



## Before the Education Practices Commission of the State of Florida

PAM STEWART,  
Commissioner of Education,

Petitioner,

vs.

PATTI GUADAGNO,

Respondent.



EPC CASE N° 15-0002-RT  
DOAH CASE N° 16-5551PL  
PPS N° 112-2307  
CERTIFICATE N° 608587  
Index N°: 17-383-FOF

### Corrected Final Order

This matter was heard by a Teacher Panel of the Education Practices Commission pursuant to Sections 1012.795, 1012.796 and 120.57(1), Florida Statutes, on July 11, 2017 in Naples, Florida, for consideration of the Recommended Order entered in this case by F. SCOTT BOYD, Administrative Law Judge. Respondent was present and represented by Melissa C. Mihok, Esq. Petitioner was represented by Charles T. Whitelock, Esq.

### Ruling on Respondent's Exceptions

#### To Findings of Fact

EXCEPTION 1 (Paragraph 7 of Recommended Order): The Commission rejected the exception because it addresses the credibility of witnesses.

EXCEPTION 2 (Paragraph 9 of Recommended Order): The Commission rejected the exception because it addresses the credibility of witnesses.

EXCEPTION 3 (Paragraph 20 of Recommended Order): The Commission rejected the exception because it does not have substantial jurisdiction to determine if the attorney-client privilege was waived, and it addresses the credibility of testimony.

EXCEPTION 4 (Paragraph 21 of Recommended Order): The Commission rejected the exception because it addresses the credibility of witnesses.

EXCEPTION 5 (Paragraph 22 of Recommended Order): The Commission rejected the exception because it addresses the credibility of witnesses.

### **Ruling on Respondent's Exceptions**

#### **To Conclusions of Law**

EXCEPTION 6 (Paragraph 36 of Recommended Order): The Commission rejected the exception because Respondent testified that she received the notice on March 6, 2012.

EXCEPTION 7 (Paragraph 37 of Recommended Order): The Commission rejected the exception because it addresses the credibility of witnesses.

EXCEPTION 8 (Paragraph 38 of Recommended Order): The Commission rejected the exception because it does not have substantive jurisdiction to determine what constitutes "clear and convincing evidence." The Commission can only determine if there was no competent substantial evidence.

EXCEPTION 9 (Paragraph 44 of Recommended Order): The Commission rejected the exception because it addresses the credibility of witnesses.

EXCEPTION 10 (Paragraph 45 of Recommended Order): The Commission rejected the exception because it does not have substantive jurisdiction to determine what constitutes "clear and convincing evidence." The Commission can only determine if

there was no competent substantial evidence.

EXCEPTION 11 (Paragraph 47 of Recommended Order): The Commission rejected the exception because it relies on the exceptions to Paragraph 7 of the Findings of Fact.

EXCEPTION 12 (Paragraph 49 of Recommended Order): The Commission rejected the exception because it does not have substantive jurisdiction to determine what constitutes “clear and convincing evidence.” The Commission can only determine if there was no competent substantial evidence.

EXCEPTION 13 (Paragraph 51 of Recommended Order): The Commission rejected the exception because it relies on the exceptions to Paragraphs 20-22 of the Findings of Fact.

EXCEPTION 14 (Paragraph 52 of Recommended Order): The Commission rejected the exception because it does not have substantive jurisdiction to determine what constitutes “clear and convincing evidence.” The Commission can only determine if there was no competent substantial evidence.

EXCEPTION 15 (Paragraph 54 of Recommended Order): The Commission rejected the exception because it relies on the exceptions to Paragraphs 20-22 of the Findings of Fact.

### **Ruling on Petitioner’s Exception**

#### **To Recommended Penalty**

The Commission rejected the Petitioner’s Exception to the Recommended Penalty stating that the Respondent’s history cited in the exception is unsubstantiated

except for the suspension for pushing a student.

### **Findings of Fact**

1. The findings of fact set forth in the Recommended Order are approved and adopted and incorporated herein by reference.
2. There is competent substantial evidence to support the findings of fact.

### **Conclusions of Law**

1. The Education Practices Commission has jurisdiction of this matter pursuant to Section 120.57(1), Florida Statutes, and Chapter 1012, Florida Statutes.
2. The conclusions of law set forth in the Recommended Order are approved and adopted and incorporated herein by reference.

### **Penalty**

Upon a complete review of the record in this case, the Commission determines that the penalty recommended by the Administrative Law Judge be ACCEPTED. It is therefore **ORDERED** that:

Respondent's Florida educator's certificate is hereby suspended for a period of 1 year from the date of this Final Order.

This Final Order takes effect upon filing with the Clerk of the Education Practices Commission.

**DONE AND ORDERED**, this 9<sup>th</sup> day of August, 2017.

  
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NICHOLAS PIETKIEWICZ, Presiding Officer

## NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE EDUCATION PRACTICES COMMISSION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THIS ORDER.

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Order was mailed to PATTI GUADAGNO, 9010 Southwest 12<sup>th</sup> Street, Miami, FL 33174 and Melissa C. Mihok, Esq., 201 East Pine Street, Suite 445, Orlando, FL 32801. by Certified U.S. Mail and by electronic mail to Darby Shaw, Deputy General Counsel, Suite 1232, Turlington Building, 325 West Gaines Street, Tallahassee, Florida 32399-0400 and Charles T. Whitelock, Esq., 300 Southeast 13<sup>th</sup> Street, Suite E, Ft. Lauderdale, FL 33316-1924 this 16 day of August, 2017.

  
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Lisa Forbess, Clerk  
Education Practices Commission

### COPIES FURNISHED TO:

Office of Professional Practices Services

Bureau of Educator Certification

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