

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DR. ERIC J. SMITH, AS)	
COMMISSIONER OF EDUCATION,)	
)	
Petitioner,)	
)	
vs.)	Case No. 11-4424PL
)	
ERIC FERRIER,)	
)	
Respondent.)	
_____)	

RECOMMENDED ORDER

Pursuant to notice, a final hearing was held in this case on December 13 and 14, 2011, in St. Petersburg, Florida, before Thomas P. Crapps, a designated Administrative Law Judge of the Division of Administrative Hearings (DOAH).

APPEARANCES

For Petitioner: Ron Weaver, Esquire
Post Office Box 5675
Douglasville, Georgia 30154

For Respondent: Eric Ferrier, pro se
6846 81st Avenue, North
Pinellas Park, Florida 33781

STATEMENT OF THE ISSUES

Whether Respondent violated sections 1012.795(1)(c), (g) and (j), Florida Statutes (2010),^{1/} and Florida Administrative Code Rule 6B-1.006(3)(a), as alleged in the Administrative Complaint, and, if so, what discipline should be imposed.

PRELIMINARY STATEMENT

On May 11, 2011, Petitioner, Dr. Eric J. Smith, as Commissioner of Education, filed a four-count Administrative Complaint against Respondent, Eric Ferrier (Mr. Ferrier), concerning allegations that occurred in the 2008-2009 and 2009-2010 school years. In essence, the Administrative Complaint alleged that Mr. Ferrier was incompetent, failed to carry out his duties as a teacher, and failed to make reasonable efforts to protect students from conditions harmful to learning and that his personal conduct seriously reduced his effectiveness as a teacher. Mr. Ferrier requested a 45-day period in which to negotiate a settlement. Following the settlement period, on August 23, 2011, the Florida Department of Education (Department) transmitted the Administrative Complaint to DOAH for a formal hearing.

Initially, the formal hearing was scheduled for October 25, 2011. Mr. Ferrier requested a continuance, which was granted, and the case was rescheduled for December 13 and 14, 2011.

At the formal hearing, Petitioner called the following witnesses: Blythe Lamy (Ms. Lamy), Linda Mullins (Ms. Mullins), Courtney Northcutt (Ms. Northcutt), Helen Gorman (Ms. Gorman), Robyn Witcher (Ms. Witcher), Heather Nemeth (Ms. Nemeth), James Lott (Mr. Lott), Waid Tribiano (Mr. Tribiano), Aimee Stubbs (Ms. Stubbs), Kelly Jayne (Ms. Jayne), Thomas Lechner

(Mr. Lechner), B.M., M.S., L.T., and C.J.^{2/} Petitioner's Exhibits 1 through 21 were admitted into evidence. Judicial notice was taken of Pinellas County School Board v. Ferrier, Case No. 10-1152 (Fla. DOAH July 29, 2010; Pinellas Cnty. Sch. Bd. Sept. 29, 2010), and Ferrier v. Pinellas County School Board, Case No. 2D10-4965 (Fla. 2d DCA 2011)(per curiam affirmed without opinion). Mr. Ferrier testified on his own behalf and his Exhibits 1, 2, 3, 6, 11, 20, and 22 were admitted into evidence.

A Transcript of the final hearing was filed on January 9, 2012. Petitioner filed an unopposed motion to extend the time to file proposed recommended orders, which was granted. Petitioner and Respondent timely filed their Proposed Recommended Orders on February 8, 2012. The parties' Proposed Recommended Orders have been considered in the preparation of this Recommended Order.

FINDINGS OF FACT

1. Mr. Ferrier holds Florida Educator's Certificate 864022, covering the areas of educational leadership, elementary education, and middle grades integrated curriculum, which is valid through June 30, 2012.

2. At all times pertinent to this case, Mr. Ferrier was employed as a teacher at either Pinellas Park Middle School

(Pinellas Park) or Seminole Middle School (Seminole) in the Pinellas County School District (School District).

3. Petitioner, Dr. Eric Smith, at all times pertinent to this case, is acting as the Florida Commissioner of Education, pursuant to his authority in section 1012.796(6).

4. Mr. Ferrier began teaching at Pinellas Park in the 2006-2007 school year. The record shows by clear and convincing evidence that Mr. Ferrier's performance during the three school years, 2006-2007, 2007-2008, and 2008-2009, was characterized by a lack of organization, failure to effectively communicate with parents and students, failure to provide students with grades and collect school work, and discord.

5. Ms. Gorman, an assistant principal for Pinellas Park, was Mr. Ferrier's immediate supervisor. She evaluated Mr. Ferrier's performance for the three years that he taught at Pinellas Park.

6. Ms. Gorman's first evaluation of Mr. Ferrier for the 2006-2007 school year shows that he earned a score of "1" which indicates Mr. Ferrier was satisfactory. A rating less than level "1" is deemed unsatisfactory. Further, the 2006-2007 evaluation shows that Ms. Gorman expected Mr. Ferrier to make progress in 11 out of 23 areas she assessed in the evaluation. The evaluation form contained 25 areas for assessment. Mr. Ferrier's evaluation shows that Ms. Gorman left two assessment areas blank.

7. For the 2007-2008 school year, Ms. Gorman rated Mr. Ferrier at a level "2" with progress expected in 10 of the 25 areas assessed. Mr. Ferrier's 2007-2008 evaluation showed that he was satisfactory.

8. For the 2008-2009 school year, Ms. Gorman rated Mr. Ferrier as not meeting the minimum expectations for teaching. Out of the 25 measured categories, Ms. Gorman rated Mr. Ferrier as not meeting expectation in 17 categories. Mr. Ferrier failed to meet expectations for subject knowledge; instructional method; respect for students, parents, and colleagues; engaging students; and use of technology in the classroom.

9. Mr. Ferrier's tenure at Pinellas Park was also characterized by repeated failures to answer calls made by parents, disorganization, poor attendance at meetings, arriving to school and classes late, and not acting as a professional in dealing with colleagues.

10. Ms. Witcher, the Pinellas Park principal, provided credible testimony showing Mr. Ferrier's disorganization and propensity for arriving late to school. For example, in the 2008-2009 school year, on the first day of school for returning teachers, Mr. Ferrier arrived at noon as opposed to 8:30 a.m. When asked by Ms. Witcher why he was late, Mr. Ferrier explained that he did not know that school began on that date. Mr. Ferrier's tardiness was indicative of his behavior.

Ms. Witcher clearly testified that on a "few occasions during the first and second year . . . he was so tardy, I had to go down and open the classroom door, let the kids in and wait for him."

11. The record clearly also shows that Mr. Ferrier failed to be responsive to parent concerns about their children.

Ms. Northcutt, the guidance counselor for Pinellas Park, provided credible testimony showing that Mr. Ferrier failed to return parent phone calls, failed to attend parent-teacher meetings, and, if Mr. Ferrier did attend the meeting, he was disorganized and unprepared. The frequency of parents calling Ms. Northcutt to ask Mr. Ferrier to contact them became so great that she "felt almost like a personal secretary to Mr. Ferrier," asking him to return phone calls.

12. In addition to being unresponsive to phone calls, the record clearly shows, through Ms. Northcutt's testimony and e-mails admitted into evidence, that Mr. Ferrier either failed to show up for parent-teacher conferences, or was late and unprepared if he did attend the conference. Parents would contact Ms. Northcutt in her capacity as the guidance counselor because the parents had concerns about Mr. Ferrier's teaching and grading. Mr. Ferrier would routinely fail to timely enter grades of assignments into the computer system so that parents could check their child's progress.

13. The record clearly shows that Mr. Ferrier lacked insight into his professional shortcomings. The record clearly showed that Mr. Ferrier was offered assistance to help him become an organized and effective teacher, but failed to avail himself of the assistance. Further, Mr. Ferrier objected to Ms. Witcher's direction that he not coach the volleyball team and concentrate on teaching. In response to this directive, Mr. Ferrier encouraged parents of the volleyball players to contact Ms. Witcher to change her decision.

14. The record also shows that, during Mr. Ferrier's tenure at Pinellas Park, he did not act as a professional in dealing with colleagues. This finding is based on the events concerning Mr. Ferrier's placement on administrative leave while the School District investigated him for bullying a co-worker, and his subsequent action after returning from administrative leave.

15. Ms. Northcutt credibly testified that, based on Mr. Ferrier's repeated failures to either attend parent-teacher conferences or be on time for them, she began to document these actions and inform Ms. Witcher. At one parent-teacher conference, Ms. Northcutt noted that Mr. Ferrier arrived late, although the parents had not yet arrived. Mr. Ferrier told Ms. Northcutt to note that he had arrived on time, which she replied that he was still late. Two other teachers, who were to attend the conference, also arrived late. One of the teachers

had permission due to a conflict, and the other teacher arrived after attending another conference. Mr. Ferrier demanded that Ms. Northcutt report the two teachers as late. Ms. Northcutt credibly testified that she felt threatened and intimidated by Mr. Ferrier's confrontational behavior. She reported the incident to Ms. Witcher, who referred the incident to the School District, and an investigation was begun. The School District placed Mr. Ferrier on administrative leave, and Ms. Witcher informed Mr. Ferrier that he was to leave the campus quietly. As Mr. Ferrier was leaving the campus, he told everyone that he encountered that he was accused of bullying and that he would return. Ms. Witcher felt that Mr. Ferrier's actions were divisive and sought to undermine her new administration at the school.

16. When Mr. Ferrier returned to the school from the administrative leave, Mr. Lott, the School District's administrator for the Office of Professional Standards, informed Mr. Ferrier to be very careful in his interactions with Ms. Northcutt. Within two days of his return, Mr. Ferrier sent all of the Pinellas Park personnel an e-mail stating that he had been wrongly accused of bullying and that he had been exonerated. Mr. Lott found this action to be inappropriate and a continuation of Mr. Ferrier's efforts to bully Ms. Northcutt. Consequently, based on this action, Mr. Ferrier received a written reprimand

and was involuntarily transferred from Pinellas Park to Seminole. The purpose of transferring Mr. Ferrier to Seminole was to provide him with a fresh start.

17. Unfortunately, the record clearly shows that Mr. Ferrier's short tenure at Seminole was again characterized by ineffective teaching, lack of knowledge of materials he was expected to teach, lack of communication with parents, tardiness, and failure to follow directions to become an effective teacher.

18. Mr. Lechner, the principal at Seminole, assigned Mr. Ferrier to teach regular science classes and three advanced honor science classes. The parents at Seminole are actively involved in their children's education. Thus, many of Mr. Ferrier's short-comings were quickly brought to the attention of Mr. Lechner. The record shows that Mr. Lechner was pro-active in assessing Mr. Ferrier's teaching, offering Mr. Ferrier assistance to become an effective teacher, and ultimately removing Mr. Ferrier from the classroom.

19. The record clearly shows that Mr. Ferrier failed to carry out his duties as a teacher. Specifically, the evidence clearly showed the following instances:

A) Mr. Ferrier was disorganized in the classroom. Mr. Ferrier's disorganization in the classroom was apparent from the very beginning of his tenure at Seminole. During an open house for parents, Mr. Ferrier, in addressing parents of honor

students, did not have a syllabus for the class, pointed out text books that he stated the class probably would not use, and discussed at length discipline issues with the parents. The record shows, however, that honor students typically did not cause discipline problems. Mr. Ferrier's disorganization quickly led students to becoming frustrated in the classroom and parents complaining to Mr. Lechner. Further, this disorganization was reflected in Mr. Ferrier's losing assignments, failing to properly log grades into the school computer system so that parents could access the grades, and losing test results.

Mr. Ferrier's disorganization in the classroom was further documented by Mr. Lechner, who placed Mr. Ferrier on a Professional Service Contract Probation for 90 days during the school year, beginning on September 28, 2009. Mr. Lechner conducted personal observations of Mr. Ferrier's instruction and found it disorganized, confusing, and resulting in students becoming frustrated. Mr. Lechner gave Mr. Ferrier specific instructions on how to improve his teaching, but Mr. Ferrier failed to follow the instructions.

B) Mr. Ferrier continued to be tardy to class and miss important faculty meetings. The record shows through Mr. Lechner's testimony that Mr. Ferrier missed the teachers' mandatory first professional learning community meeting. Although Mr. Lechner could not remember the reason that

Mr. Ferrier gave for missing the meeting, Mr. Lechner testified that Mr. Ferrier "always had an excuse." Based on Mr. Lechner's answer, it was clear that Mr. Ferrier made excuses for his failures, as opposed to acknowledging his mistakes. The record further showed that Mr. Ferrier's tardiness often would extend into the day. The testimony showed that Mr. Ferrier would leave campus and return from lunch 15 minutes late, thus, delaying instruction. As a result of Mr. Ferrier's habitual tardiness, Mr. Lechner required Mr. Ferrier to use a sign-in and sign-out log.

C) Mr. Ferrier used ineffective instructional methods and did not have a grasp of the material that he was to teach. The parents and students, who testified, were unanimous in their consensus that Mr. Ferrier failed to teach anything.

Mr. Ferrier's failure to teach resulted in one student having to "steal" one of the text books that Mr. Ferrier was not using and teach herself physical science. Further, the testimony was clear that, after Mr. Ferrier was relieved of his teaching duties, the students had to "cram" a year's worth of science into half a school year. In essence, Mr. Ferrier cheated the students out of an education.

The conclusion that Mr. Ferrier used ineffective instructional methods and did not have a grasp of the material that he was to teach is supported by the testimony of Ms. Lamy

and Mr. Lechner. The record clearly showed that Mr. Ferrier used "bell work" for a significant period of the teaching time. "Bell work" was defined as work given to students for the first few minutes of class to engage them immediately. Ms. Lamy, who was the School District's supervisor for secondary science, conducted an in-classroom observation of Mr. Ferrier's teaching at Seminole. Ms. Lamy noted that Mr. Ferrier used "bell work" for almost the entire class time. As a result, Mr. Ferrier did not teach. Further, Ms. Lamy observed that Mr. Ferrier did not have control of his class and did not have an adequate lesson plan. Based on her observations, Ms. Lamy made recommendations for Mr. Ferrier on handling the classroom and preparing lesson plans. Unfortunately, the record shows that Mr. Ferrier did not take full advantage of the help being offered to him.

Mr. Lechner's testimony also provided examples from classroom observations that demonstrated Mr. Ferrier's poor instructional methods and lack of understanding of the material he was supposed to teach. For example, Mr. Lechner described a laboratory experiment conducted by Mr. Ferrier. Mr. Ferrier attempted to conduct an experiment demonstrating how an object could change physical states by melting a candy bar. During the experiment, Mr. Ferrier did not use safety gloves when attempting to melt the chocolate bar. Because the chocolate bar did not melt quickly, Mr. Ferrier left the experiment and never came back

to it or the concept behind the experiment. According to Mr. Lechner, Mr. Ferrier modeled poor safety for the students by not using safety gloves and leaving the flame on the candy bar while he moved to another subject, and Mr. Ferrier did not teach the concept behind the experiment. The record showed that Mr. Ferrier would use ineffective methods to teach, such as relying on videos. In one instance, Mr. Ferrier used videos of Michael Jackson and throwing a wadded-up piece of paper in order to demonstrate motion. Finally, in December 2009, during an observation, Mr. Lechner observed Mr. Ferrier teach the students a wrong formula concerning distance over time, which was not corrected until the error was pointed out by a student.

D) Mr. Ferrier did not manage work assignments and tests and failed to properly record grades. The record shows that students would turn in work, but the work would not be graded or posted into the school's computer system so that parents and students could access the information. Further, parents and students complained to Mr. Lechner about erroneous grades, missing grades or assignments, or no grades for tests that had been completed, as well as grades which were either excessively high or excessively low.

F) Mr. Ferrier failed to respond to parental inquiries and was unprepared and untimely when attending parent-teacher meetings. One parent testified about attending a parent-teacher

conference, with Mr. Lechner, where Mr. Ferrier failed to show up.

G) Mr. Ferrier's disorganization resulted in him failing to turn students' answer sheets for mandatory progress monitoring tests into the district office. As Ms. Lamy explained, the state required school districts to turn in students' answer sheets from the test to the Department by December 15, 2010. When the School District started receiving feedback from the tests, Ms. Lamy learned that Mr. Ferrier had not turned in the answer sheets. Subsequently, Mr. Ferrier turned in the answer sheets on or near January 6, 2011. Based on Mr. Ferrier's actions, the School District was not in compliance with the state-ordered mandate.

20. On January 19, 2011, after the 90-day probation period, Mr. Lechner evaluated Mr. Ferrier as not meeting the minimum expectations for teaching. Mr. Ferrier did not meet expectations in 23 of 25 categories, including the areas of subject knowledge, instructional methods, respect for students and parents, engaging students, use of technology, classroom discipline, and organization. Further, Mr. Lechner noted, based on his observations, that Mr. Ferrier continued to be disorganized, his directions were not clear, he was causing confusion, and he was returning papers to students without feedback.

21. The record shows that well into the 90-day probation Mr. Ferrier finally sought assistance, at the insistence of

Mr. Lechner, from the Professional Development and Improvement Network to help him become a better teacher. Unfortunately, the record shows that Mr. Ferrier's teaching ability did not improve and that he continued with many of the same problems that he had at Pinellas Park.

22. The record shows that Mr. Ferrier has no prior disciplinary history with the Florida Education Practices Commission.

CONCLUSIONS OF LAW

23. DOAH has jurisdiction over the parties and the subject matter of this proceeding. §§ 120.569 and 120.57, Fla. Stat. (2011).

24. Petitioner is statutorily authorized to file and prosecute an administrative complaint against a teacher, if Petitioner has determined that probable cause exists that the teacher violated acts set out in section 1012.795(1). § 1012.795(4), (6), Fla. Stat. Further, the Education Practices Commission has the statutory authority to suspend or revoke the teaching certificate of any person or to impose any penalty provided by law, if the person is guilty of certain specified acts.

25. This is a disciplinary action by Petitioner seeking to discipline Mr. Ferrier's teaching certificate. Petitioner bears the burden of proof to demonstrate the allegations in the

Administrative Complaint by clear and convincing evidence.

Dep't of Banking & Fin. v. Osborne Stern & Co., 670 So. 2d 932 (Fla. 1996); Ferris v. Turlington, 510 So. 2d 292 (Fla. 1987).

As stated by the Florida Supreme Court:

Clear and convincing evidence requires that the evidence must be found to be credible; the facts to which the witnesses testify must be distinctly remembered; the testimony must be precise and lacking in confusion as to the facts in issue. The evidence must be of such a weight that it produces in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established.

In re Henson, 913 So. 2d 579, 590 (Fla. 2005), quoting Slomowitz v. Walker, 429 So. 2d 797, 800 (Fla. 4th DCA 1983).

26. The Administrative Complaint contains four counts charging Mr. Ferrier with the following: (1) violating section 1012.795(1)(c), in that Mr. Ferrier is incompetent to teach or to perform duties as a teacher; (2) violating section 1012.795(1)(g), in that his personal conduct seriously reduces his effectiveness as a teacher; (3) violating section 1012.795(1)(j), in that Mr. Ferrier has violated the Principles of Professional Conduct for the Education Profession as prescribed by the State Board of Education rules; and (4) violating rule 6B-1.006(3)(a) in that Mr. Ferrier failed to make reasonable efforts to protect students from conditions harmful to learning.

27. Although chapter 1012 does not contain a definition of "incompetent," the Education Practices Commission has defined "incompetency" by rule for local school districts' use in taking action against instructional personnel:

(1) Incompetency is defined as inability or lack of fitness to discharge the required duty as a result of inefficiency or incapacity. Since incompetency is a relative term, an authoritative decision in an individual case may be made on the basis of testimony by members of a panel of expert witnesses appropriately appointed from the teaching profession by the Commissioner of Education. Such judgment shall be based on a preponderance of evidence showing the existence of one (1) or more of the following:

(a) Inefficiency: (1) repeated failure to perform duties prescribed by law (Section 231.09, Florida Statutes); (2) repeated failure on the part of a teacher to communicate with and relate to children in the classroom, to such an extent that pupils are deprived of minimum educational experience; or (3) repeated failure on the part of an administrator or supervisor to communicate with and relate to teachers under his or her supervision to such an extent that the educational program for which he or she is responsible is seriously impaired.

(b) Incapacity: (1) lack of emotional stability; (2) lack of adequate physical ability; (3) lack of general educational background; or (4) lack of adequate command of his or her area of specialization.

Fla. Admin. Code R. 6B-4.009.

28. Applying the Florida Administrative Code Rule 6B-4.009 definition to the facts here, Petitioner has shown by clear and convincing evidence that Mr. Ferrier is incompetent through his repeated failure to meet the minimum standards required by the School District to teach as shown by his evaluations, the testimony on the observations conducted by Mr. Lechner and Ms. Lamy, and the testimony of the parents and students. Further, the record clearly shows that Mr. Ferrier was continuously provided offers of assistance to help him correct his deficiencies and meet the minimum standards, but that he was unable to correct his deficiencies. The record clearly and convincingly shows that Mr. Ferrier did not grasp the material that he was teaching and did not use effective instructional methods to communicate and relate to the children. Therefore, Petitioner has established by clear and convincing evidence that Mr. Ferrier violated section 1012.795(1)(c).

29. Next, Petitioner alleges that Mr. Ferrrier is guilty of personal misconduct which seriously reduces his effectiveness as an employee of the Pinellas County School Board, in violation of section 1012.795(1)(g). The record here shows by clear and convincing evidence that Mr. Ferrier violated section 1012.795(1)(g). As detailed in the Findings of Fact, Mr. Ferrier's incompetence to teach, his habitual tardiness, and

repeated lack of responsiveness to parents and teachers reduced his effectiveness as an employee of the School Board.

30. The record showed by clear and convincing evidence that Mr. Ferrier was not teaching students, that he lacked a grasp of the material, that he failed to post grades or return assignments, and that his incompetence caused confusion and frustration in the classroom. In one instance, Mr. Ferrier's incompetence led a student to teach herself the subject. Moreover, once Mr. Lechner removed Mr. Ferrier as a teacher, the students had to cover a year's worth of work in half the time. Further, the record showed that his habitual tardiness would result in him missing important teacher training meetings, missing meetings with parents, failing to turn in state-mandated test answer sheets, and not being on time in order to teach for the full class time. The result was that students were cheated out of the education they deserve. Consequently, the record established by clear and convincing evidence that Mr. Ferrier violated section 1012.795(1)(g).

31. In Counts III and IV of the Administrative Complaint, Petitioner charged Mr. Ferrier with violating section 1012.795(1)(j) and rule 6B-1.006(3)(a).

32. Section 1012.795(1)(j) provides for discipline if a teacher "[h]as violated the Principles of Professional Conduct

for the Education Profession prescribed by State Board of Education rules."

33. Rule 6B-1.006, titled "Principles of Professional Conduct for the Education Profession in Florida," provides in pertinent part:

(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.

(3) Obligation to the student requires that the individual:

(a) Shall 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.

34. The record showed by clear and convincing evidence that Mr. Ferrier violated section 1012.795(1)(j) and rule 6B-1.006(3)(a). Mr. Ferrier's incompetence resulted in students not receiving proper instruction, confusion and frustration in the classroom, and lack of consistent feedback through grades. See Smith, as Comm'r of Educ. v. Bowman, Case No. 11-4422PL, 2012 Fla. Div. Adm. Hear Lexis 41 (Fla. DOAH Jan. 19, 2012)(finding that teacher violated section 1012.795(j) and rule 6B-1.006(3)(a) where evidence showed that the teacher "not only

rejected attempts to assist her with improving her skills, but failed to communicate with parents whose children were failing her classes. The evidence shows that Respondent's students were not engaged in the learning process, were not receiving consistent instruction, and were not receiving instruction aligned to clearly delineated standards.").

35. Section 1012.796(7) provides the Education Practices Commission with the authority to discipline Mr. Ferrier's educator's certificate. Further, rule 6B-11.007 sets out factors to consider in determining an appropriate discipline. Here, the Education Practices Commission has the range of authority from probation to revocation of Mr. Ferrier's educational certificate.

36. In determining the appropriate discipline, Florida Administrative Code Rule 6B-11.007(3) provides a list of aggravating and mitigating facts that may be considered in taking disciplinary action. Turning to the facts here, the record shows as aggravating circumstances that Mr. Ferrier had repeatedly failed to perform his duties as a teacher at both schools. Further, the record showed that it was not until well into his probation at Seminole that Mr. Ferrier sought assistance from the Professional Development and Improvement Network to correct his teaching deficiencies.

37. Further, the record shows that this is the first disciplinary action by the Education Practices Commission against Mr. Ferrier.

38. Petitioner's Proposed Recommended Order sought a penalty of revoking Mr. Ferrier's educator's certificate for two years, followed by a period of three years' probation under terms and conditions deemed appropriate. The undersigned finds Petitioner's recommended penalty is reasonable in light of the record.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that a final order be entered finding that Mr. Ferrier violated sections 1012.795(1)(c), 1012.795(1)(g), and 1012.795(1)(j) and rules 6B-1.006(3)(a) and that Mr. Ferrier's educator's certificate be revoked for two years followed by a period of three years' probation under terms and conditions deemed appropriate.

DONE AND ENTERED this 9th day of March, 2012, in
Tallahassee, Leon County, Florida.



THOMAS P. CRAPPS
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Filed with the Clerk of the
Division of Administrative Hearings
this 9th day of March, 2012.

ENDNOTES

^{1/} Unless otherwise indicated, all references to the Florida Statutes are to the 2010 version.

^{2/} Petitioner presented the testimony of students who had been assigned to Mr. Ferrier's class at Seminole Middle School. In order to protect the student's privacy, the undersigned used the student's initials as opposed to full name.

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.