AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

MEETING DATE	Mar 17 2015 10:15AM - Regular School Board Meeting
AGENDA ITEM	OPEN ITEMS
CATEGORY	II. OFFICE OF THE SUPERINTENDENT
DEPARTMENT	Administrative Counsel

Special Order Request ○ Yes ◉ No

Time

Open Agenda ◉ Yes ○ No

ITEM No.: II-3.

TITLE:

Broward County School Board vs. Edouard Jean

REQUESTED ACTION:

Adopt the Recommended Order, rendered on December 23, 2014, by John Van Laningham, Administrative Law Judge, in the matter of Broward County School Board vs. Edouard Jean, Case No. 14-2214TTS before the State of Florida Division of Administrative Hearings and enter the proposed final order.

SUMMARY EXPLANATION AND BACKGROUND:

No exceptions to the Recommended Order were filed. Attached hereto as Exhibit 3 is a Final Order that has been approved as to form and legal content by the Administrative Counsel.
See Supporting Docs for continuation of Summary Explanation and Background.

SCHOOL BOARD GOALS:

◉ **Goal 1: High Quality Instruction** ◉ **Goal 2: Continuous Improvement** ○ **Goal 3: Effective Communication**

FINANCIAL IMPACT:

The financial impact to the District will be approximately $46,000.00 back pay for the period in which Mr. Jean was suspended without pay.

EXHIBITS: (List)

(1) Summary Explanation EJ (2) Recommended Order (3) Proposed Final Order EJ

BOARD ACTION:

ADOPTED

(For Official School Board Records Office Only)

SOURCE OF ADDITIONAL INFORMATION:

Name: Tria Lawton-Russell	Phone: 754-321-2655
Name:	Phone:

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Senior Leader & Title

Jeffrey S. Moquin - Chief of Staff

Signature

Jeffrey S. Moquin
Monday, March 09, 2015 4:23:38 PM

Approved In Open Board Meeting On: MAR 17 2015

By:

School Board Chair

Electronic Signature
Form #4189 Revised 12/12
RWR/ JSM/TLR:cr

SUMMARY EXPLANATION AND BACKGROUND

On May 6, 2014, The School Board approved the recommendation from the Superintendent of Schools to suspend without pay and terminate Mr. Jean, an ESE teacher. The recommendation for termination was based on the Professional Standards Committee's (hereinafter "PSC") review of allegations in Broward School Police Department's case #13-14-029 that Mr. Jean physically abused a student in his ESE class. Mr. Jean challenged the School Board's action and requested an administrative hearing before the State of Florida Division of Administrative Hearings (hereinafter "DOAH").

Following the administrative hearing, the Administrative Law Judge (hereinafter "ALJ") issued a Recommended Order recommending that the School Board enter a Final Order reinstating Mr. Jean (Respondent) as a teacher and awarding Respondent back pay as a result of the suspension without pay.

No exceptions to the Recommended Order were filed by either party. In this case, the ALJ's recommendation hinged on the credibility of the witnesses, an area in which the trier of fact has full discretion, there exists no other legal basis on which the Superintendent could file exceptions to the ALJ's Recommended Order.

After considering the Recommended Order, The School Board of Broward County Florida must take final agency action by rendering a Final Order. Attached hereto as Exhibit 3 is a Final Order that has been approved as to form and legal content by the Administrative Counsel.

End of Document

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

BROWARD COUNTY SCHOOL BOARD,

Petitioner,

vs. Case No. 14-2214TTS

EDOUARD JEAN,

Respondent.
_____/

RECOMMENDED ORDER

This case came before Administrative Law Judge John G. Van Laningham for final hearing by video teleconference on October 14, 2014, at sites in Tallahassee and Lauderdale Lakes, Florida.

APPEARANCES

For Petitioner: Charles T. Whitelock, Esquire
Charles T. Whitelock, P.A.
300 Southeast Thirteenth Street, Suite E
Fort Lauderdale, Florida 33316

For Respondent: Robert F. McKee, Esquire
Robert F. McKee, P.A.
1718 East Seventh Avenue, Suite 301
Post Office Box 75638
Tampa, Florida 33605

STATEMENT OF THE ISSUES

The first issue in this case is whether, as the district school board alleges, a teacher abused, mistreated, or otherwise behaved inappropriately towards one of his special-needs

students; if the allegations of wrongdoing are proved to be true, then it will be necessary to decide whether the school board has just cause to terminate the teacher's employment.

PRELIMINARY STATEMENT

At its regular meeting on May 6, 2014, Petitioner Broward County School Board voted to approve the superintendent's recommendation that Respondent Edouard Jean be immediately suspended without pay pending termination of his employment as a teacher. The reasons for this action were spelled out in an Administrative Complaint that had been issued on April 10, 2014, in which Mr. Jean was accused of having abused, mistreated, or otherwise behaved inappropriately towards one of his students during the month of October 2013.

Mr. Jean timely requested a formal administrative hearing to contest Petitioner's action. On May 15, 2014, the matter was referred to the Division of Administrative Hearings ("DOAH") for further proceedings.

At the final hearing, which took place on October 14, 2014, Petitioner called the following witnesses: Susan Bennett, Lisa Shindore Taormina, Mary Beth Dorvick, John Joseph, Shaante Collie, Sabine Phillips, Stuart Lenoff, Edward Costello, and Karleen Blunt. Petitioner's Exhibits 1 through 8 were received in evidence without objection. Mr. Jean did not offer any exhibits but testified on his own behalf and called Ray

Montalbano, Donna Rollins, and Shirley Ashcroft as additional witnesses. Mr. Jean also presented the deposition testimony of Lisa Phillips.

The final hearing transcript was filed on October 29, 2014. Each party timely filed a Proposed Recommended Order on the deadline, which had been extended to November 25, 2014, at the parties' joint request.

Unless otherwise indicated, citations to the Florida Statutes refer to the 2014 Florida Statutes, except that all references to statutes or rules defining disciplinable offenses or prescribing penalties for committing such offenses are to the versions that were in effect at the time of the alleged wrongful acts.

FINDINGS OF FACT

1. The Broward County School Board ("School Board"), Petitioner in this case, is the constitutional entity authorized to operate, control, and supervise the Broward County Public School System.

2. At all times relevant to this case, Respondent Edouard Jean ("Jean") was employed as an Exceptional Student Education ("ESE") teacher in the Broward County public schools, a position which he had held for the preceding 16 years. During that period, Jean taught students with disabilities, who typically

receive specially designed instruction and related services pursuant to individual educational plans.

3. Ahead of the 2013-14 school year, Jean was transferred to Crystal Lake Middle School, where he had not previously worked. He was placed in an "SVE" class and assigned to teach ESE students having "varying exceptionalities." Jean's class contained a mix of high- and low-functioning students, about nine in number.

4. Jean's colleague, Ray Montalbano, taught a similar SVE class in a nearby room. At the beginning of the school year, the two ESE teachers agreed to share responsibility for their respective students under an arrangement that separated the higher functioning students from the lower functioning students. Jean and Mr. Montalbano took turns teaching the two groups, exchanging one for the other at midday. In this way, each teacher spent roughly equal time with the respective sets of students. For the last hour of the day, they combined the two groups and jointly instructed the approximately 18 students in Mr. Montalbano's classroom, which was larger.

5. There were two paraprofessionals, or teacher's assistants, working in Jean and Mr. Montalbano's SVE classes. One, named Lisa Phillips, was assigned to both teachers; she alternated between their classrooms during the day. The other, Donna Rollins, was assigned to Mr. Montalbano's class, where

Jean spent an hour each afternoon. In view of the cooperative arrangement between Jean and Mr. Montalbano, both of the teacher's assistants regularly worked in the same classroom as Jean and assisted with the provision of instruction and services to the 18 students for whom Jean and Mr. Montalbano were responsible.

6. On October 15, 2013, Jean was removed from his classroom and informed that he was the target of a criminal investigation arising from allegations that he recently had abused one of his pupils, a 13-year-old boy with Down Syndrome named Z.P., who was among the lower functioning students. Jean's accuser was an occupational therapist named Lisa Taormina, who at all relevant times worked as an independent contractor for the School Board, providing services to students at various public schools in Broward County. Jean consistently has denied Ms. Taormina's allegations, which shocked and surprised him.

7. Ms. Taormina, who that year was seeing students at Crystal Lake Middle School once per week each Friday, reported having observed Jean mistreat Z.P. on October 4, 2013, and again on October 11, 2013. Ms. Taormina claimed that the alleged events of October 4 took place in Jean's classroom with Ms. Phillips in attendance. The alleged events of October 11, in contrast, purportedly took place in Mr. Montalbano's

classroom during the hour when the two SVE classes were combined. Thus, the alleged abuse supposedly occurred in the presence of Mr. Montalbano, Ms. Phillips, Ms. Rollins, and a substitute teacher named Shirley Ashcroft who happened to be there that day.

8. Ms. Taormina's allegations were investigated by the Broward County Sheriff's Office and the Broward District Schools Police Department. During these investigations, neither Z.P. nor any of the other students were interviewed, because most of them (including Z.P.) are either nonverbal or too intellectually limited to be reliable witnesses.[1/] All of the adults were questioned, however, and none of them corroborated Ms. Taormina's allegations. Unsurprisingly, therefore, no criminal charges were brought against Jean.

9. On the strength of Ms. Taormina's allegations, the School Board nevertheless determined that Jean had abused Z.P. and thus should be fired. As it happens, Ms. Taormina's final hearing testimony is the *only* direct evidence against Jean, whose colleagues Mr. Montalbano, Ms. Phillips, Ms. Rollins, and Ms. Ashcroft, to a person, credibly denied under oath having *ever* seen him mistreat Z.P. or any other student. The outcome of this case, therefore, depends on whether Ms. Taormina's testimony is believed likely to be an accurate account of the relevant historical events.

10. In assessing Ms. Taormina's credibility, the undersigned finds it especially significant that Jean's co-workers, who were able to observe him for extended periods of time on a daily basis in the classroom, never witnessed him engage in any troubling or suspicious behavior during the roughly seven weeks he taught at Crystal Lake Middle School; to the contrary, everyone who testified (except Ms. Taormina) who had seen Jean in the classroom praised his performance generally, and his relationship with Z.P. in particular. The undersigned credits the consistent, mutually corroborative, and overwhelmingly favorable testimony about Jean's exemplary conduct.

11. Because an isolated incident, however out of character, can be squared with evidence of otherwise superlative performance, the fact that Jean was well regarded by the employees with whom he closely worked does not exclude the possibility that Jean abused Z.P., but it does diminish the likelihood that he could have abused Z.P. on multiple occasions. For that reason, if Ms. Taormina claimed only to have seen Jean mistreat Z.P. once, her testimony likely would have been more believable. Ms. Taormina claims, however, to have seen Jean abuse Z.P. on two separate days—on consecutive weekly visits to the school, no less. If Ms. Taormina is to be believed, Jean's alleged abuse of Z.P. was not an isolated incident but was

rather, if not necessarily part of a pattern of behavior, at least something Jean was capable of repeating.

12. Here it bears emphasizing that Ms. Taormina saw Jean, at most, once per week for relatively brief periods of less than 30 minutes apiece. Within the context of this limited contact, Ms. Taormina (if she is believed) happened to witness Jean abuse Z.P. on back-to-back visits, while Jean's colleagues, who saw him every workday, never noticed anything amiss. Logically, there are, broadly speaking, two possible explanations for this anomalous situation.

13. First, Jean might have abused Z.P. *only* when Ms. Taormina was present in the classroom, which would explain why no one else ever saw him mistreat the student, so long as the failure of the four other adults in the room on October 11 to witness the alleged misconduct—a lack of attentiveness that defies reasonable expectations—is overlooked. Given that Ms. Taormina's brief weekly visits comprised such a tiny percentage of Jean's total time with the students, however, to abuse Z.P. only in her presence probably would have required Jean to act according to a plan, which beggars belief;[2/] otherwise, Ms. Taormina's presence at the very moments that all such abuse occurred was a most remarkable coincidence. At any rate, while the probability that Jean abused Z.P. only when Ms. Taormina was around to witness his misdeeds is perhaps

greater than zero percent, the undersigned regards this explanation as far too implausible to be considered likely.

14. Alternatively, and likelier, Jean might have abused Z.P. not only in Ms. Taormina's presence, but also in her absence. Because Ms. Taormina is the only person who has ever claimed to have seen Jean mistreat Z.P., however, to accept this explanation requires believing that Jean's co-workers never saw him abusing Z.P., or that everyone who witnessed such abuse except Ms. Taormina resolved not to report it.[3/] Yet both situations are unworthy of belief. More likely than not, if Jean were abusing Z.P. at times when Ms. Taormina was not in the room, *which was most of the time*, then at some point over the course of seven weeks Mr. Montalbano or one of the paraprofessionals would have noticed something wrong[4/]—and none of them did, as found above. Similarly, it is difficult to imagine—and impossible reasonably to infer in the absence of any supporting evidence—that another teacher or paraprofessional, or some combination of these employees, would fail to report suspected child abuse and lie under oath to protect Jean. In any event, the undersigned has found that Jean's fellow employees never saw Jean abuse Z.P., which means that, in all likelihood, Jean did not abuse Z.P. when Ms. Taormina was not in the room.

15. In sum, it is unlikely that Jean repeatedly abused Z.P. only in Ms. Taormina's presence; and yet, it is unlikely that Jean ever abused Z.P. during the vast majority of the time when Ms. Taormina was not in the room (but another adult or adults typically were). Therefore, the logical conclusion is that Jean likely never abused Z.P. at all, contrary to Ms. Taormina's allegations.

16. The foregoing reasons are sufficient for the undersigned to reject Ms. Taormina's testimony as ultimately unpersuasive and to find that the School Board has failed to prove its allegations against Jean. Nevertheless, Ms. Taormina was a good witness in many respects. Her story has been consistent, her recollection seemingly clear, her testimony vivid and detailed. Ms. Taormina is articulate and her demeanor at hearing suggested sincerity. She had barely known Jean before the events at issue and was not shown to have had grounds to dislike him or any other motive for damaging him with false allegations of misconduct. Thus, while not necessary to the disposition, it is desirable to examine Ms. Taormina's specific accusations in greater detail.

17. Ms. Taormina claims that on October 4, 2013, while Z.P. was lying on his back on the floor, Jean spun Z.P. around, using the student's legs as a handle for twirling the boy's body. Then, she says, Jean tapped Z.P. with a ruler to prod him

into getting up from the floor. Z.P. refused to rise, and Jean resumed spinning the student. Ms. Taormina recognized that Jean and Z.P. were "playing around" and concluded nothing "abusive" had occurred, but she deemed Jean's conduct "inappropriate."

18. As mentioned, Z.P. is cognitively limited in consequence of Down syndrome. He was also, at the time of the events at issue, aggressive, sometimes mean and abusive towards teachers, including Jean, and known to bite, scratch, kick, and spit on others. Z.P., who was a big boy, could be difficult to redirect. By October 2013, however, Jean had established a rapport with Z.P. The student liked his teacher, and Jean and Z.P. would play with each other. One activity that they enjoyed entailed Jean spinning Z.P. around—which is what Ms. Taormina observed.

19. Except for Ms. Taormina, no one who witnessed Jean playfully spinning Z.P.—which Jean admits doing—considered this activity to be inappropriate. There is no persuasive evidence in the record establishing an objective standard of conduct that Jean might have violated when he played with Z.P. in this manner. Striking Z.P. with a ruler would be another matter, of course. Jean denies ever having done that, however, and no one but Ms. Taormina claims to have observed Jean misbehave in such fashion. The undersigned finds, based on the greater weight of the evidence, that Jean did not hit Z.P. with

a ruler on October 4, 2013, as alleged, but rather tapped the floor with it, as he testified.

20. According to Ms. Taormina, Jean's conduct the following week, on October 11, was worse. She testified that, upon arriving in the classroom, she noticed that Jean's fingers were resting on the back of Z.P.'s neck as he (Jean) moved the student around. To Ms. Taormina, "it looked . . . like [Jean] was searching for, like, a pressure point or tender point . . . ." In fact, Jean was not searching for a pressure point, and he did not dig his fingers into a tender spot on Z.P.'s neck, which explains why no one (including Ms. Taormina) saw or heard the student cry out or grimace in pain. The undersigned credits Jean's testimony that he touched Z.P.'s back and shoulders to guide or comfort him, not to hurt him.

21. Ms. Taormina asserted that after putting his fingers on the back of Z.P.'s neck, Jean gave Z.P. a "violent shaking" which caused Z.P.'s head to rock up and down ("just flapping back and forth") so fast that Z.P.'s features were an unrecognizable blur, but only for "just a few seconds." Somewhat incongruously, however, she characterized this "mockery" as being "more, like, playing" and noted that Jean, who was smiling, did not appear to be acting out of anger.

22. The behavior that Ms. Taormina recounted is indeed disturbing. Yet some of the details seem a bit off. For

example, although no expert testimony was presented, the undersigned's rudimentary understanding of simple biomechanics makes him think that violently shaking a passive or helpless person so hard that his features become blurry (assuming this could be accomplished in just a few seconds' time) would cause the victim's dangling head, not to flap up and down (rapidly nodding), as Ms. Taormina described, but to *rotate* uncontrollably. The undersigned finds it difficult, too, to imagine that such abuse could ever look "like playing." Moreover, it seems peculiar, given the number of adults in the room, that Ms. Taormina did not immediately intervene or speak up to protect Z.P., if Jean were harming the student as she has stated.

23. More important, it is likely that a vigorous physical battery such as the attack on Z.P. that Ms. Taormina recalls would have caused a considerable commotion. And yet, even though there were four other adults in the room besides Jean and Ms. Taormina, no one but the occupational therapist noticed Jean inflicting this alleged abuse. The undersigned cannot find, based on the greater weight of the evidence, that Jean violently shook Z.P. as alleged. This incident, therefore, was not proved.

24. After Jean allegedly shook Z.P., according to Ms. Taormina, the student climbed up on a table, where he

proceeded to eat a banana. Ms. Taormina testified that all of the students *and adults* in the room (except her) laughed at Z.P. when someone exclaimed that he looked like a monkey. She said that Jean then led Z.P. to a garbage can and made him spit out the piece of banana in his mouth. When Z.P. got down on the floor afterwards, said Ms. Taormina, Jean hit the student with a broom to compel him to stand and, having no success with that, lifted Z.P. by his shirt and pants and shook him a few times before standing the boy upright. Once on his feet, Z.P. wet his pants, Ms. Taormina stated.

25. Based on a preponderance of the evidence, the undersigned finds that Z.P. did, in fact, eat a banana while standing on a table. Further, Jean did hustle Z.P. to the garbage can to spit out the banana in his mouth because the boy was gagging on the fruit. The evidence does not support a finding that the adults laughed at Z.P., although one student did call him a monkey, which prompted Jean to reprimand the offender. The evidence does not support a finding that Jean struck Z.P. with a broom, an act of abuse which Jean credibly denied, or that Jean picked up Z.P. and shook him, a feat which likely could not be accomplished, given the student's size and weight, and which Jean credibly denied. Z.P. did urinate on himself, as Ms. Taormina reported, but the greater weight of the

evidence establishes that this was not a response to stress, fright, or abuse, but a common occurrence.

26. In sum, the evidence does not support a determination that Jean likely mistreated Z.P. as alleged.

Determinations of Ultimate Fact

27. The greater weight of the evidence fails to establish that Jean is guilty of the offense of immorality as defined in Florida Administrative Code Rule 6A-5.056(1).[5/]

28. The greater weight of the evidence fails to establish that Jean is guilty of the offense of misconduct in office, which is defined in rule 6A-5.056(2).[6/]

29. The greater weight of the evidence fails to establish that Jean is guilty of incompetency, which is defined in rule 6A-5.056(3).[7/]

30. It is undisputed that Jean was never charged with, much less found guilty of, any crime as a result of the events which gave rise to this proceeding. Therefore, the School Board does not have just cause to terminate his employment pursuant to section 1012.33(1)(a), Florida Statutes, for "being convicted or found guilty of, or entering a plea of guilty to, regardless of adjudication of guilt, any crime involving moral turpitude."

CONCLUSIONS OF LAW

31. DOAH has personal and subject matter jurisdiction in this proceeding pursuant to sections 1012.33(6)(a)2., 120.569, and 120.57(1), Florida Statutes.

32. A district school board employee against whom a disciplinary proceeding has been initiated must be given written notice of the specific charges prior to the hearing. Although the notice "need not be set forth with the technical nicety or formal exactness required of pleadings in court," it should "specify the [statute,] rule, [regulation, policy, or collective bargaining provision] the [school board] alleges has been violated and the conduct which occasioned [said] violation." Jacker v. Sch. Bd. of Dade Cnty., 426 So. 2d 1149, 1151 (Fla. 3d DCA 1983)(Jorgenson, J. concurring).

33. Once the school board, in its notice of specific charges, has delineated the offenses alleged to justify termination, those are the only grounds upon which dismissal may be predicated. See Lusskin v. Ag. for Health Care Admin., 731 So. 2d 67, 69 (Fla. 4th DCA 1999); Cottrill v. Dep't of Ins., 685 So. 2d 1371, 1372 (Fla. 1st DCA 1996); Klein v. Dep't of Bus. & Prof'l Reg., 625 So. 2d 1237, 1238-39 (Fla. 2d DCA 1993); Delk v. Dep't of Prof'l Reg., 595 So. 2d 966, 967 (Fla. 5th DCA 1992); Willner v. Dep't of Prof'l Reg., Bd. of Med., 563 So. 2d

805, 806 (Fla. 1st DCA 1990), rev. denied, 576 So. 2d 295 (Fla. 1991).

34. In an administrative proceeding to suspend or dismiss a member of the instructional staff, the school board, as the charging party, bears the burden of proving, by a preponderance of the evidence, each element of the charged offense(s). See McNeill v. Pinellas Cnty. Sch. Bd., 678 So. 2d 476, 477 (Fla. 2d DCA 1996); Sublett v. Sumter Cnty. Sch. Bd., 664 So. 2d 1178, 1179 (Fla. 5th DCA 1995); MacMillan v. Nassau Cnty. Sch. Bd., 629 So. 2d 226 (Fla. 1st DCA 1993).

35. The instructional staff member's guilt or innocence is a question of ultimate fact to be decided in the context of each alleged violation. McKinney v. Castor, 667 So. 2d 387, 389 (Fla. 1st DCA 1995); Langston v. Jamerson, 653 So. 2d 489, 491 (Fla. 1st DCA 1995).

36. In its Administrative Complaint, the School Board advanced four theories for dismissing Jean: Immorality (Count 1); Misconduct in Office (Counts 2 and 3); Incompetency (Count 4); and Conviction of Crime Involving Moral Turpitude (Count 5).

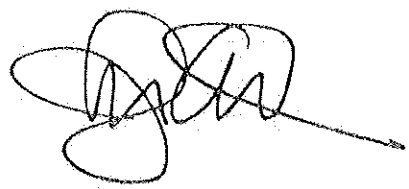
37. Each of the School Board's charges depends on allegations that, in October 2013, Jean abused, mistreated, or otherwise behaved inappropriately towards the student referred to as Z.P. The School Board, however, failed to prove these

essential allegations by a preponderance of the evidence. Thus, all of the charges against Jean necessarily fail, as a matter of fact. Due to this dispositive failure of proof, it is not necessary to render additional conclusions of law.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the School Board enter a final order exonerating Jean of all charges brought against him in this proceeding, reinstating him as an ESE teacher, and awarding him back salary as required under section 1012.33(6)(a).

DONE AND ENTERED this 23rd day of December, 2014, in Tallahassee, Leon County, Florida.



JOHN G. VAN LANINGHAM
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675 SUNCOM 278-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 23rd day of December, 2014.

ENDNOTES

1/ For the same reasons, no students testified at the final hearing.

2/ If Jean were able to control himself sufficiently to determine the precise times at which he would abuse Z.P., then it is unlikely he would have abused the student in front of a relative stranger such as Ms. Taormina. More likely, he would have avoided committing such misconduct in the presence of a person whom he did not know.

3/ The undersigned rejects out of hand the possibility, neither alleged nor proved, that Jean's co-workers were themselves systematically abusing Z.P. or other students. It is doubtful that a conspiracy to engage in, or cover up, such behavior could have lasted for long without unraveling.

4/ If Jean were careless enough to allow Ms. Taormina to witness him abuse Z.P., he likely would not have been careful enough to avoid detection by the colleagues who saw much more of him than she did.

5/ The rule defines "immorality" as "conduct that is inconsistent with the standards of public conscience and good morals. It is conduct that brings the individual concerned or the education profession into public disgrace or disrespect and impairs the individual's service in the community."

6/ The rule provides as follows:

> (2) "Misconduct in Office" means one or more of the following:
> (a) A violation of the Code of Ethics of the Education Profession in Florida as adopted in Rule [6A-10.080], F.A.C.;
> (b) A violation of the Principles of Professional Conduct for the Education Profession in Florida as adopted in Rule [6A-10.081], F.A.C.;
> (c) A violation of the adopted school board rules;
> (d) Behavior that disrupts the student's learning environment; or
> (e) Behavior that reduces the teacher's ability or his or her colleagues' ability to effectively perform duties.

7/ Rule 6A-5.056(3) defines "incompetency" as "the inability, failure or lack of fitness to discharge the required duty as a result of inefficiency or incapacity."

COPIES FURNISHED:

Charles T. Whitelock, Esquire
Charles T. Whitelock, P.A.
300 Southeast Thirteenth Street, Suite E
Fort Lauderdale, Florida 33316
(eServed)

Robert F. McKee, Esquire
Robert F. McKee, P.A.
1718 East Seventh Avenue, Suite 301
Post Office Box 75638
Tampa, Florida 33605
(eServed)

Lois S. Tepper, Interim General Counsel
Department of Education
Turlington Building, Suite 1244
325 West Gaines Street
Tallahassee, Florida 32399-0400
(eServed)

Robert W. Runcie, Superintendent
Broward County School Board
600 Southeast Third Avenue
Fort Lauderdale, Florida 33301
(eServed)

Pam Stewart
Commissioner of Education
Department of Education
Turlington Building, Suite 1514
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.

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

BROWARD COUNTY SCHOOL BOARD,

Petitioner,

DOAH CASE No. 14-2214TTS

vs.

RSBM Agenda: 03/17/15-II-3

EDOUARD JEAN

Respondent.

_____/

FINAL ORDER

THIS CAUSE came before THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA on March 17, 2015, to consider the Recommended Order entered on December 23, 2014, by John G. Van Laningham, Administrative Law Judge (hereinafter "ALJ") of the State of Florida Division of Administrative Hearings.

IT IS THEREUPON ADJUDGED that:

1. No party filed exceptions.

2. The Recommended Order is adopted in its entirety and is incorporated herein by reference; and

3. The School Board of Broward County, Florida dismisses the Administrative Complaint.

DONE AND ORDERED in Fort Lauderdale, Broward County, Florida this 17th day of March 2015.

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By _____
DONNA P. KORN, CHAIR

Filed in Official School Board Records the 20th day of March, 2015.

_____
Supervisor, Official School Board Records

Copies furnished to:

ROBERT W. RUNCIE, Superintendent of Schools
Office of the Superintendent
The School Board of Broward County, Florida
600 Southeast Third Avenue - 10th Floor
Fort Lauderdale, Florida 33301

TRIA LAWTON-RUSSELL, Administrative Counsel
Office of the Superintendent
The School Board of Broward County, Florida
600 Southeast Third Avenue - 14th Floor
Fort Lauderdale, Florida 33301

CHARLES WHITELOCK ESQ.
Whitelock & Associates
300 SE 13th Street
Fort Lauderdale, Florida 33316

ROBERT F. MCKEE ESQ.
Kelly and McKee, P.A.
1718 East 7th Avenue, Suite 301
Tampa, Florida 33605

STATE OF FLORIDA, DIVISION OF
ADMINISTRATIVE HEARINGS
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060

APPEAL OF FINAL ORDER

Pursuant to Section 120.68, Fla. Stat., a party to this proceeding may seek judicial review of this Final Order in the appropriate district court of appeal by filing a notice of appeal with Noemi Gutierrez, Agency Clerk, Official School Board Records, The School Board of Broward County, Florida, 600 Southeast Third Avenue – 2nd Floor, Fort Lauderdale, Florida 33301, on or before thirty (30) days from the date of this Final Order. A copy of the notice and a copy of this Final Order, together with the appropriate filing fee, must also be filed with the Clerk, Fourth District Court of Appeal, 1525 Palm Beach Lakes Boulevard, West Palm Beach, Florida 33401-2399. If you fail to file your notice of appeal within the time prescribed by laws and the rules of court, you will lose your right to appeal this Final Order.