

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

MANATEE COUNTY SCHOOL BOARD,)
)
 Petitioner,)
)
vs.) Case No. 12-1271TTS
)
JAMES A. WITHERS,)
)
 Respondent.)

)

AMENDED RECOMMENDED ORDER

Pursuant to notice, a final hearing was held in this case on August 8, 2012, in Bradenton, Florida, before Administrative Law Judge Linzie F. Bogan, a designated Administrative Law Judge of the Division of Administrative Hearings.

APPEARANCES

For Petitioner: Erin G. Jackson, Esquire
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STATEMENT OF THE ISSUE

Whether there is just cause for the Manatee County School Board to suspend without pay the employment of James A. Withers for a period of ten school days.

PRELIMINARY STATEMENT

On or about April 3, 2012, Petitioner, Manatee County School Board (Petitioner), through Timothy McGonegal, as Superintendent of Schools, served on Respondent, James A. Withers (Respondent), an Administrative Complaint recommending Respondent's suspension from employment for a period of ten days without pay. Respondent timely filed his request for administrative hearing, and on April 12, 2012, the matter was referred to the Division of Administrative Hearings for a disputed fact hearing. At the request of the parties, the disputed fact hearing was held on August 8, 2012.

During the final hearing, Petitioner offered the testimony of Deborah Houston, Tawanda Means, and Debra Horne. Respondent testified on his own behalf and offered the testimony of no other witnesses. Petitioner's Exhibits 1, 14 (with attachments), and 15 through 19 were admitted into evidence. Respondent did not offer any evidentiary exhibits.

A Transcript of the proceeding was filed with the Division of Administrative Hearings on August 27, 2012. By agreement, each party filed its Proposed Recommended Order (PRO) on

September 17, 2012. The respective PROs were considered in the preparation of this Recommended Order.

FINDINGS OF FACT

1. Petitioner is the duly authorized entity responsible for providing public education in Manatee County, Florida.

2. Respondent is currently employed by Petitioner as a member of the instructional staff. Respondent's employment is subject to section 1012.33, Florida Statutes,^{1/} which provides that his employment will not be suspended or terminated, except for just cause. As a teacher, Respondent is required to abide by all Florida Statutes which pertain to teachers, the Code of Ethics of the Educational Profession in Florida (Code of Ethics), the Principles of Professional Conduct of the Education Profession in Florida (Principles of Conduct), and the Policies and Procedures Manual of the School Board of Manatee County, Florida (Policies and Procedures Manual), to the extent that the policies and procedures do not conflict with Florida Statutes.

3. During the 2010 calendar year, Petitioner counseled Respondent and issued him a written reprimand for inappropriate behavior. Specifically, Respondent was counseled or disciplined as follows:

A. On March 24, 2010, while Respondent was a teacher at Prine Elementary, he was given a written directive from Principal Dr. Guy Grimes that instructed Respondent to refrain from making physical contact with any student

unless an emergency arose in which the student was attempting to harm himself or others.

B. On October 5, 2010, Respondent received a written reprimand for his actions on September 27, 2010, and September 28, 2010, wherein he had an inappropriate conversation with his class regarding the discipline of one of his students and an unprofessional conversation with his peers. Respondent's behavior was deemed by Petitioner to be in violation of the Code of Ethics and the Principals of Professional Conduct of the Education Profession in Florida. Respondent was instructed to attend sensitivity training and warned that any recurrence of such behavior would result in further discipline, up to and including termination of employment.

C. On October 29, 2010, Petitioner's Office of Professional Standards ("OPS") conducted an investigation based on an allegation that Respondent made an inappropriate comment to a female staff member. Specifically, Respondent, who was dressed as a cowboy for the school parade, allegedly commented to a female staff member that she should "save a horse, ride a cowboy." OPS determined that the allegation was unfounded and no disciplinary action was warranted. Respondent, however, was issued a written directive from his supervisor to cease and desist from making comments that could be considered offensive.

4. During the 2011-2012 academic school year, Respondent was employed as a special area science teacher at Prine Elementary School ("Prine"). Due to a shortage of traditional classrooms at the school, Respondent was assigned to teach his classes on the stage in the school's cafetorium. A cafetorium is

a multi-purpose room that serves as both a cafeteria and an auditorium. Respondent's classroom consisted of a desk for his use and long rectangular tables for use by the students during periods of instruction. Curtains were available in order to partition the classroom from the rest of the cafetorium, if necessary.

5. Special events are often scheduled on the stage in the cafetorium. Whenever a special event is scheduled, Respondent is notified in advance so that he can make arrangements to report to his students' homeroom in order to teach his class.

6. On January 3, 2012, fellow Prine employee, Amy Moore (Ms. Moore), emailed Respondent to inform him that a dance party for students would be held in the cafetorium on February 3, 2012. The dance party was part of an incentive program that rewarded students for good behavior. On February 1, 2012, Ms. Moore sent an email to Prine staff, including Respondent, informing them that the dance party was rescheduled to February 10, 2012. On February 6, 2012, Ms. Moore sent staff another email reminding them of the dance party and included in the email the following schedule which details when students were to report to the cafetorium:

8:45 - 9:15 Kdg. and PK

9:25 - 9:55 2nd

10:05 - 10:35 3rd

1 - 1:30 1st

1:40 - 2:10 4th

2:20 - 2:50 5th

Ms. Moore's February 6, 2012, email reminder to staff also noted that "Ms. Means, the DJ [disk jockey,] will start on time for each party, so have your children in the auditorium on time."

Respondent knew, or certainly should have known, that his classroom would be used for the dance party on February 10, 2012.

7. Tawanda Means (Ms. Means), who works for Petitioner as a music and movement teacher at Virgil Mills Elementary (Virgil Mills), was assigned by Petitioner to serve as DJ and host for the dance party at Prine. On Friday, February 10, 2012, Ms. Means reported to Prine around 8:15 a.m., which allowed her plenty of time to set-up her equipment for the dance party. Upon her arrival, Ms. Means checked in at the school's front office and then spoke with one of the school's custodians about her need to use one of the school's golf carts so that she could transport her equipment from her car to the stage in the cafetorium.

8. When Ms. Means arrived at the cafetorium, she observed that Brenda Flach, music teacher at Prine, and Respondent were having a conversation. She also observed that a portion of the stage in the cafetorium was set up as a classroom. During the several other times when Ms. Means had used the cafetorium for dance party events, the stage had never been set up as a

classroom. Ms. Means was surprised to see the stage configured in this manner, so she proceeded to investigate the set-up so as to ensure that it would not interfere with the dance party. As Ms. Means began setting up her equipment, Respondent rudely said to her, "Hey, what are you doing in my classroom?" Ms. Flach also made statements to Ms. Means that were rude in tone. Ms. Means informed Respondent that she was there "to do the dance," to which Respondent replied "I know that . . . [b]ut I thought you [were] supposed to use the outside." Ms. Means sensed that Respondent was feeling possessive of his classroom space, and she also sensed that Respondent was getting angry. Ms. Means was offended by Respondent's behavior, and in order to avoid continued conflict with Respondent, she felt it necessary to seek assistance from Ms. Houston, the assistant principal at Prine. Ms. Means left the cafetorium and immediately went to the front office to report the situation to Ms. Houston.

9. Ms. Means met with Ms. Houston and explained the situation regarding Respondent's behavior. Ms. Houston assured Ms. Means that the cafetorium was the correct location for the dance party and returned with Ms. Means to the cafetorium so as to ensure that the situation was resolved without further conflict. Upon arrival at the cafetorium, Ms. Houston reminded Respondent that Ms. Means would be using the stage throughout the day for the dance party. Ms. Houston assisted Ms. Means with

completing the set-up of her equipment and then Ms. Houston returned to her office. Respondent did not offer to assist the two ladies with setting up the equipment.

10. During the first dance party session hosted by Ms. Means, Respondent remained in the cafetorium and stood to the side of the stage with his arms folded while glaring at Ms. Means. Ms. Means observed Respondent's posture. According to Ms. Means, Respondent's conduct of "giving her the eye," while simultaneously "standing there with his arms folded," was "freaking [her] out," and it made her very uncomfortable. Respondent admits that he was standing with his arms crossed. He claims, however, that there was nothing threatening about his posture and that he was essentially in a joyous mood due to the pleasure that he experienced while watching the children dance. Respondent's testimony in this regard is not credible. Not only was Respondent not in joyous mood, but he was perturbed by the fact that he had been essentially evicted from his classroom and was relegated to what was essentially a nomadic form of existence for the remainder of the work day.

11. There were no dance party sessions scheduled on the day in question between 10:35 a.m. and 1:00 p.m. Ms. Means used this block of time to screen lyrics for upcoming sessions. When screening lyrics, Ms. Means listens to songs through her headset, while simultaneously using her computer to reconcile the written

lyrics with what she is hearing audibly. The process of using the headset prevents others in the room from hearing what the user of the headset hears.

12. During the time when Ms. Means was screening lyrics, Respondent claims that he tried unsuccessfully to get her attention. Ms. Means was unaware of the fact that Respondent was in the cafetorium at this time or that he was trying to get her attention. Respondent made himself known to Ms. Means when he approached her from behind, reached over her shoulder while she was seated at her computer, and gestured in such a way as to reasonably cause Ms. Means to believe that Respondent was trying to get to her computer. Upon observing Respondent's actions, Ms. Means stated to Respondent, "What are you doing? Don't touch my things!" Respondent then told Ms. Means that there was no reason for her to be on the stage and that she should leave. Respondent then pulled back the table at which Ms. Means was seated, thereby, causing her equipment to become unplugged. Respondent offered to assist Ms. Means with reconnecting the equipment, but Ms. Means reasonably refused the offer and immediately left the stage to report Respondent's conduct to Ms. Houston.

13. Respondent desired for Ms. Means to leave the stage because he wanted to use his classroom to instruct his students during the time between dance parties. On days when special

events are held in the cafetorium, especially events that last the entire school day, it is standard protocol, as previously noted, for Respondent to conduct his classes in his students' homeroom. In order to conduct the classes in the respective homerooms, Respondent was required to plan ahead so as to ensure that the homerooms would be available.

14. As early as January 3, 2012, Respondent was given a "heads up" about the upcoming dance party so that he could "plan ahead." It is not clear from the record how the change of dates for the dance party from February 3, 2012, to February 10, 2012, impacted Respondent's planning, if at all. What is clear, however, is that Respondent expected to use his classroom during the block of time between 10:35 a.m. and 1:00 p.m. Whatever Respondent's expectation may have been regarding the use of his assigned classroom on the day in question; there is no excuse for Respondent's conduct of stealthily maneuvering himself behind Ms. Means, reaching over her shoulder in an attempt to get to her computer, and then telling Ms. Means that she needed to leave the stage. If Respondent had concerns about the use of the classroom by Ms. Means, the professional thing to do would have been for Respondent to go to Ms. Houston to discuss the situation, instead of trying to bully Ms. Means into submission.

15. When Ms. Means reported the "computer" incident to Ms. Houston, she was so upset by Respondent's conduct that she

requested that Ms. Houston allow her to contact Michael Rio, her principal at Virgil Mills Elementary, so that she could advise him of the situation and secure permission to immediately return to her home school. Ms. Houston informed Ms. Means that it was not necessary for her to contact Mr. Rio and assured Ms. Means that she would take care of the situation with Respondent.

16. Ms. Houston reported to the stage and discussed the incident with Respondent. Ms. Houston told Respondent that "Ms. Means was upset" and that she thought he was being very rude, as partially evidenced by him attempting to turn off her computer. Ms. Houston asked Respondent to apologize to Ms. Means since she was a guest at the school. Respondent became defensive; he said he did not do anything wrong and that he did not feel like he needed to apologize to Ms. Means. Ms. Houston gave Respondent a specific directive to apologize to Ms. Means and "make it right." Ms. Houston's directive to Respondent was reasonable, and as the assistant principal, she possessed the authority to issue this directive to Respondent.

17. Respondent left the stage and reported to Ms. Houston's office to speak with Ms. Means. Ms. Houston stayed in the cafeteria with Respondent's students. After a minute or two, Ms. Houston decided that she should be present when Respondent apologized to Ms. Means. Accordingly, Ms. Houston then escorted

Respondent's students to the foyer area near her office so that she could join Respondent and Ms. Means in her office.

18. According to Ms. Means, she was sitting in a chair in Ms. Houston's office when Respondent arrived. Upon entering the office, Respondent approached Ms. Means and put his finger within inches of her face. Respondent then stated to Ms. Means, in a raised voice, "What is your problem? Why won't you just do what I ask you to do?" Respondent stood over Ms. Means for several minutes while speaking to her in a harsh and loud tone. Respondent did not apologize to Ms. Means as he had been instructed to do.

19. When Ms. Houston arrived at her office, she observed Respondent "standing over" Ms. Means and talking to her in a loud and unprofessional tone. He was not apologizing to Ms. Means as he had been instructed to do. Ms. Houston quickly intervened and asked Respondent what he was doing. Respondent told Ms. Houston that Ms. Means was not telling the truth and that he was surprised that Ms. Houston was not supporting him. Ms. Houston instructed Respondent to "stop yelling" at her, but he ignored Ms. Houston's reasonable directive and continued to "rant and rave" in a very aggressive and raised voice.

20. Respondent testified that he believed Ms. Houston was "disrespecting" him by not believing his side of the story and that Ms. Houston was more concerned with getting him "to be

quiet" as opposed to listening to what he had to say.

Incredibly, at one point during the hearing, Respondent testified that he believed that Ms. Houston and Ms. Means had conspired to "set him up." Contrary to what Respondent may believe, he is not the victim in this case.

21. During the time when Respondent was yelling at Ms. Houston, Ms. Means exited Ms. Houston's office. Although Ms. Means closed the door behind her, she could still hear Respondent "yelling" at Ms. Houston. Upon leaving the office, Ms. Means saw Respondent's students sitting near Ms. Houston's office. Ms. Means moved the students away from the office area and started playing hand games with the students, because she did not want them to hear Respondent yelling at Ms. Houston.

22. After several minutes, Respondent exited Ms. Houston's office and started to walk down the hallway. Respondent did not notice that his students were in the area. Ms. Houston called out to Respondent to let him know that his class was in the foyer. When Respondent heard his name being called by Ms. Houston, he turned towards her and said, "What?" in a very loud and unprofessional tone. Ms. Houston, in reply to Respondent, said, "Excuse me? Your class is over there."

23. Approximately ten minutes after leaving Ms. Houston's office, Respondent returned and informed the office secretarial staff that he was going home. Respondent signed out for the day

at 11:55 a.m., and noted on the sign-out sheet that he was "sick." After signing out, Respondent briefly stopped by Ms. Houston's office and said to her, "I'm sick, I am leaving."

24. It is standard protocol at Prine that if a teacher signs out prior to the end of the school day for non-emergency reasons, then it is the responsibility of the teacher to make arrangements with other instructional staff to cover the teacher's classes for the remainder of the day. Respondent failed to make proper arrangements to have his classes covered following his departure from campus, and this resulted in a disruption to the orderly operation of the school because other teachers were unexpectedly required to cover Respondent's last three classes of the day.

25. When Respondent returned to work, he submitted a Leave of Absence Request for February 10, 2012, for the time period beginning at 11:55 a.m., and ending at 3:30 p.m. On the form, Respondent circled the type of leave requested as "illness." Respondent admits that for the period in question, he was not physically sick, but was, instead, "emotionally sick" and "upset."

CONCLUSIONS OF LAW

26. The Division of Administrative Hearings has jurisdiction over the parties and the subject matter of this proceeding. §§ 120.569 & 120.57(1), Fla. Stat. (2012).

27. Petitioner bears the burden of proving by a preponderance of the evidence that just cause exists for the suspension of Respondent's employment. McNeill v. Pinellas Cnty. Sch. Bd., 678 So. 2d 476, 477 (Fla. 2d DCA 1996); Dileo v. Sch. Bd. of Dade Cnty., 569 So. 2d 883 (Fla. 3d DCA 1990).

28. Pursuant to section 1012.27(5), the superintendent has authority to recommend to the School Board that an employee be suspended.

29. Pursuant to sections 1012.22(1)(f) and 1012.33(6)(a), the School Board has the authority to suspend employees like Respondent for just cause. Section 1012.33(1)(a) provides, in part, that "[j]ust cause includes, but is not limited to, the following instances as defined by rule of the State Board of Education: immorality, misconduct in office, incompetency, gross insubordination, willful neglect of duty, or conviction of a crime involving moral turpitude." Section 1012.33 does not purport to be an all-inclusive list of conduct that constitutes "just cause" for suspending an employee. By specifically providing that "just cause includes, but is not limited to . . .," the Florida Legislature gave school boards limited discretion to determine what actions constitute just cause for suspension or dismissal. See Dietz v. Lee Cnty. Sch. Bd., 647 So. 2d 217 (Fla. 2d DCA 1994) (per curiam affirmed); Manatee

Cnty. Sch. Bd. v. Wampole, Case No. 12-0801 (Fla. DOAH Aug. 16, 2012) (Recommended Order).

30. As a member of the School Board's instructional staff, Respondent's employment is subject to section 6.11(1) of the Policies and Procedures Manual, which provides that,

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, [or] violation of the Code of Ethics and the Principles of Professional Conduct of the Education Profession in Florida.

I. Gross insubordination

31. Paragraph 25 of the Administrative Complaint alleges that Respondent "engaged in misconduct as defined in Rule [6A-5.056(4)], F.A.C.,^[2/] which provides that gross insubordination or willful neglect of duties is a constant or continuing intentional refusal to obey a direct order, reasonable in nature, and given by and with proper authority."

32. The evidence establishes that Ms. Houston, who possessed authority to do so, gave Respondent a specific directive to "make it right" and to "apologize" to Ms. Means. Respondent refused to do so. The evidence also establishes that

Ms. Houston instructed Respondent to "stop yelling" at her, but Respondent also ignored this directive and continued to "rant and rave" in a very aggressive and raised voice. The two incidents where Respondent refused to comply with Ms. Houston's directives did not occur as part of a single outburst, but were, instead, separate, stand-alone acts. Cf., Smith v. Sch. Bd. of Leon Cnty. Fla., 405 So. 2d 183, 185 (Fla. 1st DCA 1981) (isolated outburst is not constant or continuing within meaning of "gross insubordination."). The superintendent has met its burden of establishing that Respondent's unreasonable refusal to comply with Ms. Houston's reasonable directives constitutes gross insubordination.

II. Harassment

33. Paragraph 26 of the Administrative Complaint alleges that Respondent's "actions violated rule 6B-1.006(5)(d), Florida Administrative Code, which requires that the individual shall not engage in harassment or discriminatory conduct which unreasonably interferes with an individual's performance of professional or work responsibilities or with the orderly processes of education or which creates a hostile, intimidating, abusive, offensive, or oppressive environment" The superintendent established by a preponderance of the evidence that Respondent's conduct created a hostile, intimidating and offensive work environment for fellow school board employee, Ms. Means, and that said

conduct constitutes harassment within the meaning of rule 6B-1.006(5)(d).

III. Misconduct

34. Paragraph 24 of the Administrative Complaint alleges that Respondent "engaged in misconduct as defined in rule [6A-5.056(3)], Florida Administrative Code" A violation of this rule requires a showing that the alleged misconduct "is so serious as to impair the individual's effectiveness in the school system." While Respondent's conduct is reprehensible, the school board failed to offer sufficient evidence establishing impairment to Respondent's effectiveness in the school system.

35. Petitioner argues that Respondent's unprofessional and rude behavior towards to Ms. Houston and Ms. Means is of such a nature that it "speaks for itself" for purposes of establishing impairment of Respondent's effectiveness in the school system. See, e.g., Purvis v. Marion Cnty. Sch. Bd., 766 So. 2d 492, 498 (5th DCA 2000); Walker v. Highlands Cnty. Sch. Bd., 752 So. 2d 127, 128-29 (Fla. 2d DCA 2000); Brevard Cnty. Sch. Bd. v. Jones, Case No. 06-32 1033, 2006 Fla. Div. Admin. Hear. LEXIS 287 *17 (Fla. DOAH June 30, 2006) (Recommended Order) ("[T]he need to demonstrate 'impaired effectiveness' is not necessary for instances where the misconduct by a teacher speaks for itself, or can be inferred from the conduct in question."). While Respondent's conduct certainly deviated from the norm, the

conduct does not rise to the level of being so repulsive that it constitutes per se evidence of misconduct. Had Respondent's alleged conduct been sufficiently egregious so as to satisfy the "speaks for itself" standard, then it certainly seems reasonable that Petitioner would have sought disciplinary action far greater than ten days' suspension without pay. Petitioner has failed to meet its burden as to this allegation.

IV. Sick leave

36. Paragraphs 28 and 29 of the Administrative Complaint charge Respondent with violating rule 6B-1.006(5) (a) and (h), because he allegedly misrepresented the nature of his illness when he left campus on the day in question. Conspicuously absent from Petitioner's proof as to this issue is a copy of the School Board's policy or procedure governing the proper use of sick leave. Petitioner argues that Respondent was dishonest when he represented on his leave form that he was "sick" because Respondent was only "emotionally sick" and the form contemplates use only in instances of "physical illness." There is nothing on either the sign-out sheet or the Leave of Absence Request form signed by Respondent that distinguishes physical illness from emotional illness. In the absence of an established policy or procedure governing the use of sick leave, there is no objective standard by which the undersigned is able to evaluate Respondent's behavior. See generally Purvis v. Dept. of Prof'l

Reg., 461 So. 2d 134 (Fla. 1st DCA 1984). Petitioner has failed to meet its burden as to the allegations set forth in paragraphs 28 and 29 of the Administrative Complaint.

V. Code of Ethics

37. Paragraph 27 of the Administrative Complaint alleges that Respondent's "actions violated rule 6B-1.001(3), Florida Administrative Code, which states "the educator is aware of the importance of maintaining the respect and confidence of one's colleagues, of students, or parents, and of other members of the community, and therefore strives to achieve and sustain the highest degree of ethical conduct." Rule 6B-1.001 is the Code of Ethics.

38. As stated in Miami-Dade County School Board v. Brenes, Case No. 06-1758, 2007 Fla. Div. Adm. Hear. LEXIS 122 at *42 n.12 (Fla. DOAH Feb. 27, 2007; Miami-Dade Cnty. Sch. Bd. Apr. 25, 2007):

The precepts set forth in the Ethics Code . . . are so general and so obviously aspirational as to be of little practical use in defining normative behavior. It is one thing to say, for example, that teachers must "strive for professional growth." See Fla. Admin. Code R. 6B-1.001(2). It is quite another to define the behavior which constitutes such striving in a way that puts teachers on notice concerning what conduct is forbidden. The principles of Professional Conduct [found in rule 6B-1.006] accomplish the latter goal, enumerating specific "dos" and "don'ts." Thus, it is concluded that while any violation of one of the Principles

would also be a violation of the Code of Ethics, the converse is not true. Put another way, in order to punish a teacher for misconduct in office, it is necessary but not sufficient that a violation of a broad ideal articulated in the Ethics Code be proved, whereas it is both necessary and sufficient that a violation of a specific rule in the Principles of Professional Conduct be proved.

39. Petitioner, as noted above, proved that Respondent violated certain Principles of Conduct. Petitioner also proved that Respondent violated the Code of Ethics by showing that Respondent's behavior towards Ms. Means and Ms. Houston fell below the standard of conduct contained in rule 6B-1.001(3), which requires that an educator maintain respect for one's colleagues.

40. Respondent's violations, individually and collectively, constitute just cause for his ten-day suspension from employment.


RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Manatee County School Board enter a final order that:

1. Dismisses paragraphs 24, 28, and 29 of the Administrative Complaint;
2. Finds the violation alleged in paragraphs 25 through 27 of the Administrative Complaint are substantiated; and
3. Concludes that the violations, individually and collectively, constitute just cause to suspend Respondent's

employment with the Manatee County School Board for ten school days without pay.^{3/}

DONE AND ENTERED this 8th day of October, 2012, in Tallahassee, Leon County, Florida.



LINZIE F. BOGAN
Administrative Law Judge
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Filed with the Clerk of the
Division of Administrative Hearings
this 8th day of October, 2012.

ENDNOTES

^{1/} All subsequent references to Florida Statutes will be to 2011, unless otherwise indicated.

^{2/} Effective April 5, 1983, Florida Administrative Code Rule 6B-4.009 was transferred to Florida Administrative Code Rule 6A-5.056. The Administrative Complaint correctly references the substance of the rule and corresponding numbered paragraphs, but incorrectly references the chapter number for the rule. Consequently, rule 6A-5.056 will be substituted herein and designated by the utilization of brackets ([]).

^{3/} There was credible evidence offered that Respondent's hasty departure from school during the middle of the work day on February 10, 2012, caused a disruption to the orderly operation of the school. There were, however, no allegations that Respondent's midday departure violated any specific policy or procedure established by the Manatee County School Board. Accordingly, any final disciplinary action to be imposed against Respondent by Petitioner should not be based upon any findings

set forth herein that relate to the disruption caused by Respondent's hasty departure from school.

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.