

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA  
OFFICE OF THE GENERAL COUNSEL

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BARBARA J. MYRICK  
GENERAL COUNSEL

**MEMORANDUM**

**TO:** School Board Members

**FROM:** Barbara J. Myrick, General Counsel 

**DATE:** September 4, 2020

**SUBJECT: ADDITIONAL INFORMATION**  
**Broward County School Board vs. Latunya Gibbs**  
**DOAH Case No.: 18-005791TTS**  
**Agenda Item 1 – September 8, 2020 Special School Board Meeting**

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Counsels for the parties were asked to provide proposed rulings for each exception with the appropriate citations to the record and/or statements justifying the action as required by the statute to assist the Board in ruling upon the Exceptions. Attached please find:

- (1) Petitioner's Proposed Rulings on Exceptions
- (2) Respondent's Proposed Rulings on Exceptions

If you have any questions, please do not hesitate to contact me.

BJM:jcf  
Enclosures

C: Robert W. Runcie, Superintendent of Schools  
Andrew B. Carrabis, Esq.  
Robert F. McKee, Esq.  
Noemi Gutierrez, Supervisor – Official School Board Records

STATE OF FLORIDA  
SCHOOL BOARD OF BROWARD COUNTY

ROBERT W. RUNCIE,  
Superintendent,

Petitioner,

vs.

DOAH CASE NO. 18-5791TTS

LATUNYA GIBBS,

Respondent.

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**PETITIONER'S PROPOSED RULINGS ON EXCEPTIONS**

The Petitioner, ROBERT W. RUNCIE, as Superintendent of Schools, by and through his undersigned attorney, files the following Proposed Rulings on Exceptions to the Recommended Order (hereinafter "RO") issued by Administrative Law Judge (hereinafter "ALJ") Mary Li Creasy on March 6, 2020, and states as follows:

**A. Exceptions to Findings of Fact**

**1. R's Exception #1 to the ALJ'S Finding of Fact (FOF) #13**

I move that the School Board REJECT Respondent's exception #1 to the ALJ's Finding of Fact (hereinafter "FOF") #13 based on Respondent's, failure to show that the ALJ's finding is unsupported by competent substantial evidence.

**2. R's Exception #2 to the ALJ'S FOF #17**

I move that The School Board REJECT Respondent's exception #2 to the ALJ's FOF #17 based on Respondent's failure to show that the ALJ's finding is unsupported by competent substantial evidence.

**3. R's Exception #3 to the ALJ'S FOF #39**

I move that The School Board REJECT Respondent's exception #3 relating to the ALJ's FOF #39 based on Respondent's failure to show that the ALJ's finding is unsupported by competent substantial evidence.

**4. R's Exception #4 to the ALJ'S FOF #40**

I move that The School Board REJECT Respondent's exception #4 relating to the ALJ's FOF #40 based on Respondent's failure to show that the ALJ's finding is unsupported by competent substantial evidence.

**5. R's Exception #5 to the ALJ'S FOF #41**

I move that The School Board REJECT Respondent's exception #5 relating to the ALJ's FOF #41 based on Respondent's failure to show that the ALJ's finding is unsupported by competent substantial evidence.

**6. R's Exception #6 to the ALJ'S FOF #43**

I move that The School Board REJECT Respondent's exception #6 relating to the ALJ's FOF #43 based on Respondent's failure to show that the ALJ's finding is unsupported by competent substantial evidence.

**7. R's Exception #7 to the ALJ'S FOF #52**

I move that The School Board REJECT Respondent's exception #7 relating to the ALJ's FOF #52 based on Respondent's failure to show that the ALJ's finding is unsupported by competent substantial evidence.

**8. R's Exception #8 to the ALJ'S FOF #53**

I move that The School Board REJECT Respondent's exception #8 relating to the ALJ's FOF #53 based on Respondent's failure to show that the ALJ's finding is unsupported by competent substantial evidence.

**9. R's Exception #9 to the ALJ'S FOF #54**

I move that The School Board REJECT Respondent's exception #9 relating to the ALJ's FOF #54 based on Respondent's failure to show that the ALJ's finding is unsupported by competent substantial evidence.

**10. R's Exception #10 to the ALJ'S FOF #55**

I move that The School Board REJECT Respondent's exception #10 relating to the ALJ's FOF #55 based on Respondent's failure to show that the ALJ's finding is unsupported by competent substantial evidence.

**B. Exceptions to Conclusions of Law**

**11. R's Exception #11 to the ALJ'S Conclusions of Law (COL) #66**

I move that The School Board REJECT Respondent's exception #11 relating to the ALJ's Conclusions of Law (hereinafter "COL") #66 in the RO.

**12. R's Exception #12 to the ALJ'S Conclusions of Law (COL) #68**

I move that The School Board REJECT Respondent's exception #12 relating to the ALJ's COL #68 in the RO.

**13. R's Exception #13 to the ALJ'S Conclusions of Law (COL) #69**

I move that The School Board REJECT Respondent's exception #13 relating to the ALJ's COL #69 in the RO.

**14. R's Exception #14 to the ALJ'S Conclusions of Law (COL) #70**

I move that The School Board REJECT Respondent's exception #14 relating to the ALJ's COL #70 in the RO.

**15. R's Exception #15 to the ALJ'S Conclusions of Law (COL) #72**

I move that The School Board REJECT Respondent's exception #15 relating to the ALJ's COL #72 in the RO.

**16. R's Exception #16 to the ALJ'S Conclusions of Law (COL) #74**

I move that The School Board REJECT Respondent's exception #16 relating to the ALJ's COL #74 in the RO.

**17. R's Exception #17 to the ALJ'S Conclusions of Law (COL) #75**

I move that The School Board REJECT Respondent's exception #17 relating to the ALJ's COL #75 in the RO.

**18. R's Exception #18 to the ALJ'S Conclusions of Law (COL) #78**

I move that The School Board REJECT Respondent's exception #18 relating to the ALJ's COL #78 in the RO.

**19. R's Exception #19 to the ALJ'S Conclusions of Law (COL) #79**

I move that The School Board REJECT Respondent's exception #19 relating to the ALJ's COL #79 in the RO.

**20. R's Exception #20 to the ALJ'S Conclusions of Law (COL) #83**

I move that The School Board REJECT Respondent's exception #20 relating to the ALJ's COL #83 in the RO.

**21. R's Exception #21 to the ALJ'S Conclusions of Law (COL) #84**

I move that The School Board REJECT Respondent's exception #21 relating to the ALJ's COL #84 in the RO.

**22. R's Exception #22 to the ALJ'S Conclusions of Law (COL) #85**

I move that The School Board REJECT Respondent's exception #22 relating to the ALJ's COL #85 in the RO.

**23. R's Exception #23 to the ALJ'S Conclusions of Law (COL) #88**

I move that The School Board REJECT Respondent's exception #23 relating to the ALJ's COL #88 in the RO.

**24. R's Exception #24 to the ALJ'S Conclusions of Law (COL) #90**

I move that The School Board REJECT Respondent's exception #24 relating to the ALJ's COL #90 in the RO.

**25. R's Exception #25 to the ALJ'S Conclusions of Law (COL) #93**

I move that The School Board REJECT Respondent's exception #25 relating to the ALJ's COL #93 in the RO.

**26. R's Exception #26 to the ALJ'S Conclusions of Law (COL) #97**

I move that The School Board REJECT Respondent's exception #26 relating to the ALJ's COL #97 in the RO.

**27. R's Exception #27 to the ALJ'S Conclusion**

I move that The School Board REJECT Respondent's exception #27 as Respondent did not provide competent substantial evidence or law to overturn the

ALJ's reasonable recommendation of termination which was based on competent and substantial evidence.

Respectfully submitted,

BY: /s/ Andrew B. Carrabis

Andrew B. Carrabis, Esq.

Administrative Counsel

Florida Bar No. 89782

OFFICE OF THE GENERAL COUNSEL

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via email

this 3<sup>rd</sup> day of September, 2020, to:

School Board of Broward County, Florida  
Barbara J. Myrick, General Counsel  
600 Southeast Third Avenue – 11<sup>th</sup> Floor  
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Respectfully submitted,

*/s/ Andrew B. Carrabis* \_\_\_\_\_  
ANDREW B. CARRABIS, ESQ.  
ADMINISTRATIVE COUNSEL

**STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS**

**BROWARD COUNTY SCHOOL  
BOARD,**

**Petitioner,**

**v.**

**Case No. 18-5791TTS**

**LATUNYA GIBBS,**

**Respondent.**

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**RESPONDENT'S PROPOSED RULINGS ON EXCEPTIONS**

1. I move that the School Board ACCEPT Respondent's Exception 1 to the ALJ Finding of Fact 13, and reject the finding based upon the review of the entire record as such finding is not based upon competent substantial evidence.
2. I move that the School Board ACCEPT the Respondent's Exception 2 to the ALJ's Finding of Fact 17, and reject the finding based upon the review of the entire record, as such finding is not based upon competent substantial evidence.
3. I move that the School Board ACCEPT the Respondent's Exception 3 to the ALJ's Finding of Fact 39, and reject the finding based upon the review of the entire record, as such finding is not based upon competent substantial evidence
4. I move that the School Board ACCEPT the Respondent's Exception 4 to the ALJ's Finding of Fact 40, and reject the finding based upon the review of the entire record, as such finding is not based upon competent substantial evidence.
5. I move that the School Board ACCEPT the Respondent's Exception 5 to the ALJ's Finding of Fact 41 , and reject the finding based upon the review of the entire record, as such finding is

not based upon competent substantial evidence.

6. I move that the School Board ACCEPT the Respondent's Exception 6 to the ALJ's Finding of Fact 43, and reject the finding based upon the review of the entire record, as such finding is not based upon competent substantial evidence.
7. I move that the School Board ACCEPT the Respondent's Exception 7 to the ALJ's Finding of Fact 52, and reject the finding based upon the review of the entire record, as such finding is not based upon competent substantial evidence .
8. I move that the School Board ACCEPT the Respondent's Exception 8 to the ALJ's Finding of Fact 53, and reject the finding based upon the review of the entire record, as such finding is not based upon competent substantial evidence.
9. I move that the School Board ACCEPT the Respondent's Exception 9 to the ALJ's Finding of Fact 54, and reject the finding based upon the review of the entire record, as such finding is not based upon competent substantial evidence .
10. I move that the School Board ACCEPT the Respondent's Exception 10 to the ALJ's Finding of Fact 55, and reject the finding based upon the review of the entire record, as such finding is not based upon competent substantial evidence.
11. I move that the School Board ACCEPT the Respondent's Exception 11 to the ALJ's Conclusion of Law 66. Such conclusion by the ALJ is a mixed finding of fact and conclusion of law and the facts so found are not supported by competent record evidence.
12. I move that the School Board ACCEPT the Respondent's Exception 12 to the ALJ's Conclusion of Law 68. The ALJ's conclusion of law is, in fact, a mixed finding of fact and conclusion of law, and the ALJ's finding that the Respondent submitted "fraudulent grading" is not supported by competent substantial record evidence.

13. I move that the School Board ACCEPT the Respondent's Exception 13 to the ALJ's Conclusion of Law 69, inasmuch as the ALJ's finding that the BAS assessments/scores that were logged into BASIS by the Respondent "were false" is not supported by competent record evidence.
14. I move that the School Board ACCEPT the Respondent's Exception 14 to the ALJ's Conclusion of Law 70, inasmuch as the ALJ finding that the Respondent's grading of one of her student's BAS assessments did not square with the same student's FSA score, nor with a reassessment of that student's score by a school board administrator, somehow constitutes proof that all of the Respondent's assessments were incorrect, is not supported by competent evidence in the record.
15. I move that the School Board ACCEPT the Respondent's Exception 15 to the ALJ's Conclusion of Law 72. The ALJ's Conclusion of Law 72 contains a finding of fact that the Respondent's portfolios scores were "false," and such finding is not supported by competent record evidence.
16. I move that the School Board ACCEPT the Respondent's Exception 16 to the ALJ's Conclusion of Law 74, inasmuch as such conclusion contains a finding of fact, i.e., that the Respondent "failed to complete the TA certification course," is not supported by competent record evidence.
17. I move that the School Board ACCEPT the Respondent's Exception 17 to the ALJ's Conclusion of Law 75, insofar as such conclusion contains a finding that the Respondent submitted a "false completion certificate" for the TA certification course. Such Finding of fact is not supported by competent record evidence.
18. I move that the School Board ACCEPT the Respondent's Exception 18 to the ALJ's

Conclusion of Law 78, inasmuch as such conclusion of law contains findings of fact that the Respondent failed to complete BAS assessments; that she failed to maintain portfolios; and that she failed to complete the TA certification course, inasmuch as such findings are not supported by competent record evidence.

19. I move that the School Board ACCEPT the Respondent's Exception 19 to the ALJ's Conclusion of Law 79, inasmuch as such Conclusion of Law contains a finding that the Respondent failed to maintain portfolios, as such finding is not supported by competent record evidence.
20. I move that the School Board ACCEPT the Respondent's Exception 20 to the ALJ's Conclusion of Law 83, inasmuch as the Respondent's alleged failure to comply with the BAS reporting deadline and/or to produce BAS folders, even if true, does not constitute gross insubordination as that term is defined in the statute.
21. I move that the School Board ACCEPT the Respondent's Exception 21 to the ALJ's Conclusion of Law 84, inasmuch as the Respondent's failure to submit multiple choice assessment data constitutes gross insubordination, as that term is defined in the statute.
22. I move that the School Board ACCEPT the Respondent's Exception 22 to the ALJ's Conclusion of Law 85, inasmuch as the Respondent's alleged failure to attend BAS training, even if supported by competent record evidence, does not constitute gross insubordination, as that term is defined in the statute.
23. I move that the School Board ACCEPT the Respondent's Exception 23 to the ALJ's Conclusion of Law 88, inasmuch as such conclusion of law contains findings of fact that the Respondent, either intentionally or recklessly, failed to adhere to certain timelines and deadlines, that she failed to complete the TA certification certificate course and that she failed

to attend BAS-related training are not supported by competent record evidence.

24. I move that the School Board ACCEPT the Respondent's Exception 24 to the ALJ's Conclusion of Law 90, to the extent that such conclusion contains findings that the Respondent failed to complete BAS assessments; that she submitted false BAS assessments; that she failed to document her students' completion of portfolio work; that she submitted false student portfolio scores; that she failed to allow her students to practice for the FSA on their assigned computers; that she failed successfully to complete the TA certificate course; that she submitted a false TA certificate; and that she did not maintain accurate student records, are not supported competent record evidence.

25. I move that the School Board ACCEPT the Respondent's Exception 25 to the ALJ's Conclusion of Law 93, to the extent that such conclusion of law contains findings that the Respondent failed to assess her students' reading levels; that she falsified BAS scores; and that she falsified portfolio scores and the results of multiple choice tests are not supported by competent record evidence.

26. I move that the School Board ACCEPT the Respondent's Exception 26 to the ALJ's Conclusion of Law 97, inasmuch as the ALJ incorrectly considered the issuance to the Respondent of summary memoranda as the imposition of prior discipline for the purpose of progressive discipline.

27. I move that the School Board ACCEPT the Respondent's Exception 27 to the ALJ's recommendation that the Respondent's employment with the School Board be terminated. In view of the School Board's acceptance of one or more of the Respondent's exceptions to the ALJ's Findings of Fact and Conclusions of Law, the disciplinary action to be imposed by the School Board, if any, should be less than that that has been recommended by the ALJ, i.e.,

termination of employment.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on September 3, 2020, I forwarded this document to the School Board of Broward County via email transmission ([supt\\_runcie@browardschools.com](mailto:supt_runcie@browardschools.com)) ([barbara.myrick@browardschools.com](mailto:barbara.myrick@browardschools.com)) ([joanne.fritz@browardschools.com](mailto:joanne.fritz@browardschools.com)) and by email to Denise Heekin, Esquire ([dheekin@bmolaw.com](mailto:dheekin@bmolaw.com)), BRYANT MILLER OLIVE, P.A., One SE 3<sup>rd</sup> Avenue, Suite 2200, Miami, FL 33131.

/s/ Robert F. McKee

ROBERT F. McKEE

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