

THE BROWARD COUNTY SCHOOL BOARD, FLORIDA

ROBERT W. RUNCIE,
Superintendent of Schools,

Petitioner,

v.

Monica Fernandez

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, MONICA FERNANDEZ ("FERNANDEZ"). 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:

1. 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, MONICA FERNANDEZ (hereinafter "FERNANDEZ").
4. Respondent, FERNANDEZ, 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, FERNANDEZ, is 1100 West 56 Street, Hialeah, FL 33012

II. MATERIAL ALLEGATIONS

6. FERNANDEZ is a Language Arts teacher at Hallandale Adult/Community.
7. FERNANDEZ'S Professional Educator's Certificate was non-renewed due to her failure to meet her exceptional student education (hereinafter "ESE") renewal requirements.
8. FERNANDEZ is uncertified and unable to teach at this time.
9. On or about May 19, 2015, FERNANDEZ received an e-mail and phone calls from Talent Acquisition & Operations,

Instructional office advising her that she failed to meet her ESE renewal requirement.

10. On or about June 11, 2015, FERNANDEZ received a state letter, requesting official documentation of her renewal credit. **(Exhibit A)**

11. On or about June 25, 2015, the Talent Acquisition & Operations, Instructional office tried to contact FERNANDEZ again by telephone, her outgoing message indicated that "she was not accepting calls".

III. PREVIOUS DISCIPLINE/HISTORY

12. By way of background, FERNANDEZ has received previous discipline for excessive and continued absenteeism in the past.

13. On or about May 1, 2014, she received a verbal reprimand for being absent from work without leave.

14. On or about June 3, 2014, she received a written reprimand for her continued absenteeism without leave. At the time of the reprimand, FERNANDEZ had accumulated approximately 37 absences.

IV. ADMINISTRATIVE CHARGES

15. Petitioner realleges and incorporates herein by reference the allegations set forth in paragraphs one (1) through fourteen (14) above.

16. 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.

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

A. SCHOOL BOARD POLICY 4002

18. 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".

¹ Emphasis added.

19. FERNANDEZ 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

20. 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".

21. 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."

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

C. SCHOOL BOARD POLICY 4008

23. 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.

24. 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.**

25. 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.

26. Based on the expiration and subsequent failure to meet the requirements for renewal of her educator's certificate, FERNANDEZ 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

27. 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.

28. FERNANDEZ, is not certified as she was unable to meet the renewal requirements.

E. §1012.55 Florida Statutes

29. 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

(e) Beginning July 1, 2014, an applicant for renewal of a professional certificate must earn a minimum of one college credit or the equivalent inservice points in the area of instruction for teaching students with disabilities. The requirement in this paragraph may not add to the total hours required by the department for continuing education or inservice training.

² Emphasis added.

30. FERNANDEZ, is not certified; and, therefore, is in violation of this statute.

F. INCOMPETANCY

31. 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

32. 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.

DEMAND FOR RELIEF

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

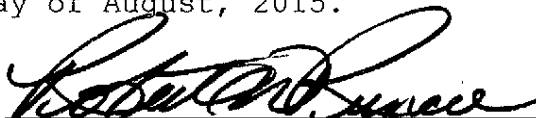
NOTICE

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 25th day of August, 2015.



ROBERT W. RUNCIE,
Superintendent of Schools,
Broward County

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



Florida Department of Education

Bureau of Educator Certification

325 West Gaines Street, Room 201

Tallahassee, Florida 32399-0400

MONICA FERNANDEZ
1100 WEST 56 STREET
HIALEAH, FL 33012

Florida DOE Number: 1063865
Applicant ID Number: ###-##-0878 S
Processing Date: June 11, 2015

Your application for renewal of your Professional Certificate has been received. Further processing of your application is pending receipt of the following:

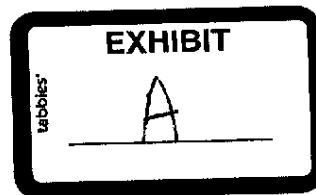
- official documentation of your renewal credit. Please submit an official transcript showing six (6) semester hours of college level credit to include at least one (1) semester hour in teaching students with disabilities, earned at an institution accredited by an agency recognized by the U.S. Department of Education, earned at an institution approved by the Florida Department of Education, or recommended by the American Council on Education (ACE). If you have earned the equivalent in Master Inservice Plan points from a Florida school district or authorized private school organization, please request that the district or organization submit a completed form CT-116 to verify your inservice points.

Credit used for renewal of your certificate must have been earned between July 1, 2010, and June 30, 2015.

Please refer to the enclosed brochure and the referenced website at <http://www.fldoe.org/edcert/renew.asp> for additional information on renewal requirements, appropriate topics for credit, and college credit equivalencies.

Your application will expire May 19, 2016, which is one year from the date it was received in this office. The above information must be received prior to that date.

Enclosure: Renewal-Reinstatement Brochure



Find Certification information online at <http://www.fldoe.org/teaching/certification>
Contact our office at (US domestic calls) 800-445-6739 or (outside the US) 850-245-5049