

**District School Board of Indian River County, Florida
6500 - 57th Street, Vero Beach, FL 32967**

It is hereby advised that if a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, he/she will need to ensure that a verbatim record is made that includes the testimony and evidence upon which the appeal is to be made.

INVOCATION: Shortly before the opening gavel that officially begins a School Board meeting, the Chairman will introduce the Invocation Speaker. No person in attendance is or shall be required to participate in this observance and the personal decision of each person regarding participation will have no impact on his or her right to actively participate in the School Board's business meeting.

Date: June 28, 2016

Time: 4:30 p.m.

Room: Teacher Education Center (TEC)

**Special Called Business Meeting Agenda
For Personnel Matters**

I. CALL MEETING TO ORDER

II. PLEDGE OF ALLEGIANCE TO THE FLAG

III. ACTION AGENDA

A. Approval of Final Order in the Matter of Mark J. Rendell, Ed.D., as Superintendent of the School District of Indian River County, Florida vs. Xiomara DeLuke (Employment Termination) SDIRC Case 2016-01 – Chairman Simchick

On May 31, 2016, the School Board held an evidentiary hearing on the above referenced employment termination matter. The attached, proposed Final Order sets out the facts, conclusions, and decision of the School Board. The School Board is asked to review, discuss, and approve the proposed Final Order. Chairman Simchick recommends approval.

B. Approval to Set Hearing on Suspensions of Instructional Employee, Xiomara DeLuke – Dr. Fritz

On 2 separate occasions, the Superintendent suspended without pay instructional employee, Xiomara DeLuke, by letters dated February 25, 2016, and April 6, 2016. By letter dated April 21, 2016, the employee through her attorney, requested a hearing to contest the suspensions without pay. Copies of the Superintendent's suspension letters and the letter from the employee's attorney requesting a hearing are attached to this agenda item.

1. The Superintendent requests the School Board determine who will hear the matter, either the School Board or an Administrative Hearing Officer assigned by the Division of Administrative Hearings. The School Board has the discretion to hear the case itself, or to refer the case to the Division of Administrative Hearings.
2. In the event the School Board determines it will hear the suspension hearing, a date for the hearing will also need to be set. By law, the hearing must be held within 60 days of the employee's request. However, due to the delay in requesting the scheduling of the hearing, the 60-day timeline has elapsed. Accordingly, the hearing should be set sometime after July 13, 2016, which is the minimum notice (14 days) required for such a hearing. In the event the Division of Administrative Hearings will handle the case, the date of the hearing will be set by that agency.
Superintendent recommends approval.

C. Approval to Terminate Support Staff Employee – Dr. Fritz

The Superintendent recommends termination of support staff employee, Ian Brown. The grounds for this termination are contained in the attached Charging Letter.
Superintendent recommends approval.

IV. ADJOURNMENT

Anyone who needs a special accommodation may contact the School District's American Disabilities Act Coordinator at 564-3175 (TTY 564-8507) at least 48-hours in advance of the meeting. NOTE: Changes and amendments to the agenda can occur prior to the meeting. All business meetings will be held in the Teacher Education Center (TEC) located in the J.A. Thompson Administrative Center at 6500 – 57th Street, Vero Beach, FL 32967, unless otherwise specified. Meeting will be audio taped and will be available on District's website at www.indianriverschools.org. The agenda can be accessed by Internet at <http://www.indianriverschools.org>.

THE SCHOOL BOARD OF INDIAN RIVER COUNTY, FLORIDA

MARK J. RENDELL, Ed.D.,
as Superintendent, the SCHOOL
DISTRICT OF INDIAN RIVER COUNTY,
FLORIDA,

SDIRC CASE NO. 2016-01

Petitioner,

vs.

XIOMARA DELUKE,

Respondent.

_____ /

FINAL ORDER

THIS CAUSE was heard by the School Board of Indian River County, Florida (“School Board”) on May 31, 2016 to consider the recommendation for termination from employment of Xiomara DeLuke. The School Board, sitting as a quasi-judicial body, conducted the hearing pursuant to School Board policy 3140, and § 1012.33, § 120.569, and § 120.57, Florida Statutes.

After considering the testimony, evidence and arguments presented, the School Board makes the following findings and conclusions, and issues this Final Order.

I. Witnesses and Exhibits

1. Petitioner called six witnesses: Roxanne Decker, Craig Kensley, R.C. ¹, E.C., William Fritz and J.T.

2. Respondent called three witnesses: P.D., Mark Rendell and Xiomara DeLuke.

1. For purposes of confidentiality, minor students or their parents will be referred to throughout this Final Order by their initials only.

3. Petitioner submitted ten exhibits. Petitioner's Exhibits 1 through 10 were admitted into evidence.

4. Respondent submitted four exhibits. Respondent's Exhibits 1, 5, 8, and 13 were admitted into evidence.

II. Procedural History

5. On April 18, 2016, the Superintendent of the School District delivered a charging letter to Respondent recommending her termination from employment.

6. By letter dated April 21, 2016, through legal counsel, Respondent requested a hearing to contest the recommendation for termination. The School Board scheduled the requested hearing for May 31, 2016.

7. Respondent requested a continuance of the hearing, which the School Board denied.

III. Issues Presented

8. Whether Respondent violated Rule 6A-5.056, Florida Administrative Code and School Board policy 3140, by committing acts which constitute misconduct in office, and whether such conduct is a terminable offense.

9. Whether Respondent violated Rule 6A-10.081, Florida Administrative Code and School Board policy 3210, by failing to make reasonable effort to protect a student from conditions harmful to learning and/or a student's mental and/or physical health and/or safety, and whether such conduct is a terminable offense.

10. Whether Respondent violated Rule 6A-10.081, Florida Administrative Code and School Board policy 3210, by intentionally exposing a student to unnecessary embarrassment or disparagement, and whether such conduct is a terminable offense.

11. Whether Respondent violated School Board policy 5517.01, by retaliating against any person who reported, is thought to have reported, filed a complaint, or otherwise participated in an investigation or inquiry related to a complaint of aggressive behavior and/or bullying, and whether such conduct is a terminable offense.

12. Whether Respondent violated School Board policy 3140, by committing acts which constitute gross insubordination, and whether such conduct is a terminable offense.

IV. Findings and Conclusions

13. At all relevant times, Respondent was a classroom teacher assigned to teach Spanish at Gifford Middle School in the School District of Indian River County, Florida.

14. During the 2015 – 2016 school year, Respondent was disciplined for alleged inappropriate behavior in the classroom. That discipline was documented in a letter dated February 23, 2016, which directed Respondent not to retaliate against any person involved in the investigation which led to the discipline. Petitioner's Exhibit 5.

15. During the 2015 – 2016 school year, Respondent was disciplined a second time for alleged inappropriate behavior in the classroom. That discipline was documented in a letter dated April 6, 2016, which directed Respondent not to retaliate

against any person involved in the investigation which led to the discipline. Petitioner's Exhibit 7.

16. By letter dated April 18, 2016, Respondent was notified that charges would be brought against her to terminate her employment with the School District arising out of her alleged retaliation against a student who was involved in the investigation described in Petitioner's Exhibit 7. Petitioner's Exhibit 9.

17. A hearing was held at the request of Respondent on May 31, 2016, after due and appropriate notice was given pursuant to the Administrative Procedures Act.

18. Ms. Roxanne Decker, the Principal of Gifford Middle School testified at the hearing. As part of her investigation of the allegations described in Petitioner's Exhibit 7², Ms. Decker requested the names of any witnesses Respondent wished to provide. In defense of the allegation that Respondent told a student to "shut up" or "shut your trap," Respondent requested Ms. Decker interview student E.C. Ms. Decker included E.C. in her investigation at the request of Respondent and Ms. Decker testified E.C. confirmed Respondent told a student, "shut your trap."

19. Shortly after the conclusion of the investigation, which led to the discipline described in Petitioner's Exhibit 7, E.C. came to see Ms. Decker and related she was afraid to go to Respondent's classroom. E.C. related P.D., another student in Respondent's classroom, "flipped her off" in the school courtyard and stated, "I know

2. While the allegations of inappropriate behavior contained in Petitioner's Exhibit 7 are not the subject of the instant hearing or Final Order, general reference is made to the prior investigation only to provide context to the termination charges of retaliation.

what you're doing" to Respondent. In an effort to calm E.C. down, Ms. Decker called E.C.'s mother, R.C. R.C. related to Ms. Decker that Respondent called R.C. the prior evening and asserted E.C. must have been coerced into giving a statement against Respondent.

20. Ms. Decker interpreted the behavior toward E.C. and the communication with R.C. as misconduct, insubordination, and retaliation by Respondent against E.C. for participating in the prior investigation and confirming Respondent told a student "shut your trap."

21. R.C., the parent of E.C., testified at the hearing. R.C. has known Respondent for approximately eight years as their families carpool together.

22. R.C. related she was aware E.C. had participated in the school's investigation of Respondent involving the "shut your trap" allegation. After E.C. participated in the school's investigation, R.C. received a call from Ms. Decker. E.C. was in Ms. Decker's office at school and did not want to go to Respondent's class because P.D. "flipped her off." Thereafter, R.C. received two messages from Respondent on her cellular phone. When she called Respondent back, Respondent asked if E.C. had been coerced into giving a statement against Respondent that was not true. R.C. testified she felt uneasy about the phone call.

23. R.C. also testified E.C. received text messages from P.D. on her cell phone asking if E.C. had been coerced into giving a statement against Respondent. R.C. felt the communication from P.D. was inappropriate. R.C. has not talked with Respondent since that time.

24. E.C. (a minor) also testified at the hearing. E.C. was in Respondent's Spanish class with P.D. E.C. testified she heard Respondent say, "shut your trap" to another student and provided that information to the school when asked. After that, while E.C. was in the courtyard at school, P.D. "flipped her off." E.C. asked P.D. what was wrong and P.D. related "you know what you did." E.C. interpreted this to mean P.D. was referring to the statement E.C. gave about Respondent telling a student to "shut your trap," which upset E.C. E.C. reported this incident to her Principal, Ms. Decker, and told Ms. Decker she did not want to go to Spanish class.

25. E.C. testified she thereafter received a text message from Respondent that said, "Call me." E.C. testified she also received a text message from P.D. asking if she had been coerced into giving a statement against Respondent. E.C. testified she did not respond to either message, and has not spoken to either Respondent or P.D. since that time.

26. E.C. interpreted both text messages as being about E.C.'s confirmation that Respondent told a student to "shut your trap." E.C. testified she was afraid Respondent or P.D. would say something to her in class; that is why E.C. did not want to go to Respondent's class.

27. Dr. William Fritz, the Assistant Superintendent of Human Resources/Risk Management, also testified at the hearing. He attended the investigatory meetings with Respondent which resulted in the disciplinary letters dated February 23, 2016 and April 6, 2016. Petitioner's Exhibits 5 and 7. During each of the meetings with Respondent, Dr. Fritz orally directed Respondent not to retaliate or cause

someone else to engage in retaliatory behavior against any person involved in the investigation.

28. Dr. Fritz related after delivery of the April 6, 2016 letter (Petitioner's Exhibit 7), he became aware of allegations of retaliation by Respondent against a student witness. Dr. Fritz was advised of Respondent's contact with R.C., the parent of a student witness. Dr. Fritz interpreted this behavior by Respondent as retaliation against a person involved in the District investigation.

29. Dr. Fritz was also advised of P.D.'s contact and attempted contacts with E.C., a witness in a District investigation. Dr. Fritz interpreted this behavior also as retaliation by Respondent against a person involved in a District investigation. While P.D. made the contact or attempted contact with E.C., not Respondent, Dr. Fritz concluded only Respondent could have shared details of the District investigation and E.C.'s statement with P.D., thereby tacitly encouraging and causing another to engage in the retaliation. Additionally, Dr. Fritz believed E.C. perceived P.D.'s behavior as retaliation.

30. Based on Respondent's retaliation against E.C., Dr. Fritz recommended Respondent be terminated.

31. P.D. (a minor) testified at the hearing. P.D. was a student in Respondent's classroom and knows E.C.

32. P.D. testified Respondent told him E.C. gave a statement about the "shut your trap" allegation and Respondent told P.D. that E.C. confirmed the allegation. P.D. testified he felt betrayed by E.C. because of her statement against Respondent.

33. P.D. also testified Respondent told him to text E.C. and ask if E.C. was coerced into giving a statement against Respondent, which he did.

34. Respondent also testified at the hearing. She has been a Spanish teacher within the Indian River School District for approximately 19 years. During her testimony, Respondent denied texting E.C. about E.C.'s statement. Respondent admitted texting E.C.'s parent, R.C., and asking R.C. to call Respondent. Respondent testified she provided E.C.'s name as a witness because she believed E.C. would be unbiased. When Respondent learned of E.C.'s statement against her, Respondent indicated she felt betrayed.

35. Respondent testified she told P.D. what E.C. said in her statement about the "shut your trap" allegation. Respondent contradicted herself in her testimony by first stating she told P.D. to stay away from E.C. and then testifying she told P.D. to text E.C. and ask if E.C. was coerced into giving a statement against her. Finally, Respondent testified she only contacted R.C. and had P.D. contact E.C. out of concern for E.C.; Respondent was concerned E.C. was treated poorly during the District investigation.

A. Violation of Rule 6A-5.056, Florida Administrative Code, and School Board Policy 3140 – Misconduct in Office

36. School Board Policy 3140 states in part:

Suspension or Dismissal of Instructional Staff

Any member of the instructional staff who is employed under a professional services contract may be suspended or dismissed at any time during the term of

his/her contract for cause pursuant to provisions of Florida statutes.

37. Rule 6A-5.056, Florida Administrative Code, states in part:

(2) "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.;

(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.

38. Respondent contacting the parent of E.C. and directing P.D. to contact E.C. to question the statement of E.C. in a District investigation of Respondent, and Respondent improperly sharing information about E.C. with P.D. about E.C.'s statement which set in motion P.D.'s "flipping off" E.C. at school, was a gross lack of judgment by Respondent, and established Respondent's misconduct in office.

39. The testimony of E.C. regarding Respondent's attempt to contact her, and P.D.'s contact and attempted contact with her, and the testimony of P.D. regarding Respondent's directive to contact E.C. about her statement during the District investigation was determined to be credible. The testimony of Respondent in which she claimed she contacted R.C., and had P.D. contact E.C., only out of concern for E.C. and

not as retaliation was not determined to be credible. Respondent testified she felt betrayed by E.C. which is reasonably interpreted as the basis for retaliation.

40. E.C. testified she reported P.D.'s behavior towards her in the school courtyard to the school principal because she was concerned about what Respondent and P.D. would do to her, and was concerned about going to Respondent's classroom, which was a reasonable response by E.C. to the circumstances.

41. Based upon the preponderance of the evidence presented, the School Board finds the Superintendent met his burden of proof and established Respondent violated Rule 6A-5.056 and School Board policy 3140 (misconduct in office) by exhibiting behavior and causing others to exhibit behavior which disrupted a student's learning environment. Further, the School Board finds such behavior a terminable offense.

B. Violation of Rule 6A-10.081, Florida Administrative Code, and School Board Policy 3210 – Failing to Make Reasonable Effort to Protect a Student from Conditions Harmful to Learning and/or a Student's Mental and/or Physical Health and/or Safety, and Intentionally Exposing a Student to Unnecessary Embarrassment or Disparagement

42. Rule 6A-10.081(2)(a), Florida Administrative Code, states in part:

(a) Obligation to the student requires that the individual:

1. Shall make reasonable effort to protect the student from conditions harmful learning and/or to the student's mental and/or physical health and/or safety.

5. Shall not intentionally expose a student to unnecessary embarrassment or disparagement.

43. School Board policy 3210 states in part:

A. An instructional staff member shall:

(1) make a 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.

(5) not intentionally expose a student to unnecessary embarrassment or disparagement.

44. Respondent contacting the parent of E.C. and directing P.D. to contact E.C. to question the statement of E.C. in a District investigation of Respondent, and Respondent improperly sharing information about E.C. with P.D. about E.C.'s statement which set in motion P.D.'s "flipping off" E.C. at school was a gross lack of judgment by Respondent and established Respondent's failure to make reasonable effort to protect a student from conditions harmful to learning, and intentionally exposed a student to unnecessary embarrassment and disparagement.

45. Based on the conclusions set forth in paragraphs 39 and 40 above, and based on the preponderance of the evidence presented, the School Board finds the Superintendent met his burden of proof and established Respondent violated Rule 6A-10.081, Florida Administrative Code, and School Board policy 3210, by exhibiting behavior and causing others to exhibit behavior which failed to make a reasonable effort to protect E.C. from conditions harmful to learning, and intentionally exposed E.C. to unnecessary embarrassment and disparagement. Further, the School Board finds such behavior a terminable offense.

C. Violation of School Board policy 5517.01 – Retaliating against Any Person Who Reported, Is Thought to Have Reported, Filed a Complaint, or Otherwise Participated in an Investigation or Inquiry Related to a Complaint of Aggressive Behavior and/or Bullying

46. School Board policy 5517.01 states in part:

Retaliation against any person who reports, is thought to have reported, files a complaint, or otherwise participates in an investigation or inquiry related to a complaint of aggressive behavior and/or bullying is prohibited. Such retaliation shall be considered a serious violation of Board policy and independent of whether a complaint is substantiated.

47. Respondent contacting the parent of E.C. and directing P.D. to contact E.C. to question the statement of E.C. in a District investigation of Respondent, and Respondent improperly sharing information about E.C. with P.D. about E.C.'s statement which set in motion P.D.'s "flipping off" E.C. at school was a gross lack of judgment by Respondent, and established Respondent retaliated against E.C. for participating in an investigation related to a complaint against Respondent of aggressive behavior, i.e., saying "shut your trap" to another student.

48. Based on the conclusions set forth in paragraphs 39 and 40 above, and based on the preponderance of the evidence presented, the School Board finds the Superintendent met his burden of proof, and established Respondent violated School Board policy 5517.01 by exhibiting behavior and causing others to exhibit behavior in retaliation of E.C.'s participation in a District investigation about Respondent. Further, the School Board finds such behavior a terminable offense.

D. Violation of School Board policy 3140 – Gross Insubordination

49. School Board policy 3140 states in part:

Suspension or Dismissal of Instructional Staff

Any member of the instructional staff who is employed under a professional services contract may be suspended or dismissed at any time during the term of his/her contract for cause pursuant to provisions of Florida statutes.

50. Rule 6A-5.056, Florida Administrative Code, defines gross insubordination as “the intentional refusal to obey a direct order, reasonable in nature, and given by and with proper authority.”

51. Respondent contacting the parent of E.C. and directing P.D. to contact E.C. to question the statement of E.C. in a District investigation of Respondent, and Respondent improperly sharing information about E.C. with P.D. about E.C.’s statement which set in motion P.D.’s “flipping off” E.C. at school, after Respondent was directed orally by Dr. Fritz and in writing (Petitioner’s Exhibits 5 and 7), not to take any action toward any person involved in the District’s investigation of the “shut your trap” allegation, or communicate with such person in any way that could be considered to be retaliatory, was gross insubordination. Despite these oral and written directives, Respondent contacted the parent of a student witness and directed another student to contact the same student witness to question the statement given.

52. Based on the conclusions set forth in paragraphs 39 and 40 above, and based on the preponderance of the evidence presented, the School Board finds the Superintendent met his burden of proof and established Respondent violated School

Board policy 3140 by committing acts which constitute gross insubordination. Further, the School Board finds such behavior a terminable offense.

53. The School Board as the trier of fact may determine in its discretion the believability of any witnesses, the weight to be given to the exhibits and the testimony of any witnesses, and the reasonableness of the testimony of the witnesses, considered in light of the evidence in the case and in light of the School Board members own experience and common sense.

V. Final Order

54. The findings and conclusions in the preceding sections constitute just cause for termination.

55. Respondent is terminated from employment.

DONE AND RENDERED this _____ day of June 2016, in Indian River County, Florida.

THE SCHOOL BOARD OF INDIAN RIVER
COUNTY, FLORIDA

By: _____
Dale Simchick, Chairman

CERTIFICATE OF SERVICE

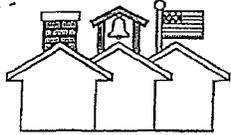
I HEREBY CERTIFY that a true and correct copy of the foregoing was served on: Elizabeth Coke, Esquire, via e-mail at rc@richesonpa.com, and via U.S. First Class Mail at Richeson & Coke, P.A., P.O. Box 4048, Ft. Pierce, Florida 34948, and Nicholas Caggia, Esquire, via e-mail at nick@tjlawpa.com and via U.S. First Class Mail at Law Office of Thomas Johnson, P.A., 510 Vonderburg Drive, Suite 309, Brandon, Florida 33511, on this ____ day of _____ 2016.

By: _____
**Judy Stang, Clerk to the School Board
of Indian River County, State of Florida**
6500 57th Street
Vero Beach, Florida 32967

NOTICE OF RIGHTS OF APPEAL

NOTICE IS HEREBY GIVEN that this is a Final Agency Order and a party adversely affected may seek judicial review. Judicial review is sought pursuant to the provisions of § 120.68, Florida Statutes. Judicial review shall be sought in the appellate district where the agency maintains its headquarters or where a party resides or as otherwise provided by law. Appellate proceedings are instituted by filing a Notice of Appeal or Petition for Review in accordance with the Florida Rules of Appellate Procedure within 30 days after the rendition of the Order being appealed.

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School District of Indian River County

6500 57th Street • Vero Beach, Florida, 32967 • Telephone: 772-564-3000 • Fax: 772-569-0424

Mark J. Rendell, Ed.D. - Superintendent

February 23, 2016

Ms. Xiomarra DeLuke
956 23rd Avenue
Vero Beach, Florida 32960

Subject: Disciplinary Recommendation to the Superintendent

Dear Ms. DeLuke:

Thank you for meeting with Ms. Decker, Ms. Cannon and me on February 12, 2016 to discuss the concerns that were raised by students regarding issues in your classroom. As you know, a student reported to us that on February 4, 2016 you allowed your son to "neck" a student in class when he asked a "stupid question." By students' descriptions the "neck" was allowing your son to slap the victim on the back of the neck in front of the entire class. By their account and your account, he became visibly upset and was tearing up after this occurred. By your account, he was touched on the neck rather than hit, but the situation was embarrassing, nonetheless. On February 11, 2016, after Ms. Decker had indicated that the issue had been reported, you saw fit to remove a student from class because she had filed a complaint about the February 4 incident. You told her that you could not have her in class. Additionally, during a meeting with Ms. Decker, you told her that she had, "teaching amnesia" and you spoke to her in a disrespectful manner.

At our due process meeting, you were joined by IRCEA representation, and you elected to bring Ms. Cannon as your representation. You were directed to answer my questions and be truthful. You acknowledged that you had encouraged the "neck" action to occur in your classroom and that the victim was visibly upset. You also acknowledged the disrespectful tone in which you approached your supervisor and explained that you had been emotionally distraught. Lastly, you acknowledged having a conversation with a student/witness about the need to have her sit in another classroom because you could not handle her presence in your room.

This disciplinary infraction was significant, which supports the conclusion that you acted outside of the appropriate scope of your responsibilities.

The purpose of this letter is to clarify the District's expectations of you as an employee, and to inform you of disciplinary action I am recommending to the Superintendent.

As a result of the investigation, we have determined that just cause exists for discipline for:

1. Misconduct in office for violating the Principles of Professional Conduct 6A-10.081(3)(a) which requires a teacher to make reasonable effort to protect a student from conditions harmful to learning and/or the student's mental and/or physical health and/or safety.

"Educate and inspire every student to be successful"

Shawn R. Frost
District 1

• Dale Simchick
District 2

• Matthew McCain
District 3

• Charles G. Searcy
District 4

• Claudia Jiménez
District 5

"To serve all students with excellence"
Equal Opportunity Educator and Employer

2. Misconduct in office for violating School Board policy 3210 which requires a teacher to make reasonable effort to protect a student from conditions harmful to learning and/or the student's mental and/or physical health and/or safety,
3. Misconduct in office for behavior that disrupts the student's learning environment.
4. Misconduct in office for subjecting a student to retaliation, in violation of Policy 5517.01, which states, "Retaliation against any person who reports, is thought to have reported, files a complaint, or otherwise participates in an investigation or inquiry related to a complaint of aggressive behavior and/or bullying is prohibited. Such retaliation shall be considered a serious violation of Board policy and independent of whether a complaint is substantiated."
5. Gross insubordination for speaking disrespectfully to your administrator.

As a result of your actions, I am recommending that the Superintendent, as authorized by the School Board Members, implement a suspension without pay for a period of five (5) days. Upon Superintendent approval of my recommendation, these days will be scheduled.

As per District Policy, you are prohibited from acting in a manner or encouraging others to act in a manner that could be perceived as retaliation. Please do not take any action that shows favor or disfavor toward any person who you perceive to have been involved in this matter, nor act or communicate with such people in any way that could be considered to be retaliatory. To do so would also constitute just cause for disciplinary action up to or including termination.

Future violations of School Board Policy or failure to comply with anti-retaliation directives may result in progressive discipline up to and including termination.

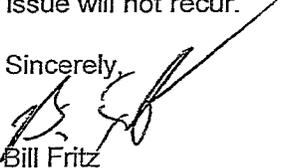
Because you expressed that you are experiencing emotional distress, you have been referred for a mandatory referral to the Employee Assistance Program. You are expected to fully comply with this process, including making timely initial contact with the EAP provider and complying with any and all recommended actions. Failure to comply shall also result in disciplinary action up to and including termination.

Your suspension period will begin on Friday, February 26, 2016 and conclude on Thursday, March 3, 2016. You may return to work on Friday, March 4, 2016.

Because this matter appears to be in violation of the Code of Ethics and Principals of Professional Conduct, this matter will be referred to the Office of Professional Practices.

Please contact me if you need further clarification regarding these expectations. Thank you for understanding the seriousness of this issue. As we move forward, I anticipate that this type of issue will not recur.

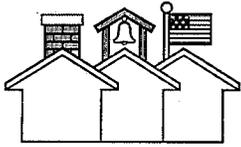
Sincerely,



Bill Fritz

Assistant Superintendent for Human Resources and Risk Management
School District of Indian River County

Cc: Personnel File
Roxanne Decker, Principal, Gifford Middle School
Elizabeth Cannon, IRCEA President
Dr. Mark Rendell, Superintendent



School District of Indian River County

6500 57th Street • Vero Beach, Florida, 32967 • Telephone: 772-564-3000 • Fax: 772-569-0424

Mark J. Rendell, Ed.D. - Superintendent

April 6, 2016

Ms. Xiomara DeLuke
956 23rd Avenue
Vero Beach, Florida 32960

Subject: Disciplinary Recommendation to the Superintendent

Dear Ms. DeLuke:

Thank you for meeting with Ms. Decker, Ms. Cannon and/or me on March 11, 2016, March 17, 2016, and March 31, 2016, 2016 to discuss concerns that have been raised by students and parents regarding issues in your classroom. The concerns include allegations that you:

- Have, on multiple occasions told children to “shut up” in your classroom
- Have told a student in front of others that she is “selfish”
- That you made fun of a student in front of the class by mimicking her and saying “She’s picking on me”, “She’s singling me out”, “She’s being mean to me”, “She doesn’t like me”, and/or “She looked at me funny”
- Told a student “you’re never prepared” in front of the class
- Falsely entered a “zero” grade on a quiz instead of a 60% which the student earned
- False entered a “zero” on a test when a student was absent, rather than noting the grade as NG
- Told the class, after a student had been removed “Nobody respects my rules”, “What goes around comes around, and It’s going to come back and get you.”
- Asked for the number of the cheer coach as a way of threatening cheerleader students that you were going to call the coach
- Misrepresented a student’s attendance record
- Told a student to “shut your trap”, and
- Told a student “you blab too much”

At our due process meetings, you were joined by IRCEA representation, and you elected to bring Ms. Cannon and Ms. Kastner as your representation. During the meeting, you denied having said some of the comments listed above and acknowledge having said others. Interviews with other students validate the comments above. You indicated that the “what goes around comes around” statement was a general statement and not meant to appear retaliatory. Students took it to be retaliatory and relayed that you added the statement about “it’s going to come back and get you.” You did indicate that you asked for the coach’s phone number but never called the coach. You indicated that the attendance logging concern was an error and not meant to intentionally misrepresent a student’s attendance or retaliate. You indicated that the quiz grade was a legitimate “zero” because the student did not know the Spanish rhyme, but that your standard procedure allows students to make up quizzes. You indicated that you didn’t know the codes in focus very well and that you didn’t know about the option to enter NG.

“Educate and inspire every student to be successful”

Shawn R. Frost • Dale Simchick • Matthew McCain • Charles G. Searcy • Claudia Jiménez
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More likely than not, you made many, if not all of the comments shared by the students and parents. It is plausible that you did not intend to misrepresent attendance or grades, but it is clear that the information was not correct.

These actions, in their totality, create a classroom environment that is perceived by students as threatening, retaliatory, and unpredictable. Such environment is not conducive to learning and instills fear in students.

The purpose of this letter is to clarify the District's expectations of you as an employee, and to inform you of disciplinary action I am recommending to the Superintendent.

As a result of the investigation, we have determined that just cause exists for discipline for:

1. Misconduct in office for violating the Principles of Professional Conduct 6A-10.081(3)(a) which requires a teacher to make reasonable effort to protect a student from conditions harmful to learning and/or the student's mental and/or physical health and/or safety.
2. Misconduct in office for violating School Board policy 3210 which requires a teacher to make reasonable effort to protect a student from conditions harmful to learning and/or the student's mental and/or physical health and/or safety,
3. Misconduct in office for behavior that disrupts the student's learning environment.
4. Misconduct in office for intentionally exposing a student to unnecessary embarrassment or disparagement.

As a result of your actions, and because you have been disciplined before, in accordance with progressive discipline, I am recommending that the Superintendent, implement a suspension without pay for a period of seven (7) days. Such action, as recommended by the Superintendent, must be approved by the School Board. If the Superintendent supports this recommendation and recommends it to the School Board, upon their affirmative vote, the days will be scheduled by your supervisor.

As per District Policy, you are prohibited from acting in a manner or encouraging others to act in a manner that could be perceived as retaliation. Please do not take any action that shows favor or disfavor toward any person who you perceive to have been involved in this matter, nor act or communicate with such people in any way that could be considered to be retaliatory. To do so would also constitute just cause for disciplinary action up to or including termination.

Future violations of School Board Policy or failure to comply with anti-retaliation directives may result in progressive discipline up to and including termination.

Because this matter appears to be in violation of the Code of Ethics and Principals of Professional Conduct, this matter will be referred to the Office of Professional Practices.

Please contact me if you need further clarification regarding these expectations. Thank you for understanding the seriousness of this issue. As we move forward, I anticipate that this type of issue will not recur.

Sincerely,


Bill Fritz

Assistant Superintendent for Human Resources and Risk Management
School District of Indian River County

Cc: Personnel File
Roxanne Decker, Principal, Gifford Middle School
Elizabeth Cannon, IRCEA President
Dr. Mark Rendell, Superintendent

LAW OFFICE OF THOMAS JOHNSON, P.A.

ATTORNEYS AT LAW



THOMAS L. JOHNSON
NICHOLAS A. CAGGIA

510 VONDERBURG DRIVE, SUITE 309
BRANDON, FLORIDA 33511
(813) 554-7272
FAX (813) 662-7444

April 21, 2016

VIA FACSIMILE ONLY (772-564-3128)

Dr. Mark J. Rendell
Superintendent
The School District of Indian River County
1990 25th Street
Vero Beach, Florida 32960

RE: **Xiomara Deluke**

Dear Superintendent Rendell,

Please be advised that this law firm has been retained to represent Xiomara Deluke in the following 3 cases. Five day suspension referenced in the letter dated February 25, 2016 signed by Mark Rendell, Seven day suspension referenced in the letter dated April 6, 2016 signed by Mark Rendell, and recommending termination at the May 3, 2016 School Board meeting signed by Mark Rendell. Accordingly, all communications regarding these matters should be directed to attorney Nicholas Caggia. Mr. Caggia's contact information follows.

Nicholas Caggia
Law Office of Thomas Johnson, P.A.
510 Vonderburg Drive, Suite 309
Brandon, FL 33511
Tel. 813-654-7272
Fax 813-662-7444

Should any adverse employment actions be taken on the following cases listed above, Ms. Deluke requests a hearing conducted by an administrative law judge appointed by the Division of Administrative Hearings pursuant to Chapter 120.569 and 120.57, Fla. Stat. Nothing in this communication shall be construed as a waiver of any rights, causes of actions, or claims.

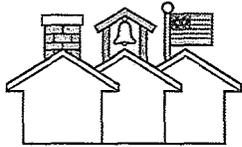
Sincerely,

Mary Beth Hughes
Paralegal

cc: Pam Cooper, Esq.
Xiomara Deluke

04/20/2016 02:10 18136627444 CHAMBER JOHNSON HAYNES PAGE 01/01

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School District of Indian River County

6500 57th Street • Vero Beach, Florida, 32967 • Telephone: 772-564-3000 • Fax: 772-569-0424

Mark J. Rendell, Ed.D. - Superintendent

CHARGING LETTER

June 15, 2016

Mr. Ian Brown

634 Commargo Rd. NW

Palm Bay, Florida 32907

VIA: Certified Mail

Dear Mr. Brown:

This letter charges you with acts or the failure to act when you had a duty to act as an employee of the School District of Indian River County, Florida ("the District"). These acts or omissions disqualify you from being employed with the District and constitute just cause for you to be terminated from your position with the District. This correspondence will give you notice of the procedures that will be followed to terminate your employment.

I will recommend at the School Board meeting on June 28, 2016, that your employment with the District be terminated effective June 29, 2016. The School Board meeting will be held at the offices of the School Board of Indian River County, 6500 57th Street, Vero Beach, Florida, and the meeting commences at 6:00 p.m.

Pursuant to School Board policies 4430 and the Collective Bargaining Agreement with CWA Local 3180, Article 22, Section C, Number 3, my recommendation that you be discharged from employment is based on the fact that your acts or omissions disqualify you from being employed in the District and provide just cause for terminating your employment:

Being absent without leave for more than 10 days and not eligible for extended leave.

Due to the violation of Board policy, termination is the only alternative for the school district.

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You have the right to obtain representation of your choice to assist you if you should desire representation. You also have such rights as are set out in the Collective Bargaining Agreement with Communication Workers of America regarding your termination from employment.

If you have any questions concerning this matter or the procedures that are being followed regarding my recommendation that your employment be terminated, please contact School Board Attorney Suzanne D'Agresta at the law offices of Garganese, Weiss & D'Agresta, P.A., 111 North Orange Avenue, Suite 2000, P.O. Box 2873, Orlando, Florida 32802, or call Mrs. D'Agresta at (407) 425-9566, or have your attorney or other representative contact Mrs. D'Agresta.

Sincerely,



Mark J. Rendell, Ed.D.
Superintendent

Cc: William Fritz, PhD, Assistant Superintendent of Human Resources
Dr. Edwina Suit, PHR, SHRM-CP, Executive Director of Human Resources
Suzanne D'Agresta, School Board Attorney
John Earman, Director of Physical Plant