

SCHOOL BOARD OF OSCEOLA COUNTY, FLORIDA

OSCEOLA COUNTY SCHOOL BOARD,

**Petitioner,
v.
MONA SAGAR,
Respondent.**

**School Board of Osceola County
Case No. _____
DOAH Case Nos. 14-0873TTS and
14-0874TTS (Consolidated)**

_____/

**OSCEOLA COUNTY SCHOOL BOARD,
Petitioner,
v.
KRISTIE GILMORE,
Respondent.**

_____ /

**FINAL ORDER OF SCHOOL BOARD OF OSCEOLA COUNTY ADOPTING
RECOMMENDED ORDER, RULING ON RESPONDENTS' EXCEPTIONS,
AND TERMINATING MONA SAGAR AND KRISTIE GILMORE FROM
EMPLOYMENT**

This cause came on to be heard before the School Board of Osceola County, Florida (the "Board"), at its duly convened meeting held August 18, 2015, pursuant to Sections 120.569(l) and (n) and 120.57(k) and (l), Florida Statutes, and the Board, sitting in its quasi-judicial capacity, does hereby find, rule and adjudicate, as follows:

1. The Board adopts as its Final Order in these consolidated cases the Recommended Order issued by Lynne Quimby-Pennock, Administrative Law Judge, on June 19, 2015. A copy of the Recommended Order hereby adopted is attached as Exhibit A to this Final Order and the same is incorporated herein by reference as the Final Order of the Board in these consolidated cases.

2. Pursuant to the adopted Recommended Order, the Board finds just cause to terminate the employment of Mona Sagar and Kristie Gilmore and these employees are hereby terminated.

3. Rulings On Respondents' Exceptions Served July 1, 2015:

A. First Exception Is Rejected. This Exception is rejected for the reason that competent substantial evidence was presented on which the Administrative Law Judge (“ALJ”) could make each finding of fact that she made, and that the facts found were supported by competent substantial evidence in the record, and these facts supported the conclusions reached.

The proposed facts in Respondents’ Exceptions are immaterial as they generally relate only to the difficulties presented in an EBD classroom or to this class in particular. Certainly an EBD classroom is often challenging, but the relevant issue in this case had nothing to do with the employees’ competence in controlling the class. Rather, the relevant issue was principally the Respondents’ failure to use reasonable and available means to call for or obtain assistance to protect the safety of students in the class after control of the room was lost. Therefore, the Exception is nothing more than an invitation to find additional facts, and the proposed additional facts would be irrelevant to the issue presented that related to the employees’ failure to call for or obtain help.

B. Second Exception Is Rejected. This Exception is rejected because whether there is a finding of injury of the type Respondents may prefer (e.g., "No student was cut, scratched, bruised or otherwise injured") is irrelevant. The relevant issue was the Respondents’ failure to obtain or call for help during the course of several disruptions in the class that put the safety of students at risk. Proof of physical injury was not a required element of the Petitioner’s claim that Respondents were guilty of misconduct.


There was conflicting evidence of the extent of the harm, and the ALJ made no finding regarding injury or harm to a student. The agency may not rule on a matter where there was conflicting evidence and the ALJ failed to make a finding. And, as stated, the ALJ was not

required to make a finding on this question because proof of harm or injury in fact was not required.

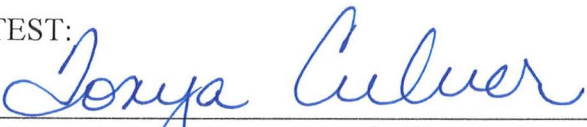
C. Third Exception Is Rejected: This Exception is rejected as irrelevant. There is no legal requirement to excuse misconduct because of a prior good record. And, the ALJ recognized the difficulties in the class but found misconduct nonetheless. The agency has no authority to change the facts found, and that is because competent substantial evidence supported the findings that were made. Additionally, the Exception is irrelevant for the reason that the employees were found liable for misconduct because during the course of several disruptions they made no effort to seek or call for help, and no matter how "worn down" they were, they could have sought help. The Exception is also irrelevant because it suggests the case turns on the employees' failure to "control their classroom". That was not the issue as stated above. The issue was their failure to obtain, seek, or call for help.

Entered this 18th day of August, 2015, in Osceola County, at the offices of the School Board of Osceola County Florida, 817 Bill Beck Blvd., Kissimmee, FL 34744.

SCHOOL BOARD OF OSCEOLA
COUNTY, FLORIDA

By: 
Timothy Weisheyer, Chair

ATTEST:

By: 
Tonya Culver, Secretary to the Board

Copies to:

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Florida Department of Education

NOTICE OF RIGHTS OF APPEAL PURSUANT TO
SECTION 120.68, FLORIDA STATUTES

Notice is hereby given that this is a final agency order and a party adversely affected may seek judicial review. Judicial review is sought pursuant to the provisions in Section 120.68 Florida Statutes. Judicial review shall be sought in the appellate district where the agency maintains its headquarters or where a party resides or as otherwise provided by law. Appellate proceedings are instituted by filing a notice of appeal or petition for review in accordance with the Florida Rules of Appellate Procedure within 30 days after the rendition of the order being appealed.