

THE BROWARD COUNTY SCHOOL BOARD, FLORIDA

ROBERT W. RUNCIE,
Superintendent of Schools,

Petitioner,

v.

GEORGES MARC GAY,

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, Georges Marc Gay ("GAY"). The Petitioner seeks a ten (10) 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 BCSB, inclusive of GAY.
4. GAY 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 (2018).
5. The last known address of GAY is 2637 Arcadia Drive, Miramar Florida 33023.

II. MATERIAL ALLEGATIONS

6. This recommendation is based upon conduct occurring during the 2016-2017 and 2017-2018 school years.
7. GAY is a Teacher - Exceptional Student Learning Support Facilitator at Silver Trail Middle School (hereinafter "SILVER TRAIL").
8. GAY was first hired by the district on August 14, 2007.
9. During, the 2016-2017 school year, as Support Facilitator for math, GAY repeatedly failed to timely gather input from

- teachers, and complete and provide reports and input into student IEP's, when due.
10. On or about April 7, 2017, GAY was issued a written reprimand for his failure to provide ESE Support Logs and progress reports, as required by the ESE Department, and failure to follow specific communication and ESE protocols and procedures provided by the ESE Department.
 11. Despite the written reprimand, during April 2017, GAY failed to timely fulfill his responsibilities relating to student N.P.'s IEP.
 12. During, the 2017-2018 school year, as Support Facilitator for math, GAY repeatedly failed to timely gather input from teachers, and complete and provide reports and input into student IEP's, when due.
 13. Gay failed to set up, schedule and follow-up with meetings with the ESE Specialist Department Head assigned to assist GAY with his IEP paperwork and student Progress Reports.
 14. Furthermore, GAY continued to demonstrate unwillingness to follow directions and/or meet deadlines.
 15. On or about September 12, 2016, Present Level Performance forms (hereinafter "PLP") were provided to GAY, and he was given the directive to complete the PLP by September 22, 2016.

16. GAY was also directed to contact support staff in the event that he needed help to complete the PLP by the requested due date.
17. During November 2017, GAY failed to timely fulfill his responsibilities relating to student I.O.'s IEP.
18. During November 2017, GAY also failed to timely complete Progress Reports for student Z.G.
19. On or about December 1, 2017, GAY did not show for a parent teacher conference.
20. During December 2017, GAY failed to timely fulfill his responsibility to input information into student J.J.'s IEP.
21. On or about December 13, 2017, GAY failed to attend a parent conference as requested by a parent.
22. During December 2017, GAY failed to timely fulfill his responsibility to input information into student K.R.'s IEP.
23. During December 2017, GAY failed to attend K.R.'s IEP meeting.
24. During December 2017, GAY failed to timely fulfill his responsibility to input information into student R.A.'s IEP.
25. GAY failed to respond, either verbally or in writing, to an email dated December 23, 2017 requesting confirmation of student R.A.'s math goal, at least until after January 12, 2018.

26. During December 2017, GAY failed to provide teachers notice of I.E.P. meetings, or timely solicit their required input.
27. During January 2018, GAY failed to timely fulfill his responsibility to input information into student L.C.'s IEP.
28. During January 2018, GAY failed to timely fulfill his responsibility to input information into student M.D.'s IEP.
29. During January 2018, GAY failed to timely fulfill his responsibility to input information into student N.H.'s IEP.
30. GAY was placed on a performance improvement plan on or about February 21, 2018.
31. GAY requested, and was granted, a personal leave commencing June 26, 2018, and continuing through the 2018-2019 school year.
32. Gay has notified the SCHOOL BOARD of GAY's intent to return for the 2019-2020 school year.

III. PREVIOUS DISCIPLINE

Summary Memo

33. On or about September 22, 2016, GAY was issued a summary memo directing him to follow through with the role and responsibilities of his position as a member of faculty, and to adhere closely to the directions given by the ESE Department.

Verbal Reprimand

34. On or about November 8, 2016, GAY was issued a verbal reprimand for his continued failure to provide ESE Support Logs and progress reports, as required by the ESE Department, and failure to follow specific communication and ESE protocols and procedures provided by the ESE Department.

Written Reprimands

35. On or about April 7, 2017, GAY was issued a written reprimand for his failure to provide ESE Support Logs and progress reports, as required by the ESE Department, and failure to follow specific communication and ESE protocols and procedures provided by the ESE Department.

IV. ADMINISTRATIVE CHARGES

36. Petitioner realleges and incorporates herein by reference the allegations set forth in paragraphs one (1) through thirty-five (35) above.

37. 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.

38. "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;
 - b. Lack of adequate physical ability;

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

- 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

- 39. Respondent's actions constitute just cause to suspend him for ten (10) days without pay.

B. MISCONDUCT IN OFFICE

- 40. Respondent's actions and/or inactions, as alleged in paragraphs nine (9) through twenty-nine (29), incorporated herein by reference, constitute misconduct in office. The Respondent through his 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

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

(2) Florida educators **shall**² 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.

4. Shall not intentionally suppress or distort subject matter relevant to a student's academic program.

C. INCOMPETENCY

42. Respondent's actions and/or inactions, as alleged in paragraphs nine (9) through twenty-nine (29), incorporated herein by reference, constitute incompetency. The Respondent, through his above-described conduct has violated Florida Statute §1012.33 and Rule 6A-5.056(3)(a) of the

² Emphasis added.

Florida Administrative Code. His 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;
3. Failure to communicate appropriately with and relate to colleagues, administrators, subordinates, or parents;

* * *

D. GROSS INSUBORDINATION

43. Respondent's actions and/or inactions, as alleged in paragraphs nine (9) through twenty-one (21) and twenty-three (23) through twenty-nine (29), incorporated herein by reference, after directives of his supervisors to the contrary, constitute gross insubordination.
44. 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.

E. WILLFUL NEGLIGENCE OF DUTY

45. Respondent's actions and/or inactions, as alleged in paragraphs nine (9) through twenty-one and twenty-three (23) through twenty-nine (29), incorporated herein by reference, constitute willful neglect of duty.
46. "Willful neglect of duty" means intentional or reckless failure to carry out required duties.

F. SCHOOL BOARD POLICY 4008

47. 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.
48. 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.

* * *

6. Attend conferences such as ESE staffing and parent conferences related to education of students.
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

49. Pursuant to School Board Policy 4.9, "the District expects each employee, instructional and non-instructional, to be in conformance, both in and out of the work place, with all laws, whether federal, state or local, State Board Rules, and all School Board policies, rules, and regulations."
50. 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

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- 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, Georges Marc Gay, without pay for ten days (10) based upon the foregoing facts and legal authority.

EXECUTED this 15th day of July, 2019.



ROBERT W. RUNCIE,
Superintendent of Schools,
Broward County

Respectfully submitted:
Douglas G. 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 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.