

THE SCHOOL BOARD OF LEE COUNTY, FLORIDA

JOSEPH BURKE, Ed.D.,)
SUPERINTENDENT,)
)
Petitioner,) Case No. 12-0002
) DOAH Case No. 12-000131
v.)
)
JERRY ZURZOLO,)
)
Respondent.)

FINAL ORDER

THIS CAUSE came to be heard on this the 31st day of July, 2012, before the School Board of Lee County, Florida, and said School Board finds as follows:

1. Jerry Zurzolo ("Respondent") is employed by The School Board as a teacher. Respondent is an "instructional employee," as defined by §1012.01(2)(a), Florida Statutes, and is governed by the collective bargaining agreement between the School Board and the Teachers Association of Lee County ("TALC"). The standard for the discipline of instructional personnel is "just cause" pursuant to §1012.33, Florida Statutes. The Superintendent has authority to recommend dismissal of Respondent, and the School Board has authority to dismiss Respondent from his employment. §§1012.27(5) and 1012.22(1)(f), Florida Statutes.

2. On August 4, 2011, the Respondent was informed via letter from Joseph Burke, Superintendent, that he was being placed on performance probation pursuant to §1012.34, Florida Statutes.

3. The Intensive Assistance process commenced on August 18, 2011. For several weeks the members of the team conducted classroom observations of the Respondent and held weekly meetings with him to review their findings.

4. The final meeting of the team took place on November 15, 2011. The team analyzed the data collected throughout the process and came to a consensus that a recommendation be made to the Superintendent that the Respondent's employment be terminated.

5. On December 12, 2011, counsel for the Respondent informed the Petitioner that the Respondent was requesting a formal administrative hearing on the matter.

6. The Respondent was suspended without pay effective January 11, 2012.

7. The final hearing took place on March 7 through 9, 2012, before Administrative Law Judge (ALJ) R. Bruce McKibben.

8. The ALJ issued his Recommended Order on May 9, 2012.

9. The ALJ found that despite the fact that Respondent is not the best teacher and has several shortcomings, there was insufficient evidence that he is incompetent. The IAP process did not establish just cause for termination of Respondent's employment.

10. In addition, the ALJ found that under the "performance probation" process, it is the duty of school administration to provide assistance in helping correct deficiencies within a prescribed period of time. The ALJ determined that the School Board failed in that regard.

It is ORDERED as follows:

11. The Petition for Termination is hereby rescinded effective July 31, 2012.

12. 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 31st day of July 2012.


Mary Fischer, M.A., Chairman

Copies to:

Robert Dodig, Jr., Staff Attorney
Robert Coleman, Respondent's Attorney
Division of Administrative Hearings
Personnel File