

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

LEE COUNTY SCHOOL BOARD,)
)
 Petitioner,)
)
vs.) Case No. 12-2017TTS
)
ELAINE PARTENHEIMER,)
)
 Respondent.)

)

RECOMMENDED ORDER

Pursuant to notice, a final hearing was conducted in this case on August 20 through 21, 2012, in Fort Myers, Florida, before Administrative Law Judge R. Bruce McKibben of the Division of Administrative Hearings.

APPEARANCES

For Petitioner: Robert Dodig, Jr., Esquire
School District of Lee County
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For Respondent: Robert J. Coleman, Esquire
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STATEMENT OF THE ISSUE

The issue in this case is whether just cause exists to terminate Respondent's employment with Petitioner based on violations of Florida Administrative Code Rules 6A-5.056(2),

(3), and (5), for incompetence, misconduct in office, and/or willful neglect of duties, respectively.

PRELIMINARY STATEMENT

On May 14, 2012, the Lee County School Board (the "Board") issued a Petition for Termination of Employment, alleging just cause for the termination of Respondent's employment. Respondent timely filed a request for a formal administrative hearing before the Florida Division of Administrative Hearings (DOAH).

At the final hearing, the Board called the following witnesses: Ranice Monroe, director of professional standards and equity for the Board; Craig Baker; Jill Louzao, principal of Manatee Elementary School ("Manatee"); Dr. Denise Carlin, former principal at Pinewoods Elementary School ("Pinewoods"); and D.H., T.S., T.B., and A.B, parents of Pinewoods students. The Board's Exhibits 1 through 17 and 19 through 22 were accepted into evidence. Respondent testified on her own behalf and called the following additional witnesses: Barbara Hardee, curriculum specialist at Pinewoods; and J.M., parent of a Manatee student. Respondent offered Exhibits 1 through 9 and 11 into evidence, each of which was accepted. (All hearsay evidence for which no exception was identified was admitted subject to corroboration by competent, non-hearsay evidence. To the extent such hearsay evidence was not corroborated or was not

used to supplement competent evidence, it will not be used as a basis for any finding herein.)

The parties advised the undersigned that a transcript of the final hearing would be ordered. They were given ten days from the date the transcript was filed at DOAH to submit proposed recommended orders. The Transcript was filed at DOAH on September 12, 2012. The parties thereafter requested and were given until October 8, 2012, to file their proposed recommended orders. Petitioner filed its Proposed Recommended Order at 3:57 p.m. on October 8; Respondent's Proposed Recommended Order arrived at DOAH at 5:04 p.m. on October 8 but was docketed on October 9 because it arrived four minutes after normal business hours. Respondent filed a motion asking for acceptance of its late-filed proposed recommended order with acquiescence of Petitioner. The motion was granted and both parties' submissions were given due consideration in the preparation of this Recommended Order.

FINDINGS OF FACT

1. The Board is responsible for hiring, monitoring, and firing employees at its schools, including Manatee and Pinewoods. At all times relevant hereto, Respondent was an employee of the Board.

2. Respondent was hired by the Board on August 22, 2005, as a second grade teacher at Harns Marsh Elementary. She taught

second grade at that school for three years. At the end of her third year, Respondent was awarded a professional services contract. Prior to the beginning of her fourth year at Harns March, Respondent was told she was being moved to a fifth grade class for the upcoming school year. Inasmuch as she preferred teaching second grade, Respondent voluntarily transferred to Manatee for the 2008-2009 school year, as there was a second grade position open there. Manatee is a Title I school, serving a distinct population of students with various emotional or behavior issues. After teaching second grade at Manatee for one year, she was moved to a third grade class for the 2009-2010 school year, then back to second grade for the 2010-2011 school year.

3. The principal at Manatee, Louzao, began to have concerns about Respondent commencing in the 2009-2010 school year. The annual evaluation Louzao initially prepared for Respondent after the 2009-2010 school year had contained less than satisfactory scores. In the face of a possible grievance of those scores by Respondent and the teacher's union, Louzao upgraded the scores to satisfactory. Louzao was a fairly new principal, being at that time in only her third year as an administrator. She did not feel comfortable defending her

negative evaluation against a formal grievance. Louzao also believed a satisfactory evaluation would encourage Respondent to improve.

4. As a result of some of her concerns, Louzao ultimately moved Respondent to third grade for the 2010-2011 school year. Louzao felt like Respondent might interact better with students slightly older than the second grade students she had been teaching. However, some of the third grade students' parents complained to Louzao about Respondent, resulting in some students being transferred out of Respondent's class to another third grade class. It was not Louzao's normal policy to transfer students; she would prefer that the teacher and students work through their issues. In this case, however, Louzao felt like removal of the students would be most beneficial as Respondent continued to work with the school guidance counselor dealing with her classroom demeanor. The teacher-student relationship was never fully corrected to Louzao's satisfaction. For example, the first student was transferred out of Respondent's class in August, then another in October, and yet another in November 2010.

5. Louzao met or talked with Respondent daily and had her assistant principal counsel Respondent in an effort to improve Respondent's teaching skills. At the end of the 2010-2011 school year, Louzao gave Respondent another evaluation with

generally satisfactory scores, but listed several "areas of concern," i.e., areas that needed additional work. Louzao would have given Respondent less than satisfactory marks, but she had failed to adequately document Respondent's shortcomings during the school year, a requirement for unsatisfactory evaluations.

6. Louzao then attempted to deal with Respondent's inability to properly interact with her students by moving Respondent to a fifth grade class for the 2011-2012 school year.^{1/} Louzao believed that Respondent's sarcasm and coarse demeanor would be more well-received by older students. Almost immediately, however, parents began to make complaints about Respondent. Louzao was contacted by parents who reported that Respondent had called students "retarded" or "stupid." School staff questioned a number of students and received verification from those students that the remarks had been made. Based upon that verification - although it was not absolute proof that the comments were made - Louzao contacted the Board's professional standards office to begin further investigation into the allegations. It was also reported that Respondent was refusing to allow children to use the bathroom when needed. Again, while Respondent admitted to having a fairly strict bathroom policy, there is no proof that children were actually denied bathroom

privileges. The school, nonetheless, found sufficient student verification of the allegation to make it a point of discussion with Respondent.

7. Then, in September 2011, an incident occurred which led to an investigation of Respondent by the Department of Children and Families. The incident involved discipline in a school stairwell. The security videos from a stairwell near Respondent's classroom showed students walking and running up and down the interior, non-air conditioned stairwell numerous times for approximately 20 minutes without water or rest. There is no dispute about what the videotapes show; Respondent admits that she had the students doing "training" to prevent them from ascending and descending the stairs improperly. Several parents complained to the school about the staircase discipline incident.

8. Respondent described the matter as follows: She had been having a lot of trouble with this particular class; they were very disrespectful. The students would misbehave when they were moving from the classroom to other areas of the school. Particularly, the students would run up and down the stairs. To change that behavior, Respondent decided to teach the students how to walk up and down the stairs. To that end, she had the students walk up and down the stairs over and over until they did it properly. The videotape accurately reflected that it

took some students more attempts to stop running and that some students never did stop running. The activity was not, according to Respondent, punishment; rather, it was a teaching moment. She had seen a student injured at a prior school because of running down the stairs, and Respondent did not want that to happen again. Respondent said she just lost track of how much time the students were on the staircase. To administration, however, it looked like Respondent was disciplining the students in an extremely harsh fashion. The Board does not condone such actions by its employees.

9. After the staircase discipline matter, Respondent was suspended with pay. A pre-determination hearing was held, but Respondent said the staircase incident was not mentioned. Rather, she was questioned about various allegations that had been made by students and their parents. The allegations included: Calling a student a "retard;" saying someone was stupid; not allowing students adequate bathroom breaks; making fun of a student's name; and yelling at students. Upon completion of the pre-determination meeting, Respondent was suspended with pay and sent home. She was later assigned to an office job so that she could be of some benefit to the Board during her suspension. The investigation concluded with the issuance of a Letter of Reprimand to Respondent, who was also

required to attend a class on classroom management and a Code of Ethics training session. She was not allowed to return to the classroom at that time.

10. In January 2012, at the beginning of the second semester of the 2011-2012 school year, a second grade teaching position came open at Pinewoods. The Board's Professional Standards office called Dr. Carlin and told her the Board wished to have Respondent fill the position. Dr. Carlin agreed to the assignment. Dr. Carlin did not speak to Louzao about Respondent and did not know of Respondent's prior issues at Manatee. Respondent's testimony that Dr. Carlin stated she was aware of "everything that happened at Manatee" is not credible.

11. Respondent first went to Pinewoods on or about January 19, 2012. She was introduced to the school and to her classroom by Dr. Carlin. Dr. Carlin attempted to prepare Respondent and to provide all the support and assistance she could to insure Respondent's success. One of the items of support provided by Dr. Carlin, was a website containing the school handbook which sets out all of Pinewood's policies for teachers and other staff members.

12. Respondent remembers meeting Dr. Carlin on a Thursday and being told she would start co-teaching the class with the out-going teacher the following Monday, January 23, 2012. It was Respondent's understanding that she would then begin

teaching on her own the following Friday, January 27, 2012. (Respondent said her understanding was based on an email she received from the Professional Standards office informing her about the new assignment. However, the email was not produced as an exhibit in this case.) In fact, Respondent was introduced to the class on Friday January 20, 2012, the out-going teacher's last day. She took over the class the following Monday, January 23, 2012, on her own. Dr. Carlin remembers spending a fair amount of time with Respondent on Respondent's first day before introducing her to the class.

13. Respondent's first day with the students in her new class was atypical; it was a field day of sorts at the school, so the students were out of the class more than they were in. At the beginning of the class period, however, Respondent noticed that the children were socializing and talking for the first few minutes after arrival. Respondent asked the out-going teacher if she always allowed the children to do that, and was told she did. That was a different approach than the one normally taken by Respondent. She had hard-fast rules about what students should do upon entering the classroom, e.g., turn in their homework, bring their homework notebook to the teacher's desk, sharpen their pencils, use the bathroom, and then do advanced reading or use the computer until regular

instruction began. Respondent's approach was much more strict and instruction-oriented than the prior teacher's.

14. Within two or three days of Respondent assuming her new teaching position, some of the students' parents began calling the school with complaints. The initial complaint was that Respondent was assigning weekend homework in violation of the school's policies. When Respondent became aware of the policy, she ceased that practice. Dr. Carlin believes Respondent should have known the policy after reading her school handbook, but the book was over 50 pages long and contained a lot of information. Thus, Respondent's temporary violation of that policy is excusable.

15. More troubling, however, were the complaints concerning Respondent's alleged verbal abuse of students and her rude demeanor. Parents who visited Respondent's classroom found her to be aloof, stand-offish, and she seemed not to be engaged with the students. It was reported again that Respondent was refusing to allow students to use the bathroom as needed. There is no competent evidence to support the allegation, but it is troubling that the same complaint that had been made by parents at Manatee was being made by parents at Pinewoods. The Board's director of professional standards received "weekly, if not

daily," calls from parents and administration complaining about Respondent almost from the day she started her employment at Pinewoods.

16. Dr. Carlin visited Respondent's classroom on several occasions to see for herself whether there were any "teaching" issues that needed attention. Dr. Carlin met with Respondent on February 1, 2012, just one week after Respondent started teaching at Pinewoods. The purpose of the meeting was to discuss the parents' complaints and to provide suggestions for doing better in the classroom. Respondent was not told at that time that she was being formally reprimanded.

17. A letter dated February 6, 2012, memorialized the February 1, 2012, meeting and constituted a written reprimand for Respondent's behaviors in the classroom. Despite the prior meeting, Respondent was surprised by the written reprimand. The letter set out six categories of problems that had been identified by Dr. Carlin from letters and conversations with a number of parents:

- 1) Lack of respect shown to students and parents, e.g., rolling her eyes and speaking in disrespectful tones;
- 2) Classroom not warm and supportive. Refusing to help children and making them cry;
- 3) Refusing to allow children restroom privileges when needed;

- 4) Moving through the curriculum too fast;
- 5) Giving excessive homework; and
- 6) Causing children to cry and become distressed about coming to school.

18. Respondent denied each of the allegations and expressed surprise about the parents' complaints. She also said that part of the blame for any problems lay with the students; they were not respectful to her and had no rules of conduct.^{2/} Dr. Carlin knew, however, that the prior teacher had rules for her classroom and the children were well-behaved. Respondent signed the letter, acknowledging receipt.

19. The letter then set forth some guidelines or action plans that were to be implemented immediately by Respondent. In response to the first item, prohibiting Respondent from yelling at students or speaking in a disrespectful tone, Respondent seemed to go to the other extreme. She became very quiet and almost apathetic in her relationship with the students. Respondent did meet expectations in the other items, at least to some degree, though Dr. Carlin was not totally satisfied with all Respondent's actions.

20. Finally, the letter provided four distinct suggestions for improving her conduct and teaching habits, including:

- 1) Use of the Peace Education materials in her classroom, including I-Care Rules.

Respondent was to meet with Mrs. Cutting and Ms. Roberts for assistance with implementing the materials.

2) Use of the Board's academic plans for subject areas. Respondent was to meet with Mrs. Cutting and Mrs. Hardee to receive coaching and modeling with regards to the materials.

3) Initiation of a classroom plan outlining her expectations for students.

4) Following all directives in "this letter."

21. In response to the four suggestions, Respondent:

1) Met with Mrs. Cutting and Ms. Roberts about the Peace Education materials. However, Respondent did not demonstrate implementation of the materials in her classroom.

2) Respondent met with Mrs. Cutting and Mrs. Hardee about use of the Board's academic plans. However, she did not utilize the plans on a regular basis.

3) Respondent did initiate a classroom plan outlining her expectations for students. Dr. Carlin described the plan as inferior and had to re-write it (with assistance from her staff). Respondent considered her plan to be adequate in all regards, even prior to editing by Dr. Carlin.

4) The fourth guideline was somewhat nebulous, so it is difficult to ascertain whether Respondent complied with the directive.

22. After the letter was issued, Dr. Carlin waited for a week to give Respondent an opportunity to incorporate the guidelines and suggestions. She then conducted three formal

observations of Respondent's classroom to determine whether the guidelines and suggestions were being followed. She prepared written synopses of her observations. The assistant principal, Ms. DeMarchena, also did an observation that was codified in written notes. The gist of the observations by administrative staff was that Respondent was unresponsive to students, uncaring in her demeanor, lethargic in her efforts to teach, and somewhat rude. Dr. Carlin described Respondent as "the worst teacher I have ever seen in my career." Dr. Carlin noticed a totally lethargic demeanor by Respondent after the February 1, 2012, meeting and February 6, 2012, written reprimand. Respondent seemed to just stop caring about her job. Dr. Carlin said of her visits to Respondent's classroom, "I really couldn't quite believe my eyes."

23. There were 18 students in Respondent's classroom at Pinewoods. Eight of their parents made formal complaints to Dr. Carlin about Respondent's classroom demeanor or teaching skills. Three of those parents testified at final hearing and expressed overall dissatisfaction with Respondent's teaching abilities. The parents observed that their children did well at school prior to Respondent's arrival, then did well after Respondent's departure. While Respondent was teaching, however, their children were unhappy, unmotivated, and emotionally distressed. Two of the parents had teaching experience and

measured Respondent both professionally and from their perspective as parents. These parents also discussed Respondent's behavior and teaching abilities with many of the other parents from the class.

24. The parents' complaints included the following: Respondent ignored two parents when they came into the classroom, a response the parents had not experienced from any other teacher. Respondent did not engage her students in the celebration of a holiday (Valentine's Day), even upon intervention by a parent who brought treats for the students. Respondent's classroom was messy and disorganized. Students who had previously enjoyed school were now reluctant to attend Respondent's class. Students feared Respondent and were afraid to complain about her strictly enforced policies, e.g., bathroom and pencil sharpening limitations. One parent reported that her child prayed each night that Respondent would be nice to the class.

25. Pinewood's curriculum specialist, Ms. Hardee, was asked by Dr. Carlin to observe Respondent in the classroom and to provide assistance as needed. Ms. Hardee intervened to assist Respondent to gain access to the web-based accelerated reading materials when Respondent initially experienced problems. She also helped Respondent understand the homework

policy and other school policies. When observing Respondent's classroom, Ms. Hardee found that not all students were actively engaged.

26. Ms. Hardee also substituted for Respondent on one occasion and could not find a lesson plan for that day. Respondent said the lesson plan was right in the middle of her desk and does not know why Ms. Hardee could not find it. Many of the parents, as well as administrators, reported that Respondent's classroom was extremely messy and disorganized. It is, therefore, understandable that Ms. Hardee would not find the lesson plan. Hardee, who was called by Respondent as a witness, provided extremely credible testimony. During her review of Respondent's class, Hardee found a "lack of procedures" in the classroom and the students were not engaged during instruction time. Hardee described Respondent's style as "flat, without expression or enthusiasm."

27. One parent of a student at Manatee, the prior school at which Respondent had taught, testified on Respondent's behalf. She praised Respondent's teaching and said Respondent did a good job with her child. Of the several parents' testimony, the Manatee parent's was the least persuasive.

28. On February 22, 2012, Dr. Carlin met with Respondent and addressed the many concerns raised by parents and the observations made by herself and her staff. Respondent and

Dr. Carlin discussed all the problem areas and Dr. Carlin told Respondent unequivocally that failure to correct the problems would result in sanctions, up to and including termination of employment. It was Dr. Carlin's intention to place Respondent on a very short leash, intending to act quickly if things did not drastically improve.

29. However, that very evening Dr. Carlin received three additional letters from upset parents complaining about "very disturbing" incidents in Respondent's classroom. Dr. Carlin contacted the Professional Standards office and the Board's attorney the next day. In consultation with those people, Dr. Carlin decided that, notwithstanding, her representations to Respondent the day before, she must remove Respondent from the classroom before irreparable harm was done to the students. She then notified Respondent - on February 23, 2012 - that she was being suspended with pay pending further review.

30. The entire situation concerning Respondent's classroom demeanor and actions was then reviewed by the Professional Standards office. That office determined that just cause existed to terminate Respondent's employment. Dr. Carlin concurred with the decision. By letter dated April 20, 2012, Respondent was notified that a recommendation for termination of

employment would be made to the Board at its next meeting. The letter also notified Respondent that she was suspended without pay effective April 23, 2012.

31. Respondent rejects all of the complaints against her as being without basis or truth. She says the "staircase discipline" issue was just a misunderstanding; she simply lost track of how much time she made the children walk up and down the stairs. She did not, however, grieve the reprimand issued for that incident. Respondent says the children simply misunderstood her bathroom policy; it was correct and appropriate. The parents' comments about her were, she said, derived from their children's mistaken perception of her demeanor and attitude. And, even though Respondent acquiesced and took a behavior management class and a class on teacher's code of ethics, she did not believe she needed them or that they taught her anything. Respondent's testimony lacked credibility and was not persuasive.

32. The most credible and persuasive evidence presented in this case indicates that Respondent does not recognize how she comes across to students and their parents. Respondent's demeanor and teaching style, while it may be comfortable to her, is not consistent with good teaching practices. She is dour, lethargic, unfriendly, scary to her students, and defensive.

Because she does not understand her own shortcomings, Respondent has become incompetent and has willfully neglected her duties as a teacher.

CONCLUSIONS OF LAW

33. The Division of Administrative Hearings has jurisdiction over the parties to and the subject matter of this proceeding, pursuant to a contract with the Lee County School Board. The proceedings are governed by sections 120.57 and 120.569, Florida Statutes (2012).^{3/}

34. The Superintendent has the authority to recommend to the Board, and the Board may take action pursuant to the recommendation to dismiss an instructional employee from employment. §§ 1012.22(1)(f), 1012.27(5), and 1012.33(6) Fla. Stat.

35. The burden of proof in this proceeding is on the Board to prove, by a preponderance of the evidence, just cause exists to suspend or terminate the employment of Respondent. McNeil v. Pinellas Cnty. Sch. Bd., 678 So. 2d 476 (Fla. 2d DCA 1996); Dileo v. Sch. Bd. of Dade Cnty., 569 So. 2d 883 (Fla. 3d DCA 1990). The burden in this case is contrary to other penal cases in which actions must be proven by clear and convincing evidence (see, e.g., Ferris v. Turlington, 510 So. 2d 292 (Fla. 1987)), but is the accepted standard of proof in school board cases at this time.

36. In the absence of a rule or written policy defining just cause, school boards have historically had discretion to set standards which subject an employee to discipline. See Dietz v. Lee Cnty. Sch. Bd., 647 So. 2d 217 (Fla. 2d DCA 1994). Nonetheless, just cause for discipline must rationally and logically relate to an employee's conduct in the performance of the employee's job duties, and which is concerned with inefficiency, delinquency, poor leadership, lack of role modeling, or misconduct. State ex rel. Hathaway v. Smith, 35 So. 2d 650 (Fla. 1948).

37. The 1999 Florida Legislature amended section 231.36(1)(a), Florida Statutes, (the former statute governing public education in Florida) five years after the Dietz case was entered. The amendment removed school boards' "absolute discretion" to define just cause for purposes of dismissing instructional staff. Instead, the State Board of Education was given the authority to define by rule what constitutes just cause. After the creation of the Florida K-20 Education Code (the "Code") in 2002, the provisions of former section 231.36(1)(a) were transferred to the Code, and are now found in sections 1012.33(1)(a) and (4)(c).

38. The rule created by the State Board of Education is now codified as Florida Administrative Code Rule 6A-5.056. As

of the time of the alleged violations in this case, the rule (enumerated 6B-4.009 at that time) read, in pertinent part, as follows:

The basis for charges upon which dismissal action against instructional staff may be pursued are set forth in section 231.36, F.S. The basis for each of such charges is hereby defined:

(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, F.S.); (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 education 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.

* * *

(3) Misconduct in office is defined as a violation of the Code of Ethics of the Education Profession as adopted in Rule 6B-1.001, F.A.C., and the Principles of Professional Conduct for the Education Profession in Florida as adopted in Rule 6B-1.006, F.A.C., which is so serious as to impair the individual's effectiveness in the school system.

(4) Gross insubordination or willful neglect of duties is defined as a constant or continuing intentional refusal to obey a direct order, reasonable in nature, given with proper authority.

* * *

39. The evidence supports Respondent's contention that her students were doing no worse and no better than students in the other classes at Pinewoods as far as test scores were concerned. However, she was only teaching the class for a relatively short period of time. The students' test scores would not be a viable means of measuring Respondent's competency.

40. According to the administrators and other specialists who witnessed Respondent's teaching methods in the classroom, Respondent was not demonstrating competence in her regular teaching practices. Not all of her students were fully engaged with the lessons and many seemed genuinely unhappy with their school experience. The parents who visited Respondent's classroom did not find Respondent to be properly or adequately

relating to their children. The classroom itself was disheveled and did not promote learning by the students.

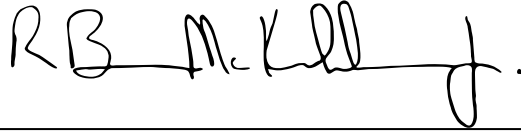
41. The credible testimony of Respondent's supervisors and administrators established, by a preponderance of evidence, that Respondent's classroom teaching skills were far below the standard expected for educators at Pinewoods.

42. Respondent was only in her position at Pinewoods for one month, so it cannot be ascertained whether her teaching style would have resulted in the children actually learning their lessons and testing appropriately. However, the level of complaints issued by parents, coupled with the administrators' eye witness evaluations, was sufficient to substantiate incompetence and neglect of duties for the time she was employed. While it may be that Respondent could have changed with the passage of more time in the classroom, there is no requirement that the Board allow an incompetent teacher who is willfully neglecting her duties to have more time.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that a final order be entered by Petitioner, Lee County School Board, upholding the termination of Respondent, Elaine Partenheimer's, employment for the reasons set forth above.

DONE AND ENTERED this 19th day of October, 2012, in
Tallahassee, Leon County, Florida.



R. BRUCE MCKIBBEN
Administrative Law Judge
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Filed with the Clerk of the
Division of Administrative Hearings
this 19th day of October, 2012.

ENDNOTES

- ^{1/} Unlike when she had been assigned to fifth grade at Harns Marsh and opted to transfer to another school, this time Respondent accepted the assignment.
- ^{2/} This was the same allegation Respondent made about the Manatee students in her class.
- ^{3/} Unless specifically stated otherwise herein, all references to Florida Statutes shall be to the 2012 version.

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.