

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

JAMES F. NOTTER, as Superintendent of
Schools,

Petitioner,

v.

RACHEL VON HAGEN,

Respondent.

ADMINISTRATIVE COMPLAINT

Petitioner, James F. Notter, Superintendent of Schools ("Petitioner"), files this Administrative Complaint against, RACHEL VON HAGEN ("VON HAGEN"). The Petitioner seeks the termination of Respondent's employment with the School Board of Broward County, pursuant to Sections 1001.51, 1012.27(5) and 1012.33, Florida Statutes. The Petitioner alleges the following:

JURISDICTIONAL BASIS

1. The agency is the School Board of Broward County, Florida, which is located at 600 Southeast Third Avenue, Fort Lauderdale, Broward County, Florida 33301.
2. Petitioner is the Superintendent of Schools for Broward County, Florida.
3. 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 Broward County School Board.

4. Respondent, was employed, at all times material herein, by the Broward County School Board as a teacher pursuant to a Professional Services Contract and holds a Florida Educational Certificate Number: 881205 covering the areas of Educational Leadership and General Science.
5. VON HAGEN was a teacher at Westglades Middle School during the 2009/2010 school year.

MATERIAL ALLEGATIONS

6. On or about August 13, 2007, Respondent, while accompanied by her two (2) minor children, removed merchandise from a retail establishment without paying for it and with the intention of converting it to her own use. Respondent was arrested and charged with one count of Felony Retail Theft. On or about December 19, 2007, Respondent pled guilty to the charge and the court withheld adjudication of guilt. These events were never brought to the attention of the school district.
7. On or about November 24, 2007, Respondent was observed to place retail items in her handbag without paying for them. Law enforcement was called and obtained Respondent's permission to search her handbag. Respondent was illegally in possession of the drugs Oxycodone and Marijuana and of a pipe with Marijuana residue. Respondent was arrested and charged with; Count 1, Possession of Oxycodone; Count 2, Possession of Marijuana and Count 3, Possession of Drug Paraphernalia. On or about September 17, 2008, Respondent entered into a pre-trial intervention program.

8. Respondent entered into the attached Disciplinary Action General Release Agreement on December 4, 2007, which imposed a letter of reprimand, a ten (10) day suspension, Employee Assistant Program and a random drug/alcohol testing for a two (2) year period.
9. Concerning the Respondent's November 24, 2007 felony arrest, the Agreement in Section 2(a) provides in part:

....any further violations of the standards of the educational profession will result in further disciplinary action being taken against Von Hagen up through and including termination of her employment with the School Board.
10. On or about November 22, 2008, Respondent removed merchandise from a retail establishment with the intention of converting it to her own use. Respondent was arrested and charged with one count of Retail Theft. On or about March 13, 2009, Respondent pled guilty to the charge and the court withheld adjudication of guilt. This event was never brought to the attention of the School District.
11. Respondent's plea of guilty to the 2008 charge of Retail Theft constituted a violation of the probation imposed as a result of Respondent's 2007 arrest for Retail Theft. On or about January 22, 2009, Respondent admitted the violation and agreed to an order modifying her probation.
12. On or about May 28, 2010, Respondent, while operating her vehicle, was stopped by a police in an unmarked car. Respondent was observed with a blue 30mg Oxycodone pill on her lap. Respondent was asked to step out of her vehicle whereupon two (2) more pills were found on her seat and one (1) pill on the floor.

A search of the Respondent's purse uncovered two (2) more pills. Respondent was arrested and charged with possession of controlled substance, Oxycodone, which is a third degree felony.

13. Respondent's conduct concerning her November 22, 2008 arrest for Retail Theft and her May 28, 2010 arrest for Possession of a Controlled Substance violates the Disciplinary Action Agreement dated December 4, 2007.

ADMINISTRATIVE CHARGES

14. Just cause exists for the requested relief, pursuant to Fla. Stat. §§ 1012.33(1)(a). Respondent's employment contract and School Board rules and regulations, including but not limited to the following:

COUNT 1: IMMORALITY

15. Respondent's act or acts violates Fla. Stat. § 1012.33, and Rule 6B-4.009(2) of the Florida Administrative Code. Respondent's acts constitute acts of immorality, that is, conduct inconsistent with the standards of public conscience and good morals. Respondent's conduct is sufficiently notorious to bring Respondent and/or the educational profession into public disgrace or disrespect, and impair Respondent's service in the community.

COUNT 2: GROSS INSUBORDINATION/WILLFUL NEGLECT OF DUTIES

16. Respondent's actions in refusing to obey a direct order, reasonable in nature and given by and with proper authority is violative of Rule 6B-4.009(4) of the Florida Administrative Code.

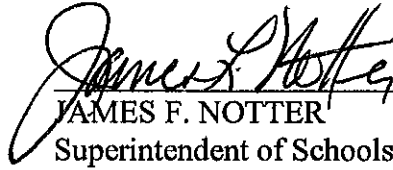
COUNT 3: MORAL TURPITUDE

17. Respondent has violated Fla. Stat. § 1012.33 and Rule 6B-4.009(6) of the Florida Administrative Code. Respondent's acts constitute acts of moral turpitude, that is, acts of baseness, vileness or depravity in the private and social duties, which, according to the accepted standards of the time, a person owes to his fellow human or to society in general, and the doing of the act itself and not its prohibition by statute fixes the moral turpitude.
18. This Administrative Complaint is brought pursuant to the authority outlined in Fla. Stat. §§ 120.57; 1001.42; 1012.22; 1006.07; 1006.28; 1006.21; 1001.50; 1001.49; 1001.51; 1012.27; 1006.08; 1012.33(1)(a) and Chapters 6B-1 and 6B-4 of the Florida Administrative Code.

DEMAND FOR RELIEF

WHEREFORE, based upon the foregoing, Petitioner, James F. Notter, Superintendent of Schools, recommends the dismissal of the Respondent, RACHEL VON HAGEN, from her employment with the School Board of Broward County, based upon the foregoing facts and legal authority. Petitioner further, recommends the immediate suspension of Respondent without further pay or benefits in the event the Respondent should challenge the school board's recommendation of the termination of her employment.

EXECUTED this _____ day of December, 2010.



JAMES F. NOTTER
Superintendent of Schools, Broward County

Prepared by Charles T. Whitelock, P.A.

DISCIPLINARY ACTION AND GENERAL RELEASE AGREEMENT

THIS DISCIPLINARY ACTION AND GENERAL RELEASE AGREEMENT, hereinafter referred to as "Agreement," is entered into between RACHEL VON HAGEN, hereinafter referred to as "Von Hagen" and The School Board of Broward County, hereinafter referred to as "School Board." "School Board" shall at all times include the School Board of Broward County, as well as each and every one of its current and former members, Superintendents, officers, agents, attorneys, employees and officials, in both their official capacities and as individuals, and their successors and assigns.

WHEREAS, Von Hagen is employed as a Teacher and currently assigned to Westglades Middle School for the 2007/2008 school year; and

WHEREAS, certain allegations of misconduct were investigated by the Special Investigative Unit; and

WHEREAS, those allegations of misconduct resulted in a recommendation by the Superintendent for disciplinary action up to and including termination of employment; and

WHEREAS, Von Hagen neither admits nor denies the allegations of misconduct, but chooses not to contest the allegations for the purposes of this agreement; and

WHEREAS, the parties agree to this disciplinary action, which permits Von Hagen to continue her employment with the School Board, subject to the terms and conditions herein.

NOW, THEREFORE, in lieu of other disciplinary measures, including termination of employment and in consideration of the mutual covenants contained herein, the parties, intending to be legally bound, do hereby stipulate and agree as follows:

1. All of the above statements are true and correct to the best of the parties' belief and knowledge.
2. That the following disciplinary action be imposed:
 - (a) Von Hagen is hereby reprimanded for her misconduct as described in the SIU Investigative Report. Von Hagen is reminded that, as an educator, she is required to exercise a measure of leadership beyond reproach. By her actions, Von Hagen has lessened the reputation of all who practice in the educational profession. The education profession cannot condone her actions, nor the public whom we serve. Any further violations of the

standards of the educational profession will result in further disciplinary action being taken against Von Hagen up through and including termination of her employment with the School Board.

- (b) Von Hagen shall be suspended for a period of ten (10) days, without pay, the dates of which will be determined by the Superintendent or his designee. As follows: from 12/12/2007 to 1/7/2008.
 - (c) Von Hagen shall submit to the Employee Assistant Program (EAP) and follow all recommended counseling or treatment until released from such program. Von Hagen shall provide to the School Board written verification of successful completion of the EAP within thirty (30) days from the completion of such program. All costs are to be borne by Von Hagen.
 - (d) Von Hagen shall be subject to random drug/alcohol testing for a two (2) year period commencing upon approval of this agreement by the School Board. The testing may be requested by the Superintendent or designee. All costs are to be borne by Von Hagen.
3. The parties and their attorneys/representatives agree that this is a fair and equitable resolution of this matter. This Agreement and the action taken herein will become a part of Von Hagen's employment history with The School Board. This Agreement and the investigative file on which it is predicated will become public record within 10 days from the execution of this Agreement in accordance with Florida law and Administrative Code.
4. It is understood and agreed to by Von Hagen that this Agreement operates as a General Release of the School Board, which release excludes any pending claim or workers compensation claim, including any right of appeal or any other form of redress, arising under any of the following:
- (A) any provisions of the School Board policy; or
 - (B) the Florida Administrative Procedure Act, (Chapter 120, Florida Statute); or
 - (C) the applicable Collective Bargaining Agreement between the Broward

Teachers Union; or

(D) any other provisions under law, or in equity, or in any other manner whatsoever.

5. It is understood and agreed to by Von Hagen that this Agreement operates as a General Release of the School Board, which includes but is not limited to, any and all claims arising under federal, state or local laws, prohibiting discrimination or claims growing out of the Superintendent's and School Board's right to discipline and direct employees, including grievances and claims under:

- 42 U.S.C. 1981, 83;
- Title VII of the Civil Rights Act of 1964;
- The Equal Pay Act of 1963;
- The Civil Rights Act of 1991;
- The Civil Rights Act of 1866;
- The Rehabilitation Act of 1973;
- The Age Discrimination in Employment Act;
- The Americans with Disabilities Act;
- The Florida Human Rights Act;
- The Public Employee Relations Act;
- The Employee Retirement Income Security Act of 1974;
- The applicable Collective Bargaining Agreement between The School Board of Broward County and The Broward Teachers Union;
- Any other federal or state statute or local ordinance or law which may apply to civil rights or employment discrimination of any kind or nature; and
- Tort claims of every kind, including but not limited to defamation, intentional infliction of emotional distress, loss of consortium, interference with business relations, etc.

The above list is intended to be illustrative and not all-inclusive. The parties acknowledge that this Release does not include the pending workers compensation claim or any other present claim of Von Hagen. However, this Release does include any claim regarding this disciplinary action and its investigative process.

6. Von Hagen acknowledges that with respect to the rights and claims which are being waived, Von Hagen not only waives the right to recover in any action she might

Rachel Von Hagen
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commence, but also waives any right to recover from any action brought on her behalf by the Equal Employment Commission or any other federal, state or local governmental agency or department or any other entity or individual.

7. It is understood and agreed to by all parties hereto that this Agreement is executed based on the unique and specific circumstances of this case and does not establish a precedent, nor may it be cited for the resolution of other cases.
8. This Agreement shall be interpreted pursuant to the laws of the State of Florida.
9. It is understood and agreed to by all parties hereto that this Agreement represents their final and complete understanding with respect to the subject matter hereof. This Agreement supersedes all prior or contemporaneous promises, covenants, agreements or representations concerning all matters directly, indirectly or collaterally related to the subject matter of this Agreement.
10. Von Hagen hereby acknowledges that she has carefully read and fully understands each paragraph of this Agreement, consisting of four (4) pages, and agrees that the School Board has not made any representations other than those contained herein, including the release of claims as a result of negotiations between the parties. Von Hagen has had sufficient time to consider the provisions of this Agreement and opportunity to consult with an attorney or representative of her choosing prior to executing this Agreement. Von Hagen hereby acknowledges that she is satisfied with the legal advice and representation rendered to her throughout this matter and in conjunction with the execution of this Agreement.
11. THIS SETTLEMENT AGREEMENT shall become effective upon the execution of all parties and approval by the School Board. If the School Board does not approve this agreement, for whatever reason, it shall be ineffective and void.


RACHEL VON HAGEN

12-4-07
DATE


SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

12-6-07
DATE

LEGAL REPRESENTATIVE

DATE