

THE BROWARD COUNTY SCHOOL BOARD, FLORIDA

ROBERT W. RUNCIE,
Superintendent of Schools,

Petitioner,

v.

KENNETH W. MILLER,

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, Kenneth W. Miller ("Miller"). 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 Miller.
4. Miller 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 Miller is 3004 NE 5th Terrace, Number 316, Wilton Manors, Florida, 33334.

II. MATERIAL ALLEGATIONS

6. This recommendation is based upon conduct occurring in the 2019-2020 school year.
7. Miller is a social science teacher at Whiddon-Rogers Education Center (hereinafter "Whiddon-Rogers").
8. The School Board hired Miller on September 1, 1981.
9. On or about August 26, 2019, Miller received the Employee Handbook for school year 2019-2020. *Please see Exhibit "A."*
10. On or about October 1, 2019, Miller overheard students talking about another student, M.G., who threatened to shoot up Whiddon-Rogers.

11. The next day, on or about October 2, 2019, at approximately 11:50 P.M., another staff member of Whiddon-Rogers reported the threat to an administrator.
12. On or October 3, 2019, the administrator read the text message and assembled the Behavioral Threat Assessment (hereinafter "BTA") process when M.G. arrived at Whiddon-Rogers.
13. During the BTA process it was learned students heard M.G. first make the threat to shoot up Whiddon-Rogers during Miller's fourth period class.
14. An administrator then questioned Miller about the shooting threat, to which Miller replied, "Oh yeah. I guess I should have reported it. I made a mistake."
15. Miller further stated he spoke with M.G. and told M.G. not to say things like that.
16. Miller stated M.G. previously displayed defiant and argumentative behavior.
17. At a later meeting regarding the threat to shoot up Whiddon-Rogers, Miller again stated he should have reported the threat and made a mistake.
18. Miller did not follow the school's procedure for threat assessments, which states, "Staff members are instructed to immediately report any threat to an administrator." Please see Employee handbook 2019-2020.

III. PREVIOUS DISCIPLINE AND CORRECTIVE ACTION

WRITTEN REPRIMANDS

19. On September 18, 2007, Miller received a Letter of Reprimand for inappropriate conduct for making physical contact with a student.

IV. ADMINISTRATIVE CHARGES

20. Petitioner realleges and incorporates herein by reference the allegations set forth in paragraphs one (1) through nineteen (19) above.
21. 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.
22. "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;**

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

- d) Behavior that disrupts the student's learning environment; or
 - e) Behavior that reduces the teacher's ability or his or his 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 students²;**
 - 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.

V. JUST CAUSE FOR DISCIPLINE

A. JUST CAUSE

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

B. MISCONDUCT IN OFFICE

24. Respondent's actions, as alleged in paragraphs one (1) through nineteen (19), incorporated herein and 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

² Emphasis added.

(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

25. 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.

(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

26. Respondent's actions, as alleged in paragraphs one (1) through nineteen (19), 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.

³ Emphasis added.

(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 students⁴;**

D. SCHOOL BOARD POLICY 4008

27. Respondent's actions, as alleged in paragraphs one (1) through nineteen (19), 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.

28. 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.

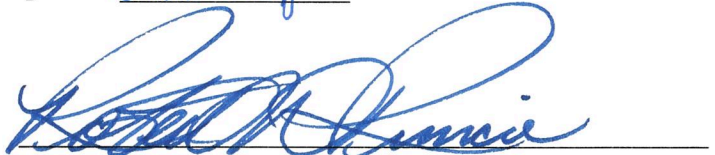
8. Conform to all rules and regulations that may be prescribed by the State Board and by the School Board.

⁴ Emphasis added.

DEMAND FOR RELIEF

WHEREFORE, based upon the foregoing, Petitioner, Robert W. Runcie, Superintendent of Schools, recommends that the School Board suspend the Respondent, Kenneth W. Miller, for one (1) day without pay based upon the foregoing facts and legal authority.

EXECUTED this 6th day of January 2020.



ROBERT W. RUNCIE,
Superintendent of Schools,
Broward County

Respectfully submitted:
Andrew Brett Carrabis, Esq.
Administrative 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.

EXHIBIT A



SCHOOL YEAR 2019-2020

EMPLOYEE HANDBOOK ACKNOWLEDGMENT

I understand it is my responsibility to read and comply with the contents of the Whiddon-Rogers Employee Handbook.

I understand that I am accountable for the information included in the handbook. I have read the Employee Handbook and agree to adhere to the policies and procedures set within them, as well as all other School Board Policies. I understand that failure to comply with any of the policies may result in disciplinary action.

Print Full Name: KENNETH MILLER

Signature: *K. Miller*

Date: 8-26-19

Please, return completed form to Mrs. Claudio by Wednesday, August 14, 2019