



Before the Education Practices Commission of the State of Florida

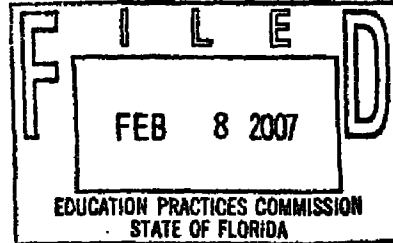
JOHN L. WINN as the
Commissioner of Education,

Petitioner,

vs.

MARILYN GWINN,

Respondent.



CASE N^o: 05-0214-RT
EPC Index N^o 07-007-AS

Final Order

Respondent, Marilyn Gwinn, holds Florida educator's certificate no. 446522. Petitioner has filed an Administrative Complaint seeking suspension, revocation, permanent revocation or other disciplinary action against the certificate.

Petitioner and Respondent have entered into a Settlement Agreement for resolution of this cause. The Settlement Agreement and the Administrative Complaint are attached to and made a part of this Final Order.

A Teacher Panel of the Education Practices Commission met on January 26, 2007, in Tallahassee, Florida. The Commission accepts the Settlement Agreement as the appropriate resolution of this cause.

It is therefore ORDERED that the Settlement Agreement is hereby ACCEPTED and Respondent shall comply with its terms and conditions.

This Order becomes effective upon filing.

DONE AND ORDERED, this 26th day of January, 2007.


DEBORAH SHEPARD, Presiding Officer

COPIES FURNISHED TO:

Bureau of Professional Practices

Bureau of Teacher Certification

Florida Administrative Law Reports

Superintendent
Brevard County Schools
2700 Judge Fran Jamieson Way
Viera, FL 32940-6699

Assistant Superintendent
Human Resources
Brevard County Schools
2700 Judge Fran Jamieson Way
Viera, FL 32940-6699

Probation Office

Ronald G. Stowers
DOE counsel for PPS

Daniel Biggins
Assistant Attorney General

NOTICE OF RIGHT TO JUDICIAL REVIEW

UNLESS WAIVED, A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE EDUCATION PRACTICES COMMISSION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THIS ORDER.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Order was mailed to Marilyn Gwinn, 2425
Melbourne, Florida 32935-2187; and Emily Moore, FEA, 118
North Monroe Street, Tallahassee, Florida 32399-1700 this 8TH day of
February, 2007 by Certified U.S. Mail.



DON D. SHIELDS
Education Practices Commission

STATE OF FLORIDA
EDUCATION PRACTICES COMMISSION

JOHN L. WINN, as Commissioner
of Education,

Petitioner,

vs.

MARILYN GWINN

Respondent.

CASE NO. 012-0963-MJD

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SETTLEMENT AGREEMENT

Petitioner and Respondent hereby stipulate and agree as follows:

1. **Certification.** Respondent holds Florida Educator's Certificate Number 446522 issued by the Department of Education covering the areas of Emotionally Handicapped and Psychology which is valid through June 30, 2009.
2. **Employment.** At all times pertinent hereto, Respondent was employed as a Teacher at Bayside High School in the Brevard County School District.
3. **Allegations.** Respondent neither admits nor denies, but elects not to contest the allegations set forth in Petitioner's Administrative Complaint, which are incorporated herein by reference.
4. **Suspension.** Respondent agrees to accept a one (1) year suspension of her Florida educator's certificate, retroactively effective from July 1, 2002 and lasting through June 30, 2003. (Suspension means that Respondent may not be employed by any district school board or any other public school or in a position requiring a Florida educator's certificate in a private school during the period of suspension; however, if applicable, Respondent may renew the certificate).
5. **Recovery Network Program.**
 - a. **Substance Abuse Evaluation:** Respondent agrees to:
 - 1) submit to an evaluation relating to the issues cited in the Administrative Complaint as determined by the Recovery Network Program (RNP) and conducted by a Florida substance abuse counselor approved by the RNP;

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Settlement Agreement
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2) provide the RNP written verification from the treatment provider(s) of successful completion of the evaluation within sixty (60) days of issuance of the Final Order accepting this Settlement Agreement OR within sixty (60) days of the initial date of employment in a position requiring a Florida educator's certificate, whichever occurs later, and authorize the RNP to release evidence of satisfaction of this requirement directly to any employing school district or private or charter school;

3) undergo any counseling or treatment as may be prescribed by said professional;

4) provide the RNP and the employing school district or private or charter school with written verification from the treatment provider(s) of completion of all recommended treatments within sixty (60) days of completion;

5) submit to periodic substance abuse screenings at the direction of the RNP, the employing school district or private or charter school and authorize reporting of results to each entity.

6) take any medicines as prescribed, if applicable.

6. **Probation.** Respondent agrees that she shall be placed on probation for a period of three (3) employment years. If Respondent is currently employed in a position requiring a Florida educator's certificate, probation shall begin upon the issuance of the Final Order by the Education Practices Commission (EPC) provided the EPC has accepted this Settlement Agreement. If Respondent is not currently employed in a position requiring a Florida educator's certificate, probation shall begin upon her re-employment in such a position. In the event Respondent's employment is interrupted for any reason prior to the expiration of probation, the probation shall be tolled until Respondent resumes employment in a position requiring a Florida educator's certificate. As conditions of probation, Respondent:

a. shall immediately contact the Department of Education upon employment in Florida in a position requiring a Florida educator's certificate or upon termination from such a position. If currently employed in such a position, Respondent shall contact the Department of Education within ten (10) days of the issuance of the Final Order accepting this Settlement Agreement and Respondent shall provide the Department of Education with the name and address of her work site as well as the name, address and telephone number of her immediate supervisor.

b. shall make arrangements for her immediate supervisor to provide the EPC with a true and accurate copy of each written annual performance evaluation or assessment prepared by her supervisor within ten (10) days of its preparation;

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- c. shall pay to the EPC \$150.00 within the first six (6) months of each probation year to defray the costs of monitoring probation;
- d. shall have the scope of her employment restricted to: not transporting students in or on any motor vehicle;
- e. shall violate no law and fully comply with all district school board regulations, school rules, and State Board of Education Rule 6B-1.006; and
- f. shall satisfactorily perform her duties in a competent, professional manner.

7. **Violation.** In the event Respondent fails to comply with each condition set forth herein, she agrees that the Petitioner shall be authorized to file an Administrative Complaint or a Notice of Violation with the EPC seeking sanctions against her Florida educator's certificate up to and including permanent revocation of her Florida educator's certificate and a permanent bar from re-application for a Florida educator's certificate, based upon the violation of the terms of this Settlement Agreement.

8. **Costs and Fees.** Respondent agrees that any costs associated with the fulfillment of the terms of this Settlement Agreement shall be her sole responsibility. These costs include, but are not limited to, those associated with the Recovery Network Program (RNP) and Probation, if applicable. The probation monitoring fee shall be held in abeyance if Respondent is not employed as an educator pursuant to the terms of the Probation.

9. **Force and Effect.** This Settlement Agreement constitutes an offer of settlement of disputed issues of material fact until accepted and executed by all parties. The Settlement Agreement is void and has no force or effect unless executed by all parties and accepted by the EPC. If the Settlement Agreement is not accepted and executed by all parties, the terms herein shall be inadmissible in any subsequent formal or informal administrative hearing or in any other legal action between the parties.

10. **Notice of "Three Strikes" Provision.** Respondent is hereby put on notice that Section 1012.795(6)(b), Florida Statutes (2004), provides for permanent revocation of an educator's certificate under certain circumstances when the educator's certificate has been sanctioned by the Education Practices Commission on two (2) previous occasions.

11. **Waiver of Rights.** Respondent understands provisions of this Settlement Agreement, their legal effect, and her rights under Florida law to a formal hearing before a duly designated administrative law judge of the Division of Administrative Hearings (DOAH) or an informal hearing before the EPC. Respondent specifically waives her right to both a formal and an informal hearing, except she may appear before the EPC in order to urge the adoption of this Settlement Agreement. Respondent further acknowledges that she is under no duress, coercion

or undue influence to execute this Settlement Agreement and that she has had the opportunity to receive the advice of legal counsel prior to signing this Settlement Agreement.

12. **Approval.** When fully executed, this Settlement Agreement shall be submitted to the EPC with the joint request by the parties that the EPC accept and adopt the terms of this Settlement Agreement as the basis for its Final Order in this proceeding. The parties understand that the EPC has the discretion to reject this Settlement Agreement and order a full evidentiary hearing on the allegations of the Administrative Complaint if, in the exercise of its discretion, it deems such action to be appropriate.

13. **Notice.** Respondent waives all statutory and regulatory provisions concerning notice of hearing and agrees that this Settlement Agreement may be presented to the EPC for consideration at its next available scheduled meeting, provided that Respondent is given reasonable advanced notice of time, place and date of said meeting.

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(SIGNATURES AND NOTARIZATION ON FOLLOWING PAGE)

IN WITNESS WHEREOF, the parties have executed this Settlement Agreement on this
29th day of September, 20 06.

(Emily Moore) FL BAR # 0376477
for MARILYN GWINN, Respondent

STATE OF FLORIDA
COUNTY OF Leon

The foregoing instrument was acknowledged before me this 29th day of
September, 20 06, by Emily Moore
who is personally known or produced _____
as identification [type of identification produced].

Amy B. Rodman
NOTARY PUBLIC
My commission expires:



Ronald G. Stowers
RONALD G. STOWERS
Assistant General Counsel
Suite 1244, Turlington Building
325 West Gaines Street
Tallahassee, Florida 32399-0400
Telephone (850) 245-0443
Facsimile (850) 245-9425

ATTORNEY FOR PETITIONER

Emily Moore
EMILY MOORE, ESQUIRE
Florida Education Association
118 North Monroe Street
Tallahassee, Florida 32301
Telephone (850) 224-7818
Facsimile (850) 224-0447

ATTORNEY FOR RESPONDENT

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THE ADMINISTRATIVE COMPLAINT OR NOTICE OF REASONS CONTAINS CONFIDENTIAL INFORMATION AND IS EXEMPT FROM PUBLIC RECORD

Confidential information may include:

- ❖ Victim of sexual assault
- ❖ Medical or mental health records
- ❖ Sealed or expunged records
- ❖ Minor names or information that identifies a minor

As provided in Chapter 1012, Florida Statutes, Florida public school districts are provided access to the information associated with the disciplinary action.