



AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Special Order Request☐ Yes☒ No

Time

Open Agenda☐ Yes☒ No

ITEM No.:

1-2.

MEETING DATE

Jul 28 2015 10:15AM - Regular School Board Meeting

AGENDA ITEM

CONSENT ITEMS

CATEGORY

I. OFFICE OF THE SUPERINTENDENT

DEPARTMENT

Administrative Counsel

TITLE:

The Broward County School Board v. Maria Valdes

REQUESTED ACTION:

Adopt the Superintendent's Recommendation to Dismiss Ms. Valdes' Second Request for Hearing with Prejudice and enter the proposed Final Order.

SUMMARY EXPLANATION AND BACKGROUND:

Please see the attached supporting documents for the Summary Explanation and Background.

SCHOOL BOARD GOALS:☒ Goal 1: High Quality Instruction ☒ Goal 2: Continuous Improvement ☐ Goal 3: Effective Communication**FINANCIAL IMPACT:**

There is no financial impact to the District.

EXHIBITS: (List)

(1) Summary Explanation and Background (2) Proposed Final Order

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
7/16/2015, 3:53:47 PM

Approved In Open
Board Meeting On:

By:

JUL 28 2015

School Board Chair

SUMMARY EXPLANATION AND BACKGROUND

The teacher, M.V., engaged in misconduct (verbal statements) toward a student. Due to the severity of the infraction, on February 27, 2015, the employee was individually/personally served with an administrative complaint notifying M.V of the Superintendent's disciplinary recommendation for a (5) five-day unpaid suspension and participation in diversity training. The Superintendent also served the employee with a letter notifying her of the March 17, 2015, Broward County School Board (hereinafter "School Board") meeting at which the charges would be presented.

In addition to the Superintendent's disciplinary recommendation, the administrative complaint indicated in bold font the employee's right to request a hearing within 15 days. M.V. did not request a hearing within 15 days, nor did she appear at the School Board meeting.

On March 17, 2015, the School Board approved the Superintendent's recommendation at its regularly scheduled School Board meeting. Subsequent to the School Board meeting, and twenty (20) days after she had been served with the charging document, on March 19, 2015, M.V.'s Broward Teacher's Union

(hereinafter “BTU”) representative requested a hearing on her behalf. The request for hearing was both legally insufficient and untimely and was denied.

On April 24, 2015, fifty-six (56) days after the Respondent had been initially served, M.V.’s attorney requested a hearing on her behalf. While this second request for hearing (hereinafter “Request”) attempted to cure the substantive defects of the first Request, it was also not in substantial compliance and moreover, it was untimely.

Pursuant to Florida Statutes §1012.33, “[i]f the employee wishes to contest the charges, the employee must, within 15 days after receipt of the written notice, submit a written request for hearing.” The employee failed to do so; therefore, pursuant to Broward County School Board Policy 4.9, §5.1 the School Board’s decision is final and any subsequent requests for hearing should be denied.

End of Document

THE BROWARD COUNTY SCHOOL BOARD, FLORIDA

THE BROWARD COUNTY SCHOOL BOARD,

Petitioner,

v.

MARIA VALDES,

Respondent.

**FINAL ORDER DISMISSING RESPONDENT'S SECOND REQUEST FOR FORMAL
HEARING WITH PREJUDICE**

THIS CAUSE concerns the request for hearing that the Broward County School Board (hereinafter "School Board") received pertaining to an administrative complaint issued on February 26, 2015.¹ (**Exhibit A**).

FINDINGS OF FACT

1. On February 26, 2015, the Superintendent of Broward County Schools, Robert W. Runcie, (hereinafter "Superintendent") issued an administrative complaint seeking a (5) five-day unpaid suspension of Respondent, Maria. T. Valdes.
2. On February 27, 2015, the Respondent, Maria Valdes, was personally served with both the administrative complaint, notifying her of the charges/recommended discipline, as well as with the letter notifying her of the Board action date of March 17, 2015. (**Exhibit B**).
3. In addition to being personally served with the charges, the Respondent executed an acknowledgement form documenting her receipt of the administrative complaint containing the Superintendent's disciplinary recommendation. (**Exhibit C**).

¹ The Broward County School Board is referenced herein as the Petitioner since the School Board approved the Superintendent's recommendation on March 17, 2015.

4. The administrative complaint included the following notice in bold font:

If you wish to contest the charges, you must, within 15 days after receipt of the written notice, submit a written request for a hearing to Robert Runcie, Superintendent, Broward County School District, 600 3rd Ave., Ft. Lauderdale, FL, 33301. If timely requested, such hearing shall be conducted by an administrative law judge assigned by the Division of Administrative Hearings of the Department of Management Services. The hearing shall be conducted within 60 days after receipt of the written appeal in accordance with chapter 120, Florida Statutes.

FAILURE TO TIMELY REQUEST A HEARING WILL RESULT IN A WAIVER OF THE RIGHT TO CONTEST THE CHARGES.

IF YOU WANT TO HIRE AN ATTORNEY, YOU HAVE THE RIGHT TO BE REPRESENTED BY AN ATTORNEY IN THIS MATTER.

Thus, providing a clear point of entry into the administrative process.

5. Moreover, without waiving the clear point of entry the administrative complaint provides, the School Board policies provide the following additional notice. Pursuant to School Board Policy 1100A, the School Board meeting agenda was released to the general public seven (7) days prior to the Regular School Board Meeting (hereinafter "RSBM") by posting on the Broward County School Board website; therefore, Ms.

Valdes' administrative complaint, which was part of that agenda, was in effect published a week prior to the March 17, 2015, RSBM.

6. Furthermore, on March 17, 2015, amid media coverage of the event, the Superintendent's administrative complaint was received by the School Board at its regular School Board meeting. In addition to being open to the public, the meeting was also broadcast live on the School Board's Beacon television station, which is accessible to the general public by television as well as through the internet at the School Board's website. **(Exhibit D)**.
7. Twenty (20) days later, on Thursday, March 19, 2015, the Superintendent received an e-mail from Ms. Valdes' Broward Teacher's Union representative requesting a hearing on her behalf and referencing her attorney, Bob McKee. **(Exhibit E)**.
8. The attached letter made a one sentence request for a hearing and copied Mr. McKee. **(Exhibit F)**.
9. After reviewing the request for hearing, and without waiving any rights to object to the legal sufficiency of the hearing request, the Superintendent, through counsel, denied the hearing request as untimely.
10. The School Board's letter denying the request for hearing was addressed and sent via e-mail to Respondent's counsel, Robert McKee on Monday, March 23, 2015. **(Exhibit G)**.
11. On April 2, 2015, Respondent's attorney, Robert F. McKee, sent a letter via e-mail on his client's behalf declaring Respondent's intent to appeal the School Board's denial of Ms. Valdes' hearing request to the District Court of Appeal. **(Exhibit H)**.
12. At no time did Respondent offer any explanation as to her untimeliness in requesting

a hearing, but rather the Respondent asserted that the time frame to appeal commenced upon the Board acting upon the Superintendent's recommendation, not upon the Respondent being personally served with the charging document/administrative complaint.

13. Further, the Respondent reasoned that since her request for administrative hearing followed two (2) days after the Board action, her request was timely, as it was made within fifteen (15) days of the Board action.
14. Subsequent to receiving Respondent's letter, counsel for Respondent and counsel for the Superintendent spoke via telephone. Counsel for the Superintendent indicated that the Superintendent's view of the law remained the same, in that, Respondent had waived her right to a hearing by failing to timely request a hearing within fifteen (15) days of being served with the administrative complaint. The parties did not address the substantive defects contained in the Respondent's one sentence request for hearing.
15. On April 24, 2015, fifty-six (56) days² after the Respondent had been served, and over a month after the Superintendent had denied the first request for hearing (hereinafter "Request"), the Superintendent received a second request for hearing on Respondent's behalf from her attorney, Robert McKee. (**Exhibit I**).
16. In this second request, Respondent attempted to cure the substantive defects of the first Request by endeavoring to address the substantive requirements of a Request.

² It is important to note, that this 56-day time frame, which covers the time Respondent used to request a hearing, is so vast that it encompasses the entire period, in which, matters are expected to be heard. The Administrative Law Judge is expected to hear these discipline cases within 60 days of the request for hearing pursuant to §1012.33(6)(a)2.

17. Significantly, Respondent did not address, in her Request the requirement pursuant to Rule 28-106.2015(5) F.A.C. (2014), titled “**Agency Enforcement and Disciplinary Actions**”, that “[r]equests for hearing filed by the respondent in accordance with this rule **shall include:**” “(d) **[a] statement of when the respondent received notice of the administrative complaint**³.”
18. Rather, Respondent included a section entitled “Statement When Notice of Final Agency Action was Received—Day Petitioner was Advised”.
19. Respondent relies on the requirements of Rule 28-106.201(2)(c) which requires “[a] statement of when and how the petitioner received notice of the agency decision”. In relying on this rule when crafting her request for hearing, the Respondent ignored the plain language of the rule which specifically excludes “agency enforcement and **disciplinary actions**⁴”.
20. Furthermore, rather than relying on the School Board’s action date as the commencement of the time frame in which to respond, as Respondent had done in its letter of April 2, 2015, Respondent seemed to be extending the notice provision even further by indicating that she was advised of the School Board’s action the day after the School Board heard the matter and received the administrative complaint, March 18, 2015. Thereby extending the time frame from which to respond by an extra day to March 18, 2015, from her previous correspondence, which had indicated that the proceedings began on March 17, 2015, the date of the Board’s action.

³ Emphasis added

⁴ Empahsis added.

CONCLUSIONS OF LAW

21. Florida Statutes §1012.27 (2014), titled “Powers and Duties of District School Superintendent”, delegates the power to “[r]ecommend employees for dismissal” as well as “suspend members of the instructional staff” to the district school Superintendent. §1012.27 (5) Fla. Stat. (2014).
22. Additionally, §1012.27(5) Fla. Stat., imposes on the Superintendent the duty of serving “notice on the suspended member of the instructional staff of charges made against him or her and of the date of the hearing.”
23. The law in this instance provides that “[i]f the employee wishes to contest the charges, the employee must, within 15 days after receipt of the written notice, submit a written request for hearing.”(Emphasis added). §1012.33(6)(a) Fla. Stat. (2014).
24. Ms. Valdes was personally served by a registered process server with written notice i.e. the administrative complaint on February 27, 2015.
25. Ms. Valdes’ first request for administrative hearing filed on March 19, 2015, twenty (20) days later, was not only untimely, it lacked substantial compliance with the requirements of law for requesting a hearing. §120.569(2)(c) Fla. Stat. (2014).
26. Ms. Valdes’ one sentence request failed to address all of the following requirements of Rule 28-106.2015 F.A.C. (2014), which governs “Agency Enforcement and Disciplinary Actions”:
- (5) Requests for hearing filed by the respondent in accordance with this rule shall include:
- (a) The name, address, any e-mail address, telephone number, and

facsimile number, if any, of the respondent, if the respondent is not represented by an attorney or qualified representative.

- (b) The name, address, e-mail address, telephone number, and facsimile number of the attorney or qualified representative of the respondent, if any, upon whom service of pleadings and other papers shall be made.
- (c) A statement requesting an administrative hearing identifying those material facts that are in dispute. If there are none, the petition must so indicate.
- (d) A statement of when the respondent received notice of the administrative complaint.
- (e) A statement including the file number to the administrative complaint.

27. While the School Board does not utilize a file numbering system, all the other requirements of Rule 28-106.2015(5) F.A.C. governing the minimum requirements of a request for administrative hearing were either entirely not addressed, or only partially addressed.
28. Section 120.569 (2)(c), Florida Statutes, states that “[a] petition **shall be dismissed if it is not in substantial compliance with these requirements or it is untimely filed.**” (Emphasis added).
29. Furthermore, Policy 4.9, the School Board’s Disciplinary Policy, indicates that rather than being the initiation of proceedings, the School Board’s action is final where a hearing has not been requested.
30. Policy 4.9 provides in pertinent part, the following language: “When the Superintendent makes a recommendation to the School Board on employee disciplinary matters, The School Board adopts or rejects the Superintendent’s recommendation. . . . If an employee does not contest the charges, the School Board’s

decision is final.”

31. Not only was Respondent’s first request for hearing not in substantial compliance, here where the Superintendent received Respondent’s request for hearing (hereinafter “Request”) by electronic mail (hereinafter “e-mail”) at 4:34 P.M. on Thursday, March 19, 2015, twenty (20) days after personal service on the Respondent, it is evident that it was untimely filed. Therefore, the Request must be dismissed pursuant to §120.569(2)(c) Fla. Stat. (2014).
32. The Respondent’s second Request, also received by e-mail, on April 24, 2015, fifty–six (56) days after personal service, again is not in substantial compliance, nor is it timely. Rather than adhering to the rule governing “Agency Enforcement and Disciplinary Actions”, Rule 28-106.2015 F. A. C. and adapting her Request to conform to the requirements of the rule, Respondent chose to adhere to another rule that specifically exempts disciplinary matters, Rule 28-106.201 F. A. C.
33. Rule 28-106.2015 F.A.C., **Agency Enforcement and Disciplinary Actions**, provides in pertinent part the following language:
- (1) Prior to entry of a final order to **suspend**, . . . or to take other enforcement or disciplinary action against a licensee or person or entity subject to the agency’s jurisdiction, **the agency shall serve upon the licensee an administrative complaint**. For purposes of this rule, **an agency pleading or communication that seeks to exercise an agency’s enforcement authority and to take any kind of disciplinary action against a licensee or other person shall be deemed an administrative complaint**.
 - (2) An agency issuing an administrative complaint shall be the petitioner, and the licensee against whom the agency seeks to take disciplinary action shall be the respondent.
 - (3) The agency’s administrative complaint shall be considered the petition, and **service of the administrative complaint on the respondent shall be**

deemed the initiation of proceedings.

(5) Requests for hearing filed by the respondent in accordance with this rule shall include:

(d) A statement of when the respondent received notice of the administrative complaint⁵.

34. Rule 28-106.2015 F.A.C., through its plain language, clarifies any ambiguity about the identity of the Petitioner and Respondent, the circumstances under which the rule applies, and the minimum requirements contained in a request for administrative hearing.

35. Both of Respondent's Requests, which have spanned the time frame normally allotted to bring a Request to final hearing, have not only lacked substantial compliance with the rules governing a request for administrative hearing, but also have been untimely. Pursuant to §120.569(2)(c), the request for hearing "shall be dismissed" if it either requirement is not met. In this instance, both requirements have not been met.

⁵ Emphasis added.

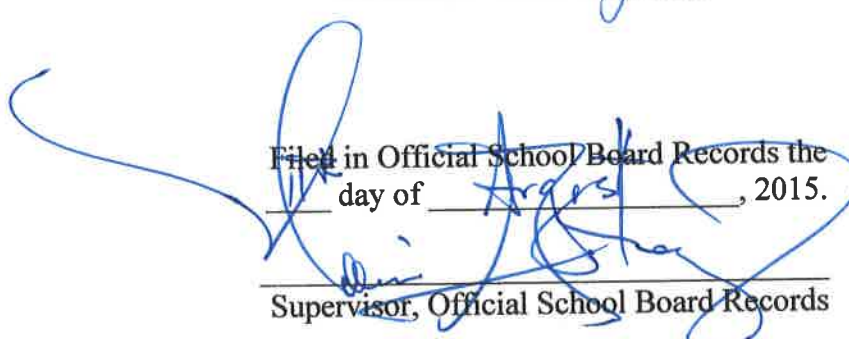
IT IS THEREFORE ORDERED AND ADJUDGED THAT:

The School Board of Broward County, Florida dismisses the Respondent's request for Administrative Hearing with prejudice.

DONE AND ORDERED in Fort Lauderdale, Broward County, Florida this 29 day of July, 2015.

THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

By 
DONNA P. KORN, CHAIR


Filed in Official School Board Records the
day of August, 2015.

Supervisor, Official School Board Records

Copies furnished to:

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

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 (Florida Bar No. 381550)
Office of the Administrative Counsel

The School Board of Broward County, Florida
600 Southeast Third Avenue - 14th Floor
Fort Lauderdale, Florida 33301

NOTICE OF RIGHT TO JUDICIAL REVIEW

Pursuant to Section 120.68, Fla. Stat., a party to this proceeding may seek judicial review of the School Board's Dismissal 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 Dismissal. A copy of the notice and a copy of this Dismissal, 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 Dismissal.



THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

600 SOUTHEAST THIRD AVENUE • FORT LAUDERDALE, FLORIDA 33301 • TEL 754-321-2600 • FAX 754-321-2701

ROBERT W. RUNCIE
Superintendent of Schools

SCHOOL BOARD

Chair DONNA P. KORN
Vice Chair DR. ROSALIND OSGOOD

ROBIN BARTLEMAN
HEATHER P. BAINK VORTH
ABBY M. FREEDMAN
PATRICIA GOOD
LAURIE RICH LEVINSON
ANN MURRAY
NORA RUPERT

February 26, 2015

Maria Valdes
301 Racquet Club Road
Weston, Florida 33326

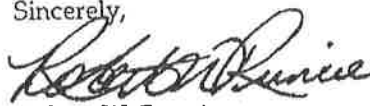
Dear Ms. Valdes:

Pursuant to Florida Statute 1012.33, you are hereby notified that the Superintendent will make a recommendation to The School Board of Broward County, Florida for your formal suspension without pay as a teacher of The School Board of Broward County, Florida. This recommendation is predicated upon the charges outlined in the attached Petition for Formal Proceedings.

These charges will be presented to the School Board on March 17, 2015, at 10:15 a.m., at K. C. Wright Administration Building, 600 Southeast Third Avenue, Fort Lauderdale, Florida. Pursuant to Florida Statute Chapter 120, you may request a formal hearing, provided that you request said hearing, in writing, to the Superintendent.

This is your notice pursuant to Florida Statute 1012.31 that the material contained in your investigative file, is a public record and it will become available for inspection by the public ten days from receipt of this letter. Any request made by the public for the documentation referred to above will be provided in accordance with the laws of the State of Florida and Federal law.

Sincerely,



Robert W. Runcie

RWR/TLR:cr

Attachment

- c: Desmond K. Blackburn, Ph.D, Chief School Performance and Accountability Officer
Amanda Bailey, Chief Human Resources Officer
Michael Ramirez, Director, School Performance and Accountability
J. Paul Carland, II, General Counsel
Tria Lawton-Russell, Administrative Counsel
Susan Rockelman, Director, Instructional Staffing
Scott Neely, Principal, Cypress Bay High School
Lula Taylor, Supervisor, Personnel Records
Yadiris Fereira, BTU Representative

EXHIBIT

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A

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

ROBERT W. RUNCIE,
Superintendent of Schools,

Petitioner,

PETITION FOR FORMAL PROCEEDINGS

v.

MARIA VALDES,

Respondent.

ADMINISTRATIVE COMPLAINT

Petitioner, Robert W. Runcie, Superintendent of Schools of Broward County, Florida ("Petitioner"), through his undersigned counsel, files this Administrative Complaint against Respondent, MARIA VALDES ("VALDES"). The Petitioner seeks a five (5) day suspension of Respondent's employment with the School Board of Broward County ("SBBC"), pursuant to Chapter 120 and Sections 1001.51, 1012.27(5), and 1012.33 Florida Statutes and Rule 6A-5.056 of the Florida Administrative Code. The Petitioner alleges the following:

JURISDICTIONAL BASIS

1. The agency is the School Board of Broward County, Florida, located at 600 Southeast Third Avenue, Fort Lauderdale, Broward County, Florida 33301.
2. The Petitioner is Robert W. Runcie, who is the Superintendent of Schools of Broward County, Florida.
3. The 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, inclusive of the Respondent, Maria T. Valdes (hereinafter "Valdes").

4. Respondent, Valdes, is an employee of the Broward County School Board and is currently employed as a teacher at Cypress Bay High School.
5. The last known address of the Respondent, Maria T. Valdes, is 301 Racquet Club Road, Weston, Florida 33326.

MATERIAL ALLEGATIONS

6. On or about February 2, 2015, Respondent Valdes, a high school teacher, engaged in inappropriate conduct by stating "Ah, no! The Taliban is here!", when referring to a student of Lebanese descent, D.H.W., who had just entered her classroom.
7. Respondent subsequently continued to refer to the student as "the Taliban" or "terrorists" in lieu of his name until a complaint was made by his parents to school administration.
8. Ms. Valdes would call on the student in class by asking "Ok the Talaban what is the answer?" or "Let's ask the Taliban."

ADMINISTRATIVE CHARGES

9. Just cause exists for the requested relief pursuant to Fla. Stat. §§ 1012.33(1)(a), Section 6A-5.056 F.A.C., the Respondent's employment contract, School Board rules and regulations, the Code of Ethics of the Education Profession, and the Employee Disciplinary Guidelines promulgated by the School Board.
10. "Just cause" means "cause that is legally sufficient." It includes but is not limited to the

following instances:

COUNT 1: MISCONDUCT IN OFFICE

11. The Respondent, through her above-described conduct, has violated Fla. Stat. §1012.33 Fla. Stat., and Rules 6A-5.056(2)(a) through (e) of the of the Florida Administrative Code, which defines "misconduct".

(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 6B-1.001, F.A.C.;
- (b) A violation of the Principles of Professional Conduct for the Education Profession in Florida as adopted in Rule 6B-1.006, 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.

12. 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 of 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.

- (c) Shall not unreasonably deny a student access to diverse points of view.
- (e) Shall not intentionally expose a student to unnecessary embarrassment or disparagement.
- (f) Shall not intentionally violate or deny a student's legal rights
- (g) Shall not harass or discriminate against any student on the basis of race, color, religion, sex, age, national or ethnic origin, political beliefs, marital status, handicapping condition, sexual orientation, or social and family background and shall make reasonable effort to assure that each student is protected from harassment or discrimination.

(4) **Obligation to the public** requires that the individual:

- (a) Shall take reasonable precautions to distinguish between personal views and those of any educational institution or organization with which the individual is affiliated

13. Respondent's actions constitute misconduct in office, which is conduct so serious as to impair the individual's effectiveness in the school system. 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 2: INCOMPETENCY

14. The Respondent, through her above-described conduct has violated Fla. Stat. §1012.33 and Rule 6A-5.056(3)(a) and (b) of the Florida Administrative Code. Her actions show an inability, failure or lack of fitness to discharge the required duty as a result of inefficiency or incapacity.

15. Respondent's actions constitute repeated failure on the part of Respondent to communicate with and relate to children in the classroom, to such an extent that pupils

are deprived of minimum educational experience.

16. Furthermore, when Ms. Valdes, met with D.H.W.'s parent, she was unable to communicate appropriately and relate to his parent.

COUNT 3: IMMORALITY

17. The Respondent, through her above-described conduct, violated § 1012.33 Fla. Stat., and Rule 6A-5.056(1) of the Florida Administrative Code, and her actions constitute immorality, which is conduct inconsistent with the standards of public conscience and good morals.

18. Additionally, the Respondent's conduct, as factually set forth herein, is sufficiently notorious to bring the Respondent and/or the education profession into public disgrace or disrespect and impair the Respondent's service in the community.

COUNT 4: SCHOOL BOARD POLICY 4008(B)

19. 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.

20. Furthermore, School Board Policy 4008(B) requires that "members of instructional staff shall perform the following functions:"

3. Infuse in the classroom, the District's adopted Character Education Traits of Respect, Honesty, Kindness, Self-control, Tolerance, Cooperation, Responsibility and Citizenship.
8. Conform to all rules and regulations that may be prescribed by the State Board and by the School Board.

DEMAND FOR RELIEF

WHEREFORE, based upon the foregoing, Petitioner, Robert W. Runcie, Superintendent of Schools, recommends that the School Board suspend the Respondent, MARIA VALDES, from her employment without pay for five (5) days, and require completion of diversity training based upon the foregoing facts and legal authority.


NOTICE

If you wish to contest the charges, you must, within 15 days after receipt of the written notice, submit a written request for a hearing to Robert Runcie, Superintendent, Broward County School District, 600 3rd Ave., Ft. Lauderdale, FL, 33301. If timely requested, such hearing shall be conducted by an administrative law judge assigned by the Division of Administrative Hearings of the Department of Management Services. The hearing shall be conducted within 60 days after receipt of the written appeal in accordance with chapter 120, Florida Statutes.

FAILURE TO TIMELY REQUEST A HEARING WILL RESULT IN A WAIVER OF THE RIGHT TO CONTEST THE CHARGES.

IF YOU WANT TO HIRE AN ATTORNEY, YOU HAVE THE RIGHT TO BE REPRESENTED BY AN ATTORNEY IN THIS MATTER.

EXECUTED this 26th day of February, 2015.



ROBERT W. RUNCIE,
Superintendent of Schools, Broward County

Respectfully submitted:
Tria Lawton-Russell, Esq.
Administrative Counsel

AFFIDAVIT OF SERVICE

DOCUMENTS

Case Number: N/A

MARIA VALDES,

For:
THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
600 SOUTHEAST THIRD AVENUE
FORT LAUDERDALE, FL 33301

Received by Professional Process Servers on the 27th day of February, 2015 at 9:00 am to be served on **MARIA VALDES, C/O CYPRESS BAY HIGH SCHOOL, 18600 VISTA PARK BLVD, WESTON, FL 33332.**

I, Henri J. Werner, being duly sworn, depose and say that on the 27th day of February, 2015 at 1:13 pm, I:

INDIVIDUALLY/PERSONALLY served by delivering a true copy of the **DOCUMENTS** with the date and hour of service endorsed thereon by me, to: **MARIA VALDES** at the address of: **18600 VISTA PARK BLVD, WESTON, FL 33332**, and informed said person of the contents therein, in compliance with state statutes.

Description of Person Served: Age: 60, Sex: F, Race/Skin Color: WHITE HISPANIC, Height: 5'3", Weight: 125, Hair: REDISH/BROWN, Glasses: N

I am over the age of eighteen, and have no interest in the above action. Under penalty of perjury, I declare that I have read the foregoing Verified Return of Service and that the facts stated in it are true.

Subscribed and Sworn to before me on the 2nd day of March, 2015 by the affiant who is personally known to me.

NOTARY PUBLIC



J. GARCIA
MY COMMISSION # FF 078349
EXPIRES: January 21, 2018
Bonded Thru Budget Notary Services


Henri J. Werner
847

Professional Process Servers
& Investigators, Inc.
1749 N.E. 26th Street, Suite A
Wilton Manors, FL 33305
(954) 566-2523
Our Job Serial Number: FIS-2015002545

EXHIBIT

B

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
OFFICE OF THE SUPERINTENDENT

Robert W. Runcie
Superintendent Of Schools

Telephone: 754-321-2600

Facsimile: 754-321-2701

February 27, 2015

This is confirmation that I, Maria Teresa Valdés, have received
notification of the Superintendent's recommendation dated 2/26/15.

Maria Teresa Valdés 2/27/15
Signature Date

EXHIBIT

tabbles

C



AGENDA REQUEST FORM

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Special Order Request

☐ Yes ☒ No

Time

Open Agenda

☐ Yes ☒ No

ITEM No.:

I-3.

MEETING DATE

Mar 17 2015 10:15AM - Regular School Board Meeting

AGENDA ITEM

CONSENT ITEMS

CATEGORY

I. OFFICE OF THE SUPERINTENDENT

DEPARTMENT

Administrative Counsel

TITLE:

Petition Formal Proceedings M.V.

REQUESTED ACTION:

Receive the Petition for Formal proceedings submitted by the Superintendent and suspend the teacher, M.V., without pay for five (5) days.

SUMMARY EXPLANATION AND BACKGROUND:

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:

There is no financial impact to the District.

EXHIBITS: (List)

(1) Summary Explanation (2) Letter from Superintendent (3) Petition for Formal Proceedings

BOARD ACTION:

RECEIVED

(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 4:21:48 PM

Approved In Open
Board Meeting On:

MAR 17 2015

By:

Donna Fournier
School Board Chair

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

EXHIBIT

tabbles

D

SUMMARY EXPLANATION AND BACKGROUND

The teacher, M. V., engaged in misconduct (verbal statements) toward a student. Due to the severity of the infraction, a five-day unpaid suspension and participation in diversity training is recommended. The Administrative Counsel prepared the Petition for Formal Proceedings and notice was sent to the employee that a recommendation for a five-day suspension without pay and participation in diversity training would be presented to the Broward County School Board (hereinafter "School Board") on March 17, 2015. The teacher has the right to request a hearing with the Division of Administrative Hearings.

End of Document



THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

600 SOUTHEAST THIRD AVENUE • FORT LAUDERDALE, FLORIDA 33301 • TEL 754-321-2600 • FAX 754-321-2701

ROBERT W. RUNCIE
Superintendent of Schools

SCHOOL BOARD

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DR. ROSALIND OSCOOD

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HEATHER P. BUNKWORTH
ABBY M. FREEDMAN
PATRICIA GOOD
LAURIE RICH LEVINSON
ANN MURRAY
DORA RUPERT

February 26, 2015

Maria Valdes
301 Racquet Club Road
Weston, Florida 33326

Dear Ms. Valdes:

Pursuant to Florida Statute 1012.33, you are hereby notified that the Superintendent will make a recommendation to The School Board of Broward County, Florida for your formal suspension without pay as a teacher of The School Board of Broward County, Florida. This recommendation is predicated upon the charges outlined in the attached Petition for Formal Proceedings.

These charges will be presented to the School Board on March 17, 2015, at 10:15 a.m., at K. C. Wright Administration Building, 600 Southeast Third Avenue, Fort Lauderdale, Florida. Pursuant to Florida Statute Chapter 120, you may request a formal hearing, provided that you request said hearing, in writing, to the Superintendent.

This is your notice pursuant to Florida Statute 1012.31 that the material contained in your investigative file, is a public record and it will become available for inspection by the public ten days from receipt of this letter. Any request made by the public for the documentation referred to above will be provided in accordance with the laws of the State of Florida and Federal law.

Sincerely,


Robert W. Runcie

RWR/TLR:cr

Attachment

- c: Desmond K. Blackburn, Ph.D, Chief School Performance and Accountability Officer
Amanda Bailey, Chief Human Resources Officer
Michael Ramirez, Director, School Performance and Accountability
J. Paul Carland, II, General Counsel
Tria Lawton-Russell, Administrative Counsel
Susan Rockelman, Director, Instructional Staffing
Scott Neely, Principal, Cypress Bay High School
Lula Taylor, Supervisor, Personnel Records
Yadiris Fereira, BTU Representative

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

ROBERT W. RUNCIE,
Superintendent of Schools,

Petitioner,

PETITION FOR FORMAL PROCEEDINGS

v.

MARIA VALDES,

Respondent.

ADMINISTRATIVE COMPLAINT

Petitioner, Robert W. Runcie, Superintendent of Schools of Broward County, Florida ("Petitioner"), through his undersigned counsel, files this Administrative Complaint against Respondent, MARIA VALDES ("VALDES"). The Petitioner seeks a five (5) day suspension of Respondent's employment with the School Board of Broward County ("SBBC"), pursuant to Chapter 120 and Sections 1001.51, 1012.27(5), and 1012.33 Florida Statutes and Rule 6A-5.056 of the Florida Administrative Code. The Petitioner alleges the following:

JURISDICTIONAL BASIS

1. The agency is the School Board of Broward County, Florida, located at 600 Southeast Third Avenue, Fort Lauderdale, Broward County, Florida 33301.
2. The Petitioner is Robert W. Runcie, who is the Superintendent of Schools of Broward County, Florida.
3. The 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, inclusive of the Respondent, Maria T. Valdes (hereinafter "Valdes").
4. Respondent, Valdes, is an employee of the Broward County School Board and is currently employed as a teacher at Cypress Bay High School.
 5. The last known address of the Respondent, Maria T. Valdes, is 301 Racquet Club Road, Weston, Florida 33326.

MATERIAL ALLEGATIONS

6. On or about February 2, 2015, Respondent Valdes, a high school teacher, engaged in inappropriate conduct by stating "Ah, no! The Taliban is here!", when referring to a student of Lebanese descent, D.H.W., who had just entered her classroom.
7. Respondent subsequently continued to refer to the student as "the Taliban" or "terrorista" in lieu of his name until a complaint was made by his parents to school administration.
8. Ms. Valdes would call on the student in class by asking "Ok the Talaban what is the answer?" or "Let's ask the Taliban."

ADMINISTRATIVE CHARGES

9. Just cause exists for the requested relief pursuant to Fla. Stat. §§ 1012.33(1)(a), Section 6A-5.056 F.A.C., the Respondent's employment contract, School Board rules and regulations, the Code of Ethics of the Education Profession, and the Employee Disciplinary Guidelines promulgated by the School Board.
10. "Just cause" means "cause that is legally sufficient." It includes but is not limited to the

following instances:

COUNT 1: MISCONDUCT IN OFFICE

11. The Respondent, through her above-described conduct, has violated Fla. Stat. §1012.33 Fla. Stat., and Rules 6A-5.056(2)(a) through (e) of the of the Florida Administrative Code, which defines "misconduct".

(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 6B-1.001, F.A.C.;
- (b) A violation of the Principles of Professional Conduct for the Education Profession in Florida as adopted in Rule 6B-1.006, 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.

12. 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 of 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.

- (c) Shall not unreasonably deny a student access to diverse points of view.
- (e) Shall not intentionally expose a student to unnecessary embarrassment or disparagement.
- (f) Shall not intentionally violate or deny a student's legal rights
- (g) Shall not harass or discriminate against any student on the basis of race, color, religion, sex, age, national or ethnic origin, political beliefs, marital status, handicapping condition, sexual orientation, or social and family background and shall make reasonable effort to assure that each student is protected from harassment or discrimination.

(4) **Obligation to the public requires that the individual:**

- (a) Shall take reasonable precautions to distinguish between personal views and those of any educational institution or organization with which the individual is affiliated

13. Respondent's actions constitute misconduct in office, which is conduct so serious as to impair the individual's effectiveness in the school system. 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 2: INCOMPETENCY

14. The Respondent, through her above-described conduct has violated Fla. Stat. §1012.33 and Rule 6A-5.056(3)(a) and (b) of the Florida Administrative Code. Her actions show an inability, failure or lack of fitness to discharge the required duty as a result of inefficiency or incapacity.

15. Respondent's actions constitute repeated failure on the part of Respondent to communicate with and relate to children in the classroom, to such an extent that pupils

are deprived of minimum educational experience.

16. Furthermore, when Ms. Valdes, met with D.H.W's parent, she was unable to communicate appropriately and relate to his parent.

COUNT 3: IMMORALITY

17. The Respondent, through her above-described conduct, violated § 1012.33 Fla. Stat., and Rule 6A-5.056(1) of the Florida Administrative Code, and her actions constitute immorality, which is conduct inconsistent with the standards of public conscience and good morals.

18. Additionally, the Respondent's conduct, as factually set forth herein, is sufficiently notorious to bring the Respondent and/or the education profession into public disgrace or disrespect and impair the Respondent's service in the community.

COUNT 4: SCHOOL BOARD POLICY 4008(B)

19. 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.

20. Furthermore, School Board Policy 4008(B) requires that "members of instructional staff shall perform the following functions:"

3. Infuse in the classroom, the District's adopted Character Education Traits of Respect, Honesty, Kindness, Self-control, Tolerance, Cooperation, Responsibility and Citizenship.
8. Conform to all rules and regulations that may be prescribed by the State Board and by the School Board.

DEMAND FOR RELIEF

WHEREFORE, based upon the foregoing, Petitioner, Robert W. Runcie, Superintendent of Schools, recommends that the School Board suspend the Respondent, MARIA VALDES, from her employment without pay for five (5) days, and require completion of diversity training based upon the foregoing facts and legal authority.

NOTICE

If you wish to contest the charges, you must, within 15 days after receipt of the written notice, submit a written request for a hearing to Robert Runcie, Superintendent, Broward County School District, 600 3rd Ave., Ft. Lauderdale, FL, 33301. If timely requested, such hearing shall be conducted by an administrative law judge assigned by the Division of Administrative Hearings of the Department of Management Services. The hearing shall be conducted within 60 days after receipt of the written appeal in accordance with chapter 120, Florida Statutes.

FAILURE TO TIMELY REQUEST A HEARING WILL RESULT IN A WAIVER OF THE RIGHT TO CONTEST THE CHARGES.

IF YOU WANT TO HIRE AN ATTORNEY, YOU HAVE THE RIGHT TO BE REPRESENTED BY AN ATTORNEY IN THIS MATTER.

EXECUTED this 26th day of February, 2015.



ROBERT W. RUNCIE,
Superintendent of Schools, Broward County

Respectfully submitted:
Tria Lawton-Russell, Esq.
Administrative Counsel

Attachments:  Maria Valdes Chapter-120.pdf / Uploaded File (33K)

Good Afternoon, Superintendent Runcie:

I am attaching a formal request for a hearing under the provisions of Florida Statutes Chapter 120 for Ms. Maria Valdes.

Please refer any questions to the attorney, Bob McKee at yborlaw@gmail.com or call at 813- 248- 6400 Ext 1. Thank you.

Regards,

Paula, Festad

Administrative Assistant
Broward Teachers Union
Phone: 954-486-6250 Ex: 239
pjostad@btuonline.com

$\langle \text{III} \rangle$

"Try not to become a man of success but rather, to become a man of value"



BTU *Broward Teachers Union*

A Union of Education, Technical Support, Charter School and Education Support Professionals

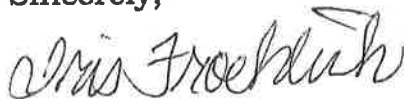
March 19, 2015

Mr. Robert Runcie, Superintendent
The School Board of Broward County, FL
600 SE Third Avenue, 10th Floor
Fort Lauderdale, FL 33301

Dear Mr. Runcie:

This letter is a formal request for a hearing under the provisions of Florida Statutes Chapter 120 Division of Administrative Hearings for Ms. Maria Valdes regarding the recommendation for a 5 day suspension without pay.

Sincerely,



Iris Froehlich
Field Staff Representative


C: Sharon Glickman, Esq., President
Bob McKee, Attorney
Maria Valdes





Message

Mon, Mar 23, 2015 10:55 AM

From:  Camille S. Reich
To:  Robert McKee
Cc:  Tria A. Lawton-Russell

Subject: Ms. Valdes

Attachments:  Letter to Opposing Counsel_Hearing.pdf / Adobe Acrobat Document (329K)

Good morning Mr. McKee,

Please see the attached letter regarding your client Maria Valdes.

Best Regards,

Camille S. Reich
Administrative Counsel's Office
KCW 14th Floor
(754) 321-2655 Office
(754) 321-2657 Fax
Intercom: 1449
camille.reich@browardschools.com

Under Florida law, email addresses, and all communications, including email communications, made or received in connection with the transaction of School Board business are public records, which must be retained as required by law and must be disclosed upon receipt of a public records request, except as may be excluded by federal or state laws. If you do not want your email address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.



THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

600 SOUTHEAST THIRD AVENUE • FORT LAUDERDALE, FLORIDA 33301 • TEL 754-321-2600 • FAX 754-321-2701

ROBERT W. RUNCIE
Superintendent of Schools

SCHOOL BOARD

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LAURIE RICH LEVINSON
ANN MURRAY
DR. ROSALIND OSGOOD
NORA RUPERT

March 23, 2015

Robert McKee
1718 E. 7th Ave., Suite 301
Tampa, FL 33605

Via E-mail

Dear Mr. McKee:

The School Board of Broward County (hereinafter "SBBC" or "School Board") has reviewed your client's, Broward Teacher's Union (hereinafter "BTU") request for a hearing dated March 19, 2015, submitted on behalf of Maria Valdes.

Pursuant to §1012.33(6)(a), Florida Statutes, an **"employee must within 15 days after receipt of the written notice, submit a written request for a hearing"**. Furthermore, the administrative complaint indicates in bold type notice of the 15 day timeframe, in which, to submit a written request for hearing.

Ms. Valdes was personally served with notice of the pending charges on February 27, 2015, which not only included the administrative complaint in this case, but also a letter notifying her of the school board hearing date at which it would be presented, the March 17, 2015, regular school board meeting. Yet, her request for hearing was not e-mailed to the Superintendent until March 19, 2015.

SBBC is required to dismiss a request for hearing if it is not timely filed, "[a] petition **shall** be dismissed if it is not in substantial compliance . . . or **has been untimely filed.**" Fla. Stat. §120.569(2)(c). Furthermore, pursuant to School Board Policy 4.9 the "School Board's decision is final."

Without waiving any right to object to the legal sufficiency/content of the request for hearing filed on Ms. Valdes' behalf, the School Board is dismissing your client's request for a Division of Administrative Hearing as untimely, thus the right to a hearing has been waived.

Best Regards,




Tria Lawton-Russell, Esq.
Administrative Counsel



Message

Thu, Apr 02, 2015 3:10 PM

From:  "Barbara Jarnagin" <bdjarnagin@gmail.com>
To:  **Tria A. Lawton-Russell**
Cc:  <pam.cooper@floridaea.org>  <ifroehlich@btuonline.com>

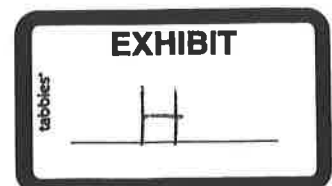
Subject: Maria Valdes

Attachments:  4-2-15 ltr to Lawton-Russell.pdf / Uploaded File (77K)

Ms. Lawton-Russell,

Please see attached letter from Robert McKee.

Barbara
Legal Assistant
(813) 248-6400 (Ext. 4)



ROBERT F. MCKEE, P.A.

Attorney at Law
1718 E. 7th Ave., Suite 301
Tampa, FL 33605
Phone: (813) 248-6400/Ext. 1
Fax: (813) 248-4020
yborlaw@gmail.com

April 2, 2015

BY EMAIL TRANSMISSION ONLY

tria.lawton-russell@browardschools.com

Tria Lawton-Russell, Esquire
Administrative Counsel for the School Board
600 SE 3rd Avenue, 14th Floor
Ft. Lauderdale, FL 33301

RE: Maria Valdes

Dear Ms. Lawton-Russell:

I am in receipt of your letter of March 23, 2015, regarding the above-referenced matter. You are advised that it is our intention to bringing an action against the School Board in Third District Court of Appeal to require the School Board to schedule an administrative hearing, consistent with the request which was made on Ms. Valdes's behalf on March 19, 2015. We are of the view that the event which triggered Ms. Valdes's right to request an administrative hearing was the School Board's decision to accept the Superintendent's recommendation that Ms. Valdes be suspended from her teaching position without pay. The School Board's action occurred on March 17, 2015, and the hearing request was made two days later.

Florida Administrative Code § 28-106.111(2) provides that a person seeking a hearing on an agency decision which affects her substantial interests shall file a petition for hearing with the agency within 21 days of receipt of the written notice of the agency decision. The Superintendent's notice to Ms. Valdes that he would recommend to the Board that she be suspended from her teaching position does not constitute an "agency decision" that would trigger a requirement that Ms. Valdes request an administrative hearing. In *Wahlquist v. School Board of Liberty County*, 423 So. 2d 471, 473 (Fla. 1st DCA 1982), the court held that a party whose substantial interests are affected by agency action must receive notice of the agency action and must be advised of her right to request a hearing and the time limits for doing so if she wishes to challenge such agency action. The court in *Wahlquist* goes on to note that "waiver is not a concept favored in the law, and must be clearly demonstrated by the agency claiming the benefit."

We are prepared to seek review of the School Board's decision to deny Ms. Valdes an administrative hearing as is provided in Florida Statute § 120.68(1). If we are required to take

Tria Lawton-Russell
April 2, 2015
Page 2

such action, we will seek an award of our attorney's fees in accordance with Florida Statute § 120.595(5). I trust that this will not be necessary.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert F. McKee".

Robert F. McKee

RFM/bdj

cc: Pamela Cooper, Esquire
Iris Froehlich




Message

Fri, Apr 24, 2015 7:30 AM

From:  "Barbara Jarnagin" <bdjarnagin@gmail.com>
To:  Tria A. Lawton-Russell

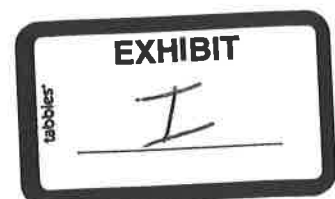
Subject: Maria Valdes

Attachments:  Req for Admin Hrg w-AC attached.pdf / Uploaded File (325K)

Ms. Lawton-Russell,

Please find attached your copy of the Request for Administrative Hearing with regard to Maria Valdes, which was forwarded to Superintendent Runcie via First Class, Certified, U.S. Mail. This should have been emailed to you yesterday, as indicated in the certificate of service, but I forgot to push the "send" button.

Barbara
(813) 248-6400 (Ext. 4)



THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

MARIA VALDES,

Petitioner,

v.

ROBERT W. RUNCIE,
Superintendent of Schools,

Respondent.

REQUEST FOR ADMINISTRATIVE HEARING

The undersigned, on behalf of Maria Valdes, hereby requests that an administrative hearing be convened to allow Mr. Valdes to challenge the decision of the School Board of Broward County to suspend her, without pay, from her classroom teacher position. In support of this request, the School Board is shown as follows:

1. Identification of Petitioner: Maria T. Valdes
301 Racquet Club Road
Weson, FL 33326
2. Statement When Notice of Final Agency Action Was Received—Day Petitioner Was Advised: On March 18, 2015, that the School Board, at its meeting on March 17, 2015, voted to suspend the Petitioner from her classroom teaching position, without pay, for a period of five (5) working days.
3. Statement Regarding Substantial Interest: The Petitioner's substantial interests are affected by the School Board's actions inasmuch as the Petitioner will suffer a financial loss resulting from such action in the form of one-week (five working days) of her salary.

4. Statement of Disputed Facts: The Petitioner denies the allegations set forth in paragraphs 6, 7 and 8 of the Administrative Complaint lodged against her by the Superintendent, upon which the School Board based its decision to suspend the Petitioner from her teaching position without pay. A copy of the Administrative Complaint is attached hereto and made a part hereof.
5. Statement of Ultimate Facts: The Petitioner made a single comment to one of her students who arrived at the Petitioner's classroom with his face covered, except for his eyes, that he "looked like the Taliban." The comment was not made in the presence of the student's classmates, save for one or two who may have been near enough to hear the comment. Nor was the comment made to disparage the student. Indeed, the student expressed amusement at the Petitioner's characterization of his "look" on the day in question.
6. Rules and Statutes Requiring Reversal of the School Board's Action: There is no just cause to suspend the Petitioner pursuant to Florida Statute § 1012.33(1)(a) and § 6A-5.056, Fla. Admin. Code.
7. Relief Sought: Rescission of the suspension and any lost pay/benefits to the Petitioner.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of this document has been forwarded by First Class U.S. Certified Mail to Robert W. Runcie, Superintendent of Schools, Kathleen C. Wright Admin. Building, 600 SE 3rd Avenue, Ft. Lauderdale, FL 33301; and a copy to Tria Lawton-

Russell, Esquire, via email transmission (tria.lawton-russell@browardschools.com), on this 23rd
day of April, 2015.



ROBERT F. McKEE
Florida Bar Number 295132
yborlaw@gmail.com
ROBERT F. McKEE, P.A.
1718 E. 7th Ave., Suite 301
Tampa, FL 33605
(813) 248-6400
(813) 248-4020 (Fax)
Secondary Email: bdjarnagin@gmail.com

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

ROBERT W. RUNCIE,
Superintendent of Schools,

Petitioner,

PETITION FOR FORMAL PROCEEDINGS

v.

MARIA VALDES,

Respondent.

ADMINISTRATIVE COMPLAINT

Petitioner, Robert W. Runcie, Superintendent of Schools of Broward County, Florida ("Petitioner"), through his undersigned counsel, files this Administrative Complaint against Respondent, MARIA VALDES ("VALDES"). The Petitioner seeks a five (5) day suspension of Respondent's employment with the School Board of Broward County ("SBBC"), pursuant to Chapter 120 and Sections 1001.51, 1012.27(5), and 1012.33 Florida Statutes and Rule 6A-5.056 of the Florida Administrative Code. The Petitioner alleges the following:

JURISDICTIONAL BASIS

1. The agency is the School Board of Broward County, Florida, located at 600 Southeast Third Avenue, Fort Lauderdale, Broward County, Florida 33301.
2. The Petitioner is Robert W. Runcie, who is the Superintendent of Schools of Broward County, Florida.
3. The 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, inclusive of the Respondent, Maria T. Valdes (hereinafter "Valdes").

4. Respondent, Valdes, is an employee of the Broward County School Board and is currently employed as a teacher at Cypress Bay High School.
5. The last known address of the Respondent, Maria T. Valdes, is 301 Racquet Club Road, Weston, Florida 33326.

MATERIAL ALLEGATIONS

6. On or about February 2, 2015, Respondent Valdes, a high school teacher, engaged in inappropriate conduct by stating "Ah, no! The Taliban is here!", when referring to a student of Lebanese descent, D.H.W., who had just entered her classroom.
7. Respondent subsequently continued to refer to the student as "the Taliban" or "terrorista" in lieu of his name until a complaint was made by his parents to school administration.
8. Ms. Valdes would call on the student in class by asking "Ok the Talaban what is the answer?" or "Let's ask the Taliban."

ADMINISTRATIVE CHARGES

9. Just cause exists for the requested relief pursuant to Fla. Stat. §§ 1012.33(1)(a), Section 6A-5.056 F.A.C., the Respondent's employment contract, School Board rules and regulations, the Code of Ethics of the Education Profession, and the Employee Disciplinary Guidelines promulgated by the School Board.
10. "Just cause" means "cause that is legally sufficient." It includes but is not limited to the

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11. The Respondent, through her above-described conduct, has violated Fla. Stat. §1012.33 Fla. Stat., and Rules 6A-5.056(2)(a) through (e) of the of the Florida Administrative Code, which defines "misconduct".

(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 6B-1.001, F.A.C.;
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17. The Respondent, through her above-described conduct, violated § 1012.33 Fla. Stat., and Rule 6A-5.056(1) of the Florida Administrative Code, and her actions constitute immorality, which is conduct inconsistent with the standards of public conscience and good morals.

18. Additionally, the Respondent's conduct, as factually set forth herein, is sufficiently notorious to bring the Respondent and/or the education profession into public disgrace or disrespect and impair the Respondent's service in the community.

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19. 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.

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If you wish to contest the charges, you must, within 15 days after receipt of the written notice, submit a written request for a hearing to Robert Runcie, Superintendent, Broward County School District, 600 3rd Ave., Ft. Lauderdale, FL 33301. If timely requested, such hearing shall be conducted by an administrative law judge assigned by the Division of Administrative Hearings of the Department of Management Services. The hearing shall be conducted within 60 days after receipt of the written appeal in accordance with chapter 120, Florida Statutes.

FAILURE TO TIMELY REQUEST A HEARING WILL RESULT IN A WAIVER OF THE RIGHT TO CONTEST THE CHARGES.

IF YOU WANT TO HIRE AN ATTORNEY, YOU HAVE THE RIGHT TO BE REPRESENTED BY AN ATTORNEY IN THIS MATTER.

EXECUTED this 26th day of February, 2015.


ROBERT W. RUNCIE,
Superintendent of Schools, Broward County

Respectfully submitted:
Tria Lawton-Russell, Esq.
Administrative Counsel