

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

ROBERT W. RUNCIE, as Superintendent of
Schools,

Petitioner,

v.

STEVEN YERKS,

Respondent.

ADMINISTRATIVE COMPLAINT

Petitioner, Robert W. Runcie, Superintendent of Schools ("Petitioner"), files this Administrative Complaint against, STEVEN YERKS ("YERKS"). The Petitioner seeks the termination of Respondent's employment with the School Board of Broward County ("SBBC"), pursuant to Sections 1001.51, 1012.27(5), 1012.33, and 1012.34 Florida Statutes and Rule 6A-5.056 F.A.C. The Petitioner alleges the following:

JURISDICTIONAL BASIS

1. The agency is the School Board of Broward County, Florida, which is located at 600 Southeast Third Avenue, Fort Lauderdale, Broward County, Florida 33301.
2. Petitioner is the Superintendent of SBBC.
3. Petitioner is statutorily obligated to recommend the placement of school personnel and to require compliance and observance with all laws, rules and regulations. Petitioner is authorized to report and enforce any violation thereof, together with recommending the appropriate disciplinary action against any instructional personnel employed by the SBBC.
4. Respondent, was employed, at all times material herein, as a mathematics teacher at Boyd Anderson High School, pursuant to a Professional Service Contract, issued in accordance with Section 1012.33(3)(a), Florida Statutes.

MATERIAL ALLEGATIONS

5. The school district has implemented a performance evaluation system in conformity with Section 1012.34 known as Broward Instructional Development and Growth Evaluation System. The district uses an electronic system known as iObservation to maintain observation data based on Dr. Robert Marzano's research-based instructional strategies for teacher effectiveness. The use and implementation of this evaluation system has been mutually agreed upon by the SBBC and the Broward Teachers Union. All teachers, including the Respondent, are provided training and internet access to the iObservation system.

6. Prior to the 2013-2014 school year, the Respondent's performance of his duties as a teacher was marginal, if not deficient, for several years. In September of 1999, Respondent and his administrators at Cooper City High School met to discuss his inadequate performance, including numerous complaints from parents and students. The performance issues had continued over several previous years and resulted in an inordinate number of D and F grades. Respondent was placed on a Performance Development Plan ("PDP") following extensive assistance which failed to improve his performance. At the conclusion of the plan, Respondent's performance was deemed unsatisfactory. Respondent filed a grievance which resulted in the district permitting him to transfer to Boyd Anderson High School for the 2000/2001 school year.

7. During the next several years following his transfer, Respondent was involved in a number of incidents with his students; including telling his class "it's filled with minorities who don't want to learn," refusing to answer student's questions, and verbal confrontations, with students and parents. On one occasion, when a student tried to discuss her grades, Respondent yelled "shut up" before grabbing the student causing an injury. Respondent received verbal

directives, warnings and a written reprimand for his misconduct. Respondent was also reprimanded for insubordination when he refused to submit a No Show List for FTE accountability.

8. During the 2004 and 2005 school years, students complained that Respondent called them names such as moron, stupid, dumb and idiot. Respondent also told students to “shut up” and “no one will receive higher than a D grade.” On a classroom walk through on Monday, October 17, 2005, an administrator found four (4) students sleeping in the class. Respondent failed to take any action before the administrator woke them up.

9. In the following schools years, Respondent’s subpar performance issues came into question on several occasions by different administrators. Despite extensive assistance and coaching, Respondent failed to improve his classroom performance. During the 2010/2011 and 2011/1012 school years, Respondent’s students had a significant number of D and F grades. At the conclusion of the 2011/2012 school year, forty-seven (47) out of fifty-nine (59) students in three of his classes had failing grades.

10. During the first semester of the 2013/2014 school year, and despite the administration’s efforts to improve Respondent’s performance, eighty- three percent (83%) of the one hundred and fifty-three (153) grades issued by the Respondent were D’s and F’s. Not one A grade was given and only point zero six percent (.06%) received a B. The Respondent issued thirty-two (32) grades in his International Baccalaureate (“IB”) class; fifteen of which were F’s and eight (8) were D’s. Again no A’s were issued to any student. The IB class average for the semester was 52.89. At no time during the remainder of the school year, did the IB class average rise

above 57%. The final class grade was 46.56% with twenty (20) of the thirty-two (32) or 62.5% of the students receiving a grade of F.

11. During the 2013/2014 school year, Respondent continued to be openly argumentative and hostile towards administration and any colleague who assisted or provided coaching. During the previous year, Respondent's Instructional Practice Score ("IPS") was 1.76 on January 22, 2013. On February 21, 2013, two (2) coaches came to Respondent's classroom to provide assistance. Respondent became irate, confronting the coaches and making derogatory remarks about the school administrators directly to the students. Respondent refused any assistance and was openly combative in the presence of students which created a hostile learning environment. One of the previous coaches agreed to assist Respondent during his PDP in 2014, but withdrew because of his abusive behavior described later herein.

12. On September 17, 2013, the school's security specialist called an administrator to Respondent's classroom. Upon arrival, the administrator found six (6) students sitting in the hallway. They had been thrown out of Respondent's classroom. The administrator knocked on Respondent's classroom door to speak with him. Respondent immediately opened the door and began screaming at the administrator. Despite the administrator's attempts to ameliorate the situation, Respondent continued screaming. Respondent was asked to step into the hallway since he was causing a major disruption in front of the students. Respondent refused causing the administrator to leave.

13. On October 8, 2013, Respondent acted in an unprofessional manner to an administrator in the presence of other staff and faculty. Respondent had been given, but refused a directive to refrain from putting copies of e-mails from an administrator in other teachers'

mailboxes. Respondent angrily confronted the administrator and stated “Every time you give me something stupid, I will make copies and put them in teachers’ boxes.” Respondent was issued a written reprimand on October 31st, 2013.

14. During the first semester of the 2013/2014 school year, over forty (40) students made written complaints about Respondent’s inappropriate classroom conduct or grades. Examples included a student being given two F’s despite an excused absence; students being denied reentry in the classroom after using the bathroom; and throwing students out of class for asking a question. In one instance, Respondent was rapidly lecturing while conducting a lesson. When the student asked him to slow down, Respondent became angry and threw the student out of class. Another student was told to “beat it” when returning to class with a pass. Whenever administration attempted to address these issues with Respondent, he became argumentative, insubordinate and refused to follow directions.

15. On February 3, 2014, Respondent was placed on a ninety (90) day probationary period to formally assess and evaluate his performance. A Performance Development Plan (“PDP”) was created which Respondent refused to acknowledge his receipt.

16. During the plan, Respondent continued his abrasive and argumentative manner with anyone providing assistance, which caused one (1) coach to withdraw assistance during the PDP. During the previous school year, the school’s literacy coach was requested by administration to provide assistance to Respondent. Upon entering his classroom, Respondent became argumentative and unprofessional in his behavior towards the coach, accusing her of harassment in the presence of the students. Embarrassed, the coach left the classroom. After being placed on the PDP, the coach was again requested to assist Respondent. She reluctantly

agreed and conducted a cooperative learning strategy with Respondent. During the debriefing on March 7, 2014, and while in the presence of another colleague, Respondent was rude and insulting towards the coach, telling her “you don’t have a clue how to teach” and such other degrading comments. The coach thereafter withdrew her assistance because of Respondent’s hostile attitude.

17. On May 13, 2014, a final conference was held which resulted in a Final Instructional Practice Score of 1.771 (Unsatisfactory). Respondent was advised a recommendation for his termination of employment would be forthcoming.

18. Respondent’s lack of performance during this period deprived his students of a meaningful education experience.

ADMINISTRATIVE CHARGES

19. Just cause exists for the requested relief, pursuant to Fla. Stat. §§ 1012.33(1)(a), Section 6A-5.056 F.A.C., Respondent’s employment contract and School Board rules and regulations, including but not limited to the following:

COUNT 1: MISCONDUCT IN OFFICE

20. Respondent has violated Fla. Stat. 1012.33 and Rule 6A-5.056(2)(a) and (b) of the Florida Administrative Code. Respondent’s acts are defined as a violation of the Code of Ethics of the Educational Profession as adopted in Rule 6A-10.080 F.A.C. and the Principles of Professional Conduct for the Educational Provisions in Florida, as adopted by Rule 6A-10.081, F.A.C., which includes the following:

- (3) Obligation to the student requires that the individual:
 - (a) 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.

- (b) shall not unreasonably restrain a student from independent action in pursuit of learning.
- (d) shall not intentionally suppress or distort subject matter relevant to a student's academic program.
- (5) Obligation to the profession of education requires that the individual:
 - (d) shall not engage in harassment or discriminatory conduct which unreasonably interferes with an individual's performance of professional or work responsibilities or with the orderly processes of education or which creates a hostile, intimidating, abusive, offensive, or oppressive environment; and further, shall make reasonable effort to assure that each individual is protected from such harassment or discrimination
 - (e) shall not make malicious or intentionally false statements about a colleague.

COUNT 2: MISCONDUCT IN OFFICE

21. Respondent has violated Fla. Stat. 1012.33 and Rule 6A-5.056(2)(c)(d) and (e) of the Florida Administrative Code. Respondent's acts are a violation of the adopted school board rules; behavior that disrupts the student's learning environment; or behavior that reduces the teacher's ability or his or her colleagues' ability to effectively perform duties.

COUNT 3: INCOMPETENCY

22. Respondent has violated Fla. Stat. 1012.33 and Rule 6A-5.056(3)(a) and (b) of the Florida Administrative Code. Respondent's acts are defined as the inability, failure or lack of fitness to discharge the required duty as a result of inefficiency or incapacity.

COUNT 4: FAILURE TO CORRECT PERFORMANCE DEFICIENCIES

23. Respondent has failed to correct his performance deficiencies in violation of Section 1012.34, Florida Statutes, which constitutes just cause pursuant to Section 1012.33(1)(a), Florida Statute for termination of her employment contract.

COUNT 5: VIOLATION OF FLORIDA STATUTE § 1012.53(1)

24. The Respondent is in violation of Section 1012.53(1) Florida Statute, in that Respondent has failed to work diligently and faithfully to help students meet or exceed annual learning goals.

COUNT 6: VIOLATION OF FLORIDA STATUTE § 1012.53(2)

25. The Respondent is in violation of Section 1012.53(2) in that Respondent failed to perform duties prescribed by the district school board.

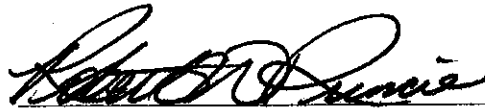
COUNT 7: SCHOOL BOARD POLICY 4008(B)

26. Respondent is in violation of School Board Policy 4008(B) which requires all employees who have been issued contracts to comply with the provisions of the Florida School Code, State Board Regulations and regulations and policies of the board.

DEMAND FOR RELIEF

"WHEREFORE, based upon the foregoing, Petitioner, Robert W. Runcie, Superintendent of Schools, recommends the dismissal of the Respondent, STEVEN YERKS, from his employment with the School Board of Broward County, based upon the foregoing facts and legal authority. Petitioner further, recommends the immediate suspension of Respondent without further pay or benefits in the event the Respondent should challenge the School Board's recommendation of the termination of his employment.

EXECUTED this 6 day of June, 2014.

A handwritten signature in black ink, appearing to read "Robert W. Runcie", written over a horizontal line.

ROBERT W. RUNCIE,
Superintendent of Schools, Broward County

Attn:
Charles T. Whitelock, Esq.
Cadre Attorney