

THE BROWARD COUNTY SCHOOL BOARD, FLORIDA

ROBERT W. RUNCIE,
Superintendent of Schools,

Petitioner,

v.

DIANE LOUISE NEVILLE,

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, Diane Louise Neville ("NEVILLE"). 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 BCSB, inclusive of NEVILLE.

4. NEVILLE 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 NEVILLE is 107 Miller Court, Springfield, FL 32401.

II. MATERIAL ALLEGATIONS

6. This recommendation is based upon conduct occurring in the 2018-2019 school year.
7. NEVILLE is a teacher who, at all material times was employed as a Science teacher at Gulfstream Academy of Hallandale Beach (hereinafter "Gulfstream").
8. NEVILLE was first hired by the district on August 25, 1998.
9. On or about Wednesday, August 8, 2018, the first day of the new school year for teachers, NEVILLE notified the Office Manager at Gulfstream that she was not coming to work because her car had been run off the road in Punta Gorda, Florida.

10. On or about Friday, August 10, 2018, Neville contacted Gulfstream to report that she again was not coming to work because her son's home in West Park, Florida, where she also lived, had been broken into and ransacked.
11. On or about August 13, 2018, at about 10:15 A.M., NEVILLE reported that she slipped and fell on some water in her classroom.
12. Officer English, the SRO, called 911 when he arrived and NEVILLE said she could not get up.
13. NEVILLE stated she called the Workers Compensation Department ("Workers Comp") while she was still on the floor telling the Assistant Principal, Mrs. Fitzpatrick, "I dragged my a** across the floor and got to the phone."
14. NEVILLE was aggressive while dealing with staff members and paramedics, using profanity towards staff members multiple times.
15. While Officer English, Mrs. Arnold, the Guidance Director, and Ms. Fitzpatrick waited for the paramedics with NEVILLE she stated, "[t]his wouldn't have happened, if I had my service dog."
16. NEVILLE told the paramedics that she was involved in a car accident. She also told them that she had a birth defect and did not have the ability to feel pain. She said she hurt her

shoulder and when she fell, she felt all the vertebrae in her neck shift.

17. NEVILLE responded "yes" when the paramedics asked if she needed to be transported and yelled "yay" gleefully when she got on the stretcher and they wheeled her out.
18. NEVILLE also mentioned the lesson plans she had prepared and indicated, "[y]ou won't be seeing me!" before she was transported to Hollywood Memorial East.
19. Upon NEVILLE's release from the hospital the same day NEVILLE returned to Gulfstream with a dog that she indicated was her service dog, however NEVILLE had failed to follow the protocol to have the dog approved by the School Board as a service dog.
20. On or about August 14, 2018, Principal Robert Pappas entered the south cafeteria to participate in a professional development session and witnessed NEVILLE dancing by herself in the middle of the cafeteria with her dog in front of about 25 staff members.
21. Mr. Pappas immediately escorted NEVILLE to his conference room for a meeting.
22. Once in the conference room, NEVILLE sat on the floor with her dog until School Resource Officer Michael English, Security Specialist Rashad Beals, and Office Manager Kathy

Wernecke joined the meeting at which time Mr. Pappas asked her to have a seat at the table.

23. During the meeting, which lasted for approximately one (1) hour, NEVILLE was agitated and nervous and stated that it was probably time to retire and that she was getting married to a millionaire in September and does not need to work.
24. NEVILLE further stated that she cannot live without her dog.
25. NEVILLE also stated that there are issues that happen to her when she undergoes any type of trauma. NEVILLE stated that she shuts down and goes into automatic overdrive and has congenital insensitivity to pain (never feels pain).
26. NEVILLE began talking about her trip to her home in Panama City, where she set up a community center, which serviced the homeless many years ago.
27. NEVILLE went on to state that she was hospitalized while in Panama City on Spring Break. She stated that her house there was totally trashed, probably by a Meth group at approximately 4:00 A.M., and that police had thrown out her good tenant and criminals took over the house.
28. NEVILLE also stated that her Jaguar was stolen after the 4th of July, as well as the contents of her house, and the property was trashed.
29. NEVILLE further stated that she worked at a prison and that the police told her to leave the city ASAP.

30. NEVILLE declined mental health counseling when Principal Pappas asked her if she would like to contact the Employee Assistance Program ("EAP") considering all that she had gone through in the past several weeks.
31. Mr. Pappas asked NEVILLE if she was capable of teaching tomorrow and she responded yes, that she loves teaching, and then she went on to talk about her incident on or about August 7, 2018, where she was run off the road in Punta Gorda, Florida, in the evening heading back home.
32. NEVILLE stated that her car was damaged but she was able to get herself out but had no money to tow the car to a nearby Days Inn and back to her home in Broward County.
33. NEVILLE stated that on August 8, 2018, at approximately 1:30 A.M., when she returned to her home in West Park, Florida, she found the house raided by crack addicts. She stated she packed up the belongings of the tenants and put them outside.
34. NEVILLE also stated during the meeting on August 14, 2018, that she is happy and dedicated to her profession and that she was emotional and could cry at that point because she is a girl as well as a 33-year Navy Chief.
35. NEVILLE stated that she also owned a home on Fletcher Street in Hollywood, Florida, and that she had filed a trespass

report with the Hollywood Police on the people who live there.

36. NEVILLE further stated that the aforementioned home was broken into and that she was sexually assaulted two (2) days ago and that her cell phone was stolen just the day before.
37. NEVILLE then stated that about three (3) years ago, Hollywood Police took her service dog from her and that she got her current dog two (2) weeks ago.
38. NEVILLE went on to state that she plans to retire to Panama City and rebuild her community center.
39. NEVILLE further stated that she was married twenty-two (22) years to a millionaire and when she asked him for \$20,000 to purchase the community center for her he refused and she divorced him and "it took four (4) years to divorce him and then one (1) year for him to die."
40. During the meeting on August 14, 2018, Mr. Pappas explained to NEVILLE that her dog cannot be in class with her until she completes the necessary documentation to have the dog approved by the School Board as a service dog, and that if she planned to come to work with the dog the next day, he would have her work in an office somewhere and a substitute would be in her class. NEVILLE stated that was okay with her.

41. NEVILLE then asked the staff in the room whether or not they knew she was Jamaican and that she comes from a long line of high paid prostitutes and that her father was a Cuban mafia man.
42. NEVILLE also stated that she is a good dancer and dances in the nude.
43. At the conclusion of the meeting on August 14, 2018, NEVILLE indicated she would take time off to get her service dog paperwork in order since she had plenty of sick time.
44. Thereafter, Mr. Pappas asked Officer English to help NEVILLE to her car. NEVILLE then ripped off the lanyard from her neck, which had her room keys and ID badge and handed it to the officer stating she no longer needed them.
45. NEVILLE did not show up for work on Wednesday, August 15 or Thursday, August 16, 2018. NEVILLE's failure to show prompted a call from Mr. Pappas as well as an email and text message informing NEVILLE that she had not been approved for leave and needed to report to work by Monday, August 20, 2018, or that she would be deemed to have abandoned her job.
46. On or about August 17, 2018, NEVILLE called Gulfstream at approximately 8:45 A.M. and indicated to Ms. Wernecke that she was glad she took Mr. Pappas' advice and took a short vacation. In response to that statement, Ms. Wernecke told NEVILLE she did not recall Mr. Pappas telling her that.

47. NEVILLE went on to state that she is in the mountains in Hyco, North Carolina at her in-laws' summer home and the family is gone for a few weeks.
48. NEVILLE stated that she is going to take five (5) weeks off and use her sick time "to spend time with my fiancé, secure my home and community center in Panama City after it had been broken into and become a meth lab, and relocate to Broward County to get away from the crack addicts in my West Park home."
49. NEVILLE further stated she would not be returning to the West Park, Florida home. She stated crack addicts are still living there and the police told her that was her problem.
50. NEVILLE also stated that she recalls Mr. Pappas telling her at the last meeting that the Mrs. Neville he was seeing and speaking with was not the Mrs. Neville he knew and that the Office Manager told her that she had to agree with Mr. Pappas statement also.
51. NEVILLE stated that she planned to return to work by September 22, 2018. She stated she is 100% better and has overcome her trauma and is on top of a mountain and has a plan in place.
52. NEVILLE further stated her fiancé would like to work for Gulfstream to assist her because he does graphic design.

53. On or about August 20, 2018, at approximately 7:45 A.M., NEVILLE called Gulfstream to inform staff that she was in West Palm Beach since 5:00 A.M.
54. Neville stated that she knew she had to report at 7:30 A.M. but she was about to run out of gas in her rental car and that someone was going to send her \$1,000.00 by Western Union but she had to have that person committed for abuse that she witnessed and had to report.
55. NEVILLE went on to state that she went to at least four (4) "slum" Western Unions and she could not get her money and that she was going to keep driving on I-95 until she ran out of gas so she would get help from the road ranger.
56. NEVILLE then asked if her car was at Gulfstream because she had towed it there and put a cover over it because she could not leave it at her house because of crack addicts.
57. NEVILLE stated she was homeless until her in-laws come back.
58. NEVILLE arrived at school at 9:30 A.M., on August 20, 2018, not prepared to teach and dressed in what she called her "vacation clothes."
59. NEVILLE declined any help from Gulfstream when asked by Mr. Pappas if there was anything they could do for her. NEVILLE stated she would be at work the next day.

60. On or about August 21, 2018, Mr. Pappas met with NEVILLE upon her arrival at Gulfstream, regarding the documentation for her service dog.
61. NEVILLE asked for union representation and Mr. Pappas requested that BTU representative, Ms. Mary Ann Lamb, be present for this meeting.
62. During the meeting on August 21, 2018, Mr. Pappas read NEVILLE the guidelines for the service dog and since the paperwork takes about fifteen (15) days, NEVILLE said she would take fifteen (15) days off to take care of the paperwork. Mr. Pappas told her that was not necessary that he would provide her a place to work.
63. NEVILLE then proceeded to tell Ms. Lamb about her personal issues.
64. NEVILLE told Ms. Lamb that she was autistic and had Asperger's.
65. NEVILLE further stated that she was confused about first being told to take a leave and then was told to report to work on Monday August 20, 2018.
66. NEVILLE stated she drove 1,300 miles on Saturday and again on Wednesday.
67. NEVILLE also stated that her future millionaire husband is a violent schizophrenic who abused her three times and after that, she threw him across the room.

68. NEVILLE stated that her fiancé's family asked her approximately fifteen (15) years ago to take care of him and look after him and his behavior. She stated that he has had five (5) DUI's and she is still getting married in September.
69. NEVILLE went on to state that she may be ready to retire if she gets everything she is owed by the School Board.
70. NEVILLE then mentioned her past threats to School Board employees but indicated that she would never kill anyone.
71. NEVILLE spoke about her health and coughed violently throughout the meeting. NEVILLE indicated that she had a blood clot that is traveling through her body and she stood up to show staff that she is unable to eat and therefore, she is losing weight.
72. NEVILLE refused Gulfstream's offer to call 911 or to call her doctor and said she will use the days off to take care of the paperwork and get herself better.
73. On or about August 21, 2018, based on the foregoing statements and displays of erratic behavior in the workplace, the School Board notified NEVILLE by certified letter to report to Gulfstream for the purpose of a Fitness for Duty Conference.
74. On or about August 23, 2018, NEVILLE failed to show for the Fitness for Duty conference at Gulfstream.

75. On or about August 23, 2018, the School Board notified NEVILLE by certified letter that she was to submit to a Fitness for Duty psychological evaluation at School Board expense.
76. On or about August 31, 2018, NEVILLE selected Dr. Wernecke from the list that was provided by the School Board for the Fitness for Duty evaluation.
77. On or about September 5, 2018, the School Board sent NEVILLE a letter by email notifying her that her Fitness for Duty evaluation by Dr. Wernick was scheduled for September 17, 2018.
78. On or about September 12, 2018, NEVILLE confirmed receipt of the appointment letter with Dr. Wernick.
79. On or about September 13, 2018, NEVILLE sent an email to the School Board requesting transportation for her and her service animal to the appointment with Dr. Wernick from her home in Hollywood, Florida, indicating, "my right arm is immobilized within a sling."
80. The same day, the School Board notified NEVILLE that the School Board does not provide transportation for the Fitness for Duty evaluation and that she should make the necessary arrangements in order to assure her attendance for the scheduled appointment.

81. On or about September 17, 2018, NEVILLE failed to show for the scheduled Fitness for Duty examination.

III. PRIOR DISCIPLINE

82. On or about December 19, 2017, NEVILLE received a ten (10) day suspension without pay with a recommendation to include a Fitness for Duty Evaluation within the next thirty (30) days based on the School Board's adoption of the Recommended Order of the Administrative Law Judge entered on October 24, 2017.

83. The foregoing was a result of NEVILLE's conduct on or about June 25, 2015, wherein she made a series of threats to various School Board employees to "resort to extreme violence."

84. NEVILLE completed a Fitness for Duty examination over the 2017-2018 school year winter break and at that time, by report dated January 25, 2018, was found fit for duty by Dr. Judith Abramson.

IV. ADMINISTRATIVE CHARGES

85. Petitioner realleges and incorporates herein by reference the allegations set forth in paragraphs one (1) through eighty-four (84) above.

86. 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.

87. "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 her 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;

¹ Repealed 3-23-16 and incorporated into 6A-10.081 F.A.C.

- 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.

* * *

V. JUST CAUSE FOR DISCIPLINE

A. JUST CAUSE

88. Based upon the aforementioned allegations, Respondent's actions constitute just cause to terminate her employment.

B. MISCONDUCT IN OFFICE

89. 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".

(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 6A-10.080, F.A.C.²;

² Repealed 3-23-16.

- (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 her colleagues' ability to effectively perform duties.

C. INCOMPETENCY

90. Respondent's actions constitute incompetency. The Respondent, through her above-described conduct has violated Fla. State. §1012.33 and Rule 6A-5.056(3)(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.

- 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 colleagues, administrators, subordinates, or parents.
- 2. "Incapacity" means one or more of the following:
 - 1. Lack of emotional stability.

D. GROSS INSUBORDINATION

91. 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.

92. Respondent's failure to appear at the scheduled Fit for Duty conference and the subsequent examination demonstrates an intentional refusal to obey a direct order, reasonable in nature, and given by and with proper authority.

E. WILLFUL NEGLIGENCE OF DUTY

93. Respondent's failure to appear at the scheduled Fit for Duty conference and the subsequent examination demonstrates an intentional or reckless failure to carry out required duties.

F. SCHOOL BOARD POLICY 4.9

94. 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."
95. Respondent is also in violation of various Section II, Category B Offenses which prohibit the following:

* * *

- 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.

G. SCHOOL BOARD POLICY 4004

- 96. Respondent is in violation of School Board Policy 4004, which provides, "[a]t any time during the course of employment when it shall be deemed advisable by the Superintendent/Designee, an employee may be required to take a physical or psychological examination."

H. SCHOOL BOARD POLICY 4008

- 97. 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.
- 98. 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.

* * *

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 terminate the Respondent, Diane Louise Neville, based upon the foregoing facts and legal authority.

EXECUTED this 8th day of November, 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.