

THE BROWARD COUNTY SCHOOL BOARD, FLORIDA

ROBERT W. RUNCIE,
Superintendent of Schools,

Petitioner,

v.

DANA M. SIGLER,

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, DANA M. SIGLER ("SIGLER"). The Petitioner seeks a three (3) day suspension of Respondent's employment with the Broward County School Board ("BCSB"), pursuant to Chapter 120 and Sections 1001.51, 1012.27(5), 1012.335, 1012.55, and 1012.585 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 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 SIGLER.

4. SIGLER is an employee of the Broward County School Board and is currently employed as a teacher pursuant to an Annual Services Contract issued in accordance with Section 1012.335(2), Florida Statutes (2018).
5. The last known address of the Respondent, SIGLER, is 10736 NW 21st Street, Coral Springs, Florida 33071.

II. MATERIAL ALLEGATIONS

6. This recommendation is based upon conduct that occurred during the 2017-2018 school year, but is also based on progressive discipline intended to address a pattern of excessive absenteeism.
7. SIGLER is a science teacher, who at all material times, was employed at J.P. Taravella High School (hereinafter "TARAVELLA").
8. SIGLER was hired by the Broward County School Board on August 8, 2013, as a science teacher.

2015-2016

9. During the 2015-2016 school year, Sigler exhausted all of her sick and personal leave, (exhausted 19 days of Family

and Medical Leave Act ("FMLA") leave,) and took an additional eleven (11) full days of unpaid leave, as well as two (2) partial days of unpaid leave. The dates for the days of unpaid leaves of absences are reflected in Exhibit "A".

2016-2017

10. During the 2016-2017 school year, Sigler exhausted all of her sick and personal leave, exhausted 58 days of FMLA leave, and took an additional eighteen (18) full days of unpaid leave, as well as one (1) partial day of unpaid leave. The dates for the days of unpaid leaves of absences are reflected in Exhibit "B".

2017-2018

11. During the 2017-2018 school year, Sigler exhausted all of her sick and personal leave, exhausted 60 days of FMLA leave, and took an additional ten (10) full days of unpaid leave, as well as six (6) partial day of unpaid leave. The dates for the days of unpaid leaves of absences are reflected in Exhibit "C".

III. PREVIOUS DISCIPLINE

12. On or about December 13, 2016, SIGLER received a verbal reprimand regarding her pattern of excessive absenteeism.
13. On or about April 25, 2017, SIGLER received a written reprimand for her continued excessive absenteeism, using

sick time as soon as it accumulates and being absent without leave.

IV. ADMINISTRATIVE CHARGES

14. Petitioner realleges and incorporates herein by reference the allegations set forth in paragraphs one (1) through thirteen (13) above.
15. Just cause exists for the requested relief pursuant to Fla. Stat. § 1012.33, 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.
16. "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 her 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:

¹ Repealed 3-23-16.

- 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 her 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 her or her 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.

A. JUST CAUSE

17. Respondent's actions constitute just cause to suspend her for three (3) days without pay.

B. MISCONDUCT IN OFFICE

18. Respondent through her actions constitute misconduct in office by violating Fla. Stat. §1012.33 and 6A-5.056(2)(c) through (e) of the Florida Administrative Code. Respondent's excessive absences violated school board policies as well as disrupted her students' learning

environment. Additionally, Respondent's absences also affected her ability to perform her teaching duties effectively.

C. INCOMPETENCY

19. Respondent's actions constitute incompetency as a result of inefficiency. Respondent failed to perform duties prescribed by law by accumulating an excessive amount of absences.

D. GROSS INSUBORDINATION

20. Respondent's actions constitute gross insubordination. Sigler's supervisors have previously directed her on several occasions to discontinue her pattern of excessive absenteeism, as well as to discontinue her use of sick time as soon as it accumulates.

E. WILLFUL NEGLECT OF DUTY

21. Respondent's actions constitute willful neglect of duty by her continued failure to appear to work as an educator and her failure to follow the directive of her supervisors.

F. ABSENCE WITHOUT LEAVE

22. Respondent's actions described above violated §1012.67 Fla.

Stat., which provides that any "district school board employee who is willfully absent from duty without leave... shall be subject to termination by the district school board."

G. 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. Respondent is in violation of School Board 4008(B), which requires that "members of instructional staff shall perform the following functions":

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 maybe prescribed by the State Board and by the School Board.

25. Additionally, Policy 4008 (C) requires the following:

- Instructional personnel 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 1/2) hours daily.

- All members of the instructional staff shall be expected to teach a full schedule of classes, unless prior approval from the Area Superintendent or Superintendent of

Schools has been obtained.

H. COLLECTIVE BARGAINING AGREEMENT

26. Respondent's actions violates the Collective Bargaining Agreement ("CBA"), Article Five, "Conditions of Employment":

E. Length of Workday: "The employees' workday shall be seven and one-half (7 ½) consecutive hours, including the lunch period. The normal teaching load for assigned classes shall not exceed a daily average of three hundred (300) minutes."

27. Due to the Respondent's repeated excessive absences, she was unable to work the required consecutive hours and minutes as defined by the CBA.

28. In addition, Respondent's actions violates Article Twenty-Three, Section A.4.:

4. Use of Sick Leave: An employee shall have the right to use sick leave in one-half or full-day units, for the purpose of medical or dental appointments.

If an immediate supervisor suspects an abuse of sick leave, he or she shall first investigate the matter and discuss the findings with the affected employee.

An abuse of sick leave is defined as a pattern or series of absences, which occur over an extended period of time and on a regular and predictable basis and without adequate justification. For example a regular and predictable basis would be: sick leave being used as soon as earned; absence on only Mondays or Fridays; absences occurring on the days before or after a holiday period; absences occurring on the day after a payday on a regular basis.

If the investigation sustains that a documented pattern of abuse does exist the employee may be subject to disciplinary action as per Article section B (1).

DEMAND FOR RELIEF

WHEREFORE, based upon the foregoing, Petitioner, Robert W. Runcie, Superintendent of Schools, recommends that the School Board suspend the Respondent, DANA M. SIGLER, for three (3) days without pay based upon the foregoing facts and legal authority.

EXECUTED this 14th day of November 2018.



ROBERT W. RUNCIE,
Superintendent of Schools,
Broward County

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

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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.