

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

MIAMI-DADE COUNTY SCHOOL BOARD,

Petitioner,

vs.

Case No. 13-4771

BARBARA A. ROBERTS,

Respondent.

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RECOMMENDED ORDER

On February 19, 2014, Robert E. Meale, Administrative Law Judge of the Division of Administrative Hearings (DOAH), conducted the final hearing by videoconference in Tallahassee and Miami, Florida.

APPEARANCES

For Petitioner: Sara M. Marken, Esquire
Miami-Dade County School Board
1420 Northeast Second Avenue, Suite 430
Miami, Florida 33132-1308

For Respondent: Barbara A. Roberts, pro se
3120 Northwest 161st Street
Miami Gardens, Florida 33054

STATEMENT OF THE ISSUE

The issue is whether Petitioner may suspend Respondent for 30 calendar days without pay for driving a school bus while her driver license was suspended.

PRELIMINARY STATEMENT

By letter dated October 17, 2013, Petitioner advised Respondent that, at a meeting on October 16, the School Board decided to suspend Respondent without pay for an unspecified offense. By letter dated November 4, 2013, Respondent requested a formal hearing. By Notice of Specific Charges filed February 4, 2014, Petitioner advised Respondent that the proposed suspension was for driving a school bus with a suspended license.

At the hearing, Petitioner called three witnesses and offered into evidence seven exhibits: Petitioner Exhibits 1-3, 11, and 13-15. Respondent called one witness and offered into evidence one exhibit: Respondent Composite Exhibit 1. All exhibits were admitted into evidence.

By Order entered April 9, 2014, the Administrative Law Judge ordered the parties to file any proposed recommended orders by the earlier of April 23, 2014, or ten days after the filing of the transcript. The court reporter filed the transcript on April 17, 2014, so the deadline for proposed recommended orders was April 23, 2014. Petitioner timely filed a proposed recommended order.

FINDINGS OF FACT

1. Petitioner has employed Respondent as a school bus driver for 14 years.

2. In January, 2013, Respondent committed three toll violations. Initially, she could have paid \$22.50 to have resolved these violations, but Respondent failed to do so.

3. Unpaid, the violations matured into citations that required a court appearance. Respondent received a summons to appear in court on February 19, 2013, but Respondent failed to do so.

4. Respondent then received a notice that her driver license would be suspended effective March 11, 2013. In late February, Respondent hired an attorney to clear up the matter. On February 28, the attorney appeared in court and obtained a disposition of the three citations. However, for some reason, the Clerk's office did not process the paperwork correctly, so the March 11 suspension was not lifted.

5. On March 11, 2013, which was a Monday, Respondent reported to work and drove her bus. She did not conduct a driver license check prior to reporting to work, but she did so later that morning, at which time she learned that her license had been suspended.

6. Respondent called her attorney and informed him that her license had been suspended. He said that it should not have been and, the next day, visited the Clerk's office and cleared up the confusion. After being suspended March 11-13, Respondent's

driver license was reinstated without any costs effective March 14, 2013.

7. In the meantime, knowing that her license had been suspended, Respondent drove her school bus on the afternoon of March 11. Due to the driver-license suspension, Respondent did not report to work on March 12, but she did on March 13 and, either knowing that her license was still suspended or in conscious disregard of the status of her license, drove the bus in the morning and afternoon.

8. Petitioner's Handbook for School Bus Drivers, Aides and Operations Staff, dated July 2012 (Handbook), provides that drivers "must at all times maintain a valid Commercial Driver's License," and "[o]perating a bus with a suspended, expired, or revoked license shall be grounds for suspension or dismissal" Handbook, p. 10.

9. School Board Policy 8600 incorporates by reference the Handbook. Also, the collective bargaining agreement covering Respondent acknowledges that noncompliance with any School Board policy, if not serious enough to warrant dismissal, may be a ground for suspension of the employee for up to 30 calendar days without pay.

CONCLUSIONS OF LAW

10. DOAH has jurisdiction. §§ 120.569 and 120.57(1), Fla. Stat. (2013).

11. All school bus drivers must hold valid commercial driver's licenses. § 1012.45(1) Fla. Stat. Petitioner is authorized to suspend its employees. §§ 1001.42(5)(a) and 1012.22(1)(f) Fla. Stat. The Handbook authorizes Petitioner to suspend an employee for driving a school bus with a suspended license.

12. Petitioner must prove the material allegations by a preponderance of the evidence. § 120.57(1)(j) Fla. Stat.

13. Petitioner has proved that Respondent drove a school bus while her driver license was suspended and that an appropriate punishment for this offense is suspension without pay for 30 calendar days.

RECOMMENDATION

It is

RECOMMENDED that the Miami-Dade County School Board enter a final order suspending Respondent for 30 calendar days without pay.

DONE AND ENTERED this 24th day of April, 2014, in
Tallahassee, Leon County, Florida.



ROBERT E. MEALE
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 24th day of April, 2014.

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.