the following violations:

21. Waiters' actions violated Section 3.003(2) of the Standard Operating Procedures Manual of the Transportation Department of the School Board of Manatee County which provides that the School District requires progressive discipline and that disciplinary actions, including suspension of students from riding on school district buses shall be subject to School Board policies and may be imposed by the principal or the principal's designee. Section 3.003 further provides that the principal or the principal's designee may delegate any disciplinary authority to school bus operators except for suspension of students from riding the school bus.

22. Waiters' actions violated Section 4.003 of the Standard Operating Procedures Manual of the Transportation Department of the School Board of Manatee County which specifically provides that school principals may elect to suspend the student's bus riding privileges when prior warnings and/or alternative discipline have failed to result in an improvement in the student's behavior. Section 4.003 specifically provides that the school principal may suspend a student's bus riding privileges.

23. Waiters' actions violated [Section] 1006.10(2), Florida Statutes (2008) which provides that the principal or principal's designee may delegate any disciplinary authority to school bus drivers except for suspension of students from riding the bus.

24. Waiters' actions constitute misconduct in office which is defined as a violation of 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], which is so serious as to impair the individual's effectiveness in the school system.

25. Waiters' actions in directing students to call their parents on the cell phone in violation of section 4.005 of the Standard Operating Procedures Manual of the Transportation Department of the School Board of Manatee County as well as the Code of Student Conduct, both of which require that students' cell phones be turned off while they are on the school bus.

26. Waiters' actions violated [Florida Administrative Code Rule 6B-1.006(3)(a)], which requires that the employee make a reasonable effort to protect the student from conditions harmful to learning and/or to the student's mental and/or physical health and/or safety.

27. Waiters' actions violated [section] 6.13(4)(a) and (b) of the Policies and Procedures Manual of the School Board of Manatee County in that she failed to make truthful statements to the Office of Professional Standards during her interview.

28. Waiters' actions violated [Florida Administrative Code Rule 6B-1.006(5)(a)], which requires that the individual shall maintain honesty in all professional dealings.

29. Waiters' actions constitute a violation of Florida Administrative Code Rule 6B-1.001(2), which provides that the educator will seek to exercise the best professional judgment and integrity.

30. Individually and cumulatively, Waiters' actions and her violations of the

aforementioned policies, procedures, rules and statutes constitute just cause for the termination of her employment with the Manatee County School Board.

The matter was continued once before the final hearing was held on September 10 and 11, 2009. At the hearing, the School Board presented the testimony of: Daniel Whidden and Kenneth Warner, deputies with the Manatee County Sheriff's Office at the time of the events in question; Anissia Williams-Bell, the mother of a student who rode Bus 537 in February 2009; Carl Auckerman, assistant principal at Palmetto High School at the time of the events in question; Douglas Marsten, an officer with the Palmetto Police Department and the school resource officer ("SRO") at Palmetto High School; Kevin Jackson and Robert Kelly, parent liaisons at Palmetto High School; Terry Palmer, director of the School Board's transportation department; and Debra Horne, investigator for the School Board's office of professional standards ("OPS"). The School Board's Exhibits P-1 through P-9, P-11, P-14 through P-16, P-18, P-19, P-21, P-25, P-29 and P-30 were admitted into evidence. (Only pages 56 through 65 of School Board Exhibit 6 were admitted into evidence).

The Respondent testified on her own behalf and presented the testimony of Terri Anne Dingler, an area coordinator for the School Board, and Jose Rodriguez, a substitute bus driver for

the School Board. Respondent's Exhibits R-1 through R-3 were admitted into evidence.

The two-volume Transcript of the hearing was filed at DOAH on October 28, 2009. Also on October 28, 2009, the parties filed a Joint Motion for Extension of Time to File Proposed Recommended Orders, which was granted by order dated October 29, 2009. In accord with the order granting extension, both parties filed their Proposed Recommended Orders on November 20, 2009.

FINDINGS OF FACT

1. Respondent Stephanie Waiters was hired by the School Board as a bus driver on August 6, 1996. In 2005, she was promoted to the position of area coordinator. The five "area coordinators" are first-line supervisors responsible for overseeing the daily operations of the buses within their assigned geographical districts.

2. In December 2008, Terry Palmer was promoted from assistant director to the position of director of transportation. Upon his promotion, he was informed by the School Board that, due to budget constraints, his former position would not be filled, nor would the open position of operations coordinator. On January 23, 2009, Mr. Palmer issued a memorandum to all transportation employees regarding the additional duties that transportation department employees would be required to undertake in response to the budget cuts.

3. Mr. Palmer's memorandum stated that, because he would not have administrative assistance, the area coordinators would report directly to him and would assume certain "additional responsibilities":

The expanded role of the Area Coordinators will include: 1. employee evaluations; 2. parent conferences; 3. coaching and assisting employees on their buses; 4. observing bus operations at stops, schools etc. when needed; 5. following through on complaints from schools, parents and/or citizens and coordinating action with others inside and outside the department; 6. counseling employees on performance issues and documenting employee discipline; 7. ensuring all employees assigned to them have all of the training and coaching they need to succeed; 8. initiating, in conjunction with the director, involvement of the Office of Professional Standards on extreme issues of poor performance and/or misconduct.

4. Ms. Waiters was the area coordinator for District 5, which includes Palmetto High School. Bus 537 was assigned to District 5 and ran routes to, among other schools, Palmetto High School. The regular operator of Bus 537 during the 2008-2009 school year was Carol Hindman. Ms. Waiters testified that there had been a lengthy history of student disciplinary problems on Bus 537.

5. On Thursday, February 5, 2009, Ms. Waiters phoned Jose Rodriguez, a substitute bus driver employed by the School Board, and informed him that he would be driving Bus 537 on Monday, February 9, 2009.¹ On the morning of Friday, February 6, 2009,

Mr. Rodriguez rode Bus 537 with Ms. Hindman driving in order to familiarize himself with the route.

6. Mr. Rodriguez testified that there were no problems on the bus until it reached the stop at 29th Street and 9th Avenue Drive East ("29th and 9th"). The students at this stop were rowdy and disregarded his instructions to put away their cell phones and iPods and to carry their backpacks in front of their bodies. From that stop onward, it became a "party bus," according to Mr. Rodriguez. The students informed Mr. Rodriguez that they run the bus, and that the "racist cracker bitch" Ms. Hindman just drives it. The students claimed to have hurt Ms. Hindman, and threatened to hurt Mr. Rodriguez if he attempted to control their behavior. One student began calling Mr. Rodriguez "Chico."

7. Mr. Rodriguez testified that the situation was even worse on the afternoon route, with noise, screaming, radios playing and general horseplay making the situation dangerous. That night, Mr. Rodriguez phoned Ms. Waiters to tell her the Palmetto High School students on Bus 537 were "off the chain" and he was not sure he could handle the situation. She advised him to drive the bus on Monday and see how it went when he was alone. Ms. Waiters told Mr. Rodriguez to "write referrals" on the students who made trouble and she would back him up in any way necessary.

8. Mr. Palmer explained the disciplinary authority of bus drivers and the related referral process as follows:

From the standpoint of what they can do, is obviously they should try to work with the student on the bus, they can counsel them, they can move their seat, they can work with them on the bus. If that's unsuccessful, they then write a referral which is given to the school for processing, describing what the behavior has been that is disruptive or that is [in] violation of the safety rules, and then that's given to the school to take care of...

Typically, [upon receipt of the bus driver referral,] the principal will assign the assistant principal or have parent liaisons that will meet with the individual students regarding behavior, talk about what that behavior is, why it's dangerous, and so forth, counsel them the first time, and then go through a series of progressive disciplinary steps which can lead to suspension from the bus and ultimately expulsion if it's not corrected.

9. The referral form indicates the disciplinary action taken by the principal or his designee. (Section 1006.10(2), Florida Statutes, prohibits the principal from delegating to bus drivers the authority to suspend students from riding the bus.) If the student is to be suspended from riding the bus, the student's parent must first be notified. The school bus operator is also notified of the discipline resulting from the referral. Before a suspended student may ride the bus again, he is required to present the pink carbon copy of the referral form to the driver.²

10. Mr. Rodriguez drove Bus 537 on the morning of Monday, February 9, 2009. He testified that it was "the same routine" on Monday. Mr. Rodriguez said that he did not even attempt to control the students because his efforts to do so the previous Friday had been such a failure.

11. Mr. Rodriguez stated that he was concerned for his and the students' safety at the three railroad crossings the bus had to traverse on the way to Palmetto High School. The proper procedure is to put on the signal flashers when the bus comes within 50 feet of the railroad crossing. Then, when the bus is within 25 feet of the crossing, the driver turns off everything but the motor to achieve as complete a silence as possible, because he must be able not only to see but to hear whether a train is approaching the crossing.

12. Mr. Rodriguez testified that he tried to silence the students at the railroad crossings, telling them it was for their own safety. They laughed and carried on with their screaming and horseplay.

13. After finishing the morning route, Mr. Rodriguez reported to Ms. Waiters, who told him to write referrals on the students for their behavior at the railroad crossings and the general mayhem described by Mr. Rodriguez. Ms. Waiters told Mr. Rodriguez to take a School Board vehicle and drive to Palmetto High School to turn in the referrals. Mr. Rodriguez

testified that he went to Palmetto High School and gave the referrals to the assistant principal, Carl Auckerman.

Mr. Rodriguez testified that Mr. Auckerman told him he would take care of the matter.

14. Mr. Rodriguez testified that the situation was at least as bad on the Monday afternoon route of Bus 537. Ms. Waiters phoned him at home that evening, and advised him to write more referrals on the misbehaving students. She asked him if he needed someone else on the bus, but Mr. Rodriguez said he could handle the situation.

15. Mr. Rodriguez testified that he wrote referrals on Monday evening. He drove the bus on Tuesday morning, experienced the "party bus" situation again, and then wrote more referrals. He testified that he and Ms. Waiters drove to Palmetto High School with the new referrals. They met with Mr. Auckerman and the SRO, Officer Douglas Marston of the Palmetto Police Department.

16. Mr. Rodriguez testified that Mr. Auckerman told them he was going to issue bus suspensions of eight-to-ten days to all of the students who received referrals. Mr. Rodriguez and Ms. Waiters were satisfied with this outcome, and left the office.

17. Ms. Waiters generally supported Mr. Rodriguez' version of the events occurring on Monday, February 9 and Tuesday,

February 10. However, Mr. Auckerman, the assistant principal, testified that he did not know Mr. Rodriguez, did not meet with him on February 9 or 10, and received no referrals related to Bus 537 prior to February 11, 2009. Officer Marston testified that he knew nothing of the situation on Bus 537 prior to the morning of Wednesday, February 11.

18. The testimony of Mr. Auckerman and Officer Marston was consistent and credible. The testimony of Mr. Rodriguez and Ms. Waiters was inconsistent. Their chronology of events constantly shifted and was unsupported by the documentary evidence, which was consistent with the testimony of Mr. Auckerman and Officer Marston.³

19. Mr. Rodriguez testified that he alone met with Mr. Auckerman on the morning of Monday, February 9. In a deposition, Ms. Waiters testified that she accompanied Mr. Rodriguez to Palmetto High School on February 9 and was in Mr. Auckerman's office with Mr. Rodriguez. At the hearing, Ms. Waiters testified that her only meeting with Mr. Auckerman on February 9 occurred that afternoon at the Palmetto High School bus loop.

20. During cross-examination, when she was confronted with her contradictory deposition testimony, Ms. Waiters testified:

With all the dates, the 9th, the 10th and the 11th, it's very vague, everything. I probably did, probably didn't, but I did go

in to see Mr. Auckerman. I don't know if he came to the bus loop on Monday or whether I went, but I did go there two consecutive days with Mr. Rodriguez.

21. The above quote is typical of Ms. Waiters' testimony at the hearing. She would make a definite, affirmative statement as to where and when an event occurred, but when pressed by opposing counsel or contradicted by her own prior statements, she would retreat into vagueness and uncertainty.

22. During her interview with Debra Horne, the OPS investigator, Ms. Waiters stated that referrals were submitted to Mr. Auckerman on Tuesday, February 10 and Wednesday, February 11, then changed her story to state that the referrals were not submitted until Wednesday, February 11 and Thursday, February 12. Both versions contradict her testimony at the hearing that she oversaw Mr. Rodriguez' writing of referrals on Monday, February 9 and Tuesday, February 10. Ms. Waiters attributed her confusion to Ms. Horne's interviewing style.⁴

23. Mr. Rodriguez was similarly subject to confusion as to the timing of events. As noted above, he testified that he and Ms. Waiters met with Mr. Auckerman on Tuesday, February 10 and that at this meeting Mr. Auckerman announced that the misbehaving students would be suspended for eight to ten days. During cross-examination, Mr. Rodriguez was presented with the referrals that he claimed to have written on February 10, and

was forced to concede that these referrals described events that actually occurred on Wednesday, February 11. He unconvincingly continued to claim that the meeting occurred on February 10, and that there existed other referrals that were actually written on February 9 and 10 that were not part of the documentary evidence. Mr. Rodriguez claimed to have his own copies of these referrals, but was unable to produce them at the hearing.

24. In her interview with Ms. Horne, Ms. Waiters claimed that on the morning of Wednesday, February 11, she was enforcing bus suspensions issued by Mr. Auckerman at their meeting on the previous day. At the hearing, she conceded that she could not remember whether the meeting with Mr. Auckerman occurred on February 10 or 11, and further conceded that no student had been suspended from Bus 537 prior to Wednesday, February 11, 2009.

25. Mr. Rodriguez testified that Bus 537 was worse than ever on the afternoon of Tuesday, February 10, because the students knew they had received referrals and had nothing to lose. He was afraid for his personal safety when crossing railroad tracks. On the phone that evening, Ms. Waiters told Mr. Rodriguez that she would be riding the bus on Wednesday morning.

26. As to the events leading up to Wednesday morning, Ms. Waiters testified that Mr. Rodriguez had difficulty writing his initial referrals on Monday because, as a substitute driver,

he did not know the names of the students. Ms. Waiters lives in the area served by Bus 537, and drove many of the same students on her bus when they were in elementary school. She suggested that they "pull the tape" from Monday morning so that she could name the misbehaving students for Mr. Rodriguez.

27. The School Board maintains recording video cameras on its school buses. However, the video camera on Bus 537 was broken and in need of repair. A written repair request submitted by Mr. Rodriguez at 10:13 a.m. on Tuesday, February 10, 2009, stated, "Camera & tape don't work; tape pops out & stays out; no red light indicating camera is on." Nonetheless, Mr. Rodriguez testified that he and Ms. Waiters watched a video recording from Bus 537 on Monday, February 9.

28. Ms. Waiters testified that there was no video tape from February 9 because the tape was "popped out," but that they were able to watch video after the morning route on February 10. She stated that "the tape was working fine, but the audio was totally messed up." No video tape documenting the events of the morning of February 10 on Bus 537 was presented at the hearing.

29. The video camera was repaired and fully functional on the morning of Wednesday, February 11, 2009, and a video recording of the events of that morning on Bus 537 was entered into evidence.⁵ The undersigned viewed the videotape at the

final hearing, and viewed a DVD version of the videotape twice more during the preparation of this Recommended Order.

30. Ms. Hindman, the regular driver, drove Bus 537 on the morning of February 11. Mr. Rodriguez was already on the bus as the video commenced at 6:44 a.m. Mr. Rodriguez thought he was to drive the bus on Wednesday morning, but for some reason Ms. Hindman showed up and drove. Mr. Rodriguez decided to ride the bus because Ms. Hindman had no control over the situation, and he would be free to watch the situation and continue writing referrals on the troublesome students.

31. Ms. Waiters testified that she decided to ride Bus 537 on Wednesday morning because Mr. Palmer had ordered her to "take care" of the situation, which she took as permission to do whatever was needed to bring order to the bus.⁶ At 6:47 a.m., Ms. Waiters boarded Bus 537 at the corner of 22nd Street and 2nd Avenue, one stop before 29th and 9th.

32. As the bus proceeded, Mr. Rodriguez consulted Ms. Waiters as he attempted to identify some of the troublemaking students. He held a sheaf of papers. Ms. Waiters admonished him not to discuss what they were about to do in front of the students⁷ already on the bus, and stated her intent to move those students to the back of the bus before the students boarded at 29th and 9th.

33. The bus was scheduled to reach the stop at 29th and 9th at 6:50 a.m. On February 11, 2009, the bus stopped at 29th and 9th at 6:53 a.m. When the bus came to a stop, Ms. Waiters directed the students already on the bus to move to the rear seats.

34. After the bus had been stopped for approximately ten seconds, a student at the 29th and 9th stop, whom Ms. Waiters identified as J.P., knocked on the door. Ms. Waiters moved to the door and out of camera range, but could be heard stating authoritatively, "Get your hands off the window."

35. At the hearing, Ms. Waiters testified that she suspected J.P. was carrying a weapon and that she feared for her safety and that of the students on the bus, but believed that the safest course was to allow him to board the bus rather than confront him about the suspected weapon. This testimony cannot be credited, as Ms. Waiters made no mention of such a suspicion to the Sheriff's deputies who were later dispatched to the bus, to Mr. Auckerman or SRO Marston when they arrived at the bus, or to Ms. Horne during the later investigation. Ms. Waiters' testimony that she did not reveal her suspicions due to fear of reprisals from J.P. or his confederates, based in part on an apparently unrelated and unsolved break-in that occurred at her home five years earlier, is not credited.

36. After admonishing J.P., Ms. Waiters stated, "Everybody that rode yesterday, let's get on the bus, come on." Then, only seconds later, she stated, "Everybody who rode this bus yesterday still thinks they are going to get on the bus. They're not riding anymore." She stood just inside the door and began allowing a few students on the bus one at a time, directing them to their assigned seats. Ms. Waiters could be heard telling one unseen student, "Off the bus, off the bus," while his voice could be heard saying, "But I ride this bus." She began reading out names from a list provided by Mr. Rodriguez. The named students, apparently those who did not make trouble for Mr. Rodriguez the previous day, were allowed to board the bus.⁸ After these students were boarded and seated, Ms. Waiters directed them to move to the back of the bus.

37. Then, Ms. Waiters began letting the rest of the students from 29th and 9th onto the bus. As they boarded, she said, "Enjoy this ride. This is y'all's last day riding the bus ever." The videotape shows that these students boarded the bus in orderly fashion and were seated without incident.

38. As the students were boarding, Ms. Waiters stated that the bus would not be stopping at 29th and 9th any more. "You're within walking distance, you'll walk," she said to an unseen student.

39. By 6:59 a.m., all of the students had boarded the bus at the 29th and 9th stop. The bus remained stopped. The students talked loudly among themselves, but were otherwise well behaved. Ms. Waiters phoned her dispatcher and told her to request that the Manatee County Sheriff's Office send deputies to the bus stop at 29th and 9th.

40. At approximately 7:02 a.m., a male student attempted to disembark, telling Ms. Waiters that he had phoned his mother and she was coming to pick him up. Ms. Waiters told him to be seated because they had to wait for the Sheriff's deputies to arrive. The student complained, "What Sheriff? Nobody didn't do nothing," but obeyed Ms. Waiters' instruction.

41. While they waited, the students in the front of the bus could be heard laughing and joking about what various parents or step-parents might do when they came to the bus, such as breaking the windows or tearing off the door.⁹

42. At approximately 7:06 a.m., Ms. Waiters spoke to some unseen parents through the closed door of the bus, saying, "Wait a minute. We'll release them in a second." A few seconds later, she addressed the students: "We'll either be releasing you to your parents or the Sheriff. So if you have a cell phone, you want to call your parents. You can go ahead and call them."

43. At this point, no Sheriff's deputy had arrived at the scene. The evidence established that the first deputy to arrive, Deputy Kenneth Warner, was not even dispatched until 7:07 a.m. This fact is significant because during her interview, Ms. Waiters told Ms. Horne that law enforcement had directed her to tell the student to call their parents. At the hearing, Ms. Waiters testified that a Sheriff's deputy told her to have the kids call their parents, and that she was just repeating what the deputy told her. Ms. Waiters' testimony on this point is clearly not true.

44. At approximately 7:07 a.m., Ms. Waiters stated to the students, "We're waiting to release you to the Sheriff or your parents." At this point, the students were still in high spirits, talking loudly to each other but not noticeably upset.

45. At approximately 7:08 a.m., a call was made to the Sheriff's Office by a parent. The caller informed the dispatcher that her son had used his cell phone to call her from Bus 537. Her son told her that the students were locked on the bus and the driver refused to speak to parents who had arrived at the bus stop in response to their children's calls.

46. Deputy Warner arrived at 29th and 9th at 7:10 a.m. His view of the situation, which is entirely supported by the videotape, was as follows:

[The students] were all sitting in their seats, no one was up, but they were vocal, they were expressing their concerns about comments and stuff like that Ms. Waiters was stating... She was kind of instigating an issue. She was walking up and down, and making comments. Like if they made a comment to her, she would reply with a comment which would fire them up, and then they would all have comments back and forth... [The four or five parents who arrived] just didn't know what was going on, as me, I didn't know what was going on, either. They were wondering why they were getting calls from their children. So, I don't know. They were upset.

47. Deputy Warner credibly denied that he gave any directives to Ms. Waiters, or indeed had much idea why he had been summoned to the scene: "It was my impression when I arrived that she just needed me there as support, and that she was handling the situation."

48. The videotape shows Ms. Waiters meeting Deputy Warner at the door of the bus, and stating that this was a situation similar to the "one we had a couple of weeks ago that I took care of."¹⁰ She told the deputy that certain students on the bus must either be taken to the juvenile detention center ("JDC") or be released to their parents, because there have been "a lot of problems" on the bus. Ms. Waiters offered Deputy Warner no further details as to why the students could not ride the bus to school.

49. Because he was confused by the situation, Deputy Warner radioed dispatch and requested that SRO Marston respond to his call.

50. At 7:12 a.m., Ms. Waiters announced to the students, "You need to call your parents because you will not be riding the bus. The ones that have parents at work, you'll need to get your aunts or something, because you will not ride the bus." Ms. Waiters began releasing students whose parents were waiting outside the bus.

51. At 7:20 a.m. and at 7:22 a.m., Ms. Waiters again told the remaining students that they needed to call their parents for a ride to school.

52. Deputy Daniel Whidden was dispatched by the Sheriff's Office and arrived at the scene after Deputy Warner. Deputy Whidden, who was also a football coach at Palmetto High School and knew several students on the bus, testified that he gave Ms. Waiters no direction on how to handle the situation. Ms. Waiters told him that there had been problems on the bus the day before, and she was calling parents and having them pick up their children.

53. At 7:23 a.m., Deputy Whidden boarded the bus and explained to the students that they were not allowed to disembark because the School Board was responsible for their safety. He told the students that SRO Marston was on his way to

the bus stop to assist in transporting to school those students who were not allowed to ride the bus.

54. Deputy Whidden testified that when he boarded the bus, the students were all in their seats. Some were protesting that they had done nothing wrong, but no one needed to be calmed down. This testimony is consistent with the evidence of the videotape.

55. At 7:26 a.m., Ms. Waiters told Deputy Whidden that the students in the rear would be transported to school on the bus. As to the others, she stated, "I told them yesterday at the school they might as well find transportation in the morning. Well, they came here, and we can't leave them standing out at the bus stop." In conversation with Deputy Whidden, a female student confirmed that some of the students had been told they would not be allowed on the bus for the rest of the year.¹¹

56. Officer Marston and Mr. Auckerman arrived at the bus stop at 7:31 a.m. When they arrived, most of the students had already disembarked. At no time did Mr. Auckerman tell Ms. Waiters that the students on the bus should call their parents or be transported by Sheriff's deputies. Ms. Waiters' testimony to the contrary is not credited.

57. Mr. Auckerman, Officer Marston, and Deputy Whidden drove students to Palmetto High School.

58. The bus began to run again at 7:37 a.m., 44 minutes after it stopped at 29th and 9th. The bus made only one more stop before arriving at Palmetto High School. This stop occurred at 7:43 a.m. Two students boarded the bus.

59. Bus 537 is scheduled to make five stops after 29th and 9th. Because of the delay, Ms. Waiters called the driver of Bus 534 to cover some of Bus 537's stops. However, not all of Bus 537's stops were covered, and Bus 534 was 15 to 20 minutes late picking up some of the students. Further, Bus 537 was scheduled to make an elementary school run after it dropped off students at Palmetto High School. The bus made only one of its nine scheduled stops for elementary school students because the parents of most of those students had given up on the bus and either driven their children to school or had the children walk.¹²

60. During the 2008-2009 school year, classes began at Palmetto High School at 7:45 a.m. Bus 537 typically arrived at Palmetto High School at 7:20 a.m. On Wednesday, February 11, 2009, Bus 537 arrived at Palmetto High School at 7:57 a.m., twelve minutes after the final bell.

61. After the bus arrived at Palmetto High School, Ms. Waiters and Mr. Rodriguez went into the school and spoke to Mr. Auckerman. They presented him with the list of names that they had used to identify the misbehaving students on Bus 537.

Mr. Auckerman told them that he would need referrals before he could take any disciplinary action against the students.

Ms. Waiters and Mr. Rodriguez submitted some referrals on Wednesday, February 11, then submitted additional referrals on Thursday, February 12.

62. The referrals described student misbehavior, such as failing to be silent at railroad crossings and using cell phones, but gave no indication that either Ms. Waiters or Mr. Rodriguez ever feared for their safety on Bus 537.

Mr. Rodriguez testified that the only time he feared for his physical safety was when he had to drive the noisy bus over railroad crossings. He did not fear any sort of physical assault by the students on the bus.¹³

63. Mr. Auckerman passed on the referrals to Palmetto High School's parent liaisons, Robert Kelly and Kevin Jackson.

"Parent liaisons" are School Board employees responsible for general disciplinary referrals and communicating with parents regarding student behavior and discipline. The principal of Palmetto High School has delegated the authority to issue bus suspensions to the parent liaisons.

64. On Friday, February 13, Mr. Kelly interviewed some of the students. He decided that the referred students would be suspended from riding the bus, commencing Tuesday, February 17. However, as Mr. Kelly and Mr. Jackson were about to finalize the

suspensions by entering the referrals into the computer system, Mr. Auckerman halted the suspension process pending a School Board investigation into the events of the morning of February 11.

65. Mr. Auckerman was reacting to parent complaints about Ms. Waiters' actions on Bus 537. Mr. Palmer, the director of transportation, also began receiving complaints. Mr. Palmer spoke with Ms. Waiters, safety officer John Searles, and school personnel, and was unsettled by the inconsistency of their stories. On or about February 18, 2009, Mr. Palmer referred the matter to the OPS.

66. Ms. Horne then began her investigation of the incident. At the conclusion of her investigation, Ms. Horne presented a written OPS investigatory report to her supervisor and scheduled a meeting of all persons in Ms. Waiters' chain of command, up to Mr. Palmer, the transportation director. At a meeting on March 19, 2009, the School Board personnel met and recommended to the Superintendent that Ms. Waiters' employment with the School Board be terminated. The Superintendent concurred with the recommendation.

67. Aside from contending that she was merely carrying out suspensions issued by Mr. Auckerman, which was completely at odds with the credible evidence produced at the hearing, Ms. Waiters' chief defense was that her actions on February 11,

2009, were consistent with the action she took in an incident that occurred on Wednesday, January 28, 2009, for which the bus driver received a laudatory write-up in the local newspaper and the praise of law enforcement and school officials.

68. In the earlier incident, a substitute driver on a morning route to Lakewood Ranch High School pulled the bus over on State Road 64 and refused to continue because she believed the students' actions were placing her and the students in danger. In particular, the students were rocking the bus back and forth to the point that the driver feared losing control.

69. Ms. Waiters drove out to the scene, followed shortly by at least six Sheriff's deputies. Ms. Waiters described the students as "out of control," "hanging out of the windows, yelling and cursing, throwing stuff out of the windows, rocking the bus." Ms. Waiters boarded the bus and was able to calm some of the students. The Sheriff's deputies called the parents of the troublemaking students and gave them the choice of picking up their children or having them taken to the JDC. According to Ms. Waiters, some students actually fought with their parents and had to be forcibly taken to the juvenile detention center.

70. The next day, the local newspaper ran an article containing praise for the substitute bus driver. The principal of Lakewood Ranch High School and a spokesman for the Sheriff's Office were both quoted saying that she "did the right thing."

Though Ms. Waiters was not mentioned in the article, it is clear from her testimony that she believed the praise was reflected on her.

71. The differences between the incidents of January 28 and February 11, 2009, are clear. In the earlier incident, law enforcement was summoned to deal with an immediate, on-going dangerous situation. Sheriff's deputies took charge of the matter, with some assistance from Ms. Waiters, and concluded that the bus driver had done the right thing in stopping the bus when it became too hazardous to continue.

72. In the February 11 incident, the videotape makes plain there was no danger whatever. Once allowed to board the bus, the students took their seats and talked among themselves. There were no threats, no disturbances, no rocking of the bus. Ms. Waiters' claim that she felt threatened was unsupported and not credible. The students, with good reason, appeared mostly puzzled as to what was happening. From the incident of January 28, 2009, Ms. Waiters apparently took the lesson that she was authorized to stop the scheduled running of a school bus for nearly an hour and to call out Sheriff's deputies to assist her in disciplining students for misbehavior that occurred on previous days. This was the wrong lesson.

73. Ms. Waiters acknowledged that she did not have authority to suspend students from the bus, and claimed that she

was not "suspending" the students; rather, she was restoring "order and control" on the bus for the students' safety.¹⁴ Ms. Waiters' actions might have been partially justified had there been some imminent danger such as that on the Lakewood Ranch High School bus on January 28, 2009, though even in that situation it was Sheriff's deputies, not Ms. Waiters, who removed the problem students from the bus. On Bus 537 on February 11, 2009, in the absence of any immediate threat or even untoward behavior by the students, Ms. Waiters took it upon herself to halt the bus and require students to phone their parents for rides to school well before law enforcement arrived on the scene. Ms. Waiters' actions were disproportionate to the situation on the bus, and constituted "suspensions" of the students under any reasonable understanding of that term.

74. Ms. Waiters' actions on the morning of February 11, 2009, might merit discipline short of termination had Ms. Waiters fully and honestly cooperated in the subsequent investigation. However, Ms. Waiters stubbornly told a convoluted and contradictory version of events that made little sense on its face and was at direct odds with the consistent and credible testimony of School Board personnel and law enforcement officers who were present during the relevant events, and at odds with the direct evidence of the videotape from Bus 537. Ms. Waiters lack of candor throughout the process, coupled with

the extremely poor judgment she employed in stopping the bus and suspending students without immediate cause or authority, fully justifies the School Board's decision to terminate her employment.

CONCLUSIONS OF LAW

75. The Division of Administrative Hearings has jurisdiction over the parties to and subject matter of this proceeding pursuant to Section 120.569 and Subsections 120.57(1) and 1012.33(6)(a), Florida Statutes.¹⁵

76. The School Board has the burden to establish by a preponderance of the evidence the grounds for disciplining Ms. Waiters. See, e.g., McNeill v. Pinellas County School Board, 678 So. 2d 476, 477 (Fla. 2d DCA 1996); Sublett v. Sumter County School Board, 664 So. 2d 1178, 1179 (Fla. 5th DCA 1995); Allen v. School Board of Dade County, 571 So. 2d 568, 569 (Fla. 3d DCA 1990); Dileo v. School Board of Dade County, 569 So. 2d 883, 884 (Fla. 3d DCA 1990).

77. The School Board Superintendent is authorized to recommend to the School Board that an employee be suspended and/or dismissed from employment. § 1012.27(5), Fla. Stat.

78. Pursuant to Sections 1012.22(1)(f) and 1012.40(2)(e), Florida Statutes, the School Board is authorized to terminate or suspend school personnel without pay or benefits.

79. Respondent is subject to Section 6.11(1) of the Policies and Procedures Manual of the School Board, which provides:

Any employee of the School Board may be temporarily suspended, with or without pay, or permanently terminated from employment, for just cause including, but not limited to, immorality, misconduct in office, incompetence, gross insubordination, willful neglect of duty, drunkenness, or conviction of any crime involving moral turpitude, violation of the Policies and Procedures Manual of the School District of Manatee County, violation of any applicable Florida statute, violation of the Code of Ethics and the Principles of Professional Conduct of the Education Profession in Florida.

80. Ms. Waiters is not an instructional employee as defined by Subsection 1012.01(2), Florida Statutes. However, the quoted language of the Policies and Procedures Manual of the School Board renders her subject to the Code of Ethics of the Education Profession in Florida, Florida Administrative Code Rule 6B-1.001, and to the Principles of Professional Conduct for the Education Profession in Florida, Florida Administrative Code Rule 6B-1.006.

81. The School Board alleges that Ms. Waiters has committed misconduct in office, which 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." Fla. Admin. Code R. 6B-4.009(3).

82. The Amended Administrative Complaint alleges that Ms. Waiters violated Florida Administrative Code Rules 6B-1.001(2) and 6B-1.006(3)(a) and (5)(a).

83. Florida Administrative Code Rule 6B-1.006(3)(a) requires the employee to "make reasonable effort to protect the student from conditions harmful to learning and/or to the student's mental and/or physical health and/or safety." The School Board has proven by a preponderance of the evidence that Ms. Waiters' actions violated Florida Administrative Code Rule 6B-1.006(3)(a). Without need or authority, Ms. Waiters suspended several students from riding on Bus 537. She verbally harassed and provoked the students on the bus. She unnecessarily made all of the students riding Bus 537 late for school. Her actions caused a safety hazard, with elementary and high school students left standing at bus stops for an unreasonably long period of time. Bus 537's late arrival at Palmetto High School caused a ripple effect that led to elementary school students missing the bus and parents scrambling to improvise ways to get their children to school.

84. Florida Administrative Code Rule 6B-1.006(5)(a) required the employee to "maintain honesty in all professional

dealings." Florida Administrative Code Rule 6B-1.001(2) requires the employee to "seek to exercise the best professional judgment and integrity." The School Board has proven by a preponderance of the evidence that Ms. Waiters used very poor judgment in stopping Bus 537 and suspending several of the students on that bus on February 11, 2009. The School Board has proven by a preponderance of the evidence that Ms. Waiters did not maintain honesty or integrity during the School Board's investigation into the events of February 11, 2009. Indeed, Ms. Waiters' testimony at the final hearing itself was a farrago of contradiction, confusion, and shifting timelines so perplexing as to defeat any attempt to construct a clear narrative of her version of events.

85. The combination of extremely poor judgment, usurpation of the principal's authority, and almost flamboyant dishonesty could not help but impair Ms. Waiters' effectiveness in the school system. The School Board has proven by a preponderance of the credible evidence that Ms. Waiters has committed misconduct in office as that term is defined in Florida Administrative Code Rule 6B-4.009(3). This proof of misconduct in office is sufficient to support the Superintendent's recommendation that Ms. Waiters' employment be terminated.

86. The Amended Administrative Complaint alleges that Ms. Waiters violated Section 6.13(4)(a) and (b) of the Policies

and Procedures Manual of the School Board of Manatee County, which provide that all School Board employees must cooperate fully with OPS or other appropriate authorities who are conducting an investigation, and that failure to cooperate completely and truthfully will subject an employee to disciplinary action. The preponderance of the evidence established that Ms. Waiters repeatedly failed to make truthful statements during her interview with Ms. Horne.

86. The Amended Administrative Complaint alleges that Ms. Waiters violated Section 1006.10(2), Florida Statutes, and Sections 3.003(2) and 4.003 of the SOP Manual. Read together, these provisions state that the school principal has disciplinary authority over students' bus riding privileges, up to and including suspension of those privileges, and that the school principal may delegate this disciplinary authority to school bus drivers except for the authority to suspend students from riding the school bus.

87. It could be argued that Ms. Waiters cannot be held to have violated these provisions because as written, they function as limitations on the authority of school principals, not as prohibitions on bus drivers. Further, at the time of the events at issue, Ms. Waiters was an area coordinator in the transportation department, not a school bus driver. Therefore, at least theoretically, the principal of Palmetto High School

might have been authorized to delegate his suspension authority to Ms. Waiters.

88. However, the preponderance of the evidence established that no person in the School Board's transportation department had been delegated the authority to suspend students from riding the school bus. The preponderance of the evidence established that Ms. Waiters did not have the authority to suspend students from riding the school bus, and knew that she did not have this authority. The preponderance of the evidence established that on February 11, 2009, Ms. Waiters suspended students from riding Bus 537.

89. The non-delegation provisions cited above, considered in light of the facts of the case, establish that Ms. Waiters could not have believed herself to possess authority to take the actions she did on the morning of February 11, 2009. Even taking the strict view that Ms. Waiters cannot be held to have violated a statute and rule that prohibit principals from delegating their authority to bus drivers, Ms. Waiters knew that her actions were unauthorized and therefore she certainly displayed a failure to "exercise the best professional judgment and integrity" pursuant to Florida Administrative Code Rule 6B-1.001(2). This failure further cements the conclusion that she committed misconduct in office as defined in Florida Administrative Code Rule 6B-4.009(3).

90. The Amended Administrative Complaint alleged that Ms. Waiters violated Section 4.005 of the SOP Manual and the Code of Student Conduct, both of which require the students' cell phones to be turned off while the students are riding the school bus. The preponderance of the evidence established that Ms. Waiters directed the students to use their cell phones to call their parents from Bus 537 on the morning of February 11, 2009.

91. However, under all the circumstances, it appears that this violation was de minimus. The bus was not moving, meaning there was no danger that noise from phone conversations would distract the driver or that radio signals from the cell phones might interfere with the functioning of equipment on the school bus. The somewhat special circumstances of this case do not appear to present the situation reasonably contemplated by the cell phone rules. In this case, the students' use of their cell phones probably had a salutary effect overall, keeping their parents apprised of the situation on Bus 537.

92. Chapter 6.11 of the Policies and Procedures Manual of the School Board of Manatee County allows for termination of employment if there is just cause to believe that Ms. Waiters has committed misconduct in office. The preponderance of the evidence established that she did commit misconduct in office. The undersigned would nonetheless be inclined to recommend a

lesser penalty, such as suspension without pay and/or demotion to the bus driver, had Ms. Waiters acknowledged that her actions of February 11, 2009, were unauthorized and that she alone was responsible for the cascade of events that followed. However, under all the facts and circumstances discussed above, termination is appropriate in this case.

RECOMMENDATION

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

RECOMMENDED that Petitioner, the Manatee County School Board, enter a final order that terminates the employment of Respondent, Stephanie Waiters.

DONE AND ENTERED this 1st day of February, 2010, in Tallahassee, Leon County, Florida.



LAWRENCE P. STEVENSON
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Filed with the Clerk of the
Division of Administrative Hearings
this 1st day of February, 2010.

ENDNOTES

^{1/} The testimony was unclear as to why Mr. Rodriguez was assigned to Bus 537. Mr. Rodriguez testified that Ms. Waiters told him the regular driver had the flu. However, Ms. Hindman actually drove the bus the next day, February 6, 2009. Ms. Waiters recalled assigning Mr. Rodriguez to the bus on February 5, but did not state specifically why she was substituting him for Ms. Hindman, who did not testify at the hearing. This detail is not especially significant in itself, but is indicative of the overall inconsistency and unreliability of the testimony offered by Ms. Waiters and Mr. Rodriguez.

^{2/} All witnesses agreed that there are often situations in which the suspended student presents himself to ride the bus and does not have the pink copy of the referral form. The witnesses also agreed that the driver is required to allow that student to ride the bus, with or without the pink copy. The school bus operator does not, under any circumstances, possess the authority to unilaterally suspend a student from riding the bus. When the suspended student rides without a pink copy of the referral, the driver should take the matter up with the school's liaison.

In her defense, Ms. Waiters pointed out that some of the students involved in the incidents described in this Recommended Order lived within two miles of Palmetto High School, and that state law does not require the School Board to provide transportation to students who live within two miles of the school. See Florida Administrative Code Rule 6A-3.001(3), providing that two miles is a "reasonable walking distance" for any student not otherwise eligible for transportation under Section 1011.68, Florida Statutes, which provides the criteria for state funding of student transportation. Granting Ms. Waiters' proposition, she cites to no statute, state rule, or local policy giving the bus driver or the area coordinator the authority unilaterally to deny a student access to the bus because the student lives within two miles of the school. The consensus of the testimony at the hearing was that the driver is not to leave a student standing on the side of the road under any circumstances.

^{3/} An accurate chronology is key to Ms. Waiters' defense. The School Board alleges that on Wednesday, February 11, 2009, she suspended students from riding on Bus 537 while lacking any authority to do so. During the School Board's investigation, Ms. Waiters claimed that these students had already been

suspended from the bus by Mr. Auckerman on Tuesday, February 10. (Alternatively, and less coherently, she claimed that she was not "suspending" students but merely ensuring the safety of the bus by preventing some students from riding.) Mr. Auckerman testified, with support from the documentary evidence, that he issued no suspensions until after the events of the morning of Wednesday, February 11, 2009.

^{4/} Ms. Horne's interview notes do indicate that she frequently shifted from inquiring about the incidents on Bus 537 involving students from Palmetto High School to questions about other incidents, also involving Ms. Waiters, that are not at issue in this proceeding. However, it is not plausible to blame Ms. Horne for Ms. Waiters' inability to get her story straight about events in which she participated. Ms. Horne testified that the interview was confusing because Ms. Waiters easily went off-task, discussing irrelevant matters, and that Ms. Waiters constantly changed her story. This description is consistent with Ms. Waiters' testimony at the hearing.

^{5/} The camera was stationary and provided a view down the center aisle of the bus. Neither the driver nor the front door to the bus was visible.

Based on the testimony at hearing and the vehicle activity report for Bus 537, which is drawn from GPS information, it is found that the time stamp of the videotape was 14 minutes behind the actual time that events occurred. The actual time of the events is referenced in the Findings of Fact.

^{6/} Mr. Palmer recalled a conversation with Ms. Waiters about a substitute driver having problems on Bus 537. The conversation occurred at a daily noon meeting on either February 9 or 10, 2009. Mr. Palmer didn't recall the specifics of the conversation, but rejected any idea that he had given Ms. Waiters carte blanche to suspend students from the bus, pointing out that he himself lacks the authority to issue such suspensions. Mr. Palmer left for a three day conference in Tallahassee at about 10 a.m. on Wednesday, February 11. Although she had Mr. Palmer's cell phone number and had been encouraged to use it, Ms. Waiters never called him about the events on Bus 537 that morning. Mr. Palmer only heard about the situation upon his return to the office on February 16.

7/ Not all of the children on the bus at 6:30 a.m. were Palmetto High School students. Some were Ms. Hindman's children and grandchildren. Mr. Rodriguez' daughter was riding the bus with him. In another odd bit of faulty memory at the hearing, Mr. Rodriguez was unable to recall whether his daughter was with him on the morning of February 11 until he actually saw her in the video.

8/ While reading the names on the list, Ms. Waiters stopped to yell, "[J.P.], get off the bus. Get your butt down off this bus." Her demeanor betrayed no fear of J.P., whom she eventually allowed to board the bus. Further, the video shows that Ms. Waiters and Mr. Rodriguez returned to the bus at 8:41 a.m. They discussed how to word the referrals that Mr. Rodriguez was writing. Ms. Waiters, Mr. Rodriguez, and Ms. Hindman specifically discussed J.P., but no mention was made of any weapon.

9/ At the hearing, both Ms. Waiters and Mr. Rodriguez claimed to have felt endangered and threatened by this banter, none of which was directed towards either of them. These claims are not credible.

10/ See Findings of Fact 67 through 70, infra, for a description of the incident to which Ms. Waiters referred.

11/ It must be recalled that at the time this student heard about the supposed year-long suspensions, no person at Palmetto High School with authority to suspend students from the bus was even aware of the problems on Bus 537.

12/ Mr. Palmer testified that students not being picked up on time is a major safety issue, because a child left at a bus stop on the side of the road could walk away and "anything could happen." At least in Mr. Palmer's mind, this safety issue was the primary reason for recommending Ms. Waiters' termination.

13/ He did claim to have felt vaguely threatened by joking comments made by a few students after Ms. Waiters told them to phone their parents. See endnote 9, supra.

14/ Ms. Waiters also denied that she "suspended" students from the bus because the Standard Operating Procedures Manual of the Transportation Department of the School Board of Manatee County ("SOP Manual") does not define the term "suspend." "Suspension"

is a common term meaning temporary removal of a student from the classroom or, in this instance, from a school bus. There is no requirement that the Legislature, or the School Board in implementing legislation, provide a detailed definition of words in common usage. Dadeland Depot, Inc. v. St. Paul Fire and Marine Insurance Co., 945 So. 2d 1216, 1225 (Fla. 2006). Ms. Waiters understood that she had no authority to suspend students, and understood what the term "suspension" meant in the context of her job.

^{15/} Unless otherwise indicated, references to the Florida Statutes are to the 2009 edition.

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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.