



## Before the Education Practices Commission of the State of Florida

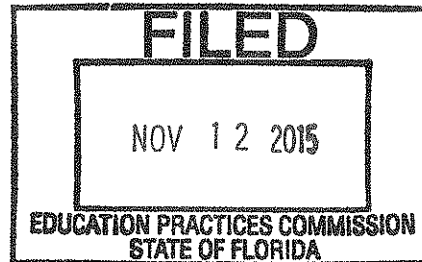
PAM STEWART, as the  
Commissioner of Education,

Petitioner,

vs.

CHERYL MARIE ALBAN,

Respondent.



EPC CASE N<sup>o</sup>: 15-0237-RT  
Index N<sup>o</sup>: **15-371-AS**  
PPS N<sup>o</sup>: 123-2973

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### Final Order

Respondent, Cheryl Marie Alban, holds Florida educator's certificate no. 770435. Petitioner has filed an Administrative Complaint seeking suspension, revocation, permanent revocation or other disciplinary action against the certificate.

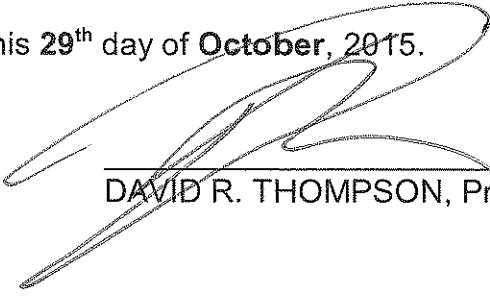
Petitioner and Respondent have entered into a Settlement Agreement for resolution of this cause. The Settlement Agreement and the Administrative Complaint are attached to and made a part of this Final Order.

A Teacher Hearing Panel of the Education Practices Commission met on October 29, 2015, in Tampa, 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 29<sup>th</sup> day of **October, 2015**.



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DAVID R. THOMPSON, Presiding Officer

**COPIES FURNISHED TO:**

Office of Professional Practices  
Services

Bureau of Educator Certification

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

Lee Ann Gustafson  
Assistant Attorney General

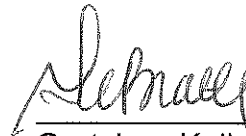
Claudia Llado, Clerk  
Division of Administrative Hearings

**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 Cheryl Marie Alban, [REDACTED] Palm Bay, Florida 32907 and Steve Rossi, Esq., Sole Building, Ground Floor, Suite 2, 533 Northeast 3<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33301 by Certified U.S. Mail and by electronic mail to Bonnie Wilmot, Deputy General Counsel, Suite 1232, Turlington Building, 325 West Gaines Street, Tallahassee, Florida 32399-0400 and Ron Weaver, Esq., Post Office Box 5675, Douglasville, Georgia 30154 this **12<sup>th</sup>** day of **November**, 2015.



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Gretchen Kelley Brantley, Clerk  
Education Practices Commission

RECEIVED  
JUL 02 2015

STATE OF FLORIDA  
EDUCATION PRACTICES COMMISSION

PAM STEWART, as  
Commissioner of Education

Petitioner,

vs.

CASE NO. 123-2973

CHERYL MARIE ALBAN,

Respondent.

\_\_\_\_\_ /

SETTLEMENT AGREEMENT

Petitioner and Respondent hereby stipulate and agree as follows:

1. **Certification.** Respondent holds Florida Educator's Certificate Number 770435 issued by the Department of Education covering the areas of Elementary Education and Pre-Kindergarten/Primary Education, which is valid through June 30, 2015.
2. **Employment.** At all times pertinent hereto, Respondent was employed as an Exceptional Student Education Teacher at Turner 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. **Letter of Reprimand.** Respondent agrees to accept a letter of reprimand, a copy of which shall be placed in her certification file with the Department of Education and a copy of which shall be placed in her personnel file with the employing school district.
5. **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;

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 Classroom Management. The class may be taken in person, or from an accredited on-line source, and Respondent shall submit an official college transcript verifying successful completion of same with a grade of "B" or higher to the Department of Education;

e. shall violate no law and fully comply with all district school board regulations, school rules, and State Board of Education Rule 6A-10.081; and

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

6. **Fine.** Respondent agrees to pay a fine in the amount of \$750.00 to the EPC within one (1) year of the date of the Final Order accepting this Settlement Agreement.

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, 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.

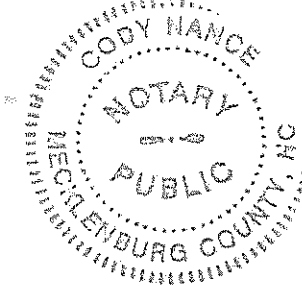
(SIGNATURES AND NOTARIZATION ON FOLLOWING PAGE)

IN WITNESS WHEREOF, the parties have executed this Settlement Agreement on this 18<sup>th</sup> day of June, 2015.

Cheryl Marie Alban  
CHERYL MARIE ALBAN

STATE OF ~~FLORIDA~~ North Carolina  
COUNTY OF Mecklenburg

The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of June, 2015, by Cheryl Marie Alban who is \_\_\_\_\_ personally known or produced Florida Driver's license as identification [type of identification produced].



[Signature]  
NOTARY PUBLIC  
My commission expires:  
My Commission Expires March 1, 2020

[Signature]  
RON WEAVER, ESQUIRE  
The Law Office of Ron Weaver  
Post Office Box 5675  
Douglasville, Georgia 30154  
Telephone (850) 980-0254  
Facsimile (678) 391-0573

ATTORNEY FOR PETITIONER

[Signature]  
STEVEN ROSSI, ESQUIRE  
Steve Rossi, P.A.  
Sole Building, Ground Floor, STE #2  
533 Northeast 3<sup>rd</sup> Avenue  
Fort Lauderdale, Florida 33301  
Telephone (954) 524-0506  
Facsimile (954) 318-3690

ATTORNEY FOR RESPONDENT

STATE OF FLORIDA  
EDUCATION PRACTICES COMMISSION

PAM STEWART, as  
Commissioner of Education,

Petitioner,

vs.

CASE NO. 123-2973

CHERYL MARIE ALBAN,

Respondent.  
\_\_\_\_\_ /

ADMINISTRATIVE COMPLAINT

Petitioner, Pam Stewart, as Commissioner of Education, files this Administrative Complaint against CHERYL MARIE ALBAN. The Petitioner seeks the appropriate disciplinary sanction of the Respondent's educator's certificate pursuant to Sections 1012.315, 1012.795, and 1012.796, Florida Statutes, and pursuant to Rule 6A-10.081, 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 770435, covering the areas of Elementary Education and Pre-Kindergarten/Primary Education, which is valid through June 30, 2015.
2. At all times pertinent hereto, the Respondent was employed as a Voluntary PreKindergarten Teacher at Turner Elementary School in the Brevard County School District.

MATERIAL ALLEGATIONS

3. On or about April 24, 2013, Respondent engaged in inappropriate conduct. Specifically, in response to five-year-old female student [REDACTED] dropping to the floor to throw a tantrum in the entryway of the cafeteria, Respondent improperly and forcefully grabbed [REDACTED] arm to remove her from area. While holding [REDACTED] arm, Respondent attempted to escort [REDACTED] to a table but [REDACTED] dropped to the floor to throw a tantrum. Respondent then instructed one of her assistants to assist [REDACTED] and left the cafeteria to go eat lunch.



4. Respondent failed to immediately notify administration of the incident.
5. While [REDACTED] was in the cafeteria, another teacher observed red bruising marks on [REDACTED] arm. The teacher reported her observation to Respondent and told Respondent that she had to report the incident to administration, and brought Respondent to the Principal.
6. When Respondent reported the incident to administration, she reported the events that took place but failed to mention the extent of the red marks Respondent left on [REDACTED] arm.
7. On two previous occasions, administration advised Respondent that she was not trained in Crisis Prevention Intervention (CPI) and should never attempt to physically move a student, and that the school procedure was to call for assistance and to leave the student where they were until someone arrived.
8. On or about April 24, 2013, as a result of the aforementioned conduct alleged in this Administrative Complaint, the Principal placed Respondent on administrative leave.
9. On or about May 1, 2013, Respondent resigned from employment with the Brevard County School District.

The Petitioner charges:

#### STATUTE VIOLATIONS

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

**COUNT 2:** The Respondent is in violation of Section 1012.795(1)(j), Florida Statutes, in that Respondent has violated the Principles of Professional Conduct for the Education Profession prescribed by State Board of Education rules.

#### RULE VIOLATIONS

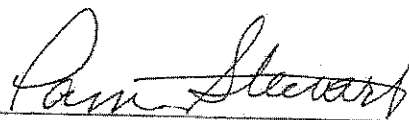
**COUNT 3:** The allegations of misconduct set forth herein are in violation of Rule 6A-10.081(3)(a), Florida Administrative Code, in that Respondent has failed to make reasonable effort to protect the student from conditions harmful to learning and/or to the student's mental health and/or physical health and/or safety.

**COUNT 4:** The allegations of misconduct set forth herein are in violation of Rule 6A-10.081(3)(e), Florida Administrative Code, in that Respondent has intentionally exposed a student to unnecessary embarrassment or disparagement.

(SIGNATURE ON FOLLOWING PAGE)

WHEREFORE, based on the reasons set forth herein and in accordance with the Explanation of Rights and Election of Rights forms attached to and made a part of this Administrative Complaint, Petitioner respectfully recommends that the Education Practices Commission impose an appropriate sanction against the Respondent's educator's certificate pursuant to the authority provided in Sections 1012.795(1) and 1012.796(7), Florida Statutes. The sanctions imposed by the Education Practices Commission may include, but are not limited to, any one or a combination of the following: issuing the Respondent a written reprimand; placing the Respondent on probation for any period of time; restricting the Respondent's authorized scope of practice; assessing the Respondent an administrative fine; directing the Respondent to enroll in the Recovery Network Program; suspending the Respondent's educator's certificate for a period of time not to exceed five years; revoking the Respondent's educator's certificate for a period of time up to 10 years or permanently; determining the Respondent to be ineligible for certification; or barring the Respondent from reapplying for an educator's certificate for a period of time up to 10 years or permanently.

EXECUTED on this 4<sup>th</sup> day of December, 2014.



PAM STEWART, as  
Commissioner of Education  
State of Florida



**EDUCATION PRACTICES COMMISSION**  
STATE OF FLORIDA

**GRETCHEN KELLEY BRANTLEY**  
Executive Director

**LEE ANN GUSTAFSON**  
Counsel

**DAVID R. THOMPSON**  
Chairperson

**CHRISTIE GOLD**  
Co-Chairperson

October 29, 2015

Cheryl Alban

[REDACTED]  
Palm Bay, Florida 32907

Re: Pam Stewart vs. Cheryl Alban  
EPC No.: 15-0237-RT; DOE No.: 770435

Dear Ms. Alban:

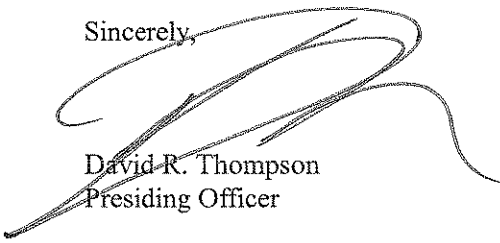
As you know, the teacher panel of the Education Practices Commission reviewed the matter pending against you. Based upon the panel's consideration of this matter and upon the panel's acceptance of your Settlement Agreement, you are hereby reprimanded.

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,

  
David R. Thompson  
Presiding Officer