

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

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DIVISION OF
ADMINISTRATIVE
HEARINGS

WALTON COUNTY SCHOOL BOARD,

Petitioner,

vs.

Case No. 14-0429TTS

HARRIET HURLEY,

Respondent.

FINAL ORDER

This cause came before the School Board of Walton County, Florida ("School Board"), for final agency action in accordance with Section 120.57, Florida Statutes.

APPEARANCES

For Petitioner: Holly A. Dincman, Esquire
Coppins, Monroe, Adkins, and Dincman, P.A.
1319 Thomaswood Drive
Tallahassee, Florida 32317

For Respondent: Clay B. Adkinson, Esquire
Adkinson Law Firm, LLC
41 South 6th Street
DeFuniak Springs, Florida 32435

INTRODUCTION

The Respondent, HARRIET HURLEY, is a teacher at Walton Middle School in Walton County, Florida and is employed by Petitioner. In December 2013, the Petitioner, by and through the Superintendent of Schools, sought to discipline the Respondent for misconduct in

office for actions set forth in the Notice of Charge of Misconduct in Office, dated December 18, 2013.

The Respondent requested a formal administrative hearing and one was held on March 27, 2014, before Administrative Law Judge ("ALJ"), F. Scott Boyd, in Tallahassee, Florida. On May 14, 2014, the ALJ entered a Recommended Order finding that (a) Respondent was guilty of misconduct in office, and (b) the Respondent's misconduct warrants suspending her employment, without pay, for a period of three (3) days. The Recommended Order has been forwarded to the School Board in accordance with Section 120.57(1), Florida Statutes, and a copy is attached to and made a part of this Final Order.

The Respondent and Petitioner filed written exceptions to the Recommended Order on May 29, 2014. The Petitioner filed a response to Respondent's written exceptions on June 9, 2014.

The School Board met on June 11, and July 1, 2014, in DeFuniak Springs, Walton County, Florida, to take final agency action. At the hearing on June 11, 2014, argument was presented by counsel for each of the parties. Upon consideration of the Recommended Order, the Respondent's Exceptions, the Petitioner's Exceptions, the Petitioner's Response to Respondent's Exceptions, and argument of counsel to the parties, and upon review of the complete record in this proceeding, the School Board finds and determines as follow:

RULINGS ON EXCEPTIONS

An agency may reject or modify an ALJ's finding of fact only if the finding is not supported by competent, substantial evidence, or the proceedings on which the finding was based did not comply with essential requirements of law. *See* Section 120.57(1)(1),

Florida Statutes. The agency has no authority to reweigh conflicting evidence. The agency may adopt the ALJ's findings of fact and conclusions of law in a recommended order, or the agency may reject or modify the conclusions of law over which it has substantive jurisdiction. See Section 120.57(1)(1), Florida Statutes. The agency may accept the recommended penalty in a recommended order, but may not reduce or increase the penalty without review of the complete record and without stating with particularity its reasons in the final order, by citing to the record in justifying its action. See Section 120.57(1)(1), Florida Statutes.

The Respondent's Exceptions will be addressed in order.

Respondent's Exception No. 1. The Respondent's Exception No. 1 is rejected because the finding of facts in the Recommended Order this Exception is directed to are supported by competent substantial evidence in the record.

Respondent's Exception No. 2. The Respondent's Exception No. 2 is rejected because it would require the School Board to make supplemental findings of fact on an issue for which the ALJ made no finding and the ultimate fact Respondent is asking the School Board to find is not a matter of opinion. The School Board has no authority to make such a supplemental finding of fact. In addition, the findings of facts in the Recommended Order this Exception is directed to are supported by competent substantial evidence in the record.

Respondent's Exception No. 3. Respondent's Exception No. 3 is accepted because there was no testimony from B.C. and hearsay statements cannot be used to establish this finding. As a result, there is no competent substantial evidence in the record to support the finding this Exception is directed to.

Respondent's Exception No. 4. Respondent's Exception No. 4 is rejected,

except the next to last sentence of the Recommended Finding of Fact No. 15 in the Recommended Order is modified by deleting the first two (2) words of the sentence because there is no competent substantial evidence in the record to support the sentence without the modification. The exception to the finding of fact as so modified, is rejected because there is competent substantial evidence in the record to support the modified finding of fact.

Respondent's Exception No. 5. The Respondent's Exception No. 5 is rejected because the findings of fact in the Recommended Order this exception is directed to are supported by competent substantial evidence in the record.

Respondent's Exception No. 6. The Respondent's Exception No. 6 is rejected because Respondent waived this exception at the hearing.

Respondent's Exception No. 7. The Respondent's Exception No. 7 is rejected because Respondent waived this exception at the hearing.

Respondent's Exception No. 8. The Respondent's Exception No. 8 is rejected because the findings of fact in the Recommended Order this exception is directed to are supported by competent substantial evidence in the record.

Respondent's Exception No. 9. The Respondent's Exception No. 9 is rejected because the findings of fact in the Recommended Order this exception is directed to are supported by competent substantial evidence in the record.

Respondent's Exception No. 10. The Respondent's Exception No. 10 is rejected because the findings of fact in the Recommended Order this exception is directed to are supported by competent substantial evidence in the record.

Respondent's Exception No. 11. The Respondent's Exception No. 11 is

rejected because the findings of fact in the Recommended Order this exception is directed to are supported by competent substantial evidence in the record.

Respondent's Exception No. 12. The Respondent's Exception No. 12 is rejected because the findings of fact in the Recommended Order this exception is directed to are supported by competent substantial evidence in the record.

Respondent's Exception No. 13. The portion of Respondent's Exception No. 13 to the first comma is accepted because this is what the Recommended Order provides in paragraph 43 of the Findings of Fact. The remainder of the Respondent's Exception No. 13 is rejected because the findings of fact in the Recommended Order this portion of the exception is directed to are supported by competent substantial evidence in the record.

Respondent's Exception No. 14. Respondent's Exception No. 14 is rejected because this exception is to a conclusion of law and there is competent substantial evidence in the record to support this conclusion of law by the ALJ.

Respondent's Exception No. 15. Respondent's Exception No. 15 is rejected because this exception is to a conclusion of law and there is competent substantial evidence in the record to support this conclusion of law by the ALJ.

Respondent's Exception No. 16. Respondent's Exception No. 16 is rejected because this exception is to a conclusion of law and there is competent substantial evidence in the record to support this conclusion of law by the ALJ.

Respondent's Exception No. 17. Respondent's Exception No. 17 is rejected because this exception is to a conclusion of law and there is competent substantial evidence in the record to support this conclusion of law by the ALJ.

Respondent's Exception No. 18. Respondent's Exception No. 18 is rejected because this exception is to a conclusion of law and there is competent substantial evidence in the record to support this conclusion of law by the ALJ.

The Petitioner's Exceptions will be addressed in order.

Petitioner's Exception No. 1. Petitioner's Exception No. 1 is rejected because there is competent substantial evidence in the record to support the finding by the ALJ that three (3) days suspension without pay is appropriate.

Petitioner's Exception No. 2. Petitioner's Exception No. 2 is rejected because there is competent substantial evidence in the record to support the finding by the ALJ that three (3) days suspension without pay is appropriate.

FINDINGS OF FACT

The School Board adopts the Findings of Fact set forth in paragraphs 1-9; 11-14 and 16-43 of the Recommended Order. The School Board also adopts the Findings of Facts set forth in paragraph 15 of the Recommended Order as modified by the ruling on the exception to this finding.

CONCLUSIONS OF LAW

The School Board adopts the Conclusions of Law set forth in paragraphs 44-72 of the Recommended Order.

PENALTY


The School Board adopts the penalty recommended by the ALJ in paragraph 72 of the Recommended Order and finds the recommended penalty of three (3) days suspension without pay is appropriate.


WHEREFORE, IT IS HEREBY ORDERED AND ADJUDGED that the Respondent, HARRIET HURLEY be, and she is hereby suspended from her employment with the School Board of Walton County, Florida, without pay, for a period of three (3) days. This Final Order shall take effect upon filing with the Superintendent of Schools as Secretary of THE SCHOOL BOARD OF WALTON COUNTY, FLORIDA.

A copy of this Final Order shall be provided to the Division of Administrative Hearings within fifteen (15) days of filing as set forth in Section 120.57(1)(m), Florida Statutes.

DONE AND ORDERED this 1st day of July, 2014.

THE SCHOOL BOARD OF WALTON COUNTY, FLORIDA

BY: 
FAYE LEDDON, Chairperson

ATTEST: 
CARLENE ANDERSON, Superintendent and Ex-Officio
Secretary to the School Board of Walton County, Florida

NOTICE OF RIGHT TO APPEAL

Any party adversely affected by this Final Order may seek judicial review pursuant to Section 120.68, Florida Statutes, and Fla. R. App. P.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 Fla. R. App. P.9.110, with the Superintendent as Ex-Officio Secretary of The School Board of Walton County, Florida, 145 Park Street, DeFuniak Springs, Florida 32435. A second copy of the Notice of Appeal, together with the applicable filing fee, must be filed with the First

District Court of Appeal.

Attachment: Copy of Recommended Order

Copies furnished to:

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