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ROCKLEDGE, FLORIDA 32955

FILED

2012 JUL 19 AM 11 08

DIVISION OF
ADMINISTRATIVE
HEARINGS

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July 17, 2012

Clerk, Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, FL 32399-3060

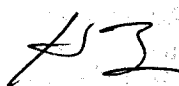
RE: Brevard County School Board v. Mark Ostermeier
DOAH Case No. 11-4310TTS

Dear Clerk:

This firm represents the School Board of Brevard County.

Enclosed is a copy of the Final Order entered by the School Board
in the referenced case on July 10, 2012.

Very truly yours,



Harold T. Bistline
School Board Attorney

HTB/pc
Enclosure

cc: Joseph R. Lowicky, Esquire
Robert Charles McClain, Esquire
Jackie Joy, Clerk and Administrative Assistant
to School Board

BEFORE THE SCHOOL BOARD OF BREVARD COUNTY, FLORIDA

FILED

BOARD AGENDA ITEM NO.

July 10, 2012

2012 JUL 19 AM 11 08

BREVARD COUNTY SCHOOL BOARD,

Petitioner,

DIVISION OF
ADMINISTRATIVE
HEARINGS

DOAH CASE NO. 11-4310TTS

vs.

MARK OSTERMEIER,

Respondent.

FINAL ORDER

This case was referred to the Division of Administrative Hearings. The assigned Administrative Law Judge ("ALJ") submitted a Recommended Order to the Agency, Brevard County School Board ("School Board"), recommending that the School Board enter a final order terminating Respondent, Mark Ostermeier's, employment with the School District for incompetency. The Recommended Order of June 25, 2012, entered herein is incorporated by reference. No exceptions to the Recommended Order were filed by either Petitioner or Respondent.

In a Section 120.57(1) proceeding an agency's Final Order is entered after a hearing is held, evidence is received, and the ALJ has submitted a Recommended Order. The general rule of deference to the ALJ's findings of fact is that an agency may reject or modify a finding of fact only if the finding is not supported by competent, substantial evidence. The agency has no authority to reweigh conflicting evidence. Section 120.57(1)(1), Florida Statutes. See e.g. Heifetz v. Department of Business Regulation,

475 So.2d 1277, 1281 (Fla. 1st DCA 1985). The agency may adopt the ALJ's findings of fact and conclusions of law in a recommended order, or the agency may reject or modify the conclusions of law over which it has substantive jurisdiction. The agency may accept the recommended penalty in a recommended order, but may not reduce or increase the penalty without a review of the complete record and without stating with particularity its reasons therefore in the final order, by citing to the record in justifying its action. Section 120.57(1), Florida Statutes.

FINDINGS OF FACT

The School Board adopts the findings of fact set forth in the Recommended Order.

CONCLUSIONS OF LAW

The School Board adopts the conclusions of law set forth in the Recommended Order.

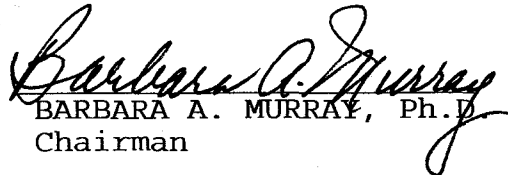
RECOMMENDATION OF THE ALJ

The School Board adopts the Recommendation of the ALJ set forth in the Recommended Order.

It is Thereupon Ordered that the Recommended Order is adopted as the Final Order of the School Board of Brevard County and Respondent, **MARK OSTERMEIER**, is terminated from employment as a teacher with the Brevard County School District effective August 9, 2011.

DONE AND ORDERED this 10th day of July, 2012.

THE SCHOOL BOARD OF
BREVARD COUNTY, FLORIDA

By: 
BARBARA A. MURRAY, Ph.D.
Chairman

NOTICE OF RIGHT TO JUDICIAL REVIEW

Parties to this Final Agency Action are hereby advised of their right to seek judicial review of this Final Agency Action pursuant to Section 120.68, Florida Statutes, and Florida Rules of Appellate procedure 9.030(b)(1)(C) and 9.110. To initiate an appeal, one copy of a Notice of Appeal must be filed, within the time period stated in the Florida Rule of Appellate Procedure 9.110, with the Clerk of the School Board of Brevard County, 2700 Judge Fran Jamieson Way, Viera, Florida 32940. The second copy of the Notice of Appeal, together with the filing fee, must be filed with the appropriate District Court of Appeal.

Filed with the Clerk in the
Office of the Superintendent
this 10th day of July, 2012.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been furnished by U. S. Mail to the persons named below on this 11 day of July, 2012.

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