

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

ROBERT W. RUNCIE, as Superintendent of
Schools,

DOAH CASE NO:

Petitioner,

v.

EDOUARD JEAN,

Respondent.

ADMINISTRATIVE COMPLAINT

Petitioner, Robert W. Runcie, Superintendent of Schools ("Petitioner"), files this Administrative Complaint against, EDOUARD JEAN ("JEAN"). The Petitioner seeks the termination of Respondent's employment with the School Board of Broward County ("SBBC"), 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 SBBC.
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 SBBC.
4. Respondent, was employed, at all times material herein, as an ESE teacher at Crystal Lake Middle School, pursuant to a Professional Services Contract, issued in accordance with Section 1012.33(3)(a), Florida Statutes.

MATERIAL ALLEGATIONS

5. On October 4, 2013, an occupational therapist, who is a contract vendor, was in Respondent's SVE classroom. The therapist observed Respondent interacting with Z.P., a non-verbal and intellectually disabled student. Z.P., while lying on the floor, was being spun around by the Respondent. After a period of time, Respondent verbally requested and gestured for Z.P. to get up off the floor. When Z.P. failed to respond, Respondent retrieved a 12 inch ruler and repeatedly tapped Z.P. to make him get up. As Respondent was tapping Z.P., another student retrieved another ruler, crawled under the table and began to hit a nearby student with the ruler, mimicking Respondent's actions with Z.P. Later, Respondent returned to interacting with Z.P. by again spinning him on the floor.

6. The therapist attempted to contact the school's ESE Specialist, who was not at the school. The therapist returned on October 11th for her next school visit and immediately reported Respondent's conduct to the ESE Specialist and Assistant Principal.

7. The therapist then entered the Respondent's SVE classroom to service her students. Respondent's SVE class was combined with a second SVE class. During the class, Respondent was observed to push one finger into a pressure point on Z.P.'s neck while using two (2) other fingers to squeeze the back of his neck to direct him around the classroom. Thereafter, Respondent began to violently shake Z.P. as a way to "play" with him. At one point, Z.P. climbed on the table with a banana. The students screamed out "Ha, ha, ha, he (Z.P.) looks like a monkey eating a banana." The entire class, including two (2) paraprofessionals, two (2) teachers and one (1) substitute joined in the laughter.

8. Later in the class, Z.P. was observed lying on the floor. Respondent shook a broom/mop handle in Z.P.'s face urging him to get up. When Z.P. did not respond, Respondent began hitting Z.P. with the handle while telling him to get up. When Z.P. did not get up,

Respondent grabbed Z.P. by the back of his shirt and seat of his pants, shaking him as he was being lifted. Z.P., after being placed on his feet, had a frightened look on his face and proceeded to urinate on himself. Several students found the situation amusing, and pointed at Z.P. while laughing at his predicament.

9. The therapist, believing Respondent's actions to be child abuse, immediately left the Respondent's classroom and reported the Respondent's actions to her supervisor and the appropriate authorities.

10. Respondent later gave a sworn statement on November 1, 2013 to the district's investigator. Respondent falsely denied the events took place.

ADMINISTRATIVE CHARGES

11. 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

12. Respondent has violated Fla. Stat. § 1012.33, and Rule 6A-5.056(1) 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 or the educational profession into public disgrace or disrespect, and impair Respondent's service in the community.

COUNT 2: MISCONDUCT IN OFFICE

13. Respondent has violated Fla. Stat. 1012.33 and Rule 6A-5.056(2)(a) and (b) of the Florida Administrative Code. Respondent's acts are defined as a violation of the Code of Ethics of the Educational Profession as adopted in Rule 6B-1.001 F.A.C. and of Principles of

Professional Conduct for the Educational Provisions in Florida, as adopted by Rule 6A-10.081, F.A.C., which includes the following:

- (3) Obligation to the student requires that the individual:**
 - (a) 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.**
 - (e) shall not intentionally expose a student to unnecessary embarrassment or disparagement.**
 - (f) shall not intentionally violate or deny a student's legal rights.**
 - (g) shall not harass or discriminate against any student on the basis of race, color, religion, sex, age, national or ethnic origin, political beliefs, marital status, handicapping condition, sexual orientation, or social and family background and shall make reasonable effort to assure that each student is protected from harassment or discrimination.**
- (4) Obligation to the public requires that the individual:**
 - (b) shall not intentionally distort or misrepresent facts concerning an educational matter in direct or indirect public expression.**
- (5) Obligation to the profession of education requires that the individual:**
 - (a) shall maintain honesty in all professional dealings.**

COUNT 3: MISCONDUCT IN OFFICE

14. Respondent has violated Fla. Stat. 1012.33 and Rule 6A-5.056(2)(c)(d) and (e) of the Florida Administrative Code. Respondent's acts are a violation of the adopted school board rules; behavior that disrupts the student's learning environment; or behavior that reduces the teacher's ability or his or her colleagues' ability to effectively perform duties.

COUNT 4: INCOMPETENCY

15. Respondent has violated Fla. Stat. 1012.33 and Rule 6A-5.056(3)(a) and (b) of the Florida Administrative Code. Respondent's acts are defined as the inability, failure or lack of fitness to discharge the required duty as a result of inefficiency or incapacity.

COUNT 5: CRIMES INVOLVING MORAL TURPITUDE

16. Respondent has violated Fla. Stat. 1012.33 and Rule 6A-5.056(8) of the Florida Administrative Code. Respondent's acts are defined as a violation of one or more of the offenses listed in Section 1012.315, Florida Statutes or in the Rule.

DEMAND FOR RELIEF

WHEREFORE, based upon the foregoing, Petitioner, Robert W. Runcie, Superintendent of Schools, recommends the dismissal of the Respondent, EDOUARD JEAN, from his 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 his employment.

EXECUTED this _____ day of April, 2014.



ROBERT W. RUNCIE,
Superintendent of Schools, Broward County

Attn:
Charles T. Whitelock, Esq.
Cadre Attorney