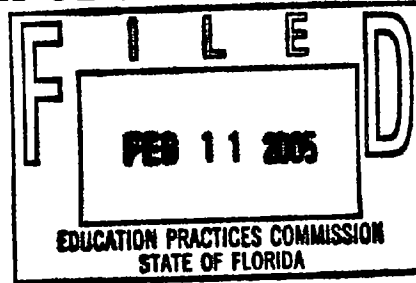




Before the Education Practices Commission of the State of Florida



JIM HORNE as the
Commissioner of Education,

Petitioner,

vs.

MARY HUGHEY,

Respondent.

CASE N^o: 04-0026-RT
EPC Index N^o 05-044-AS

Final Order

Respondent, Mary Hughey, holds Florida educator's certificate no. 857641. 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 February 4, 2005, 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 4th day of February, 2005.



DEBORAH SHEPARD, Presiding Officer

COPIES FURNISHED TO:

Bureau of Professional Practices	Superintendent Brevard County Schools 2700 Judge Fran Jamieson Way Viera, FL 32940-6699
Bureau of Teacher Certification	
<i>Florida Administrative Law Reports</i>	
Ron Weaver, Attorney at Law	Assistant Superintendent Human Resources Brevard County Schools 2700 Judge Fran Jamieson Way Viera, FL 32940-6699
Probation Office	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Order in the matter of HORNE v. HUGHEY was furnished to Mary Hughey, [REDACTED] Melbourne, FL 32901 and Mark S. Levine, Attorney At Law, Levine & Stivers, 245 East Virginia Street, Tallahassee, Florida 32301 by U.S. Mail this 11th day of February, 2005.



KATHLEEN RICHARDS
Executive Director

STATE OF FLORIDA
EDUCATION PRACTICES COMMISSION

JIM HORNE, as Commissioner
of Education,

Petitioner,

vs.

CASE NO. 023-1986-M

MARY E. HUGHEY,

Respondent.

SETTLEMENT AGREEMENT

Petitioner and Respondent hereby stipulate and agree as follows:

1. **Certification.** Respondent holds Florida Educator's Certificate Number 857641 issued by the Department of Education covering the area of Elementary Education which is valid through June 30, 2006.
2. **Employment.** At all times pertinent hereto, Respondent was employed as a Fifth Grade Teacher at Jupiter Elementary 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 suspension of her Florida educator's certificate effective from May 23, 2003 through January 1, 2005. (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. **Probation.** Respondent agrees that she shall be placed on probation for a period of two (2) 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:

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a. shall immediately contact the Bureau of Educator Standards (BES) 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 BES within ten (10) days of the issuance of the Final Order accepting this Settlement Agreement and Respondent shall provide the BES 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;

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, within the first year of probation, take a 3-credit hour college level course in the area of Ethics, Professional Responsibilities, or Testing. The class must be taken in person: on-line or correspondence classes are not acceptable and submit an official college transcript verifying successful completion of same with a grade of "B" or higher to the BES;

e. shall have the scope of her employment restricted to: not proctoring, supervising or administering any state or national standardized tests, including, but not limited to, the HSCT, FCAT, ASVAB, PSAT, SAT and ACT during the probationary period. However, this requirement will be waived upon successful completion of the required 3-credit hour college level class in the area of Ethics, Professional Responsibilities, or Testing;

f. 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

g. shall satisfactorily perform her duties in a competent, professional manner.

6. **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.

7. **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.

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8. **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.

9. **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.

10. **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.

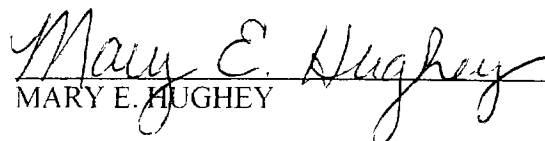
11. **Approval.** When fully executed, this Settlement Agreement shall be submitted to the EPC with the joint request by the parties that the EPC accept and adopt the terms of this Settlement Agreement as the basis for its Final Order in this proceeding. The parties understand that the EPC has the discretion 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.

12. **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.

13. **Entire Agreement.** This is the entire agreement between the parties and resolves all matters related to the Administrative Complaint filed in Case #023-1986-M.

(SIGNATURES AND NOTARIZATION ON FOLLOWING PAGE)

18 IN WITNESS WHEREOF, the parties have executed this Settlement Agreement on the 18 day of November, 2004.

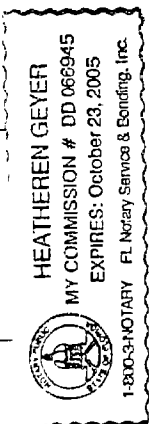

MARY E. HUGHEY

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STATE OF FLORIDA
COUNTY OF Brevard

The foregoing instrument was acknowledged before me this 18th day of November, 2004, by Mary E. Hughey who is _____ personally known or produced FLNA as identification [type of identification produced].

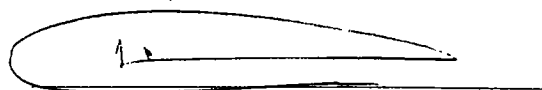

NOTARY PUBLIC
My commission expires: _____





RON WEAVER, ESQUIRE
Post Office Box 5675
Douglasville, Georgia 30154
Telephone (850) 561-8746
Facsimile (678) 391-0573

ATTORNEY FOR PETITIONER



MARK S. LEVINE, ESQUIRE
Levine & Stivers, P.A.
245 East Virginia Street
Tallahassee, Florida 32301
Telephone (850) 222-6580
Facsimile (850) 224-6270

ATTORNEY FOR RESPONDENT

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KATHLEEN M. RICHARDS
Executive Director

**EDUCATION PRACTICES COMMISSION
STATE OF FLORIDA**

GRACE WILLIAMS
Chairperson

ANN COCHEU
Counsel

LUCILE CASEY
Co-Chairperson

February 4, 2005

Mary Hughey
[REDACTED]
Melbourne, Florida 32901

Re: Jim Horne vs. Mary Hughey
EPC No.: 04-0026-RT; DOE No.: 857641

Dear Ms. Hughey:


As you know, the teacher panel of the Education Practices Commission reviewed the matter pending against you. Based upon the panel's consideration of this matter and upon the panel's acceptance of your Settlement Agreement, you are hereby reprimanded.

This panel, composed of your peers, believes that, as a teacher, you are required to exercise a measure of leadership beyond reproach. By your actions, you have lessened the reputation of all who practice our profession. The profession cannot condone your actions, nor can the public who employ us.

The Education Practices Commission sincerely hopes it is your intention to never allow this situation to occur again or indeed, to violate any professional obligation in fulfilling your responsibilities as an educator. To violate the standards of the profession will surely result in further action being taken against you.

This letter of reprimand is being placed in your state certification file, and a copy is being sent to the Brevard County School Board for placement in your personnel file.

Sincerely,


Deborah Shepard
Presiding Officer

**STATE OF FLORIDA
EDUCATION PRACTICES COMMISSION**

**JIM HORNE, as
Commissioner of Education,**

Petitioner,

vs.

CASE NO. 023-1986-M

MARY E. HUGHEY,

Respondent.

ADMINISTRATIVE COMPLAINT

Petitioner, Jim Horne, as Commissioner of Education, files this Administrative Complaint against MARY E. HUGHEY. The Petitioner seeks the appropriate disciplinary sanction of the Respondent's educator's certificate pursuant to Sections 1012.795 and 1012.796, Florida Statutes, and pursuant to Rule 6B-1.006, Florida Administrative Code, Principles of Professional Conduct for the Education Profession in Florida, said sanctions specifically set forth in Sections 1012.795(1) and 1012.796(7), Florida Statutes.

The Petitioner alleges:

JURISDICTION

1. The Respondent holds Florida Educator's Certificate 857641, covering the area of Elementary Education, which is valid through June 30, 2006.
2. At all times pertinent hereto, the Respondent was employed as a Fifth Grade Teacher at Jupiter Elementary School in the Brevard County School District.

MATERIAL ALLEGATIONS

3. During March 2003, Respondent knowingly and unlawfully violated standardized testing procedures by providing answers and other inappropriate assistance to students during the administration of the Florida Comprehensive Assessment Test (FCAT). As a result, FCAT scores for the mathematics test for the entire class were invalidated. After Respondent's actions became known, Respondent accused students of "betraying her" or "telling lies about her" and "ruining her career" or words to that effect. On or about March 27, 2003, Respondent's principal placed her on administrative leave with pay. Effective April 7, 2003, Respondent was reassigned to a district

office for the duration of the 2002-2003 school year. Respondent's annual contract with the school board was not renewed for the 2003-2004 school year.

STATUTE VIOLATIONS

COUNT 1: The Respondent is in violation of Section 1012.795(1)(c), Florida Statutes, in that Respondent has been guilty of gross immorality or an act involving moral turpitude.

COUNT 2: The Respondent is in violation of Section 1012.795(1)(f), Florida Statutes, in that Respondent has been found guilty of personal conduct which seriously reduces her effectiveness as an employee of the school board.

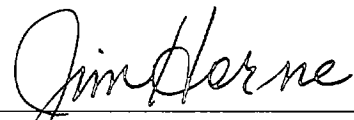
RULE VIOLATIONS

COUNT 3: The allegations of misconduct set forth herein are in violation of Rule 6B-1.006(3)(a), Florida Administrative Code, in that Respondent has failed to make reasonable effort to protect the student from conditions harmful to learning and/or to the student's mental health and/or physical health and/or safety.

COUNT 4: The allegations of misconduct set forth herein are in violation of Rule 6B-1.006(3)(e), Florida Administrative Code, in that Respondent has intentionally exposed a student to unnecessary embarrassment or disparagement.

WHEREFORE, the Petitioner recommends that the Education Practices Commission impose an appropriate penalty pursuant to the authority provided in Sections 1012.795(1) and 1012.796(7), Florida Statutes, which penalty may include a reprimand, probation, restriction of the authorized scope of practice, administrative fine, suspension of the teaching certificate not to exceed three years, permanent revocation of the teaching certificate, or combination thereof, for the reasons set forth herein, and in accordance with the Explanation and Election of Rights forms which are attached hereto and made a part hereof by reference.

EXECUTED on this 10 day of March, 2004.



JIM HORNE, as
Commissioner of Education
State of Florida