



THE SCHOOL DISTRICT OF LEE COUNTY

2855 COLONIAL BLVD. ♦ FORT MYERS, FLORIDA 33966-1012 ♦ (239) 334-1102 ♦ TTD/TTY (239) 335-1512
WWW.LEESCHOOLS.NET

ROBERT DODIG, ESQ.
STAFF ATTORNEY
239-335-1447 / 239-335-1530 (FAX)
ROBERTDO@LEESCHOOLS.NET

FILED

2011 MAR 11 A 11:42

DIVISION OF
ADMINISTRATIVE
HEARINGS

THOMAS SCOTT
CHAIRMAN, DISTRICT 5
MARY FISCHER, M.A.
VICE CHAIRMAN, DISTRICT 1
JEANNE S. DOZIER
DISTRICT 2
JANE E. KUCKEL, PH.D.
DISTRICT 3
DON H. ARMSTRONG
DISTRICT 4
LAWRENCE D. TIHEN, PH.D.
INTERIM SUPERINTENDENT
KEITH B. MARTIN, ESQ.
BOARD ATTORNEY

March 8, 2011

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

Re: Lawrence D. Tihen, Superintendent v. Luis Lomonte
DOAH Case No.: 10-8915

Dear Clerk:

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

If you have any questions please contact me.

Very truly yours,

Robert Dodig
Staff Attorney

RD/tw

Attachment

THE SCHOOL BOARD OF LEE COUNTY, FLORIDA

LAWRENCE D. TIHEN)
SUPERINTENDENT)
FOR LEE COUNTY SCHOOLS,)
)
Petitioner,)
)
v.)
)
LUIS LOMONTE,)
)
Respondent.)

Case No. 11-0001

FILED
2011 MAR 11 A 11:42
DIVISION OF
ADMINISTRATIVE
HEARINGS

FINAL ORDER

THIS CAUSE came to be heard on this the 8th day of March, 2011, before the School Board of Lee County, Florida, and said School Board finds as follows:

1. Respondent, Luis Lomonte ("Respondent"), has been employed with the District since January 3, 2006. He is currently assigned as a bus operator in the Transportation Department. Respondent is an "educational support employee," as defined by §1012.40(1)(a), Florida Statutes, and is governed by the collective bargaining agreement between the School Board and the Support Personnel Association of Lee County ("SPALC"). The standard for the discipline of support personnel is "just cause" pursuant to Article 7 of the SPALC Agreement. The Superintendent has authority to recommend dismissal of Respondent, and the School Board has authority to dismiss

Respondent from his employment pursuant to §§1012.27(5) and 1012.22(1)(f), Florida Statutes.

2. On or about June 6, 2010, the District's Department of Professional Standards and Equity was informed that the parent of a female student alleged that the Respondent had acted in an inappropriate manner towards her and made improper comments to her. The Department of Professional Standards and Equity initiated an investigation which revealed the following:

3. Multiple female middle school students, who rode on the Respondent's bus, reported that the Respondent, on various occasions, asked them what they wore to bed, told them they were pretty and/or beautiful, called them princess, touched the arms of students, touched one student on her leg and pulled on another student's book bag.

4. Another female student reported that the Respondent told her that she could come over to his house, try on a few dresses and he would take pictures of her for her 15th birthday.

6. As a result of the foregoing allegations the Respondent was suspended with pay and benefits on June 8, 2010.

7. In accordance with provision 7.10 of the SPALC Agreement, a predetermination conference was scheduled with Respondent for June 24, 2010, to review the allegations and to give him an opportunity to respond.

8. The Respondent attended the predetermination conference, accompanied by Bob Rushlow, SPALC President.

9. Subsequent to the predetermination conference, a determination was made that probable cause existed to discipline Respondent for his conduct. A certified letter dated July 16, 2010, was sent to Respondent, advising him of the probable cause determination. The letter also advised that a recommendation would be made to the Superintendent that Respondent be terminated from his employment with the District.

10. The Respondent, through his attorney, requested an administrative hearing before the Florida Division of Administrative Hearings.

11. On August 21, 2010, the Petition for Termination was heard by the School Board. The Respondent was suspended without pay at that time pending the results of the administrative hearing. The Petition was then forwarded to the Division of Administrative Hearings.

12. The final hearing took place on December 1, 2010, before Administrative Law Judge (ALJ) Thomas P. Crapps.

13. The ALJ issued his Recommended Order on February 10, 2011.

14. The ALJ found in his Recommended Order that the School Board established by a preponderance of the evidence that the

Respondent's conduct while serving as a bus operator, constitutes just cause for his termination. The ALJ indicated that the Respondent's actions' concerning the young female students requires termination.

15. His actions are in violation of Rule 6B-4.009, F.A.C. and School Board Policies 5.02, 5.03 and 5.29.

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

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

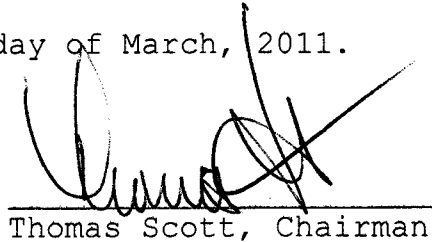
It is ORDERED as follows:

17. Respondent's employment with the School District of Lee County is terminated effective end of the day March 8, 2011.

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

Staff Attorney, 2855 Colonial Boulevard, Fort Myers, Florida
33966, telephone number (239) 335-1447.

ENTERED on this the 8th day of March, 2011.



A handwritten signature in black ink, appearing to read 'Thomas Scott', is written over a horizontal line. The signature is stylized and somewhat cursive.

Thomas Scott, Chairman

Copies to:

Robert Dodig, Jr., Staff Attorney
Personnel File