



Before the Education Practices Commission of the State of Florida

PAM STEWART,
Commissioner of Education,

Petitioner,

vs.

ALEXANDER M. OSUNA,

Respondent.



EPC CASE N° 17-0523-RT
DOAH CASE N° 17-6144PL
PPS N° 167-3397
CERTIFICATE N° 1046827
INDEX NO.: 18-406-FOF

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 24, 2018 in Bonita Springs, Florida, for consideration of the Recommended Order entered in this case by ROBERT S. COHEN, Administrative Law Judge. Respondent was not present or represented by counsel. Petitioner was represented by Charles T. Whitelock, Esq.

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:

The Administrative Complaint is hereby dismissed.

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

DONE AND ORDERED, this 6th day of August, 2018.



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 ALEXANDER M. OSUNA, 13274 Southwest 112th Terrace, Miami, FL 33186 and Emily Moore, Esq., FEA, 213 South Adams Street, Tallahassee, FL 32301 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 13th Street, Suite E, Ft. Lauderdale, FL 33316 this 6th day of August, 2018.



Lisa Forbess, Clerk
Education Practices Commission

COPIES FURNISHED TO:

Office of Professional Practices Services

Bureau of Educator Certification

Superintendent of Schools
1450 NE Second Avenue #912
Miami, FL 33132

Director
Office of Professional Standards
Dade County Schools
1500 Biscayne Blvd., Suite 222
Miami, FL 33132

Lee Ann Gustafson
Senior Assistant Attorney General

ROBERT S. COHEN
Administrative Law Judge
Division of Administrative Hearings
1230 Apalachee Parkway
Tallahassee, FL 32399-1550

Claudia Llado, Clerk
Division of Administrative Hearings

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

PAM STEWART, AS COMMISSIONER OF
EDUCATION,

Petitioner,

vs.

Case No. 17-6144PL

ALEXANDER OSUNA,

Respondent.

_____ /

RECOMMENDED ORDER

A final hearing was held in this matter before Robert S. Cohen, Administrative Law Judge, with the Division of Administrative Hearings ("DOAH"), on February 20, 2018, by video teleconference at sites located in Miami and Tallahassee, Florida.

APPEARANCES

For Petitioner: Charles T. Whitelock, Esquire
Charles T. Whitelock, P.A.
300 Southeast 13th Street
Fort Lauderdale, Florida 33316

For Respondent: Emily Moore, Esquire
Florida Education Association
213 South Adams Street
Tallahassee, Florida 32301

STATEMENT OF THE ISSUE

Whether Respondent violated section 1012.795(1)(j),
Florida Statutes (2017),^{1/} and Florida Administrative Code

Rule 6A-10.081(2)(a)1. and 8., as alleged in the Administrative Complaint; and, if so, the appropriate penalty.

PRELIMINARY STATEMENT

On August 25, 2017, Petitioner filed an Administrative Complaint against Respondent. Respondent disputed the allegations and, on September 21, 2017, timely filed an Election of Rights with Request for Voluntary Dismissal. By letter dated October 13, 2017, Petitioner rejected Respondent's Election of Rights. Thereafter, on November 2, 2017, Respondent filed an Amended Election of Rights with an attached Mitigation Statement and Renewed Request for Voluntary Dismissal. On November 8, 2017, the case was referred to DOAH and scheduled for a hearing involving disputed issues of material fact, which was held on February 20, 2018.

At the hearing, Petitioner presented the testimony of Sergeant Brad Rosh; Detective Gylmar Ochoa; and [REDACTED], the 18-year-old [REDACTED] identified in the Administrative Complaint. Petitioner's Exhibits 1 through 5 were admitted into evidence. Respondent testified on his own behalf and presented the testimony of Victoria Dobbs (principal), Pamela Shlachtman (science department head), [REDACTED] (parent and booster club president), and [REDACTED] (former student and lacrosse team leader). Respondent Exhibits 1 through 11 were admitted into evidence.

The parties filed a Joint Pre-Hearing Stipulation and proceeded to hearing on the one remaining contested issue: whether Respondent knew that [REDACTED] was a high school student, as alleged in the Administrative Complaint.

A one-volume Transcript of the final hearing was filed on March 12, 2018. Both parties timely submitted Proposed Recommended Orders on April 16, 2018, after an Unopposed Motion for Enlargement of Time was granted, extending the due date for the proposed orders from April 2, 2018. The Proposed Recommended Orders, as well as the testimony and exhibits admitted at hearing, have been duly considered in the preparation of this Recommended Order.

FINDINGS OF FACT

Uncontested Facts by the Parties

1. Respondent holds a valid Florida Educator's Certificate No. 1046827, covering the area of Biology, which is valid through June 30, 2020.
2. At all times pertinent to this matter, Respondent was employed as a Biology teacher at Miami Palmetto Senior High School ("MPHS") in the Miami-Dade County School District.
3. Respondent knew [REDACTED]. was a student at MPHS during the [REDACTED] school year and had tried out for the school's lacrosse team in late [REDACTED]

4. Respondent sent a text message to [REDACTED]. on [REDACTED] [REDACTED] stating, "How are you?"

5. Respondent sent and exchanged text messages with [REDACTED] in [REDACTED]

6. Respondent met and engaged in sexual intercourse with [REDACTED] in late [REDACTED]

7. Respondent resigned from his employment with Miami-Dade County Schools on [REDACTED], citing "personal reasons."

Additional Findings of Fact

8. Petitioner, as Commissioner of Education, is responsible for investigating and prosecuting complaints against individuals who hold Florida educator certificates, and are alleged to have violated provisions of section 1012.795.

9. Respondent is a highly effective educator who, over the course of his ten-year career, has earned the respect of his former principal and science department head, as well as parents and students with whom he has come in contact.

10. The allegations of misconduct in this case have not altered the high professional regard in which Respondent is held by Principal Victoria Dobbs; Science Department Head Pamela Shlachtman; parent and lacrosse team booster club president [REDACTED]; and former student, lacrosse player, and the [REDACTED] of [REDACTED], [REDACTED], [REDACTED].

11. Each of these witnesses testified that their knowledge, observations, and experience working with Respondent led them to believe that he never would have had any type of relationship with a [REDACTED] he believed to be a high school student.

12. Each of these witnesses testified that, to the best of their knowledge, they had never seen or heard reports of any inappropriate conduct between Respondent and a student.

13. Principal Dobbs bragged in a letter about Respondent and the support of his peers in voting him Science Teacher of the Year. She testified that in her 12 years of service at MPHS, the last three of which she was principal, she had no concerns with Respondent regarding inappropriate relationships with students. To the contrary, she recalled him as a very good teacher, who participated in many school activities and field trips. He also served as coach for the girls' lacrosse team.

14. Principal Dobbs further testified that she was never informed that Respondent had been accused of having an inappropriate relationship with a student at her school. She was only made aware of a request by the school district for Respondent's computer. She testified that if she had believed Respondent had an intimate relationship with a high school student, she would not have employed him.

15. Ms. Shlachtman has been employed at MPHS since 2001 and has been a teacher since 1984. She affirmed her previously

written statement supporting Respondent, and testified she had participated in the hiring and selection of Respondent ten years previously as a marine biology teacher. She stated that he had "the soul of an educator."

16. As a member of Ms. Shlachtman's staff, Respondent had chaperoned multiple field trips, including extended travel with students and staff for the Enviro Team, and to state and national competitions in Montana and Toronto, Canada. Having seen Respondent react with both male and female students on seven- and ten-day trips, she never had a concern or received a complaint. She also knew [REDACTED] on the lacrosse team and had never heard a concern reported from there. She noted that Respondent had the opportunity to be alone with students on multiple occasions, and no concerns or inappropriate behavior was ever reported. She would rehire Respondent on her staff again, if given the opportunity.

17. [REDACTED] the mother of three [REDACTED] who trained with Respondent at his CrossFit gym, also served as president of the [REDACTED] lacrosse team booster club. She affirmed her previous letter of support for Respondent and testified about her commitment to Respondent as a trainer for her three [REDACTED] at his gym, which she said would continue.

18. Additionally, [REDACTED], [REDACTED]'s [REDACTED], and a full-time student at the University of Florida, confirmed [REDACTED]

support for Respondent. While a student at MPHS, [REDACTED] had served as assistant captain of the [REDACTED] lacrosse team during [REDACTED] senior year (2014), while Respondent was the team coach. [REDACTED] had known Respondent since [REDACTED] was a sophomore student in his Television Production class; [REDACTED] had traveled with Respondent to Los Angeles as part of his class; and had ridden numerous times on the team bus with Respondent. [REDACTED] testified that [REDACTED] believed Respondent would not have been involved with [REDACTED] had he known [REDACTED] was a high school student.

19. Respondent first encountered [REDACTED] during MPHS lacrosse tryouts in late [REDACTED]. [REDACTED] was a junior at that time. Respondent had no further contact with [REDACTED] until he sent [REDACTED] a [REDACTED], text stating, "Hi! How was your weekend? You missed out on Saturday morning [referring to a workout designed for lacrosse players at CrossFit gym]." [REDACTED], still a student at MPHS at the time of this text message, never replied to it.

20. On [REDACTED] Respondent sent another text message to [REDACTED], stating, "Hey, what's up? How have you been?" The remaining text messages sent by Respondent to [REDACTED] were undated, but were sent between [REDACTED] and their sexual encounter in late [REDACTED]. The text messages were sexually graphic. The messages sent by Respondent included explicit photographs, and while those sent by [REDACTED] had explicit photographs, they were removed to protect [REDACTED] privacy.

21. [REDACTED] was a student at MPHS through [REDACTED]. On [REDACTED] the Miami-Dade School District conducted a conference to formulate an Individual Education Plan (IEP) for [REDACTED]. [REDACTED] was placed in a hospital/homebound program at that time and graduated from the virtual school in [REDACTED]. [REDACTED] did not attend college during this time.

22. Respondent never denied the one-time sexual encounter he had with [REDACTED]. On the day when the encounter took place, [REDACTED] [REDACTED] texted Respondent and asked if [REDACTED] could see him that night. [REDACTED] was driven by a friend to Briar Bay Park where [REDACTED] met Respondent, who was already there and waiting for [REDACTED] in his car. [REDACTED] had sexual intercourse with him in his car. After their liaison, Respondent drove [REDACTED] home. [REDACTED] and Respondent had no contact after that time.

23. A great deal of testimony was elicited about whether Respondent texted or phoned [REDACTED] and discussed [REDACTED] status as a student in [REDACTED]. At different times during the investigation into the sexual encounter between [REDACTED] and Respondent, he said he texted, instant messaged, or telephoned [REDACTED] about [REDACTED] school. Respondent believed [REDACTED] to be taking courses at Miami Dade College ("MDC") during the spring semester of [REDACTED]. In fact, [REDACTED] was a student at Brucie Ball Education Center ("Brucie Ball"), a virtual school where [REDACTED] took online courses to complete [REDACTED] high school education, graduating in

██████████ Respondent consistently believed, at the time of his interview by Detective Ochoa, during his deposition, and at hearing, that ██████ was in college and testified he was never told ██████ was at Brucie Ball.

24. ██████'s memory is less clear. ██████ testified ██████ could not recall telling Respondent ██████ was taking college courses, but there is no doubt ██████ was enrolled at Brucie Ball during ██████ final semester of high school and not at MDC.

25. ██████ remembers that ██████ received a social media invite from Respondent to attend his CrossFit boot camp in ████████████████████. ██████ recalls communicating back and forth via social media after that time, especially when Respondent texted ██████ about missing ██████ at boot camp. ██████ and Respondent testified to multiple additional conversations via social media or texting, but many of those were not produced as evidence.

26. When a three-month gap between their messaging occurred, Respondent testified that ██████ told him ██████ had been backpacking in Africa with friends and, according to what he recalled ██████ told him, ██████ was taking courses at MDC. ██████ did not recall having told him ██████ was taking courses at MDC, but "guessed he knew" ██████ was still a high school student because the previous year ██████ had been a junior at MPHS. "It never came up," ██████ testified.

27. While █████ could not recall having told Respondent █████ had been to Africa and was taking courses at MDC, █████ testified █████ recalled many more text messages between Respondent and █████ that were not printed from █████ phone and introduced into evidence at hearing.

28. According to █████, █████ had not talked to Respondent about █████ upcoming 18th birthday on █████. Yet, █████ invited him to the celebration at a club called "Do Not Sit on the Couch." █████ also shared with him that █████ and █████ friends often visited another club called "Little Hoolies," and invited Respondent to join them. Both of these clubs serve alcohol and are for adults over 21. Respondent did not join them at either club. █████ did not recall any of these conversations at hearing.

29. █████ declined to be interviewed by Petitioner's Professional Practices Services investigator. At hearing, █████ could not recall a request to be interviewed.

30. Respondent assumed █████ was older than 18 when they met at the park for sex, since he believed █████ to be taking classes at MDC; █████ hung out with █████ friends at two adult clubs; and █████ brought alcohol, a vapor pen, and THC oils with █████ when they met in the park. He did not believe this to be typical high school behavior.

31. Respondent also believed █████'s absence from social media for three months before they had their encounter at the

park was explained by ██████ telling him ██████ had been backpacking in Africa where he assumed ██████ did not have readily available access to the Internet. He also believes this supported his understanding that ██████ was in college at that point, since three months of backpacking does not usually occur as part of a high school experience.

32. Respondent consistently testified, from his statements to law enforcement to his appearance at hearing, that had he known ██████ was still a high school student, regardless of whether ██████ was at the school where he taught, he would have never had an intimate relationship with ██████. Moreover, law enforcement never asked Respondent for his phone at the time of the investigation. After he learned ██████ had been a high school student in ██████, when they had their one-time sexual relationship, on ██████ of that year he resigned his position as a teacher at MPHS for "personal reasons," based upon advice he received from union representatives and an investigator, and to spare embarrassment to his school, colleagues, and family.

33. At the time ██████ had entered into an IEP with Miami-Dade, ██████ school was listed as South Miami Senior High School, not MPHS. This explains why Respondent never saw ██████ again at MPHS in ██████ final semester. There was no evidence presented that Respondent knew ██████ had not graduated from MPHS or that ██████ had

enrolled in either South Miami High School or Brucie Ball when [REDACTED] did not return to MPHS for the spring semester of [REDACTED].

34. Respondent's assertion that he was unaware of [REDACTED], an 18-year-old, still being in high school at the time of their [REDACTED] encounter, along with his cooperation with the investigation and admission at all times pertinent to it that he had a sexual relationship with [REDACTED] renders his testimony more credible than [REDACTED]'s concerning what Respondent knew about [REDACTED] status as a student. No evidence was produced that Respondent ever had an improper relationship with [REDACTED] while [REDACTED] was under the age of 18. [REDACTED]'s lack of candor and lack of cooperation with Detective Ochoa, the investigator on the case, as well as [REDACTED] incomplete memory of the various text messages with Respondent bring into question [REDACTED] truth and veracity when testifying against Respondent.

CONCLUSIONS OF LAW

35. The Division of Administrative Hearings has jurisdiction over the subject matter of this proceeding and of the parties thereto pursuant to sections 120.569 and 120.57(1), Florida Statutes.

36. Sections 1012.795(1) and 1012.796(6) authorize the Commissioner of Education to file a formal complaint and prosecute that complaint against a teacher's certificate pursuant to the provisions of chapter 120.

37. A proceeding, such as this one, to suspend, revoke, or impose other discipline upon a license is penal in nature. State ex rel. Vining v. Fla. Real Estate Comm'n, 281 So. 2d 487, 491 (Fla. 1973). Accordingly, to impose such discipline, Petitioner must prove the allegations in the Administrative Complaint by clear and convincing evidence. Dep't of Banking & Fin., Div. of Sec. & Investor Prot. v. Osborne Stern & Co., 670 So. 2d 932, 933-34 (Fla. 1996) (citing Ferris v. Turlington, 510 So. 2d 292, 294-95 (Fla. 1987)); Nair v. Dep't of Bus. & Prof'l Reg., Bd. of Med., 654 So. 2d 205, 207 (Fla. 1st DCA 1995).

38. What constitutes clear and convincing evidence was described in Slomowitz v. Walker, 429 So. 2d 797, 800 (Fla. 4th DCA 1989), as follows:

[C]lear and convincing evidence requires that the evidence must be found to be credible; the facts to which the witnesses testify must be distinctly remembered; the testimony must be precise and explicit and the witnesses must be lacking in confusion as to the facts in issue. The evidence must be of such weight that it produces in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established.

39. The Florida Supreme Court later adopted the Slomowitz court's description of clear and convincing evidence. See In re Davey, 645 So. 2d 398, 404 (Fla. 1994). The First District Court of Appeal also followed the Slomowitz test, adding the interpretive comment that "[a]lthough this standard of proof may

be met where the evidence is in conflict . . . it seems to preclude the evidence that is ambiguous." Westinghouse Elec. Corp. v. Shuler Bros., 590 So. 2d 986, 988 (Fla. 1st DCA 1991) (citations omitted), rev. denied, 599 So. 2d 1279 (Fla. 1992).

40. Disciplinary statutes and rules "must be construed strictly, in favor of the one against whom the penalty would be imposed." Munch v. Dep't of Prof'l Reg., Div. of Real Estate, 592 So. 2d 1136, 1143 (Fla. 1st DCA 1992); see Camejo v. Dep't of Bus. & Prof'l Reg., 812 So. 2d 583, 583-84 (Fla. 3d DCA 2002); McClung v. Crim. Just. Stds. & Training Comm'n, 458 So. 2d 887, 888 (Fla. 5th DCA 1984) ("[W]here a statute provides for revocation of a license the grounds must be strictly construed because the statute is penal in nature. No conduct is to be regarded as included within a penal statute that is not reasonably proscribed by it; if there are any ambiguities included, they must be construed in favor of the licensee." (citing State v. Pattishall, 126 So. 147 (Fla. 1930))).

41. Discipline may be imposed only on grounds specifically alleged in the Administrative Complaint. See Cottrill v. Dep't of Ins., 685 So. 2d 1371, 1372 (Fla. 1st DCA 1996); Kinney v. Dep't of State, 501 So. 2d 129, 133 (Fla. 5th DCA 1987); Hunter v. Dep't of Prof'l Reg., 458 So. 2d 842, 844 (Fla. 2d DCA 1984).

42. Respondent is charged in the Administrative Complaint with one statutory and two rule violations. Count One cites a

violation of section 1012.795(1)(j) in that Respondent has violated one or more of the Principles of Professional Conduct for the Education Profession prescribed by State Board of Education rules. Petitioner has charged Respondent with two rule violations: rule 6A-10.081(2)(a)1. and 8.

43. Section 1012.795(1)(j) provides, as follows:

**1012.795 Education Practices Commission;
authority to discipline.—**

(1) The Education Practices Commission may suspend the educator certificate of any person as defined in s. 1012.01(2) or (3) for up to 5 years, thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students for that period of time, after which the holder may return to teaching as provided in subsection (4); may revoke the educator certificate of any person, thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students for up to 10 years, with reinstatement subject to the provisions of subsection (4); may revoke permanently the educator certificate of any person thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students; may suspend the educator certificate, upon an order of the court or notice by the Department of Revenue relating to the payment of child support; or may impose any other penalty provided by law, if the person:

* * *

(j) Has violated the Principles of Professional Conduct for the Education

Profession prescribed by State Board of Education rules.

44. Rule 6A-10.081(2)(a)1. and 8. provides, as follows:

(2) Florida educators shall comply with the following disciplinary principles. Violation of any of these principles shall subject the individual to revocation or suspension of the individual educator's certificate, or the other penalties as provided by law.

(a) Obligation to the student requires that the individual:

1. Shall make reasonable effort to protect the student from conditions harmful to learning and/or to the student's mental and/or physical health and/or safety.

* * *

8. Shall not exploit a relationship with a student for personal gain or advantage.

45. Petitioner has argued throughout its Proposed Recommended Order that Respondent clearly knew [REDACTED] was a high school student at the time of their sexual encounter. Many strong statements were made that Respondent "seduced" [REDACTED], when, in fact, at best, Respondent accepted [REDACTED] offer to meet at Briar Bay Park. The texts between [REDACTED] and Respondent, before they became sexual in nature, were mere invitations to work out with other students at a CrossFit boot camp. Once they became sexual, Respondent had not heard from [REDACTED] for three months; testified that [REDACTED] told him [REDACTED] had been backpacking in Africa and was a college student; and most of the time did not even respond to his

infrequent texts. If this can be characterized as a "seduction," it was quite a subtle one.

46. The texting of nude photographs, while perhaps vulgar and distasteful to most people, was between two adults, albeit one of whom had only recently turned 18 and who had previously invited Respondent to celebrate ██████ 18th birthday, an invitation he did not accept. Respondent's assumption that ██████ was both an adult (accurate) and a college student (inaccurate, but not unreasonable) justified his acceptance of ██████ offer to meet at the park of ██████ own volition. ██████ was dropped at the park by a friend and, after the encounter with Respondent, accepted a ride home with him. After that one meeting, they apparently never met again.

47. While the majority of high school students graduate after the spring semester, no evidence was presented that many do not graduate after the fall semester. Respondent's belief that ██████ had graduated, gone backpacking in Africa for three months, then returned home to take classes at MDC, was not an unreasonable conclusion on his part. Additionally, knowing fully what happened between Respondent and ██████, his colleagues, including his former principal and the science department head, stood behind him, touting his great value to MPHS and the school district and vouching for his good name and excellent behavior as a teacher over a ten-year period.

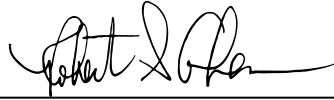
48. Respondent has presented commendable character, conduct and reputation evidence through the two school administrators, as well as through [REDACTED] and her [REDACTED]. Each of these witnesses believed that had Respondent known [REDACTED] was still enrolled as a high school student, he would not have engaged in an intimate relationship with [REDACTED]. Respondent has maintained this position consistently throughout the investigation and these proceedings. When he learned that [REDACTED] was enrolled in high school, rather than fighting the charges at the school district level, he chose to resign his position with MPHS, rather than bring further embarrassment on his school and its administrators.

49. Petitioner has failed to prove by clear and convincing evidence that Respondent intentionally or knowingly violated the statutory and rule provisions cited above. Accordingly, no action should be taken against his educator's certificate, and the charges against him should be dismissed.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Education Practices Commission enter a final order dismissing the charges against Respondent in their entirety.

DONE AND ENTERED this 23rd day of May, 2018, in Tallahassee,
Leon County, Florida.



ROBERT S. COHEN
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 23rd day of May, 2018.

ENDNOTE

^{1/} References to statutes are to Florida Statutes (2017), unless
otherwise noted.

COPIES FURNISHED:

Gretchen Kelley Brantley, Executive Director
Education Practices Commission
Department of Education
Turlington Building, Suite 316
325 West Gaines Street
Tallahassee, Florida 32399-0400
(eServed)

Emily Moore, Esquire
Florida Education Association
213 South Adams Street
Tallahassee, Florida 32301
(eServed)

Charles T. Whitelock, Esquire
Charles T. Whitelock, P.A.
300 Southeast 13th Street
Fort Lauderdale, Florida 33316
(eServed)

Marian Lambeth, Bureau Chief
Bureau of Professional
Practices Services
Department of Education
Turlington Building, Suite 224-E
325 West Gaines Street
Tallahassee, Florida 32399-0400
(eServed)

Matthew Mears, General Counsel
Department of Education
Turlington Building, Suite 1244
325 West Gaines Street
Tallahassee, Florida 32399-0400
(eServed)

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.