

THE BROWARD COUNTY SCHOOL BOARD, FLORIDA

ROBERT W. RUNCIE,
Superintendent of Schools,

Petitioner,

v.

ADAM DAVID HAVRILESKY,

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, Adam David Havrilesky ("HAVRILESKY"). The Petitioner seeks a five (5) day suspension of Respondent's employment with the Broward County School Board ("BCSB") 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 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 HAVRILESKY.
4. HAVRILESKY is an employee of the Broward County School Board and is currently employed as a teacher pursuant to an Annual Contract, issued in accordance with Section 1012.33(3)(a), Florida Statutes (2018).
5. The last known address of HAVRILESKY is [REDACTED].

II. MATERIAL ALLEGATIONS

6. This recommendation is based upon conduct occurring during the 2018-2019 school year.
7. HAVRILESKY is a social-sciences teacher, as well as the assistant football coach, at Western High School (hereinafter "WESTERN").
8. The School Board hired HAVRILESKY on August 13, 2012.

March 5, 2019, incident.

9. On or about March 5, 2019, HAVRILESKY used profane and inappropriate language towards another teacher, Johnnie Tracey (HEREINAFTER "TRACEY") at WESTERN.
10. On or about March 5, 2019, HAVRILESKY put his hands on Michael Korir (hereinafter "KORIR"), a grounds keeper at WESTERN, without his permission.
11. TRACEY is the head coach for the track team at WESTERN and KORIR is his assistant.
12. On or about March 4, 2019, following an incident at track practice, Tracey spoke with the parent of B.B, one of the members of TRACEY's track team, and advised her that, if B.B. left track practice again to go train with someone else, B.B. would not be allowed to participate as a member of the track team. The parent requested to meet with TRACEY the following day.
13. On or about March 5, 2019, after track practice, TRACEY and KORIR met with B.B.'s parents in a location that was near to at least another parent, two students, another track coach, and a football coach.
14. HAVRILESKY approached during the meeting and heard "the last minute or so" of the conversation between TRACEY, KORIR and B.B.'s parents.

15. After the B.B.'s parents left, HAVRILESKY aggressively lectured TRACEY and KORIR saying, "*[t]hese athletes are football players first, and we have worked too fucking hard these last couple years for anyone to fuck it up.*"
16. TRACEY and KORIR were sitting in a golf cart at the time, and others in the vicinity started to join in the heated discussion.
17. KORIR and TRACEY drove away; but, as they did, HAVRILESKY put his hand on KORIR's shoulder and grabbed the golf cart in an attempt to stop the cart from leaving.

March 6, 2019, incident.

18. On or about March 6, 2019, HAVRILESKY used profanity towards TRACEY and verbally threatened him with bodily harm.
19. On or about March 6, 2019, HAVRILESKY was sitting in a golf cart next to the track, while the Athletic Director Jermaine Hollis, Assistant Principal David Olafson, and TRACEY were meeting nearby with a parent.
20. TRACEY approached the area on his way to track practice.
21. HAVRILESKY exited the golf cart and told TRACEY that HAVRILESKY needed to talk to TRACEY.

22. TRACEY was feeling harassed, so he refused to speak with HAVRILESKY saying, *"no I don't have anything to say to you, I don't even know why you're here, blood clot¹."*
23. Several witnesses heard HAVRILESKY respond, in the presence of a parent, students, and colleagues, by yelling, *"I know what that means. Who the fuck you talking to? I will fuck you up!"* TRACEY kept walking, and Mr. Hollis and Mr. Olafson calmed HAVRILESKY down.
24. HAVRILESKY later admitted that he lost his cool and likely made comments in response to TRACEY, but HAVRILESKY could not recall the statements.

III. PREVIOUS DISCIPLINE AND CORRECTIVE ACTION

VERBAL REPRIMAND

25. On or about May 31, 2011, HAVRILESKY received a verbal reprimand for using inappropriate language with students.

3-DAY SUSPENSION

26. On or about December 2, 2013, HAVRILESKY received a three (3) day suspension for pushing a student to the ground during football practice.

¹ HAVRILESKY recalled that TRACEY called HAVRILESKY a "bumbaclod mother fucker." HAVRILESKY's understanding is that a "bumbaclod" is a Jamaican term for a used tampon.

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 Collective Bargaining Agreement, the Code of Ethics of the Education Profession, and the policies 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:
 1. 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. 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 his colleagues' ability to effectively perform duties.

² Repealed 3-23-16. Now included in 6A-10.081 F.A.C., Principles of Professional Conduct for the Education Profession in Florida.

- 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 his 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 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

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

B. MISCONDUCT IN OFFICE

31. Respondent's actions, as alleged in paragraphs nine (9) through twenty-four (24), incorporated herein by reference, constitute misconduct in office. The Respondent's use of profane and inappropriate language in front of students, parents and colleagues, as well as his threats of violence towards a colleague, constitutes a violation of 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**³ 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.

* * *

(c) Obligation to the profession of education requires that the individual:

* * *

4. Shall not engage in harassment or discriminatory conduct which unreasonably interferes with an individual's performance

³ Emphasis added.

of professional or work responsibilities or with the orderly processes of education or which creates a hostile, intimidating, abusive, offensive, or oppressive environment; and, further, shall make reasonable effort to assure that each individual is protected from such harassment or discrimination.

* * *

C. INCOMPETENCY

33. Respondent's actions, as alleged in paragraphs nine (9) through twenty-four (24), 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 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;

* * *

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

* * *

D. GROSS INSUBORDINATION

34. Respondent's actions, as alleged in paragraphs nine (9) through twenty-four (24), incorporated herein by reference, following directives of her supervisors to the contrary, 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.
35. Respondent violated a prior directive relating to his use of profane and inappropriate language in front of students.

E. WILLFUL NEGLIGENCE OF DUTY

36. Respondent's actions, as alleged in paragraphs nine (9) through twenty-four (24), incorporated herein by reference, constitute willful neglect of duty. "Willful neglect of duty" means intentional or reckless failure to carry out required duties.
37. Respondent's continued use of inappropriate language in front of students constitutes willful neglect as he has received a prior directive to discontinue that conduct.

F. SCHOOL BOARD POLICY 2410

38. Respondent is in violation of School Board Policy 2410 titled, "Workplace Violence," which prohibits any act of physical aggression, destructive acts, threatening behavior or verbal abuse by an individual to self, others or property that occurs on School Board property is threatened to occur on School Board Property, or is directed to School Board employees. The Respondent, by loudly and aggressively yelling at another School Board employee, "I will fuck you up", and impermissibly putting his hands on another employee has violated School Board Policy 2410.

39. Furthermore, pursuant to Policy 2410(d),

A threat involves the statements, physical motions, manifestations or suggestions of a possible physical attack and will be taken seriously. Examples include: . . . "I am going to beat (or shoot/kill) you." Threats are significant because they may precede actual acts of violence. . .

* * *

G. SCHOOL BOARD POLICY 4008

40. 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.

41. 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.

* * *

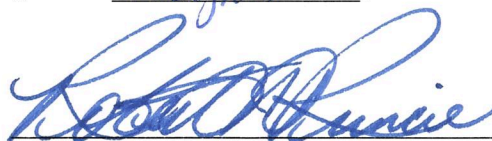
8. Conform to all rules and regulations that may be prescribed by the State Board and by the School Board.

* * *

DEMAND FOR RELIEF

WHEREFORE, based upon the foregoing, Petitioner, Robert W. Runcie, Superintendent of Schools, recommends that the School Board suspend the Respondent, Adam David Havrilesky, for five (5) days without pay based upon the foregoing facts and legal authority.

EXECUTED this 6th day of August, 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.