

THE BROWARD COUNTY SCHOOL BOARD, FLORIDA

ROBERT W. RUNCIE,
Superintendent of Schools,

Petitioner,

v.

LATUNA GIBBS,

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, LaTunya Gibbs ("GIBBS"). 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 GIBBS.

4. GIBBS 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 GIBBS is 6561 NW 24th Court, Sunrise, FL 33313.

II. MATERIAL ALLEGATIONS

6. This recommendation is based upon conduct occurring during the 2015-2016 and 2016-2017 school years.
7. GIBBS is a third grade teacher who, at all materials times, was employed at Mirror Lake Elementary School (hereinafter "Mirror Lake").
8. GIBBS was hired by the School Board on August 24, 1993, as a teacher.

Falsified FMLA Paperwork

9. On January 20, 2015, GIBBS submitted a Family and Medical Leave Act ("FMLA") certificate of healthcare provider from Advanced Registered Nurse Practitioner ("ARNP") Princy Bhat-

Bhardwaj, certifying GIBBS' need for intermittent FMLA leave for the period beginning November 6, 2014, and ending November 5, 2015.

10. Then, on or about January 29, 2016, GIBBS submitted another FMLA certificate of healthcare provider from ARNP Princy Bhat-Bhardwaj, certifying GIBBS' need for another FMLA leave for January 29, 2016 to June 10, 2016; however, the document appeared to be a copy of the January 20, 2015, certificate with an altered date.
11. Further, on or about November 15, 2016, GIBBS submitted another FMLA certificate of healthcare provider from ARNP Princy Bhat-Bhardwaj, certifying GIBBS' need for another FMLA leave for the period November 15, 2015 to November 15, 2017; but the document again appeared to be a copy of the January 20, 2015, certificate with an altered date.
12. On or about May 23, 2017, legal counsel for Metcare of Plantation ("Metcare") where GIBBS' physician works out of confirmed to Marjorie Fletcher of the Leaves Department by telephone that the physician's office had not completed forms for GIBBS since January 2015.
13. According to Ms. Fletcher, GIBBS had been applying for and been approved for this type of leave starting October 2012.
14. On or about June 28, 2017, Detective Brian Pillado of the School Board's Special Investigation Unit ("SIU") was

advised by ARNP Bhat-Bhardwaj in a telephone conference attended by Metcare's legal counsel, that no FMLA forms were completed for GIBBS since January 20, 2015.

Falsified Student Assessments

15. During the 2016-2017 school year, GIBBS provided false information pertaining to students' alternative promotion for third grade.
16. Gibbs gave every one of her eighteen (18) students a perfect four (4) out of four (4) on their Third Grade Assessment Cumulative Student Record Forms ("Portfolio Assessment - Part 1").
17. The Florida Standard Assessment results came back for GIBBS' students six of those same students earned a level one (1) out of five (5).
18. The school administration became suspicious because all students received perfect scores, and GIBBS submitted the student portfolios to the Principal in a box sealed with duct tape.
19. The school administration further became suspicious upon learning that GIBBS had given all eighteen (18) of her students passing grades for the multiple-choice alternative assessments ("Portfolio Assessment - Part 2").

20. The Portfolio Assessment - Part 2 is only to be administered to students who fail to pass the Portfolio Assessment - Part 1.
21. Since GIBBS had given all of her students perfect scores on the Portfolio Assessment - Part 1, none of the students should have taken the Portfolio Assessment - Part 2.
22. Although GIBBS listed passing grades for all of the students taking the Portfolio Assessment - Part 2, upon request, GIBBS was unable to produce copies of the students' tests.
23. Upon review of the students' Portfolio Assessments - Part 1, the administration found major discrepancies.
24. For example, all eighteen students were given a grade of one hundred percent (100%) on some assignments despite missing seventy-five percent (75%) of the questions.
25. Other required paperwork was completely missing, despite being graded as present; and yet other students' work was ungraded.
26. In sum, the Portfolio Assessment - Part 1 summary sheets prepared by GIBBS did not align with her students' portfolios.
27. GIBBS also falsified information pertaining to the Benchmark Assessment System ("BAS") she administered to her students.
28. Mirror Lake teachers were required to have all BAS testing complete by May 19, 2017.

29. As of Friday, May 12, 2017, GIBBS had only completed the BAS assessment for two (2) of her eighteen students.
30. On Monday, May 15, 2017, GIBBS entered BAS scores for her remaining sixteen (16) students. It is not possible to complete the BAS testing for sixteen (16) students in one day.
31. When school district staff retested those students, the scores did not align with the scores entered by Gibbs.

Test Administrator Certification

32. Like all other Mirror Lake teachers, GIBBS was directed by her Principal to complete a Test Administrators Certification Course from American Institutes for Research ("AIR"), the company that designed the Florida Standards Assessments ("FSA") for the Florida Department of Education.
33. The purpose of the certification course was to allow teachers to become familiar with the technology component of the computerized math assessment that the third grade students were going to take for the first time; so that the teachers could in turn, familiarize the students with the technology.
34. GIBBS failed to successfully complete the course.

35. GIBBS failed to provide any instruction to her students to familiarize them with the technology, or even give the students practice time to familiarize themselves.

II. PREVIOUS DISCIPLINE

36. On or about February 27, 2013, while employed at Walker Elementary School, GIBBS was issued a summary memo directing GIBBS to use professional judgment at all times as a result of GIBBS posting a letter written by administration to GIBBS on her classroom door. The directive further stated, "before posting any letters or signs, administrative approval must be obtained."

37. On or about December 18, 2014, GIBBS was issued a summary memo to address GIBBS videotaping students in the cafeteria during lunchtime, "*which may violate the Family Educational and Privacy Act ("FERPA") which protects the privacy of parents and students.*" GIBBS was directed to adhere to FERPA regulations.

38. On or about September 2, 2016, GIBBS while employed as a teacher at Mirror Lake Elementary School ("Mirror Lake"), GIBBS was issued a summary memo directing her, among other things, to attend all scheduled meetings and events due to her failure to attend an after school meeting on August 22, 2016.

39. During the 2015-2016 school year, GIBBS charged the parents of her prekindergarten students a late fee of \$10 for every 15 minutes they were late in picking up their children from school on time.
40. GIBBS failed to provide the money she collected to the school bookkeeper.
41. Additionally, on or about August 26, 2015, while employed as a second grade teacher at Mirror Lake, GIBBS pushed a disruptive second grade student out of her classroom which caused a red mark on the student's back.
42. As a result, GIBBS received a letter of reprimand on or about December 9, 2016, from the Education Practices Commission ("EPC").
43. On or about January 27, 2017, GIBBS was issued a summary memo directing her to arrive to work on time and to practice and follow proper procedures for drills to ensure the safety of herself and her students.
44. GIBBS arrived late to school on several occasions. Additionally, GIBBS indicated that she did not know the procedures to follow during the tornado drill scheduled and practiced on January 25, 2017.
45. Further, on or about January 27, 2017, GIBBS was issued a verbal reprimand for her failure to attend a scheduled Professional Learning Community ("PLC") on January 13, 2017.

46. On or about February 8, 2017, GIBBS was issued a summary memo directing her, among other things, to comply with deadlines as a result of GIBBS' failure to meet the deadline to complete mid-year assessments.
47. On or about November 3, 2017, GIBBS was issued a summary memo as a result of parent concerns with the following directives: obtain administrative approval for all correspondence sent to parents; maintain student confidentiality; submit academic and/or behavior concerns after implementing intervention strategies; and schedule conferences and communicate with parents in a timely manner.
48. On or about December 1, 2017, GIBBS was issued a summary memo stemming from a parent's concern that GIBBS made reference to kindergarten students being "boyfriends and girlfriends" and also that GIBBS does not deal with behavior issues in class. The Parent also indicated a lack of communication from GIBBS. GIBBS was directed to place students who are demonstrating inappropriate behavior on individualized behavior plans and take appropriate action to redirect or modify targeted behaviors and to use a school-wide form of communication with all parents.
49. On or about December 11, 2017, GIBBS was issued a verbal reprimand for intentionally exposing a student to unnecessary embarrassment or disparagement. GIBBS was

directed to not embarrass or ridicule students by laughing at them or calling them "bad boys" and encouraging students to do the same.

IV. ADMINISTRATIVE CHARGES

50. Petitioner realleges and incorporates herein by reference the allegations set forth in paragraphs one (1) through forty-nine (49) above.
51. 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.
52. "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.

¹ Repealed 3-23-16.

- 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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V. JUST CAUSE FOR DISCIPLINE

A. JUST CAUSE

53. Respondent's actions constitute just cause to terminate.

B. MISCONDUCT IN OFFICE

54. Respondent's actions constitute misconduct in office. The Respondent through her above-described conduct, has violated

Rules 6A-5.056(2)(a) through (e) of the Florida Administrative Code, which defines "misconduct".

C. INCOMPETENCY

55. Respondent's "[f]ailure to perform duties prescribed by law" as evidenced by Respondent's failure to successfully complete a required Test Administrators Certification course.

D. GROSS INSUBORDINATION

56. Respondent's failure to adhere to timelines to complete school-wide assessments as well as her repeated failure to attend meetings and/or trainings constitutes gross insubordination.

E. WILLFUL NEGLECT OF DUTY

57. Respondent's failure to adhere to timelines to complete school-wide assessments as well as her repeated failure to attend meetings and/or trainings specifically constitute willful neglect of duty.

F. SCHOOL BOARD POLICY 4008

58. 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.

59. 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.
7. Accurately maintain appropriate student records and documentation and prepare and submit such reports as may be required by regulations of the state board of the District. No teacher shall be entitled to receive any salary unless all such records and reports have been properly maintained and submitted according to requests.
8. Conform to all rules and regulations that may be prescribed by the State Board and by the School Board.

G. SCHOOL BOARD POLICY 4.9

60. Respondent is in violation of School Board Policy 4.9 which prohibits "[f]alsification or alteration of employment paperwork, SBBC records/documents or student records/documents". Policy 4.9 II (B)(h) (9/8/10).

H. SCHOOL BOARD POLICY 6000.1

61. Respondent's falsification of student assessments is in violation of School Board Policy 6000.1 which along with

related polices referenced therein "constitute[s] the student progression plan for the district."

DEMAND FOR RELIEF

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

EXECUTED this 13 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 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.