

**THE BROWARD COUNTY SCHOOL BOARD, FLORIDA**

ROBERT W. RUNCIE,  
Superintendent of Schools,

Petitioner,

v.

BRENDA JOYCE FISCHER,

Respondent.

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**ADMINISTRATIVE COMPLAINT**

Petitioner, Robert W. Runcie, Superintendent of Schools of Broward County, Florida ("Petitioner"), through his undersigned counsel, files this Administrative Complaint against Respondent, Brenda Joyce Fischer ("FISCHER"). The Petitioner seeks a five (5) day suspension 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 FISCHER.
4. FISCHER 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, Florida Statutes (2018).
5. The last known address of FISCHER is 2812 N. 46<sup>th</sup> Avenue, Unit G673, Hollywood, Florida 33021.

## **II. MATERIAL ALLEGATIONS**

6. This recommendation is based upon conduct occurring in the 2018-2019 school year.
7. FISCHER is an Art teacher at Western High School (hereinafter "Western").
8. The School Board hired FISCHER on November 10, 1992.
9. Despite repeated directives by her administration, and her extensive history of discipline for similar issues, FISCHER has continued during 2018-2019 school year with her pattern of inappropriate comments toward students.

10. On or about March 1, 2019, FISCHER made racially insensitive comments to a group of Spanish-speaking students in her first period class.
11. Several students related instances in which FISCHER told the students that they were on "Latino time" and that they need to be on "American time" because they are in the United States.
12. Additionally, FISCHER told an English Language Lerner ("ELL") that he doesn't want to learn and needs to speak English.
13. On or about March 1, 2019, FISCHER denied student M.G.'s request to go to the auditorium for a meeting because M.G. was late for class. FISCHER went on to tell M.G. that she was *"on Latino time, like her Jews students were on Jew time and that we need it to be in American time because we were in the United States."* FISCHER further related that FISCHER had Latino friends and that FISCHER would tell those friends *"to go to a different hour to the meeting so they would be on time."* FISCHER's statement offended M.G.
14. M.G. further relayed that FISCHER makes offensive comments about students who don't speak English not "wanting to learn" and "needing to speak English."
15. Another student, V.B. stated, *"FISHER [sic] say to my group that all latinos are the same and say that this is "America*

*time, no latino time."* V.B. also relayed that FISCHER has yelled at V.B. in a "very rude way," concluding that, "Ms. Fischer's class is the most unpleasant class I have ever take (sic). She is a very rude teacher and I do not think she should teach because of how impatiente (sic) she is. Worst class ever."

16. Yet another student D.V. stated, "the period was about to end and she came to us and told us that this was not Hispanic time, that it was American time, (sic) she was raising her voice so my friend needed to leave early and she got really offended by the comment." D.V. further stated that he informed FISCHER, "That yes we are known, Hispanics are known (sic) for being late to everything but that doesn't apply to all of us." According to D.V., FISCHER "spoke with [D.V.] saying she was not trying to offend anybody and that she would have told the same thing to her Jewish friends."

17. Student M.C. stated,

*On March 1 me and my group were working on a project but one of the girls had to leave early so the teacher started getting upset and was saying that this is not Latin time, that we were in America, (sic)I think that is a really offensive*

*thing to say, (sic) I feel she should not judge someone because of where they are from.*

18. Additionally, one of FISCHER's ELL students, C.C., stated, *The teacher belittles Latin Americans. . . . She yells at me and sometimes complains that I don't know English. This is very frustrating. When she asks me to take notes, when she is lecturing, I don't understand and it's difficult to write. When she sees that I am not writing, she starts yelling at me and I get frustrated. I suffer from anxiety and this really stresses me out a lot.*

### **III. PREVIOUS DISCIPLINE AND CORRECTIVE ACTION**

#### **SUMMARY CONFERENCE LETTER**

19. On or about February 8, 2017, FISCHER received a Summary of Conference letter, directing her to:
- Refrain from making physical contact with any student
  - Refrain from screaming at any Western stakeholders
  - Communicate with all Western stakeholders in a respectful manner
  - Communicate with parents in a timely manner when students are struggling in your classes

**VERBAL REPRIMAND**

20. On or about June 6, 2014, FISCHER received a Verbal Reprimand to refrain from exposing a student to unnecessary embarrassment and disparagement.

**WRITTEN REPRIMANDS**

21. On or about February 26, 1997, FISCHER received a Letter of Reprimand regarding her use of inappropriate language with students and directing her to cease and desist from inappropriate remarks.

22. On or about April 28, 1997, FISCHER received a Written Reprimand directing FISCHER to cease and desist making inappropriate remarks to students in her classes.

23. On or about November 2, 2017, FISCHER was issued a Letter of Reprimand regarding inappropriate touching and yelling at students and engaging in unprofessional conversations.

24. On or about October 29, 2018, FISCHER received a Letter of Reprimand by the Education Practices Commission regarding inappropriate conduct with students.

**SUSPENSIONS**

25. On or about September 1, 2009 FISCHER received a 3-day suspension for her use of inappropriate language.

26. On or about April 9, 2019, FISCHER received a 3-day suspension for showing a video to her first and second period art/photography classes containing nude images.

#### **IV. ADMINISTRATIVE CHARGES**

27. Petitioner realleges and incorporates herein by reference the allegations set forth in paragraphs one (1) through twenty-six (26) above.

28. 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.

29. "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:
- a) A violation of the Code of Ethics of the Education Profession in Florida as adopted in Rule 6A-10.080, F.A.C.<sup>1</sup>;
  - 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;

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<sup>1</sup> Repealed 3-23-16. Now included in 6A-10.081 F.A.C., Principles of Professional Conduct for the Education Profession in Florida.

- 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" 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;
    - b. Lack of adequate physical ability;
    - c. Lack of general educational background; or
    - d. Lack of adequate command of his or her area of specialization.

\* \* \*

- D. "Gross Insubordination" means 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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**IV. JUST CAUSE FOR DISCIPLINE**

**A. JUST CAUSE**

30. Respondent's actions constitute just cause to suspend her for five (5) days without pay.

**B. MISCONDUCT IN OFFICE**

31. 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".

RULE 6A-10.081 F.A.C., PRINCIPLES OF PROFESSIONAL CONDUCT FOR THE  
EDUCATION PROFESSION IN FLORIDA

32. Pursuant to the Principles of Professional Conduct for the Education Profession in Florida,

(2) Florida educators **shall**<sup>2</sup> comply with the following disciplinary principles. Violation of any of these principles **shall subject the individual to revocation or suspension of the individual educator's certificate**, or the other penalties as provided by law.

(a) Obligation to the student requires that the individual:

1. Shall make reasonable effort to protect the student from conditions harmful to learning and/or to the student's mental and/or physical health and/or safety.

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<sup>2</sup> Emphasis added.

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5. Shall not intentionally expose a student to unnecessary embarrassment or disparagement.

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7. Shall not harass or discriminate against any student on the basis of race, color, religion, sex, age, national or ethnic origin, political beliefs, marital status, handicapping condition, sexual orientation, or social and family background and shall make reasonable effort to assure that each student is protected from harassment or discrimination.

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**C. INCOMPETENCY**

33. Respondent's actions constitute incompetency. The Respondent, through her above-described conduct has violated Florida Statute §1012.33 and Rule 6A-5.056(3)(a) of the Florida Administrative Code. Her actions show a failure to perform the required duties as a result of inefficiency.

(a) "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;

\* \* \*

**D. GROSS INSUBORDINATION**

34. Respondent's actions constitute gross insubordination.

Pursuant to Rule 6A-5.056(4), "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.

35. Respondent violated prior multiple directives.

**E. WILLFUL NEGLECT OF DUTY**

36. Respondent's actions constitute willful neglect of duty.

"Willful neglect of duty" means intentional or reckless failure to carry out required duties.

37. Respondent failed to perform her duties as an educator and instructor when she violated prior directives to cease and desist making inappropriate remarks to students in her classes.

38. Respondent's continuing use of embarrassing and disparaging remarks to students is an example of willful neglect as she has been previously directed by her supervisors to discontinue that conduct.

**F. SCHOOL BOARD POLICY 4008**

39. 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. 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.
2. Teach efficiently and effectively using the books and materials required by the District or the State following the prescribed courses of study and employ sound teaching practices and methods.
3. Infuse in the classroom, the District's adopted Character Education Traits of Respect, Honesty, Kindness, Self-control, Tolerance, Cooperation, Responsibility and Citizenship.

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8. Conform to all rules and regulations that may be prescribed by the State Board and by the School Board.

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**G. SCHOOL BOARD POLICY 4.9**

40. 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."

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

\* \* \*

m) Any violation of The 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

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

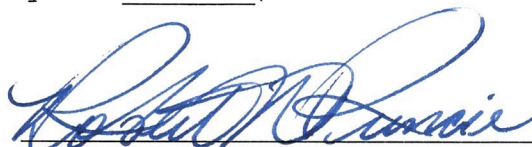
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**DEMAND FOR RELIEF**

WHEREFORE, based upon the foregoing, Petitioner, Robert W. Runcie, Superintendent of Schools, recommends that the School Board suspend the Respondent, Brenda Joyce Fischer, for five (5)

days without pay based upon the foregoing facts and legal authority.

EXECUTED this 10<sup>th</sup> day of June, 2019.



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ROBERT W. RUNCIE,  
Superintendent of Schools,  
Broward County

Respectfully submitted:  
Douglas Griffin, Esq.  
Assistant General 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 3<sup>rd</sup> 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.