

Office of School Board Attorney
Johnny Brown, Board Attorney

SUBJECT: THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA v. BENJAMIN FULLINGTON - DOAH CASE NO. 02-0664

On February 13, 2002, the School Board suspended Benjamin Fullington from his employment with REVISED
The School Board of Miami-Dade County, Florida, and initiated dismissal proceedings against him for non-performance and deficient performance of job responsibilities; misconduct in office, immorality; lack of good moral character, and violation of School Board Rule 6Gx13-4A-1.21-*Responsibilities and Duties*. A hearing was requested and the case was tried on May 2 and 3, 2002, before DOAH Administrative Law Judge Patricia Hart Malono by video teleconference in Miami-Dade County, Florida.

By recommended order entered September 30, 2002, Administrative Law Judge Patricia Hart Malono recommended that the School Board enter a final order: (1) dismissing the following counts against Mr. Fullington: Count I - gross insubordination and willful neglect of duty; Count II - misconduct in office; Count IV - lack of good moral character; and Count V - immorality; (2) finding that Mr. Fullington engaged in conduct unbecoming a School Board employee; (3) reinstating Mr. Fullington to his position as a Plumber II with full back pay and benefits; and (4) issuing a written reprimand to be placed in Mr. Fullington's personnel file.

Exceptions to the Recommended Order have been filed on behalf of the School Board. The exceptions, the Recommended Order, and the complete record in this case will be forwarded to the School Board members under separate cover. The exceptions seek to have the School Board reject certain conclusions of law and the penalty recommended by the Administrative Law Judge because the ALJ found that Mr. Fullington violated School Board Rule 6Gx13-4A-1.21 on three separate occasions (inaccurately reporting overtime, using School Board vehicle for personal use, and shouting at his supervisor), but the penalty imposed by the ALJ (a written reprimand) is not commensurate with his multiple violations of School Board policy. The School Board is requested to increase the penalty and dismiss Mr. Fullington from his employment with Miami-Dade County Public Schools.

RECOMMENDED: That The School Board of Miami-Dade County, Florida enter a final order in the case of The School Board of Miami-Dade County, Florida v. Benjamin Fullington, DOAH Case No. 02-0664, either adopting the recommendation of the Administrative Law Judge, or adopting the exceptions set forth in the School Board's Exceptions to the Recommended Order.

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