

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
OFFICE OF THE SUPERINTENDENT
ROBERT W. RUNCIE
SUPERINTENDENT OF SCHOOLS

March 4, 2019

TO: School Board Members

FROM: Lori Alhadeff
School Board Member

VIA: Robert W. Runcie
Superintendent of Schools

SUBJECT: **Second Revision to B-1, Termination of Agreement for the Employment as the Superintendent of Schools between Robert W. Runcie and the School Board of Broward County, Florida, for the March 5, 2019 Regular School Board Meeting**

Attached is a second revision for B-1 Termination of Agreement for the Employment as the Superintendent of Schools between Robert W. Runcie and the School Board of Broward County, Florida for the March 5, 2019 Regular School Board Meeting.

RWR/LA:tr
Attachments

c: Senior Leadership Team

EXECUTIVE SUMMARY

It is requested the School Board of Broward County, Florida terminate the Superintendent's Employment Agreement between Robert W. Runcie and the School Board of Broward County with cause and effective March 5, 2019.

The SBBC and Robert W. Runcie entered into the Superintendent's Employment Agreement on October 4, 2011 for a term of employment commencing October 5, 2011 through and including October 4, 2014.

On June 11, 2013 the SBBC approved negotiations for an extension of the Superintendent's Employment Agreement

On September 17, 2013 the SBBC approved the First Amendment to the Superintendent's Agreement, extending the term of employment through October 4, 2019.

On November 7, 2017, the SBBC approved the Second Amendment to the Superintendent's Employment Agreement, extending the term of employment through June 30, 2023.

Section 10.3 of the Superintendent's Employment Agreement provides for the Superintendent's termination for cause as follows:

The Superintendent may be dismissed for cause from his employment for conduct which is seriously prejudicial to SBBC or the School District including, without limitation, willful neglect of duty; material breach of contract; violation of the Code of Ethics applicable to members of the teaching profession in Florida; violation of the Code of Ethics prescribed by Chapter 112, Florida Statutes (as amended); conduct precluded by Rules 6B-1.001, 6B-1.006 and 6B-4.009, Florida Administrative Code (as amended); or for "just cause" as determined by Section 1012.33 Florida Statutes (as amended).

Florida Statutes, Section 1012.33 defines just cause as follows:

Just cause includes, but is not limited to, the following instances, as defined by rule of the State Board of Education: immorality, misconduct in office, incompetency, two consecutive annual performance evaluation ratings of unsatisfactory under s. 1012.34, two annual performance evaluation ratings of unsatisfactory within a 3-year period under s. 1012.34, three consecutive annual performance evaluation ratings of needs improvement or a combination of needs improvement and unsatisfactory under s. 1012.34, gross insubordination, willful neglect of duty, or being convicted or found guilty of, or entering a plea of guilty to, regardless of adjudication of guilt, any crime involving moral turpitude.

Section 10.3 of the Superintendent's Employment Agreement also provides that if the Agreement is terminated for cause the Superintendent's "term of office shall immediately cease," and the Superintendent shall be "ineligible for any other compensation or benefits" beyond "earned, accrued and unused vacation days." Section 10.4 states "medical insurance will be addressed in accordance with any federal and state laws and regulations in effect at the time of such employment."

This request for termination of the Superintendent's Employment Agreement with cause is based on willful neglect of duty on the part of the Superintendent related to the following:

1. School safety improvements identified in the 2013 letter to Senator Eleanor Sobel and the decision not to support the proposed special taxing district to oversee security, safety, and mental health needs
2. Planning, financing, budgeting, and execution of the \$800 million general obligation bond and overall capital program, and contractual obligation to promptly inform SBBC of critical issues.
3. Implementation of Evergreen Solutions recommendations and statutory requirement to enforce Exceptional Student Education (ESE) rules and policies
4. Decision not to implement the 2011 Grand Jury recommendation to establish an independent Office of Inspector General to monitor the Board and District.
5. Statutory and contractual requirements related to the annual evaluation of senior staff.

Explanation and Background

Statutory and Contractual Requirements

Florida State Statutes Establishing the Authority, Powers, Duties, and Responsibilities of the School Superintendent

Florida Statute 1001.32 establishes the responsibility of the district school superintendent for the "administration and management of the schools" and for the "supervision of instruction in the district." Both F.S. 1001.32 and 1001.33 identify the district school superintendent as the executive officer.

Florida Statute 1001.49 establishes the authority and general powers of the district school superintendent as follows:

- (1) GENERAL OVERSIGHT. —Exercise general oversight over the district school system in order to determine problems and needs and recommend improvements.

(2) ADVISE, COUNSEL, AND RECOMMEND TO DISTRICT SCHOOL BOARD. —Advise and counsel with the district school board on all educational matters and recommend to the district school board for action such matters as should be acted upon.

(3) RECOMMEND POLICIES. —Recommend to the district school board for adoption such policies pertaining to the district school system as the district school superintendent may consider necessary for its more efficient operation.

(4) RECOMMEND AND EXECUTE RULES. —Prepare and organize by subjects and submit to the district school board for adoption such rules to supplement those adopted by the State Board of Education as, in the district school superintendent's opinion, will contribute to the efficient operation of any aspect of education in the district. When rules have been adopted, the district school superintendent shall see that they are executed.

(5) RECOMMEND AND EXECUTE MINIMUM STANDARDS.—From time to time prepare, organize by subject, and submit to the district school board for adoption such minimum standards relating to the operation of any phase of the district school system as are needed to supplement those adopted by the State Board of Education and as will contribute to the efficient operation of any aspect of education in the district and ensure that minimum standards adopted by the district school board and the state board are observed.

(6) PERFORM DUTIES AND EXERCISE RESPONSIBILITIES. —Perform such duties and exercise such responsibilities as are assigned to the district school superintendent by law and by rules of the State Board of Education.

Florida Statute 1001.51 establishes more specific duties and responsibilities of the school superintendent and requires "the school superintendent shall perform all tasks necessary to make sound recommendations, nominations, proposals, and reports required by law to be acted upon by the district school board." Other duties and responsibilities include the following:

(7) PERSONNEL. —Be responsible, as required herein, for directing the work of the personnel, subject to the requirements of chapter 1012.

(14) ENFORCEMENT OF LAWS AND RULES: —Require that all laws and rules of the State Board of Education, as well as supplementary rules of the district school board, are properly observed and report to the district school board any violation that the district school superintendent does not succeed in having corrected.

(15) COOPERATE WITH DISTRICT SCHOOL BOARD. —Cooperate with the district school board in every manner practicable to the end that the district school system may continuously be improved.

Superintendent's Employment Agreement: Section 2.3 – Official Duties

The official duties identified in Section 2.3 of the Superintendent's Employment Agreement consist of the following:

As Superintendent, Mr. Runcie shall be the Chief Executive Officer of the School District, Secretary to SBBC, and shall have charge of the administration of schools. He shall faithfully perform the duties and responsibilities of Superintendent as specified in that position's job description as from time to time adopted by SBBC, and as prescribed by the laws of the State of Florida, the rules of the Florida State Board of Education, SBBC Policies; and this Agreement, and as may be assigned by SBBC. The Superintendent's job description is attached hereto as Appendix. "A" and is incorporated herein by reference. The Superintendent shall comply with all SBBC directives, state and federal laws, applicable rules and regulations, and School Board policies as exist or may be adopted or amended. The Superintendent shall directly and indirectly supervise all staff members and shall organize, reorganize and arrange the administrative and supervisory staff as best serves the needs of the School District subject to approval by SBBC. Except as permitted by this Agreement, Mr. Runcie agrees to devote his full time and efforts to the performance of the duties and responsibilities of Superintendent in a faithful, diligent and efficient manner. The Superintendent's responsibilities, duties and functions shall include, without limitation, the following:

2.3.1 Serving as the Chief Executive Officer of the School District in accordance with Florida Statutes, state rules and School District Policies. All powers and duties necessary to the efficient management and administration of the School District shall be delegated to the Superintendent to the full extent permitted by law;

2.3.2 Working with SBBC, School District personnel, parents and the public to develop short and long-range goals with clear criteria for determining effective achievement and evaluating outcomes;

2.3.3 Representing the interests of SBBC and the School District in day-to-day contact with parents, citizens, the community and other governmental agencies;

2.3.4 Providing leadership, guidelines and directions to ensure implementation of SBBC's policies relating to facilities, curriculum, instruction, student services, personnel, budget and business affairs;

2.3.5 Reporting information and analyses regularly to the SBBC regarding student achievement and test scores;

2.3.6 Reviewing all SBBC policies and making appropriate recommendations to SBBC for revisions, additions, deletions and modifications to such policies;

2.3.7 Evaluating employees directly accountable to the Superintendent and overseeing the evaluation of other employees in accordance with Florida Statutes, State Board of Education Rules, and the policies adopted by SBBC;

2.3.8 Providing leadership and direction in planning and financing the maintenance of existing schools and to meet the growth needs of Broward County with new schools;

2.3.9 Advising and making recommendations to SBBC regarding possible sources of funding that may be available to implement present or contemplated district programs;

2.3.10 Maintaining and improving his professional competency by all available means including, without limitation, reading appropriate periodicals and joining and/or participating in appropriate professional associations and their activities;

2.3.11 Establishing and maintaining an effective community relations program including effective relationships with the media;

2.3.12 Communicating openly, systematically and in a timely manner with SBBC, district staff and the community and to promptly inform SBBC of critical issues or incidents;

2.3.13 Providing educational leadership to ensure quality teaching and learning; and

2.3.14 Performing other duties, responsibilities and functions as assigned or required by SBBC.

Explanation of Request for Termination

Section 10.3 of the Superintendent's Employment agreement provides for the termination of the Agreement for cause on the basis of "willful" neglect of duty. Florida Administrative Code Rule 6A-5.056 Criteria for Suspension and Dismissal define "willful

neglect of duty” as “intentional or reckless failure to carry out required duties.” The Florida Supreme Court provides further clarification related to the gravity and frequency of the neglect:

Neglect of duty has reference to the neglect or failure on the part of a public officer to do and perform some duty or duties laid on him as such by virtue of his office or which is required of him by law. It is not material whether the neglect be willful, through malice, ignorance or oversight, when such neglect is grave and the frequency of it is such as to endanger or threaten the public welfare, it is gross. *Attorney General v. Jochiam*, 99 Mich. 358, 58 N.W. 611, 23 L.R.A. 699.

(as cited in *State, ex Rel. v. Coleman*, 115 Fla. 119 (Fla. 1934))

1. School safety improvements identified in the 2013 letter to Senator Eleanor Sobel and the decision not to support the proposed special taxing district to oversee security, safety, and mental health needs

On March 5, 2013 the School Board of Broward County approved a letter from the Superintendent to the Broward Legislative Delegation in response to a bill Senator Eleanor Sobel proposed to establish a special taxing district to fund and oversee security, safety, and mental health needs. The Superintendent expressed concerns about the loss of district control and the delay in funding since the bill would be on the 2014 ballot.

The Superintendent asserted the district intended to expand its School Resource Officer (SRO) Program, stating, “We are currently exploring options for how this can be accomplished in the immediate future.” Six years later, the district is still exploring SRO options, as planned for discussion at the March 4, 2019 School Board Workshop.

The letter also asserted the School Board had taken additional steps to “bolster school security” in the wake of Sandy Hook, and that “although more funding is always welcome, the School Board cannot wait, and is not waiting, that long to address its safety concerns.”

Findings from the 2018 MSD Commission report contradict the Superintendent’s assertions made in 2013:

2013 Asserted Safety Improvement	2018 MSD Commission Findings
<p>1. Requested our municipal and county law enforcement to increase their presence at our schools.</p>	<ul style="list-style-type: none"> Deputy Peterson was the only SRO/armed person assigned to 3,300 students at Marjory Stoneman Douglas High School on February 14, 2018.

2013 Asserted Safety Improvement	2018 MSD Commission Findings
<p>2. Required each school to review its school safety plan. This review is in addition to the annual review that schools already are required to perform.</p>	<ul style="list-style-type: none"> • The “School Safety Plan” contained generic information relating specifically to MSDHS. Each school in the district had a similar document with information pertaining to the specific school. Neither document included information related to active shooter or assailant procedures or protocol. • The fire alarm caused confusion among students and staff in Building 12. Some treated the event as a fire alarm (evacuation) and some treated it as an active shooter situation (hiding in place). As set forth in section 3.2, the lack of a called Code Red contributed to students and staff not treating this incident as an active shooter event and that put students and staff at risk because they used evacuation protocols, not active assailant response protocols.

2013 Asserted Safety Improvement	2018 MSD Commission Findings
<p>3. Initiated a survey of each school site to determine the needs and costs to provide further hardening (e.g., retrofitting windows, doors, installing different locks).</p>	<ul style="list-style-type: none"> • All of the classroom doors in Building 12 could only be locked from the exterior. Teachers inconsistently locked classroom doors and some doors were unlocked the day of the shooting. Teachers were reluctant to enter the halls to lock the doors. The lack of an established policy on the locking and/or staffing of doors and gates on campus is a security failure. • The glass windows in the classroom doors allowed Cruz line-of-sight access to target his victims, and there were no pre-designated window coverings for teachers to quickly cover their classroom door windows. • Only two of the 30 classrooms in the Building 12 had marked hard corners. To the extent that students attempted to hide in the classrooms' hard corners they were mostly inaccessible due to teachers' desks and other furniture occupying the space. There was inadequate space in many classrooms' hard corners, and some students were squeezed out of the hard corners. Because classrooms lacked effective hard corners and/or students were not directed to hard corners, some students were forced to seek cover in an area visible to Cruz. Cruz only shot people within his line of sight, and he never entered any classroom. Some students were shot and killed in classrooms with obstructed and inaccessible hard corners as they remained in Cruz's line of sight from outside the classroom.

2013 Asserted Safety Improvement	2018 MSD Commission Findings
<p>4. Assigned our limited corps of School District Police Officers to maintain an increased presence at schools that do not have full-time, dedicated School Resource Officers (SRO's.)</p>	<ul style="list-style-type: none"> • There are approximately 230 K-12 public schools in Broward County. Fourteen different Broward County law enforcement agencies provide the SROs for Broward County public schools. In Fiscal Year 2017/2018, BCPS had 166 contracted SROs from among the 14 agencies. On February 14, 2018, BSO had 46 SROs for 57 schools. BSO contracts with 13 cities for police services, and 10 of the 13 include SRO coverage. • The MSD Commission Report appeared to have no findings related to School District Police Officers
<p>5. Instructed all of our schools to engage in mock emergency drills and practice lockdowns</p>	<ul style="list-style-type: none"> • The lack of a called Code Red on February 14, 2018—because there was no policy, little training and no drills—left students and staff vulnerable to being shot, and some were shot because they were not notified to lockdown. This was most evident on the third floor of Building 12. • There were no Code Red drills at MSDHS in the year preceding the shooting.

2013 Asserted Safety Improvement	2018 MSD Commission Findings
<p>6. Instituted additional training for our School Security Specialists and Campus Security Monitors.</p>	<ul style="list-style-type: none"> • On February 14, 2018, Broward County Public Schools and Marjory Stoneman Douglas High School did not have an established active assailant response policy. There were no written and trained-on policies regarding Code Red and lockdown procedures. • <i>Recommendation:</i> Campus monitors or their equivalent are common in Florida schools. Monitors are a cost effective security supplement to SROs; however, monitors must be carefully selected, have clearly defined roles and responsibilities and be well trained according to current best practices.

The disconnect between the assertions made in 2013 and the deficiencies that existed on February 14, 2018—many of which still exist today—suggests a complete inability or unwillingness to follow through on continuous improvement efforts, even those as important as the safety and security of students and staff. The decision not to support a bill that would have most likely addressed these deficiencies reflects at best reflects a lack of sound judgment.

2. Planning, financing, budgeting, and execution of the \$800 million general obligation bond and overall capital program, and contractual obligation to promptly inform SBBC of critical issues.

In November 2014 voters approved an \$800 million general obligation bond to fund safety, music and art, athletics, renovations, and technology—the SMART bond. According to a district press release, the 2014 needs assessment identified over \$3 billion in need. The program is more than two years behind schedule. The most recent SMART Program Risk Assessment estimates the budget shortfall between \$415 million and \$528 million—or between 48% to 58% of the original program budget.

At the 1/22/19 School Board workshop when asked what would happen if the bond money ran out, the Superintendent’s response was reported as “there’s not a great answer to that. If there’s more work than we have money for, what the board has done is prioritize the work. As money comes online as millage, or whatever, it would go to whatever the next priority is.” The comment about a potentially arbitrary prioritization

made now to reprioritize projects raises concerns the district is on the verge of same situation as it was 10 years ago—millions in planned projects, millions paid to architects, and projects being canceled due to lack of funds. Ten years ago, the lack of funds was due to the recession—the same cannot be said today.

- On February 11, 2014, the School Board removed the “capital facility plan” contractual requirement from the needs assessment deliverables and changed the language to “needs assessment findings.” This failure to develop a master plan formed the foundation for the time delays and cost overruns plaguing the current bond program.
- The hiring of Leo Bobadilla as Chief Facilities Officer despite objections raised by informed community members and his history of mismanagement as the Chief Facilities Officer with Houston Independent School district as reported in the audit released the day after he was approved in a 5 to 3 vote.
 - For almost three years Bobadilla was in charge of the independent review of the program managers performance as well as the flow of information to the Board. The March 2018 Risk Assessment update from Atkins claimed risk to the program had not changed since 2017. Once Bobadilla was removed from the bond program, the most likely risk scenario suddenly increased to 36% (now 48%).
 - The district returned to using construction management-at-risk—a construction delivery method blamed for cost overruns in Houston as well as in Broward. Following discussion at the May 6, 2010 BCPS Audit Committee meeting, the Committee passed two recommendations: 1) to discontinue the use of Construction Management at Risk until the district put proper controls in place; and 2) to pursue recovery of a \$24 million loss.
- In an attempt to explain skyrocketing bids from construction companies, staff recently asserted that roofing estimates in the needs assessment were too low. *Cost and Program Controls* manager Atkins in their January 10, 2017 market conditions and January 27, 2017 risk assessment memos cited exploding market conditions, not flawed estimates as the cause for increasing costs. Furthermore, even if the needs assessment estimates were low, the estimates were never intended to be used as budget numbers, as indicated by Heery regarding the MAPPs deficiency detail-- “The MAPPs Deficiency Detail Report is raw database information with a breakdown of the cost estimate including construction adjustments and soft cost adjustments. As with the Detail List, budget confirmation with the ADEFP is required.”

The current status of the bond reflects a complete failure to learn from history and ability to make sound leadership decisions in the best interest of the public. The 48% to

58% risk to the bond program means funding over-budget bond projects from capital reserves and future property taxes, which uses money needed for the deferred maintenance and other projects not covered by the bond.

3. Implementation of Evergreen Solutions recommendations and statutory requirement to enforce Exceptional Student Education (ESE) rules and policies

In May 2014 Evergreen Solutions submitted a review of the district's Exceptional Student Education services, making 45 commendations and 110 recommendations. As of the February 28, 2017 workshop, district staff appeared to believe they had either completed or partially completed all 110 recommendations. Had those recommendations been implemented effectively, the Collaborative Educational Network should not have observed the same issues in its 2018 review. The staff violations of federal, state, and School Board requirements kept the shooter from returning to the one environment where he had received the appropriate level of support he needed as an ESE student.

4. Decision not to implement the 2011 Grand Jury recommendation to establish an independent Office of Inspector General to monitor the Board and District.

The Superintendent was hired in the aftermath of the 2011 Grand Jury report—a report that included the following scathing observation:

The evidence we have been presented concerning the malfeasance, misfeasance and nonfeasance of the Broward County School Board (Board) and of the senior management of the Broward County School District, (District) and of the gross mismanagement and apparent ineptitude of so many individuals at so many levels is so overwhelming that we cannot imagine any level of incompetence that would explain what we have seen. Therefore we are reluctantly compelled to conclude that at least some of this behavior can best be explained by corruption of our officials by contractors, vendors and their lobbyists. Moreover, many of the problems we identified in our inquiry are longstanding and have been pointed out by at least two previous Grand Juries. But for the Constitutional mandate that requires an elected School Board for each District, our first and foremost recommendation would have been to abolish the Broward County School Board altogether.

Despite this observation and the specific recommendation to establish an independent Office of Inspector General to monitor the Board and the District, a 2012 consulting services report completed by Marcum LLP and submitted to the district's Chief Auditor concluded the district had elected not to contract with the Broward County Office of

Inspector General or create an Independent Office of Inspector General. The Superintendent also neglected to implement the recommendation as part of the planning process for the \$800 million general obligation bond. The issue has not been raised since 2016, when it was brought forward by a school board member. Despite all the district's past history, the Superintendent has never made a recommendation to the board to establish an independent Office of Inspector General.

5. Statutory and contractual requirements related to the annual evaluation of senior staff

Section 2.3.7 of the Superintendent's Employment Agreement establishes "evaluating employees directly accountable to the Superintendent and overseeing the evaluation of other employees in accordance with Florida Statutes, State Board of Education Rules, and the policies adopted by SBBC" as one of the Superintendent's contractual obligations. The degree to which the Superintendent fulfills the leadership goal of "accurately evaluate senior staff performance to include ongoing commendations and constructive suggestions, and where appropriate, disciplinary measures" is included in his annual evaluation. According to Florida State Statute 1012.34 (3)(a) "a performance evaluation must be conducted for each employee at least once a year . . ."

The Superintendent has demonstrated a history of not completing timely or constructive evaluations of his senior staff. Had he evaluated his senior staff as required and established an infrastructure that ensured other administrative staff were accurately evaluated and provided feedback, the safety improvements cited in the 2013 letter to Senator Sobel would have been implemented appropriately, the SMART bond program would not be years behind schedule and hundreds of millions of dollars over budget, and the Evergreen recommendations would have been implemented with fidelity. Unfortunately, accountability begins at the top, and the lack of substantive evaluations of the Superintendent by the Board has set the tone for the Superintendent and the district as a whole.