

THE BROWARD COUNTY SCHOOL BOARD, FLORIDA

ROBERT W. RUNCIE,
Superintendent of Schools,

Petitioner,

v.

LULA G. FAISON,

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, Lula G. Faison ("FAISON"). The Petitioner seeks a ten (10) day suspension of Respondent's employment with the Broward County School Board ("BCSB"), 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:

I. JURISDICTIONAL BASIS

1. The agency is the Broward County School Board, 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 FAISON.

4. FAISON 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 (2017).
5. The last known address of FAISON is 2811 N. Course Drive, Apt. 206, Pompano Beach, Florida 33069.

II. MATERIAL ALLEGATIONS

6. This recommendation is based upon conduct occurring in April of 2016.
7. FAISON is a certified Exceptional Student Education ("ESE") and English for Speakers of Other Languages ("ESOL") teacher who, at all material times, was employed as an ESE teacher at Pompano Beach Elementary School.
8. FAISON was first hired by the district on February 10, 2004.
9. On or about April 18, 2016, FAISON was on duty teaching her ESE class.

10. On or about April 18, 2016, A.J., one of FAISON's Emotional/Behavioral Disabilities ("EBD") students, was in attendance.
11. On or About April 18, 2016, upon preparing to return to the classroom from recess on the playground, A.J. refused to reenter the building.
12. FAISON advised A.J. that she would contact Rodney Felix ("FELIX"), the Paraprofessional that worked in the cluster with the EBD students, if A.J. did not come inside.
13. FAISON then entered the building without notifying anyone of A.J.'s presence outside the building, leaving A.J. unsupervised, at which time A.J. then ran away.
14. FAISON went to see FELIX to request his help in dealing with a student, (A.J.) who she indicated was refusing to come inside the classroom.
15. When FELIX asked FAISON where the student was, FAISON told FELIX she did not know but that she would go and check.
16. By her own admission, FAISON acknowledges that she did not have eye contact with the student at the time that FELIX requested the student's whereabouts.
17. FAISON returned to her classroom after speaking with FELIX and never returned to provide FELIX any additional information concerning the identity of the student or his whereabouts.

18. On the date of the incident, FAISON's class was being supervised not only by a substitute working with FAISON to care for the remaining students, but also by EADINA JACKSON ("JACKSON"), a Paraprofessional/Classroom Assistant.
19. FAISON, by her own admission, did not go back to look for A.J. because she feared that he would make her chase him which had a tendency to do.
20. A.J. has eloped from FAISON's classroom before.
21. Later that same day, the school received an anonymous complaint that a child who was believed to be a student of Pompano Beach Elementary was spotted outside near the front of the school.
22. Subsequently, FELIX and JACKSON responded from the school to where A.J. was seen by the anonymous complainant.
23. A.J., upon seeing them fled, at which point they contacted Broward Sheriff's Office non-emergency police for assistance.
24. After following A.J. for several blocks, and with the officer's assistance, A.J. was returned to the school without further incident.
25. On or about April 18, 2016, FAISON neglected an EBD student when she left the student who refused to reenter the building, unsupervised resulting in unsafe conditions for the student.

26. On or about April 18, 2016, FAISON failed to ensure that the EBD student was safely in the custody of FELIX before returning to her classroom, resulting in the student eloping.
27. On or about April 18, 2016, FAISON failed to follow protocol to report the student elopement, resulting in unsafe conditions for students.

III. PREVIOUS DISCIPLINE

28. On or about May 2, 2014, FAISON was issued a summary memo regarding her failure to adhere to deadlines specific to the IEP process and directing her to complete all IEPs in a timely manner pursuant to all federal and state mandates required by Exceptional Student Education (hereinafter "ESE").
29. On or about May 2, 2015, FAISON was issued a second summary memo regarding her failure to adhere to deadlines specific to the IEP process and directing her to complete all IEPs in a timely manner pursuant to all federal and state mandates required by ESE.
30. On November 3, 2015, FAISON was issued a verbal reprimand for failure to adhere to deadlines related to the IEP process including interim reports being sent to parents four days after they were due according to the district calendar.

31. On February 1, 2016, FAISON was issued a written reprimand for failure to adhere to a directive regarding the completion of up-to-date lesson plans and a comprehensive behavior plan.
32. On March 16, 2016, FAISON was issued a second written reprimand for failure to adhere to directives regarding timelines related to the IEP process, failure to complete third grade portfolio assessments as well as gross insubordination and inappropriate behavior when FAISON hung up the phone on the principal, Mr. Larson, when directed to meet with him on two separate occasions.

IV. ADMINISTRATIVE CHARGES

33. Petitioner realleges and incorporates herein by reference the allegations set forth in paragraphs one (1) through thirty-two (32) above.
34. 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.
35. "Just cause" means cause that is legally sufficient. "Just cause" includes, **but is not limited to:**

* * *

- B. "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-10.80, 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 his colleagues' ability to effectively perform duties.
- C. "Incompetency" means the inability, failure or lack of fitness to discharge the required duty as a result of inefficiency or incapacity.
1. "Inefficiency" means one or more of the following:
 - a. Failure to perform duties prescribed by law;
 - b. **Failure to communicate appropriately with and relate to students;**
 - c. **Failure to communicate appropriately with and relate to colleagues, administrators, subordinates, or parents;**
 - d. **Disorganization of his or her classroom to such an extent that the health, safety or welfare of the students is diminished; or**
 - e. Excessive absences or tardiness.
 2. "Incapacity" means one or more of the following:
 - a. Lack of emotional stability;
 - b. Lack of adequate physical ability;
 - c. Lack of general educational background; or
 - d. Lack of adequate command of his or his area of specialization.
- D. "Gross Insubordination" means the intentional refusal to obey a direct order reasonable in nature, and given by and with proper authority; misfeasance, or malfeasance as to involve failure in the performance of the required duties.
- E. "Willful neglect of duty" means intentional or reckless failure to carry out required duties.

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V. JUST CAUSE FOR DISCIPLINE

A. JUST CAUSE

36. Respondent's actions constitute just cause to suspend her for ten (10) days without pay.

B. MISCONDUCT IN OFFICE

37. Respondent's actions constitute misconduct in office. The Respondent through her above-described conduct, has violated Fla. Stat. §1012.33 Fla. Stat., and one or more of Rules 6A-5.056(2)(a) through (e) of the Florida Administrative Code, which defines "misconduct".

C. INCOMPETENCY

38. Respondent's actions constitute incompetency as a result of inefficiency and/or incapacity.

D. GROSS INSUBORDINATION

39. Respondent's actions constitute gross insubordination.

E. WILLFUL NEGLIGENCE OF DUTY

40. Respondent's actions constitute willful neglect of duty.

F. SCHOOL BOARD POLICY 4008

41. Respondent is in violation of School Board Policy 4008 titled, "Responsibilities and Duties (Principals and Instructional Personnel)", 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.

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

1. Comply with the Code of Ethics and the Principles of Professional Conduct of the Education Profession in Florida.
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, Lula G. Faison, for ten (10) days without pay based upon the foregoing facts and legal authority.

EXECUTED this 11th day of October, 2017.



ROBERT W. RUNCIE,
Superintendent of Schools,
Broward County

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

NOTICE

If you wish to contest the charges, you must, within 15 calendar 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.