

THE BROWARD COUNTY SCHOOL BOARD, FLORIDA

ROBERT W. RUNCIE,
Superintendent of Schools,

Petitioner,

v.

SANDRA NUNEZ,

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, SANDRA NUNEZ ("NUNEZ"). The Petitioner seeks a two (2) 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 NUNEZ.
4. NUNEZ 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 NUNEZ is 2439 Polk Street, Apt. #7, Hollywood, Florida, 33020.

II. MATERIAL ALLEGATIONS

6. This recommendation is based upon conduct occurring in the 2018-2019 school year.
7. NUNEZ is a teacher at Hollywood Central Elementary School (hereinafter "Hollywood").
8. The School Board hired NUNEZ on August 10, 2004.
9. On or about March 6, 2019, a fourth (4th) grade student reported that NUNEZ used profanity/inappropriate language while talking to another teacher during instructional time.

10. On the same day, both teachers, Principal Delicia Decembert (hereinafter "DECEMBERT") told NUNEZ and Ms. Fenton, (hereinafter "FENTON") that DECEMBERT intended to investigate the report that students overheard an adult using profanity during instructional time.
11. Despite DECEMBERT informing both teachers that she would investigate the situation, NUNEZ conducted her own investigation.
12. On or about March 7, 2019, NUNEZ asked a student to stand in front of the class and point out other students who may have information.
13. Thereafter, NUNEZ called students outside of the class and questioned them.
14. Several students began crying, became fearful of returning to NUNEZ's class, felt bullied, or pressured to recant or change their versions of events.
15. NUNEZ approached Lisa LaBruto, School Counselor at Hollywood (hereinafter "LABRUTO") and asked LABRUTO to watch NUNEZ's class for five minutes while NUNEZ spoke to some students outside.
16. LABRUTO observed that, as NUNEZ and two students stood up to leave, NUNEZ said "who else," and then one of the students responded by hesitantly pointing to another student.

17. LABRUTO stated, "*[a]s they walked toward the door I could see the students exchanging glances and whispers started.*"
18. When LABRUTO asked what was going on, the remaining students told LABRUTO about an incident occurring on Mach 6, 2019, in which NUNEZ used an inappropriate word during a conversation with another teacher.
19. According to student statements, NUNEZ was overheard calling DECEMBERT the "B word" during NUNEZ's conversation with FENTON.
20. LABRUTO stated, "*the students appeared very rattled and many of them stated they were scared.*" The students remaining in the class told LABRUTO that the students who NUNEZ has just pulled out were the students involved in the reporting the incident the day before.
21. LABRUTO stated NUNEZ came back into the room and asked some additional students outside. Several minutes later, the students and NUNEZ came back into the room.
22. LABRUTO further stated, "*I saw one of the students with NUNEZ crying.*"
23. LABRUTO stated when she asked the crying student if she was ok, and why was she crying, before the student could answer, NUNEZ interjected, "no crying, no crying."

24. LABURTO left to go to the office to see a student. Shortly thereafter, NUNEZ's students transitioned to Teacher Tracy Espinosa's (hereinafter "ESPINOSA") classroom.
25. While NUNEZ's students were with ESPINOSA, LABRUTO returned a student to ESPINOSA's classroom. LABRUTO found NUNEZ's students talking about what had happened in science with NUNEZ and the students expressed their fear of NUNEZ.
26. The students told LABRUTO, NUNEZ *"banged on the picnic table. She told them they should not be in adult conversations. She forced them to write statements."*
27. One student told LABURTO that *that the students "were made to write statements and that she lied on her statement because she was scared not to do what NUNEZ wanted."*
28. LABRUTO stated that the students *"were visibly shaken."*
29. ESPINOSA stated that, *"[o]n March 7, at 1:45 my students returned from NUNEZ's class visibly upset."*
30. ESPINOSA stated, *"the children explained that in retaliation for a student reporting her profanity to administration, NUNEZ took 3 students outside and brought them to tears with her line of questioning."*
31. ESPINOSA also stated, *"[t]he children elaborated that NUNEZ wanted to know which students claim they heard her saying profanity in front of them on March 6 and wanted to make those individuals recant their belief in writing."*

32. The students told ESPINOSA that NUNEZ dictated statements to the students and forced the students to "write things that were not true because NUNEZ demanded it be written."

33. ESPINOSA further recounted that,

"[o]ne student stated she was directed by NUNEZ to stand in front of the classroom and point to which classmates reported NUNEZ's use of profanity while NUNEZ kept screaming, "Hello?! You know who. Now tell me." The student stated that she attempted to say she didn't know and NUNEZ became increasingly angry and continued to make demands until the student was too upset to withhold the names any longer."

34. ESPINOSA further stated,

"Other statements my students made to me include:

'She said we will be writing about this tomorrow also.'

'She got in my face and was glaring at me. I was so scared.'

'When she was yelling, my heart was beating so fast. I felt sick.'

'Please don't make us go back to her class. I'm so scared of her.'"

II. PREVIOUS DISCIPLINE AND CORRECTIVE ACTION

Verbal Reprimand

35. On or about June 6, 2014, NUNEZ was issued a verbal reprimand for failure to follow a directive to provide student data.

Written Reprimand

36. On or about September 23, 2016, NUNEZ was issued a Written Reprimand for her failure to follow directives pertaining to testing procedures.

IV. ADMINISTRATIVE CHARGES

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

38. 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.

39. "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.¹;
 - 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;
 - 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.

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

V. JUST CAUSE FOR DISCIPLINE

A. JUST CAUSE

40. Respondent's actions constitute just cause to suspend her for two (2) days without pay.

B. MISCONDUCT IN OFFICE

41. Respondent's actions, as alleged in paragraphs nine (9) through thirty-four (34), incorporated herein by reference, 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)(b) and (d) of the Florida Administrative Code, which defines "misconduct".

42. NUNEZ committed behavior that disrupted her students' learning environment

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

43. NUNEZ violated the following Principles of Professional Conduct for the Education Profession in Florida:

(2) Florida educators shall 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.

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

C. INCOMPETENCY

44. Respondent's actions, as alleged in paragraphs nine (9) through thirty-four (34), incorporated herein by reference, 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. SCHOOL BOARD POLICY 4008

45. Respondent's actions, as alleged in paragraphs nine (9) through thirty-four (34), incorporated herein by reference, violate 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.
46. 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.

* * *

3. Infuse in the classroom, the District's adopted Character Education Traits of Respect, Honesty, Kindness, Self-control, Tolerance, Cooperation, Responsibility and Citizenship.

3. Treat all students with kindness, consideration and humanity, administering discipline in accordance with regulations of the State Board and the School Board; providing that in no case shall cruel or inhuman punishment be administered to any child attending the public schools.

* * *

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, Sandra Nunez, for two (2) days without pay based upon the foregoing facts and legal authority.

EXECUTED this 12th 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.