

**STATE OF FLORIDA**  
**DIVISION OF ADMINISTRATIVE HEARINGS**

RICHARD CORCORAN, AS COMMISSIONER  
OF EDUCATION,

Petitioner,

Case No. 21-1145PL

vs.

LISA CAMACHO SZETO,

Respondent.

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RECOMMENDED ORDER

Pursuant to notice, a final hearing in this cause was held in Tallahassee, Florida, via Zoom video conference on May 12, 2021, before Linzie F. Bogan, Administrative Law Judge of the Division of Administrative Hearings.

APPEARANCES

For Petitioner: Ron Weaver, Esquire  
Post Office Box 770088  
Ocala, Florida 34477-0088

For Respondent: Carol R. Buxton, Esquire  
Florida Education Association  
1516 East Hillcrest Street, Suite 109  
Orlando, Florida 32803

STATEMENT OF THE ISSUES

Whether Respondent violated section 1012.795(1)(b), Florida Statutes (2018), as charged in the Administrative Complaint; and, if so, the penalty that should be imposed.<sup>1</sup>

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<sup>1</sup> Respondent's alleged conduct occurred in September 2018. The 2018 version of chapter 1012, and related statutes, was in effect at the time of the alleged conduct, and, therefore, applies to this proceeding. *See Orasan v. Ag. for Health Care Admin.*, 668 So. 2d

## PRELIMINARY STATEMENT

On or about February 11, 2021, Petitioner, Richard Corcoran, as Commissioner of Education, issued an Administrative Complaint (Complaint) charging Respondent, Lisa Camacho Szeto, with having violated section 1012.795(1)(b), and proposing to sanction Respondent's educator's certificate, pursuant to sections 1012.795 and 1012.796. Respondent timely served an Election of Rights disputing the allegations in the Complaint and requesting a hearing pursuant to section 120.57(1), Florida Statutes.<sup>2</sup> On or about March 26, 2021, the matter was referred to the Division of Administrative Hearings (DOAH) for a disputed fact hearing.

At the final hearing, Petitioner offered the testimony of student A.C., Dr. Suzanne M. Knight, Maria Schmidt-Sutton, Maria Martinez-Rodriguez, and Tamie Shuster. Respondent testified on her own behalf and offered the testimony Melissa J. King-Rolsinelli, and Richard S. Lucero, Jr.

Petitioner's Exhibits 2, 4, 5, 11, and 18 were admitted into evidence. Petitioner's Exhibits 4 and 18 are on a USB flash drive. Per Petitioner's request, official recognition was taken of Petitioner's Exhibits 6 through 10 (pages 18 through 29), as identified by Petitioner's Exhibit List filed on or about May 6, 2021. Respondent's Exhibits 3, 5, 6, 16, and 17 were also admitted into evidence.

A one-volume Transcript, with a separate word index, was filed at DOAH on May 28, 2021. Pursuant to joint motion, the deadline for filing proposed recommended orders was extended to June 30, 2021. Each party timely filed a proposed order, and the same have been considered in the preparation of this Recommended Order.

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1062, 1063 (Fla. 1st DCA 1996)(generally, the law in effect at the time of the alleged violations applies in disciplinary proceedings).

<sup>2</sup> Unless otherwise indicated, all references to chapter 120 are to the 2020 version.

## FINDINGS OF FACT

### Background

1. Petitioner, the Commissioner of Education, is responsible for determining whether there is probable cause to warrant disciplinary action against an educator's certificate and, if probable cause is found, for filing and prosecuting an administrative complaint pursuant to chapter 120.

2. Respondent holds Florida Educator's Certificate 1124072. Respondent's certificate is valid through June 30, 2024, and covers the areas of educational leadership, elementary education, English for speakers of other languages (ESOL), and reading.

3. During the 2018-2019 school year, Respondent was employed as a reading teacher at Dr. Phillips High School (DPHS) in the Orange County School District (OCSD). Respondent has been a licensed educator since 1995 and admits to understanding that she is a "mandatory reporter" in instances where a child has been abused or where abuse is suspected.

4. Section 1012.795(1)(b) authorizes the Education Practices Commission to discipline an educator "for knowingly failing to report actual or suspected child abuse as required in s. 1006.061 or report alleged misconduct by instructional personnel or school administrators which affects the health, safety, or welfare of a student as required in s. 1012.796."

5. Section 39.201, Florida Statutes (2018), requires any person who knows or has reasonable cause to suspect that a child is abused by a person responsible for the child's welfare to immediately report the knowledge or suspicion to the Department of Children and Families (DCF) Abuse Hotline. Several OCSD policies also mandate that a teacher immediately report any suspected child abuse to the DCF Abuse Hotline.

### The Complaint

6. The Complaint alleges that "[o]n or about September 11, 2018, A.C., an eleventh[-]grade female student, reported to Respondent that [she] was being

physically abused by her mother, [and that] Respondent failed to timely report the suspected abuse to [DCF] as required by law.”

7. As a result of this alleged conduct, the Complaint charges Respondent with having violated section 1012.795(1)(b).

Evidence Adduced at the Final Hearing

8. Respondent first met A.C. at or near the beginning of the 2018-19 school year, which commenced sometime around the latter part of August 2018. As to her initial encounter with A.C., Respondent testified as follows:

Q. And when did you first meet A.C.?

A. I believe she may have been absent the first few days of school, but upon her first day of entry to my classroom she asked me, when we were greeting each other at the door, do you know who I am? And I said, A.C. And she goes, well, do you know about me? And I said, no, A.C. Hi, nice to meet you.

She goes, well don't you know about my history, don't you know anything about me? I know your son and I'm in ROTC and, well, DCF used to be here all the time in ninth and tenth grade, don't you know anything about me? I thought you would know all about me.

And I mentioned to her that I knew nothing about her except her name and her grades and welcome to my class. And I said, let me show you where you're sitting this year. And I showed her her seat.

Q. When she said, DCF used to come to school all the time, what was she talking about?

A. I have no idea. I think she was telling me about her personal history. Her behavior was a little flamboyant and very attention seeking and it was very extroverted, wanting to get to know me on a personal basis. And I -- it was just a little different from what I'm used to. And but she definitely did stand out in my vision as somebody that was seeking attention. (Tr. pp. 103-104).

Within seconds of meeting A.C., Respondent, by her own admission, thought of A.C. as an extreme extrovert who was prone to engage in flamboyant and attention-seeking behavior.

9. On the morning of September 6, 2018, Ms. Shuster included Respondent on an email that was sent to several individuals regarding A.C. The email informed recipients of the need to schedule “a team meeting ... in reference to [A.C.’s] sporadic attendance.” Respondent, in response to the email from Ms. Shuster, stated the following with respect to A.C.:

She is extremely bright and multi-lingual. She mentioned the school had to call DCF (A4) on her several times last year because her mom is really mean. The last few absences she had ROTC commitments. I would check with them to verify. 8/24 was the ROTC field day, 9/5 was the Club Fair. She probably shouldn’t be in reading; however, she fell asleep on the FSA last year. The question may be why isn’t she getting enough sleep? I hope this helps.

10. Although A.C. had only briefly mentioned to Respondent during their initial interaction that she had encounters with DCF during the previous school year, it is obvious that A.C.’s reference to DCF resonated with Respondent given that several days later Respondent thought the information was of such significance that it needed to be included in Respondent’s reply to the email from Ms. Shuster.

11. As of September 6, 2018, Respondent knew that A.C.’s school attendance was sporadic; that something in A.C.’s life was causing her to not get enough sleep; and that A.C. reported having a “really mean mom” whose purported conduct resulted in several visits from DCF during the previous school year.

September 11, 2018

12. According to Respondent, prior to the commencement of her fifth period class on September 11, 2018, she was greeting students at the

doorway of her classroom when A.C. arrived. Because A.C. had recently been absent from Respondent's class, Respondent asked A.C. "where you been." In response to her question, A.C., according to Respondent, stated that she "got arrested and I can tell you all about it." Respondent testified that she then told A.C. to go to her seat and "we can talk about that later." Respondent testified that she then instructed A.C. to sit down, but A.C. continued talking and said to Respondent "I can show you pictures."

13. Respondent then instructed A.C. to "put [her] phone away and sit down." A.C. complied with Respondent's directive, but before doing so persisted in trying to show Respondent the pictures on her phone. Respondent said that she was about 20 feet from A.C. when A.C. attempted to show her the pictures. Because of the distance between her and A.C., Respondent testified that she was unable to discern what was reflected in the pictures, but she recalled that A.C. said "I can show you pictures, I can show you, you know, these bite marks." (Pet. Ex. 18, pp. 22-23).

14. Respondent testified that at the conclusion of the fifth period class, she told A.C. to remain in the classroom. According to Respondent, as reflected in Petitioner's Exhibit 18, pages 18 and 19, the following events then transpired over a period of about 10 to 15 minutes:

Q. Okay. So now you and A.C. are in the room.

A. Yes.

Q. And you say to A.C. or she says to you, what?

A. I said, hey, A.C., you said you were arrested. Can you tell me about that? What's going on?

She goes, well, if you really want to know, I wanted to get it on with my boyfriend and so my mom didn't like it, we got into it and I called the police on her and they arrested me.

And I said, oh wow, A.C. I was like, why did they take you. And she goes, well, the cops said that

they were calling DCF and that they found me -- that I was the one not listening to my mom.

And I said, well, A.C., I can tell you this. I have a teenage daughter. She graduated from here a few years ago and, I said, I'm going to talk to you as a teacher and I'm going to talk to you as a mom.

I said, as a mom, maybe try to put your foot in the other shoe. Maybe your mom doesn't want a little A.C. running around in nine months. Did you ever think about that perspective?

And she goes, no. She goes, oh I don't want to have kids. She goes -- I said, well, are you planning on going to the military and she said no, I don't want to do that either. And she goes, I want to do something in art, graphic arts. Create -- I'm very creative. And I said okay.

Then we spoke about, you know, what else did we speak about? We spoke about, you know, trying to follow house rules so that she doesn't get in this situation again, whatever. And she goes, yeah, yeah, I know. She goes, I'm over it.

And I said, well, you know, lunch is about to end, you better hurry on. And so, then she left for lunch and then when she left I called Ms. Graves and I called Ms. Shuster. I did not get Ms. Shuster. I didn't leave a message.

Ms. Graves, I left a message. Ms. Graves called me back sixth period and when I told her, hey, A.C. reported that she got arrested, what's going on, she goes, oh, every teacher has told me already. We know. And I said, okay, great, thanks.

15. In addition to the above, Respondent testified that the following events also occurred during her 10 to 15-minute discussion with A.C:

Q. During that period, did A.C. show you any photos?

A. I don't recall having any photo opportunities except the time that she -- when she was walking into the room trying to show me the phone from across the room.

Q. Okay. So, while she is having the conversation with you during the lunch period, she didn't try to show you the photos that she had previously tried to show you; is that correct?

A. I don't believe so. I remember I asked her about the photos and stuff like that. She goes, I can show you photos and I was like, no, I don't want to see your photos. Because I just didn't.

16. A.C. testified that on September 11, 2018, she reported to Respondent's class and informed Respondent that she had been abused by her mother. According to A.C., she showed Respondent several pictures of bruising and bite marks on her body, which A.C. attributed to having resulted from the conduct of her mother. A.C. testified that the images reflected in Petitioner's Exhibit 4 are copies of the pictures that she showed Respondent on September 11, 2018.

17. Bates stamped page 9 of Petitioner's Exhibit 4 is an image that clearly shows bite marks on A.C.'s hand. A.C. testified that the bite marks reflected in this exhibit were still visible on her hand when she met with Respondent on September 11, 2018, and that she showed her injured hand to Respondent.

18. A.C. could not recall if she showed the pictures to Respondent upon entering Respondent's classroom or immediately following Respondent's fifth period class. While A.C. was uncertain as to when she discussed the details of her situation with Respondent, her testimony regarding her interaction with Respondent on September 11, 2018, was without equivocation or hesitancy, she recounted the events in question with precision, and her testimony was not otherwise impeached by Respondent. A.C. was a credible witness, and her testimony is appropriately credited.



September 13, 2018

19. Thursday, September 13, 2018, was open-house day at DPHS, and teachers were required to remain at school until 8:00 p.m. At approximately 4:30 p.m., Respondent and her colleague, Ms. Rosa Martinez-Rodriguez, were conversing in Ms. Martinez-Rodriguez's classroom when the administrative dean, Ms. Tamie Shuster, appeared in the doorway of the classroom. According to Ms. Shuster, she needed to speak with Ms. Martinez-Rodriguez about ESOL-related matters.

20. Ms. Shuster finished her conversation with Ms. Martinez-Rodriguez, and before exiting the classroom, she was hailed by Respondent who informed her that student A.C. reported to Respondent that she had been bitten by her mom, and that A.C. had shown her cellphone pictures of the bite marks. When asked by Ms. Shuster if she had told anyone else about A.C.'s complaint, Respondent indicated that she had not. Ms. Shuster informed Respondent that the incident involving A.C. had to be reported, and after meeting with Respondent, Ms. Shuster promptly reported the incident involving A.C. to the DCF Abuse Hotline.

21. In the narrative section of the reporting form completed by Ms. Shuster on September 13, 2018, she noted the following: "The student [A.C.] reported to her teacher Ms. Camacho Szeto that her mother got mad at her [and] left bite marks on her." As a follow up, Ms. Shuster, on September 14, 2018, prepared a written statement outlining the events of the previous day. In all material respects, Ms. Shuster's written statement on September 14, 2018, is consistent with her testimony and the information that she included in the narrative section of the abuse reporting form that she prepared on September 13, 2018.

22. Ms. Martinez-Rodriguez was in earshot of the conversation between Respondent and Ms. Shuster and testified to the following:

Q. Okay. And then what did you hear during that conversation between Ms. Szeto and Ms. Shuster?

A. So they were talking about, as I said, a student that they both seemed to know about. The student seemed to have a lot of absences. And I heard Ms. Szeto tell Ms. Shuster that the student had said that her parent bit her and had shown her some pictures on the phone, but that she hadn't reported anything because she had not observed bite marks on the student in person, on her person.

And she wasn't sure, also, if it was true as -- because there was a question about whether the pictures were of the student. To my understanding.

Q. Okay. So, it's your testimony that Mrs. Szeto told Ms. Shuster that she didn't report it to DCF because she wasn't sure if the student was telling the truth; is that correct?

A. I'm not sure who she was referring to as not reporting it. I'm not sure if it was DCF or administration. That was unclear to me.

But, yes, it was clear that she said that she wasn't sure if it was true.

Q. Ms. Camacho saying she wasn't sure if it was true. If what was true?

A. What the student was alleging that her parent had bit her and that the marks were actually the student's. (Tr. pp. 60-61)

23. Ms. Martinez-Rodriguez, approximately two weeks after witnessing the conversation between Respondent and Ms. Shuster, prepared a "witness statement," which reads as follows:

On September 13, 2018, Ms. Camacho-Szeto visited my office. She remained here for about an hour. It was Open House day, so we had to be in school until 8 p.m. We were having a conversation about personal matters. At some point during the visit, Ms. Tamie Shuster stopped by the door. Ms. Camacho-Szeto informed her that one of her students was stating that her mom bit her and the

student had shown her pictures of the bite marks on her phone. I do not recall the name of the student, nor if it was an ESOL student. Ms. Camacho-Szeto stated that she had not reported anything because she wasn't sure if the student was saying the truth as she never saw the bite marks on the student, only pictures on her phone and she didn't know if they were really pictures of her. Ms. Tamie Shuster said she would investigate and left. Ms. Camacho-Szeto left to get her meal before Open House began.

24. Respondent, when recalling her conversation with Ms. Shuster on September 13, 2018, testified as follows:

Q. What did you say to Ms. Shuster?

A. I said, hey, Ms. Shuster, last week you sent an email about A.C. and regarding the attendance child -- that you were spearheading up the Child Study Team and I needed to talk to you. I called you the other day, but you weren't at your desk.

I said, I have this girl, A.C., she's a little bit, you know, she's a handful, I said, but I need to tell you, she told me she was arrested and she said these things. She's trying to show me a phone from across the room and she mentioned some bite marks. I see no evidence of bite marks.

I see nothing but the behaviors that's exhibited tell me this child needs some type of counseling or whatever... .

She goes, oh, gee, thanks. Now I have to call it in. And I said, well, I don't know, Tamie, I'm not -- I don't see any signs of abuse here whatsoever, she just said she was arrested, but I don't have her history. You have her history, you're starting the Child Study Team.

I said, if I call in a report to DCF, I have nothing to show except that she was arrested and they're not going to take the report ... .

\* \* \*

Q. Okay. Now you said you mentioned to Ms. Shuster that A.C. said something about bite marks.

A. Yes.

Q. But what did you tell Ms. Shuster about what A.C. said about bite marks?

A. I said, she was trying to show me a cellphone from across the room of a -- looked like an x-ray with bite mark -- not bite marks, sorry. Teeth -- like x-ray teeth. And I said, and I see no evidence here of any bite marks or anything on this child.

But I was just trying to calm her down and to start my class and I've not spoken to her about it anymore. And I said, could you follow up with her? (Pet. Ex. 18, pp. 38-41).

25. Ms. Shuster and Ms. Martinez-Rodriguez both testified that Respondent, when speaking with Ms. Shuster on September 11, 2018, stated that A.C. had been bitten by her mother and had shown Respondent pictures of the bite marks. Neither Ms. Shuster nor Ms. Martinez-Rodriguez testified, nor did they note in their written statements, that Respondent stated that A.C. was “trying to show Respondent pictures from across the room.” Furthermore, neither Ms. Shuster nor Ms. Martinez-Rodriguez testified that Respondent mentioned “x-ray like pictures of teeth” when discussing A.C. with Ms. Shuster.

26. In addition to the above, Respondent’s purported statement to Ms. Shuster that she had “not spoken to her (A.C.) about it anymore,” when read in context, is in direct conflict with other testimony where Respondent states that she met with A.C. for 10 to 15 minutes after class to discuss with A.C. the situation involving A.C. and her mother. It is not entirely clear from the evidence why Respondent would not disclose to Ms. Shuster that she had

met with A.C. for 10 to 15 minutes, and thus mislead Ms. Shuster about the extent of her interaction with A.C. on September 11, 2018.

27. Also, Respondent's testimony that she did not have an opportunity to review the pictures on A.C.'s phone during her after-class meeting with A.C. is problematic, and not worthy of belief. While it may have been reasonable under the circumstances for Respondent to forestall A.C.'s attempts to show Respondent the pictures at the beginning of the class period, it defies logic and reason that Respondent would meet with A.C. for 10 to 15 minutes after class, ask A.C. about the pictures, and then refuse to view them when given the opportunity to do so.

28. Respondent's evasive, misleading, and inconsistent testimony undermines her credibility to the point to where her version of the events in question cannot be believed.

29. Dr. Knight is the principal at DPHS and testified that it is not required that an employee have actual knowledge that a child has been abused. According to Dr. Knight, employees are trained that, when dealing with issues of suspected child abuse or neglect, "it's not your job to determine if you think it's factual or not. You call it in and then DCF is the organization that determines whether it's factual or not. Your job is to just report it and they take it from there." Dr. Knight's testimony accurately states Respondent's obligation as a "mandatory reporter."

#### Findings of Ultimate Fact

30. On September 11, 2018, A.C., who was then an eleventh-grade student, reported to Respondent that she had been physically abused by her mother.

31. A.C., when discussing the events with Respondent, presented pictures of her injuries and also showed Respondent bite marks that were then present on A.C.'s hand.

32. The fact that A.C. verbally informed Respondent that she was abused by her mother was, in itself, sufficient to trigger Respondent's reporting obligation to DCF.

33. The fact that A.C. showed Respondent pictures of injuries to her body was, in itself, sufficient to trigger Respondent's reporting obligation to DCF.

34. Although Respondent understood her obligation to report known or suspected child abuse to DCF, she failed to do so with respect to A.C.'s allegations of abuse.

35. Based on the foregoing, it is determined that Petitioner proved, by clear and convincing evidence, that Respondent engaged in the conduct alleged in the Complaint.

#### CONCLUSIONS OF LAW

36. DOAH has jurisdiction over the subject matter of, and the parties to, this proceeding, pursuant to sections 120.569 and 120.57(1).

37. This is a proceeding to impose disciplinary sanctions on Respondent's educator certificate. Because this disciplinary proceeding is penal in nature, Petitioner is required to prove the allegations in the Complaint by clear and convincing evidence. *Dep't of Banking & Fin. v. Osborne Stern & Co.*, 670 So. 2d 932 (Fla. 1996); *Ferris v. Turlington*, 510 So. 2d 292 (Fla. 1987).

38. Clear and convincing evidence "requires more proof than a 'preponderance of the evidence' but less than 'beyond and to the exclusion of a reasonable doubt.'" *In re Graziano*, 696 So. 2d 744, 753 (Fla. 1997). As stated by the Florida Supreme Court:

Clear 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 lacking in confusion as to the facts in issue. The evidence must be of such a 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.

*In re Davey*, 645 So. 2d 398, 404 (Fla. 1994)(quoting *Slomowitz v. Walker*, 429 So. 2d 797, 800 (Fla. 4th DCA 1983)). “Although this standard of proof may be met where the evidence is in conflict ... it seems to preclude evidence that is ambiguous.” *Westinghouse Elec. Corp. v. Shuler Bros. Inc.*, 590 So. 2d 986, 989 (Fla. 1991).

39. This proceeding is predicated on the allegations set forth in the Complaint. Due process prohibits Petitioner from taking disciplinary action based on matters not specifically alleged in the charging instrument. See *Trevisani v. Dep’t of Health*, 908 So. 2d 1108, 1109 (Fla. 1st DCA 2005); *Cottrill v. Dep’t of Ins.*, 685 So. 2d 1371, 1372 (Fla. 1st DCA 1996).

40. As set forth above, the Complaint charges Respondent with having violated section 1012.795(1)(b), which provides, in part, as follows:

(1) The Education Practices Commission may suspend the educator certificate of any instructional personnel or school administrator, 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 person 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 subsection (4); may permanently 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; may suspend a person’s 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:

\* \* \*

(b) Knowingly failed to report actual or suspected child abuse as required in s. 1006.061 or report alleged misconduct by instructional personnel or school administrators which affects the health, safety, or welfare of a student as required in s. 1012.796.

41. Section 1006.061, Florida Statutes (2018), provides, in part, as follows:

Each district school board, charter school, and private school that accepts scholarship students who participate in a state scholarship program under chapter 1002 shall:

(1) Post in a prominent place in each school a notice that, pursuant to chapter 39, all employees and agents of the district school board, charter school, or private school have an affirmative duty to report all actual or suspected cases of child abuse, abandonment, or neglect; have immunity from liability if they report such cases in good faith; and have a duty to comply with child protective investigations and all other provisions of law relating to child abuse, abandonment, and neglect. The notice shall also include the statewide toll-free telephone number of the central abuse hotline.

42. Section 39.201, Florida Statutes (2018), provides, in part, as follows:

(1)(a) Any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare, as defined in this chapter, or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

\* \* \*



(2)(a) Each report of known or suspected child abuse, abandonment, or neglect by a parent, legal custodian, caregiver, or other person responsible for the child's welfare as defined in this chapter, except those solely under s. 827.04(3), and each report that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care shall be made immediately to the department's central abuse hotline.

43. For the reasons discussed above, it is concluded that Petitioner proved by clear and convincing evidence that Respondent violated section 1012.795(1)(b), as charged in the Complaint.

44. Florida Administrative Code Rule 6B-11.007 establishes the guidelines for determining the appropriate penalty to be imposed on a person who has committed an act for which the Education Practices Commission may impose discipline.<sup>3</sup>

45. Pursuant to rule 6B-11.007(2)(b), the penalty for having violated section 1012.795(1)(b) ranges from probation to revocation of an educator's certificate. Rule 6B-11.007(3) provides for the consideration of aggravating and mitigating factors in determining the appropriate penalty to be imposed. This rule states, in pertinent part:

The Commission may consider the following as aggravating or mitigating factors:

- (a) The severity of the offense;
- (b) The danger to the public;
- (c) The number of repetitions of offenses;
- (d) The length of time since the violation;

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<sup>3</sup> The version of rule 6B-11.007 that was adopted on May 29, 2018, was in effect at the time of the violations giving rise to this proceeding, and, therefore, applies to this proceeding.

- (e) The number of times the educator has been previously disciplined by the Commission;
- (f) The length of time the educator has practiced and the contribution as an educator;
- (g) The actual damage, physical or otherwise, caused by the violation;
- (h) The deterrent effect of the penalty imposed;
- (i) The effect of the penalty upon the educator's livelihood;
- (j) Any effort of rehabilitation by the educator;
- (k) The actual knowledge of the educator pertaining to the violation;
- (l) Employment status;
- (m) Attempts by the educator to correct or stop the violation or refusal by the educator to correct or stop the violation;
- (n) Related violations against the educator in another state including findings of guilt or innocence, penalties imposed and penalties served;
- (o) Actual negligence of the educator pertaining to any violation;
- (p) Penalties imposed for related offenses under subsection (2), above;
- (q) Pecuniary benefit or self-gain inuring to the educator;
- (r) Degree of physical and mental harm to a student or a child;
- (s) Present status of physical and/or mental condition contributing to the violation including recovery from addiction;

(t) Any other relevant mitigating or aggravating factors under the circumstances.

46. Based on the foregoing, it is determined that Respondent's offense was severe. As previously noted, Respondent, as of September 6, 2018, knew that A.C. was an "extremely bright" student whose school attendance was sporadic, that something in A.C.'s life was causing her to not get enough sleep, and that A.C. reported having a "really mean mom" whose purported conduct resulted in several visits from DCF during the previous school year. Despite this knowledge, Respondent, based on her incredible testimony, seemed hyper-focused on A.C.'s personality characteristics of being an extreme extrovert who was prone to engage in flamboyant and attention-seeking behavior. This likely resulted in Respondent developing a blind spot towards A.C., which impaired Respondent's judgment when presented with information from A.C. suggesting abuse by her mother. Both A.C. and Respondent are fortunate that no known harm resulted from Respondent's failure to contact DCF.

47. The above are aggravating circumstances that militate in favor of a penalty stronger than that suggested by Petitioner in its Proposed Recommended Order. All relevant factors set forth in rule 6B-11.007(3) have been considered by the undersigned in recommending the following penalty.

48. Based on consideration of the relevant factors in rule 6B-11.007(3), it is concluded that Petitioner should:

- 1) Suspend Respondent's educator's certificate for a period of two days, which corresponds to the approximately 48-hour period during which Respondent failed to take any action with respect to A.C.'s allegations of abuse;

- 2) Place Respondent's educator's certificate on probation for two calendar years from the date the final order is entered in this proceeding, with conditions determined by the Education Practices Commission;

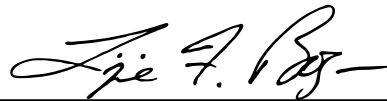
3) Require Respondent to attend and successfully complete, at her expense, training related to her reporting obligations under section 1012.795(1)(b); and,

4) Pay a fine in the amount of \$480.00.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Education Practices Commission enter a final order that: 1) suspends Respondent's educator's certificate for a period of two days; 2) places her educator's certificate on probation for a period of two years from the date of the final order, with conditions determined by the Education Practices Commission; 3) requires Respondent, during her period of probation, to attend and successfully complete, at her expense, training related to her reporting obligations under section 1012.795(1)(b); and, 4) pay a fine in the amount of \$480.00.

DONE AND ENTERED this 15th day of July, 2021, in Tallahassee, Leon County, Florida.



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LINZIE F. BOGAN  
Administrative Law Judge  
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Tallahassee, Florida 32399-3060  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 15th day of July, 2021.

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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.