

THE BROWARD COUNTY SCHOOL BOARD, FLORIDA

ROBERT W. RUNCIE,
Superintendent of Schools,

Petitioner,

v.

JOANNA MARIE HERRING,

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, Joanna Marie Herring ("HERRING"). The Petitioner seeks a three (3) 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 HERRING.
4. HERRING 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 HERRING is 2120 N.W. 62nd Avenue, Hollywood, Florida 33024.

II. MATERIAL ALLEGATIONS

6. This recommendation is based upon conduct occurring in the 2018-2019 school year.
7. HERRING is a Language Arts teacher at McArthur High School (hereinafter "McArthur").
8. The School Board hired HERRING on October 22, 2007.
9. During the 2018-2019 School Year, HERRING repeatedly failed to report to work per contractual time.
10. During the 2018-2019 school year, HERRING failed to comply with a code drill procedure.

11. During the 2018-2019 school year, HERRING repeatedly failed to provide timely feedback to students and enter grades in Pinnacle on a timely basis.

Attendance and Reporting

12. On or about August 8, 2018, HERRING did not call in and subsequently reported to work at 12:00 noon, after the contracted time of 7:10 A.M.
13. On or about August 14, 2018, HERRING arrived late to a department meeting, and did not show for the First Day Procedure Faculty meeting.
14. On or about August 31, 2018, HERRING did not call in her absence until 8:19 A.M. on sub central system, and did not notify the front office staff.
15. During the next month of school, HERRING continued her pattern of arriving to school after the contracted time of 7:10 A.M.
16. On or about September 4, 2018, HERRING arrived on campus at 7:45 A.M., after the contracted time of 7:10 A.M.
17. On or about September 5, 2018, HERRING arrived on campus at 7:45 A.M., after the contracted time of 7:10 A.M.
18. On or about September 13, 2018, HERRING arrived on campus at 7:16 A.M., after the contracted time of 7:10 A.M.
19. On or about September 14, 2018, HERRING arrived on campus at 7:20 A.M., after the contracted time of 7:10 A.M.

20. On or about September 17, 2018, HERRING arrived on campus at 7:47 A.M., after the contracted time of 7:10 A.M.
21. Further, HERRING was absent seventeen (17) days during the 2018-2019 school year, despite previous directives concerning her excessive absenteeism.

Security Protocols

22. On or about September 4, 2018, during a Code Red Drill, HERRING kept the lights on in full view of the window.
23. As a result, the Security Specialist entered the classroom during the drill and reviewed the drill procedures. Specifically, the Teacher Handbook states during Code Red: "Turn off lights."

Communication with Students and Parents

24. HERRING repeatedly failed to provide timely feedback to students and enter grades in Pinnacle within seventy-two (72) hours of the assigned activity, pursuant to the Teacher Handbook.
25. On or about May 23, 2019, student, R.T., stated, "In Ms. Herring class I've ask in the past and now about putting grades in... Ms. Herring been putting grades at the last minute..."
26. Another student, N.P., stated, "students complain about grades would not be put in the system... she always waits

until the last minute. When we address the situation she gets mad and yells."

27. On or about May 28, 2019, student, M.F., stated, "Ms. Herring does not put in any of my grades."
28. Further student T.J. stated, HERRING "has not been putting my grades in on time... she always wait to [t]he very [l]ast weeks of the [q]uarter... I can't make it up if I get anything wrong."
29. HERRING repeatedly failed to notify parents of failing students that their children were receiving failing grades in HERRING's class.
30. On or about May 30, 2019, JoAnn Ruiz, met with HERRING to discuss entering grades, the number of failing students and lack of RTI strategies entered in BASIS, and whether she has made contact with homes of those students failing, to which HENNING stated she does not have time.

III. PREVIOUS DISCIPLINE AND CORRECTIVE ACTION

SUMMARY MEMOS

31. On or about September 12, 2011, HERRING was directed to reduce the number of students in her classes receiving D's and F's to not more than 35% through the remediation, reteaching, and reassessing of skills and concepts in the class.

32. On or about March 11, 2013, HERRING was issued a Meeting Summary advising her of the following expectations:

- You will comply with all teacher responsibilities as they relate to entering grades in Pinnacle.
- You will communicate questions or concerns regarding entering grades into Pinnacle prior to specified deadlines.
- The aforementioned communication will be attempted both verbally, and in writing, in order to ensure documentation.

33. On or about April 5, 2017, HERRING was issued a Meeting Summary and Expectations Memo regarding her failure to report to work per contractual time, advising her of the following expectations:

- You will comply with all teacher responsibilities as they relate to the school day. Taken from the Faculty Handbook, "THE SCHOOL DAY: Instructional Personnel are required by law to work 196 days, 180 of which must be devoted to full-time instruction. Instructional personnel must be on duty a minimum of seven and one-half (7 1/2) hours daily. The workday for instructional personnel is 7:10 a.m. - 2:40 p.m."

- You will comply with all teacher responsibilities as they relate to Faculty Tardies. Taken from the Faculty Handbook, "FACULTY TARDIES: Teachers are expected to report to work on time. If you are not in your classroom and have not notified the office that you are going to be late, you will be considered absent.
- You will follow all policies and procedures that are outlined by the faculty handbook School Board of Broward County.

34. On or about January 19, 2018, HERRING was issued an Excessive Absenteeism Memo, relating to her being absent from work since January 9, 2018, and having exhausted accumulated sick leave.

35. On or about August 28, 2018, HERRING was issued an Excessive Absenteeism Memo regarding absences from the previous school year and directing her to provide a doctor's note for all future absences.

VERBAL REPRIMANDS

36. On or about June 6, 2017, HERRING received a verbal reprimand for failure to report to work per contractual time.

37. On or about October 27, 2017, HERRING received a verbal reprimand for failure to provide timely feedback to students; entering grades in Pinnacle within timeframes.

WRITTEN REPRIMANDS

38. On or about December 22, 2017, HERRING received a written reprimand for failure to report to work per contractual time, untimely feedback to students; and entering grades in Pinnacle.

39. On or about June 4, 2018, HERRING received a written reprimand for not providing timely feedback to students; and entering grades in Pinnacle.

IV. ADMINISTRATIVE CHARGES

40. Petitioner realleges and incorporates herein by reference the allegations set forth in paragraphs one (1) through thirty-nine (39) above.

41. 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.

42. "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.
- D. "Gross Insubordination" means intentional refusal to obey a direct order, reasonable in nature, and given by and with proper authority; misfeasance, or malfeasance

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

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

43. Respondent's actions constitute just cause to suspend her for three (3) days without pay.

B. MISCONDUCT IN OFFICE

44. Respondent's actions, as alleged in paragraphs nine (9) through thirty (30), 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)(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

45. 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

² Emphasis added.

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.

C. INCOMPETENCY

46. Respondent's actions, as alleged in paragraphs nine (9) through thirty (30), 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;
3. Failure to communicate appropriately with and relate to colleagues, administrators, subordinates, or parents;

* * *

5. Excessive absences or tardiness.

D. GROSS INSUBORDINATION

47. Respondent's actions, as alleged in paragraphs nine (9) through thirty (30), incorporated herein by reference, following directives of her supervisors to the contrary, 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.

E. WILLFUL NEGLECT OF DUTY

48. Respondent's actions, as alleged in paragraphs nine (9) through thirty (30), incorporated herein by reference, constitute willful neglect of duty. "Willful neglect of duty" means intentional or reckless failure to carry out required duties.

F. SCHOOL BOARD POLICY 4008

49. Respondent's actions, as alleged in paragraphs nine (9) through thirty (30), incorporated herein by reference, are 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.

50. 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.
- * * *
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.

* * *

10. Under the direction of the school principal, give instructions in and hold such fire and emergency drills as may be prescribed by law, by regulations of the State Board and of the School Board, and as otherwise may be deemed necessary.

* * *

51. Respondent's actions, as alleged in paragraphs nine (9), and twelve through twenty-one (21), incorporated herein by reference, are also in violation of School Board Policy 4008(C), which requires instructional personnel to work 196 days, 180 of which must be devoted to working full-time on instructional matters. Instructional personnel must be on duty a minimum of seven and one-half (7 1/2) hours daily.

G. SCHOOL BOARD POLICY 4.9

52. 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."
53. 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

* * *

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

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H. FLORIDA STATUTE § 1012.67

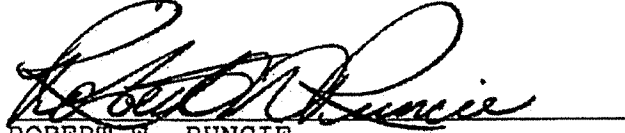
54. Respondent's actions, as alleged in paragraphs nine (9), and twelve through twenty-one (21), incorporated herein by reference, are in violation of F.S. 1012.67 titled, "Absence without Leave" which states, "[a]ny district school board employee who is willfully absent from duty without leave shall forfeit compensation for the time of such absence, and his or her employment shall be subject to termination by the district 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, Joanna Marie Herring, for three (3)

days without pay 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 Griffin, Esq.
Assistant General Counsel