

THE BROWARD COUNTY SCHOOL BOARD, FLORIDA

ROBERT W. RUNCIE,
Superintendent of Schools,

Petitioner,

v.

LINDA IRENE KENNEDY

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, LINDA KENNEDY ("KENNEDY"). The Petitioner seeks termination of Respondent's employment with the Broward County School Board ("BCSB"), pursuant to Chapter 120 and Sections 1001.51, 1012.27(5), 1012.33, 1012.55, and 1012.585 Florida Statutes and Rule 6A-5.056 of the Florida Administrative Code. The Petitioner alleges the following:

I. 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 BCSB, inclusive of the Respondent, LINDA KENNEDY (hereinafter "KENNEDY").

4. Respondent, KENNEDY, is an employee of the Broward County School Board and is currently employed as a teacher pursuant to a Professional Services Contract, issued in accordance with Section 1012.33(3)(a), Florida Statutes (2014).

5. The last known address of the Respondent, KENNEDY, is 8791 NW 16th Street, Pembroke Pines, Florida 33024.

II. MATERIAL ALLEGATIONS

6. KENNEDY is a Kindergarten teacher at Dolphin Bay Elementary.

7. KENNEDY'S Professional Educator's Certificate was non-renewed due to her failure to meet her exceptional student education (hereinafter "ESE") renewal requirements.

8. KENNEDY is uncertified and unable to teach at this time.

(**Exhibit A**).

III. PREVIOUS DISCIPLINE/HISTORY

9. By way of background, KENNEDY has received previous discipline for inappropriate conduct/misconduct in the past.

10. On or about November 3, 2010, KENNEDY received a summary memo for her display of anger and for using an old calendar.
11. On or about December 16, 2010, KENNEDY received another summary memo for being tardy.
12. On or about February 3, 2011, the Principal issued a third summary memo after KENNEDY issued her report cards late.
13. KENNEDY has a myriad of behavioral issues ranging from poor attendance, failure to call in when late, failure to turn in documents on time, losing media center materials, and unstable/paranoid behavior resulting in a referral to the employee assistance program (hereinafter "EAP").
14. In 2012 KENNEDY's discipline issues resulted in a one (1) day suspension.

IV. PERFORMANCE

15. On or about May 2, 2014, KENNEDY was placed on a professional development plan (hereinafter "PDP") due to teaching deficiencies.
16. In June of 2014, KENNEDY ended the 2013-2014 school year with an instructional practice (hereinafter "IP") score of needs improvement.
17. On or about October 24, 2014, while on the PDP, KENNEDY applied and was approved for leave under the Family Medical Leave Act (hereinafter "FMLA").

18. At the time of her FMLA leave, KENNEDY had completed all but two (2) days of her PDP.

19. KENNEDY was scheduled to return to work on March 20, 2015, but instead opted to extend her leave for the remainder of the 2014-2015 school year.

V. **ADMINISTRATIVE CHARGES**

20. Petitioner realleges and incorporates herein by reference the allegations set forth in paragraphs one (1) through nineteen (19) above.

21. 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.

22. "Just cause" means "cause that is legally sufficient." It includes **but is not limited to** the following instances:

A. **SCHOOL BOARD POLICY 4002**

23. School Board Policy 4002, titled "Hiring Procedures and Security Background/Screening and Photo Identification Badge Requirements", mandates the following qualifications for instructional personnel: "A PERSON SHALL BE APPOINTED TO A

TEACHING POSITION **ONLY IF**¹ HE/SHE HOLDS . . . A VALID
FLORIDA FULL-TIME STATE EDUCATOR'S CERTIFICATE".

24. KENNEDY does not have a valid educator's certificate at this time; therefore, she is not entitled to re-appointment for the 2015-2016 school year.

B. SCHOOL BOARD POLICY 4003

25. Policy 4003, titled "Instructional Certification" mandates that "EACH INSTRUCTIONAL EMPLOYEE SHALL HAVE ON FILE, IN THE BROWARD COUNTY CERTIFICATION OFFICE, A VALID FULL-TIME STATE OF FLORIDA EDUCATOR'S CERTIFICATE".

26. Furthermore, the Policy indicates that "[i]t shall be the responsibility of each instructional employee to keep his/her teaching certificates, licenses, . . . current, in force, . . . and on file in the Personnel Division."

27. Without a valid teaching certificate, KENNEDY is unable to comply with this policy; and, therefore, has failed to comply with the mandates of her instructional position.

¹ Emphasis added.

C. SCHOOL BOARD POLICY 4008

28. School Board Policy 4008 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.

29. Furthermore, section B of Policy 4008 requires that "members of instructional staff shall perform the following functions:"

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

30. Additionally, Policy 4008(C) requires the following:

- Instructional personnel are required to work 196 days, 180 of which must be devoted to working full-time on instructional matters. Instructional personnel must be on duty a minimum of seven and one-half (7 ½) hours daily.
- All members of instructional staff shall be expected teach a full schedule of classes, unless prior approval from the Area Superintendent or Superintendent of Schools has been obtained.

31. Based on the expiration and subsequent failure to meet the requirements for renewal of her educator's certificate, KENNEDY is unable to teach; and, therefore perform her

duties as an educator and a contractual employee of the Broward County School Board.

D. §1012.33 Florida Statutes

32. Pursuant to § 1012.33 (1)(a) Fla. Stat. "[e]ach person employed as a member of the instructional staff in any district school system **shall**² be properly certified.
33. Kennedy, is not certified as she was unable to meet the renewal requirements.

E. §1012.55 Florida Statutes

34. Furthermore, Florida Statutes §§ 1012.55 (1)(b) requires the following:

Each person employed or occupying a position as . . . teacher . . . or other position in which the employee serves in an instructional capacity, in any public school of any district of this state shall hold the certificate required by law and by rules of the State Board of Education in fulfilling the requirements of the law for the type of service rendered

35. KENNEDY, is not certified; and, therefore, is in violation of this statute.

F. INCOMPETANCY

36. 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.

(a) "Inefficiency" means one or more of the following:

1. Failure to perform duties prescribed by law;
2. Failure to communicate appropriately with and relate to students;
3. Failure to communicate appropriately with and relate to colleagues, administrators, subordinates, or parents;
4. Disorganization of his or her classroom to such an extent that the health, safety or welfare of the students is diminished; or
5. Excessive absences or tardiness

(a) "Incapacity" means one or more of the following:

1. Lack of emotional stability;
2. Lack of adequate physical ability;
3. Lack of general educational background; or
4. Lack of adequate command of his or her area of specialization

37. Respondent's actions constitute a failure to perform duties required by law to such an extent that pupils are deprived of a minimum educational experience.

² Emphasis added.

DEMAND FOR RELIEF

WHEREFORE, based upon the foregoing, Petitioner, Robert W. Runcie, Superintendent of Schools, recommends that the School Board terminate the Respondent, LINDA KENNEDY, based upon the foregoing facts and legal authority.

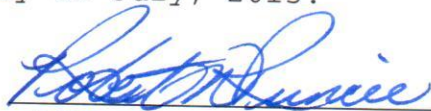
NOTICE

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 W. 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 16th day of July, 2015.



ROBERT W. RUNCIE,
Superintendent of Schools,
Broward County

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

37115

State of Florida Department of Education
Professional Educator's Certificate


This Certifies That

LINDA IRENE KENNEDY


*Has satisfactorily completed all requirements of Florida Statutes and
State Board of Education Rules for the coverages or endorsements listed below:*

PRIMARY EDUCATION / (GRADES K - 3)

July 01, 2010 - June 30, 2015
Department of Education Number 804057



Dr. Frances Haithcock
Chancellor, K-12 Public Schools



Dr. Eric J. Smith
Commissioner of Education

May 17, 2010

EXHIBIT A