

THE BROWARD COUNTY SCHOOL BOARD, FLORIDA

ROBERT W. RUNCIE,  
Superintendent of Schools,

Petitioner,

v.

JENNIFER JEDLICKA AUSTIN,

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, Jennifer Jedlicka Austin ("AUSTIN"). The Petitioner seeks a one (1) 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 AUSTIN.
4. AUSTIN 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 AUSTIN is 1110 N.W. 95<sup>th</sup> Avenue, Plantation, Florida 33322.

## **II. MATERIAL ALLEGATIONS**

6. This recommendation is based upon conduct occurring in the 2018-2019 school year.
7. AUSTIN is an ESE Support Facilitator teacher at Tamarac Elementary School (hereinafter "Tamarac").
8. The School Board hired AUSTIN on July 1, 1994.

9. On or about November 19, 2018, AUSTIN applied a prohibited manual or physical restraint.
10. On or about November 19, 2018, AUSTIN called the front office for assistance with a disobedient student, S.G.
11. Roberta Ray (hereinafter "RAY"), Principal of Tamarac Elementary School, learned that AUSTIN had S.G. in RAY's office.
12. When RAY reached her office, Ray found AUSTIN alone with S.G., who was upset, throwing objects, and hitting AUSTIN.
13. RAY attempted to talk to S.G. to find out what was wrong. As RAY started walking towards S.G., he began yelling, hit RAY, and then crawled under the table.
14. S.G. then pushed chairs away as he ran out from under the table.
15. S.G. continued to run around the office throwing objects at RAY and AUSTIN, hitting them both.
16. As RAY walked toward her desk, she heard AUSTIN say, "[O]K S.G. That's enough."
17. RAY then saw AUSTIN turn S.G. around so that he was facing away from her. AUSTIN then grasped S.G. by his wrists and forced him on his knees, and then into a prone position.
18. AUSTIN proceeded to straddle S.G. and place her fingers in a "U" shape over his wrists, pinning him to the floor.

19. Austin is not permitted to restrain students because she has not completed the PCM training that is required before an employee is permitted to restrain students.
20. Austin applied a non-PCM restraint.
21. RAY walked toward them and could see S.G. kicking AUSTIN'S bottom and telling AUSTIN to get off. RAY immediately directed AUSTIN to let S.G. go, stating "Jen, you have to let him up". AUSTIN complied and released S.G. from the prone position.
22. Austin failed to exercise reasonable efforts to immediately notify the parent or guardian of S.G.'s restraint.

### **III. ADMINISTRATIVE CHARGES**

23. Petitioner realleges and incorporates herein by reference the allegations set forth in paragraphs nine (9) through twenty-two (22) above.
24. 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.

25. "Just cause" means cause that is legally sufficient. "Just cause" includes, **but is not limited to:**

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- 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;
  - 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.

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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.

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**IV. JUST CAUSE FOR DISCIPLINE**

**A. JUST CAUSE**

26. Respondent's actions constitute just cause to suspend her for one (1) day without pay.

**B. MISCONDUCT IN OFFICE**

27. Respondent's actions, as alleged in paragraphs nine (9) through twenty-two (22), 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

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

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(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:

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<sup>2</sup> Emphasis added.

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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**C. INCOMPETENCY**

29. Respondent's actions, as alleged in paragraphs nine (9) through twenty-two (22), 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<sup>3</sup>;**

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**D. § 1003.573, FLA. STAT.**

30. Respondent's actions, as alleged in paragraphs one (1) through twenty-two (22), incorporated herein by reference, violated § 1003.573, Fla. Stat.

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<sup>3</sup> Emphasis added.

**E. SCHOOL BOARD POLICY 4008**

31. Respondent's actions, as alleged in paragraphs one (1) through twenty-two (22), 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.

32. 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.

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

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

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

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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, Jennifer Jedlicka Austin, for one (1) day without pay based upon the foregoing facts and legal authority.

EXECUTED this 4<sup>th</sup> day of September 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 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.

THIS HAS BEEN ISSUED AT THE REQUEST OF:  
Douglas G. Griffin, Esq., (754)321-2050

RECEIVED THIS NOTICE AND ADMINISTRATIVE COMPLAINT ON:

September 9, 2019, at 08:15 o'clock,  
A.m., and served the same on September 9,  
2019, at 10:23 o'clock, A.m., by delivering a  
true copy thereof to: Jennifer Jedlicka Austin

COMPLETE IF SERVED BY SWORN LAW ENFORCEMENT OFFICER

September 9, 2019, at 10:23  
o'clock, A.m. By: DET. Ronnie Dimler #114  
Title: DETECTIVE R.D. #114