

BEFORE THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA

E. WAYNE GENT,
Superintendent of Schools
Petitioner,

FILED

2013 FEB 12 AM 11 49

vs.

DIVISION OF
ADMINISTRATIVE
HEARINGS

DOAH Case No.: 12-2009TTS
Honorable Robert E. Meale

PAULA PRUDENTE
Respondent.

FINAL ORDER

THIS CAUSE came before the SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA (hereinafter referred to as "SCHOOL BOARD") pursuant to Florida Statutes §§120.569 and 120.57 on January 30, 2013 in West Palm Beach, Florida for the purposes of reviewing the Recommended Order of the Administrative Law Judge dated December 7, 2012, hearing exceptions to the aforementioned Recommended Order and Petitioner's Response to Respondent's Exceptions and ruling upon Petitioner's Motion to Strike dated January 11, 2013. (Copies of which are attached hereto as Exhibits A, B, C and D, respectively) in the above styled case (hereinafter referred to as the "Agency Hearing").

Shawntoyia Bernard, Esq. represented the Petitioner at all stages of the case. The Respondent was represented by Jeff Sirmons, Esq. at the hearing before the Administrative Law Judge on September 21, 2012, and at the Agency Hearing during the portion of the hearing dedicated to ruling on Petitioner's Motion to Strike. Upon review of the Recommended Order, the Respondent's Exceptions, Petitioner's Response to the Exceptions, Petitioner's Motion to Strike,

arguments of the Parties, and after review of the complete record in this case, the SCHOOL BOARD makes the following findings and conclusions:

RULING ON MOTION TO STRIKE

Florida case law holds that parties in formal administrative proceedings must alert reviewing agencies to any perceived defects in recommended orders by filing exceptions. *See Comm'n on Ethics v. Barker*, 677 So.2d 254 (Fla. 1996); *Henderson v. Dep't of Health, Bd. of Nursing*, 954 So.2d 77 (Fla. 5th DCA 2007). However, agencies do not have to rule on exceptions that do not: (1) clearly identify the disputed portions of the Recommended Order by page number or paragraph; (2) identify the legal basis for the exception; or (3) include appropriate and specific citations to the record. *Id.*; *see also* § 120.57(1)(k), F.S., Rule 28-106.217(1), F.A.C.

Respondent's submission of documents on December 21, 2012, December 24, 2012 and January 9, 2013 did not clearly identify the disputed portions of the Recommended Order by page number or paragraph; identify the legal basis for the exception; or include appropriate and specific citations to the record. Respondent's submissions did not meet the procedural requirements for exceptions; they referred to and sought to introduce new factual matters or exhibits which did not constitute part of the existing record; and with regard to Respondent's third submission (January 9, 2013), there is no authority under the Administrative Procedure Act or the Uniform Rules of Procedure for the filing of such a pleading. *See* § 120.57(1)(k), F.S., Rule 28-106.217(1) and (3), F.A.C.

The SCHOOL BOARD reviewed and considered the Petitioner's Motion to Strike and GRANTS the Motion to Strike in full.

FINDINGS OF FACTS

1. The findings of facts as set forth in the Recommended Order are approved adopted and incorporated herein by reference in its entirety.
2. There is clear and convincing evidence to support the findings of facts.

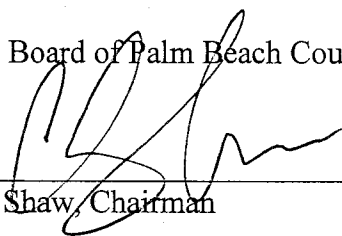
CONCLUSIONS OF LAW

1. The SCHOOL BOARD has jurisdiction of this matter pursuant to Florida Statutes §120.57.
2. The conclusions of law set forth in the Recommended Order are approved, adopted and incorporated herein by reference.

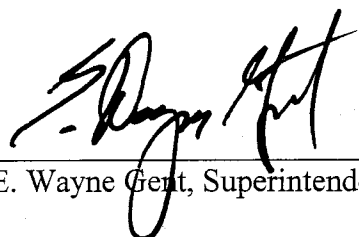
WHEREFORE, IT IS ORDERED and ADJUDGED that Paula Prudente's termination of employment as of May 18, 2012 as set forth in the Petition for Suspension and Termination dated June 7, 2012 is hereby upheld. This FINAL ORDER shall take effect upon being filed with the Clerk of the SCHOOL BOARD.

DONE AND ORDERED this 6th day of February, 2013.

School Board of Palm Beach County, Florida



Chuck Shaw, Chairman



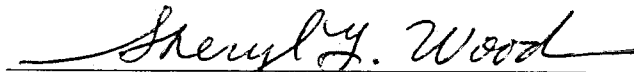
E. Wayne Gent, Superintendent of Schools

NOTICE OF RIGHT TO JUDICIAL REVIEW

Any party who was adversely affected by this final order is entitled to judicial review pursuant to Florida Statutes §120.68. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a notice of Appeal with the agency clerk of the School Board of Palm Beach County, Florida and a second copy,

accompanied by filing fees prescribed by law, with the Fourth District Court of Appeal or with the District Court of Appeal in the Appellate District, where the party resides. The notice of Appeal must be filed within thirty (30) days of rendition of the Order to be reviewed.

Respectfully submitted this 1st day of February, 2013.



Sheryl G. Wood, Esq.
General Counsel for the School Board

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail this ~~6th~~^{7th} day of February, 2013 to Paula Prudente 1836 Emilio Lane, West Palm Beach, Florida 33406; Jeffrey Sirmons, Esq., Johnson and Sirmons 510 Vonderburg Drive, Suite 3005, Brandon, Florida 33511-5981; Mr. Tony Bennett, Commissioner of Education, Turlington Building, Suite 114, 325 West Gaines Street, Tallahassee, Florida 32399; and Lois S. Tepper, Interim General Counsel, Department of Education, 1244 Turlington Building, 315 West Gaines Street, Tallahassee, Florida 32399. A true and correct copy of the foregoing was electronically filed through the eALJ system on this ~~6th~~^{7th} day of February, 2013 to the Honorable Robert E. Meale, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Appalachee Parkway, Tallahassee.

By: 

Sheryl G. Wood, Esq.
Fla. Bar 0808067