

THE SCHOOL BOARD OF LEE COUNTY, FLORIDA

GREGORY K. ADKINS, Ed.D.,
SUPERINTENDENT OF SCHOOLS
FOR LEE COUNTY,

Petitioner,

v.

Case No. 15-0011
DOAH Case No. 15-0487

ADRIAN ALLEN,

Respondent.

FINAL ORDER

THIS CAUSE came to be heard on this the 20th day of October, 2015, before the School Board of Lee County, Florida, and said School Board finds as follows:

1. Respondent is employed by the School Board as a Custodian at Lehigh Acres Middle School. Respondent is an "educational support employee," as defined by § 1012.40(1)(a), Florida Statutes, and is a member of the Support Personnel Association of Lee County ("SPALC"). His employment is governed by the collective bargaining agreement between SPALC and the School Board of Lee County.

2. On or about October 15, 2014, the Lee County Sheriff's Office (LCSO) arrested Respondent and charged him with child abuse.

3. The mother of Respondent's two year old child reported to law enforcement that she observed bruises on the face and buttocks of the child.

4. On October 9, 2014, the LCSO obtained a digitally sworn recorded statement from Respondent. Respondent stated, "He became upset after the child defecated in his diaper and spanked him on the buttocks as punishment. Respondent stated that he immediately regretted his actions because he was "upset, hung over and overzealous in his spanking."

5. On October 15, 2014, Respondent provided a post-Miranda statement to the LCSO. In his statement Respondent reported that out of frustration and due to being hung over he began to yell at his son when he soiled his diaper. Respondent reported that he spanked his son on the back of his legs, the buttocks and across the face.

6. Respondent reported that he struck the child approximately ten times across the buttocks and back of the legs and 4 times across the face. Respondent admitted to his conduct and that his actions caused bruising on the child.

7. Respondent was arrested and charged with Cruelty Toward Child - Abuse of Child Without Great Bodily Harm,

pursuant to §827.03(2)(c), Florida Statutes, a third degree felony. No information was filed on the charge.

8. On October 16, 2014, Respondent was suspended with pay pending the outcome of the investigation.

9. On November 4, 2014, a letter was forwarded to Respondent's attorney, via certified mail, scheduling a pre-determination conference for Monday, November 17, 2014, at 2:00 p.m.

10. On November 17, 2014, a pre-determination conference was held to give Respondent an opportunity to respond to the allegations. Respondent attended the conference with his attorney and chose to invoke the 5th Amendment in response to questions regarding the allegations.

11. Following the pre-determination conference, it was determined that a recommendation would be made to the Superintendent for Respondent's termination. A letter dated November 21, 2014, was forwarded to Respondent advising him of this recommendation. In addition, Respondent was suspended without pay effective November 21, 2014, pursuant to School Board Policy 1.16

12. On January 27, 2015, the School Board considered the Petition for Termination and took action to suspend the

Respondent without pay. The Petition was then forwarded to the Division of Administrative Hearings and a Final Hearing was set.

13. The Final Hearing took place on June 2, 2015, before Administrative Law Judge (ALJ) John D.C. Newton, II.

14. The ALJ issued his Recommended Order on August 25, 2015.

15. The ALJ found in his Recommended Order that the School Board established "just cause" to terminate Respondent's employment.

16. On the basis of these findings, the ALJ recommended that the School Board enter a final order terminating Respondent from his position as an employee with the School District of Lee County.


ACCORDINGLY, the Board adopts the ALJ's findings of fact, conclusions of law and the recommended penalty and incorporates them into this Final Order by reference.

It is ORDERED as follows:

17. Respondent's employment with the School District of Lee County is terminated effective end of the day October 20, 2015.

18. This Order may be appealed to the District Court of Appeal of Florida, Second District, P.O. Box 327, 1005 E. Memorial Boulevard, Lakeland, Florida 33802, telephone number (863) 499-2290. The appeal must be filed within thirty (30) days of the date of this Order by filing a Notice of Appeal with the School Board and a second copy with the District Court of Appeals. For further information, contact Robert Dodig, Jr., Staff Attorney, 2855 Colonial Boulevard, Fort Myers, Florida 33966, telephone number (239) 335-1447.

ENTERED on this the 20th day of October, 2015.


Cathleen O'Daniel Morgan, Chairman

Copies to:

Robert Dodig, Jr., Staff Attorney
Robert J. Coleman, Esq., Attorney for Respondent
Division of Administrative Hearings
Personnel File