

THE BROWARD COUNTY SCHOOL BOARD, FLORIDA

ROBERT W. RUNCIE,
Superintendent of Schools,

Petitioner,

v.

CRAIG DUDLEY,

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, Craig Dudley ("DUDLEY"). The Petitioner seeks termination of Respondent's employment with the Broward County School Board ("School Board") 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 School Board, inclusive of DUDLEY.
4. DUDLEY 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(1)(a), Florida Statutes (2018).
5. The last known address of DUDLEY is 3301 N.W. 47th Terrace, Lauderdale Lakes, Florida 33319.

II. MATERIAL ALLEGATIONS

6. This recommendation is based upon conduct occurring during the 2017-2018 school year.
7. DUDLEY is a physical education teacher at Crystal Lake Middle School.
8. DUDLEY was hired by the School Board on August 10, 2004, as a teacher.
9. DUDLEY reported to work on or about May 18, 2018, under the influence of cocaine and alcohol.

10. On or about May 18, 2018, although assigned morning duty in the school's café before school started, DUDLEY was only present in the café for a brief time.
11. On or about May 18, 2018, DUDLEY was observed as being "in and out" of his assigned homeroom, which began at approximately 9:30 A.M. and ended at approximately 10:00 A.M.
12. On or about May 18, 2018, DUDLEY failed to come to the gym at all to cover his first period class, which began at approximately 10:05 A.M. and ended at approximately 10:56 A.M.
13. On or about May 18, 2018, Cindi Ancona, another physical education instructor, asked DUDLEY, when she saw him walk by at the end of the class, where he had been first period, since she had to cover his class.
14. DUDLEY seemed to Ms. Ancona to be confused and leaned on the wall, smiling, and said he was there. Ms. Ancona became annoyed and told DUDLEY that he was not present because, "I had your class!" DUDLEY then changed his story and said he had to get something from his car.
15. Further, Ms. Ancona observed DUDLEY leaning on the doorframe when he came to get his class for second period. As a student spoke to him, he told her that she was too loud and that she needed to talk very quietly.

16. Ms. Ancona alerted school administration when she observed him the second time, just before second period, that DUDLEY "seemed out of it and seemed confused" as if he was "on something."
17. Thereafter, Assistant Principal Ben Reeves, and Principal Sabine Phillips reported to the office of the boy's locker room.
18. Mr. Reeves entered the locker room office and found DUDLEY "laying down on his back on what appeared to be a chair, in the dark, with his feet propped up on an object. He had some type of covering over his body like a piece of clothing or a blanket."
19. When Mr. Reeves called out to DUDLEY "he appeared to be waking up and kind of stumbled to his feet."
20. DUDLEY asked, "What did I do now?" when told by Mr. Reeves that Ms. Phillips needs to see him now. Ms. Phillips then entered the locker room office and Ms. Phillips and Mr. Reeves escorted DUDLEY to Ms. Phillips' office.
21. During the meeting in her office, Ms. Phillips proceeded to ask DUDLEY where he was during class. DUDLEY responded: "I told Coach Ancona that I had to go to my truck to get something..." and that "it took him longer than expected because he had to make a phone call."

22. Ms. Phillips and Mr. Reeves observed that DUDLEY had slurred speech, he seemed confused, disorientated, had glassy eyes, was drowsy, inattentive, and had slow or inappropriate reactions.
23. According to Mr. Reeves, as DUDLEY continued to talk, it was evident that his eyes were red. He appeared to be tired and sluggish and Ms. Phillips informed DUDLEY that she had reasonable suspicion that he was under the influence and informed him that he would have to take a drug and alcohol test immediately.
24. On or about May 18, 2018, Ms. Phillips requested reasonable suspicion testing based on both her and Mr. Reeves' observing DUDLEY's glassy eyes and his contradictory statements regarding his presence/absence at work.
25. At approximately 1:32 P.M., a breathalyzer test was administered and DUDLEY tested positive for alcohol with an initial reading of .101.
26. Fifteen minutes later, at approximately 1:47 P.M., another breathalyzer test was administered and DUDLEY blew a reading of .095. Both readings are in excess of the .08 legal limit for driving under the influence in the State of Florida.
27. A urine sample also provided by DUDLEY on this date tested positive for cocaine.

28. As a result, DUDLEY was transported home by the BSO Deputy on campus that day.

II. PREVIOUS DISCIPLINE

SUMMARY MEMO

29. On or about April 21, 2016, DUDLEY was issued a summary memo relating to leaving students unattended in the boys' locker room when a fight broke out between the students.

30. DUDLEY was in the PE office with a student to tend to the student's injured leg/knee when six (6) or seven (7) boys decided to jump on (3) three boys who were sitting on the bench getting dressed.

VERBAL REPRIMAND

31. On or about February 10, 2017, DUDLEY was issued a verbal reprimand relating to his being absent without notice and excessively tardy to work.

32. DUDLEY was directed to report to work on time and to follow proper protocol for entering an absence if he cannot report to work.

WRITTEN REPRIMAND

33. On or about December 1, 2017, DUDLEY was issued a written reprimand relating to his being absent without notice on November 3, 2017, directing him to follow proper protocol if

he cannot report to work, after being issued a verbal reprimand on February 10, 2017, for the same reason.

34. On or about February 14, 2018, DUDLEY was issued a written reprimand relating to his failure to meet performance standards as a Physical Education Teacher. Specifically, DUDLEY consistently failed to "follow absence/tardy reporting procedures, resulting in his students being left unsupervised."

IV. ADMINISTRATIVE CHARGES

35. Petitioner realleges and incorporates herein by reference the allegations set forth in paragraphs one (1) through thirty-four (34) above.
36. 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.
37. "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:

1. A violation of the Code of Ethics of the Education Profession in Florida as adopted in Rule 6A-10.080, F.A.C.¹;
 2. A violation of the Principles of Professional Conduct for the Education Profession in Florida as adopted in Rule 6A-10.081, F.A.C.;
 3. A violation of the adopted school board rules;
 4. Behavior that disrupts the student's learning environment; or
 5. 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 his 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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¹ Repealed 3-23-16.

V. JUST CAUSE FOR DISCIPLINE

A. JUST CAUSE

38. Based on the aforementioned allegations, Respondent's actions constitute just cause to terminate his employment.

B. MISCONDUCT IN OFFICE

39. Respondent's actions constitute misconduct in office. The Respondent, through his above-described conduct, has violated Fla. Stat. §1012.33 Fla. Stat., and 6A-5.056(2)(a) through (e) 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.

C. INCOMPETENCY

40. Respondent's actions constitute incompetency. The Respondent, through his above-described conduct has violated Fla. State. §1012.33 and Rule 6A-5.056(3)(a) and (b) of the

Florida Administrative Code. His actions show an 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:
 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. Excessive absences or tardiness.
2. "Incapacity" means one or more of the following:
 1. Lack of adequate physical ability.

D. GROSS INSUBORDINATION

41. Respondent's actions constitute gross insubordination. "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.
42. Respondent violated prior directives relating to his being absent without notice during instructional time.

E. WILLFUL NEGLECT OF DUTY

43. Respondent's actions constitute willful neglect of duty. "Willful neglect of duty" means intentional or reckless failure to carry out required duties.
44. Respondent's absence/failure to supervise is violative of previous directives.
45. Respondent failed to perform his duties as an educator and instructor by being at work under the influence of alcohol and cocaine.
46. Respondent further failed to perform his duties as an educator by being absent from class.

F. SCHOOL BOARD POLICY 2400

47. Respondent is in violation of School Board Policy 2400 (1), which prohibits "possession or use of a controlled substance, including alcohol", on all school board property and at school sponsored activities.
48. School Board Policy 2400 (1) also strictly prohibits Employees from "reporting to work or being on duty **while under the influence of alcohol or a controlled substance.**"²
49. Furthermore, Respondent is in violation of School Board Policy 2400 (3), which states that "[e]ach Board employee must refrain from the unlawful manufacture, distribution,

² Emphasis added.

dispensing, possession or use of a controlled substance, including alcohol, in the workplace".

50. School Board Policy 2400 (5) requires that "[a]n employee who tests positive **shall**³ be recommended for discipline action up to and including termination of employment."

G. SCHOOL BOARD POLICY 4008

51. Respondent is in violation of School Board Policy 4008, 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.
52. 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.

³ Emphasis added.

53. School Board Policy 4008 (C) requires that: [i]nstructional personnel **must be on duty a minimum of seven and one-half (7 1/2) hours daily**⁴. . . . For teachers working a full day, . . . a teacher should not leave the school grounds without the permission of the principal. . . . "**[a]ll members of the instructional staff shall be expected to teach a full schedule of classes**⁵, unless prior approval from the Area Superintendent or Superintendent of Schools has been obtained."

H. SCHOOL BOARD POLICY 4.9

54. Pursuant to School Board Policy 4.9, "[e]mployees are expected to comply with workplace policies, procedures and regulations, local, state and federal laws; and State Board Rules, both in and out of the work place."

55. Respondent is also in violation of various Section II, Category B Offenses which prohibit the following:

* * *

c) Unlawful possession, use or **being under the influence of a controlled substance**⁶.

* * *

⁴ Emphasis added.

⁵ Emphasis added.

⁶ Emphasis added.

m) Any violation of [t]he Code of Ethics of the Education Professional in the State of Florida- State Board of Education Administrative Rule.

* * *

p) Insubordination, which is defined as a continuing or intentional failure to obey a direct order, reasonable in nature and given by and with proper authority.

* * *

r) Failure to comply with School Board policy, state law, or appropriate contractual agreements.

DEMAND FOR RELIEF

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

EXECUTED this 28th day of August, 2018.



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 days calendar 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.