

BEFORE THE SCHOOL BOARD OF NASSAU COUNTY, FLORIDA

NASSAU COUNTY SCHOOL BOARD,

Petitioner,

v.

DOAH Case No. 12-2309

D. LYNN OWEN,

Respondent.

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APR 29 2013

Constangy, Brooks & Smith, LLP
Attorneys at Law

FINAL ORDER

This matter came to be heard by the Nassau County School Board on April 15, 2013, to consider: (1) the Recommended Order entered in this cause on February 5, 2013, by Lawrence P. Stevenson, Administrative Law Judge (hereinafter "ALJ"), State of Florida, Division of Administrative Hearings; (2) Respondent's Exceptions to the Recommended Order; and (3) Petitioner's Exception to the Recommended Order.

The Nassau County School Board, having reviewed the complete record and heard argument of counsel and being fully advised in the premises, hereby ORDERS AND ADJUDGES:

1. Respondent's exceptions to the ALJ's findings of fact contained in Paragraphs 3, 4, 9, 10, 11, 12, 13, 14, 21, 22, 23, 24, 25, 27, 29, 30, 31, 32, 33, 34, 35, 73, and 74 of the Recommended Order are rejected and denied, as the ALJ's findings of fact are supported by competent substantial evidence. See Abrams v. Seminole County School Board, 73 So.3d 285, 294 (Fla. 5th DCA 2011) ("If there is competent substantial evidence in the record to support the ALJ's findings of fact, the agency may not reject them, modify them, substitute its findings, or make new findings."); Resnick v. Flagler County School Board, 46 So.3d 1110, 1112 (Fla. 5th

DC A 2010) (“If an administrative law judge's findings are supported by competent substantial evidence, the agency cannot reject them even to make alternate findings that are also supported by competent substantial evidence, [citations omitted] An agency abuses its discretion when it improperly rejects an administrative law judge's findings.”).

2. Respondent’s exceptions to the ALJ’s conclusions of law contained in Paragraphs 82, 91, 92, 93, and 94 of the Recommended Order are rejected and denied, as the ALJ’s conclusions of law correctly state the law and apply fact that are supported by competent substantial evidence.

3. Petitioner’s exception to the ALJ’s conclusions of law contained in Paragraph 94 of the Recommended Order, as well as in the “Recommendation” section of the Recommended Order, wherein the ALJ recommended that Respondent be suspended without pay for the 2012-2013 school year, is denied.

4. The Nassau County School Board adopts the ALJ’s findings of fact and conclusions of law, as well as his recommended penalty, in their entirety.

5. Respondent’s prior unpaid suspension is hereby affirmed.

DONE AND ORDERED this 25 day of April, 2013, in Fernandina Beach, Nassau County, Florida.



Donna Martin, Chairperson

RIGHT TO APPEAL

Parties to this Final Agency Action are hereby advised of their right to seek judicial review of this Final Agency Action pursuant to Section 120.68, Florida Statutes, and Florida Rules of Appellate Procedure 9.030(b)(1)(C) and 9.110. To initiate an appeal, one copy of a Notice of Appeal must be filed, within the time period stated in the Florida Rule of Appellate Procedure 9.110, with the Clerk of the School Board of Nassau County, 1201 Atlantic Avenue, Fernandina Beach, Florida 32034. The second copy of the Notice of Appeal, together with the filing fee, must be filed with the appropriate District Court of Appeal.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 25, 2013, a copy of the foregoing was served via first class United States mail upon the following:

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