Before the Education Practices Commission of the State of Florida

FILED
MAY 10 2019
EDUCATION PRACTICES COMMISSION
STATE OF FLORIDA

PAM STEWART, as the Commissioner of Education,

Petitioner,

vs.

KAILA M RIVERA,

Respondent.
_____/

EPC CASE Nº: 18-0352-RA
Index Nº: 19-131-AS
PPS Nº 167-0258

Final Order

Respondent, Kaila M Rivera, holds Florida educator's certificate no. 870388. 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.

An Administrator Hearing Panel of the Education Practices Commission met on May 8, 2019, 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 8th day of May, 2019.

Christie Gold

CHRISTIE GOLD, Presiding Officer

COPIES FURNISHED TO:

Office of Professional Practices Services

Bureau of Educator Certification

Superintendent
Broward County Schools
600 S.E. 3rd Ave.
Ft. Lauderdale, FL 33301-3125

Executive Director, Professional Standards
Broward County Schools
600 S.E. 3rd Ave.
Ft. Lauderdale, FL 33301-3125

Lawrence Harris
Senior 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: Kaila M Rivera, [redacted] Hollywood, FL 33019 and Christopher J. Whitelock, Esq., 300 Southeast 13th Street, Fort Lauderdale, FL 33316 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 770088, Ocala, FL 34477 this 10th day of May, 2019.

Lisa Forbess, Clerk
Education Practices Commission

STATE OF FLORIDA
EDUCATION PRACTICES COMMISSION

PAM STEWART, as
Commissioner of Education,

Petitioner,

vs. **CASE NO. 167-0258**

KAILA RIVERA,

Respondent.
_____/

ADMINISTRATIVE COMPLAINT

Petitioner, Pam Stewart, as Commissioner of Education, files this Administrative Complaint against KAILA RIVERA. 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 870388, covering the areas of Educational Leadership, Elementary Education, English for Speakers of Other Languages (ESOL), Reading and Varying Exceptionalities, which is valid through June 30, 2019.

2. At all times pertinent hereto, the Respondent was employed as an Assistant Principal at Miramar High School in the Broward County School District.

MATERIAL ALLEGATIONS

3. Respondent failed to perform her duties as assistant principal when she failed to supervise the grade change process performed by faculty under her supervision. Respondent knew or should have known that grades were being changed incorrectly. As a result of Respondent's failure to perform her duties, 266 (47%) of the 561 graduates of Miramar High School in 2014 received an unjustified grade change during the 2013-2014 school year.

4. During the 2014-2015 school year, Respondent engaged in inappropriate conduct

when she had a romantic or sexual relationship with a subordinate employee.

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(2)(a)1, 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(2)(b)3, Florida Administrative Code, in that Respondent has used institutional privileges for personal gain or advantage.

COUNT 5: The allegations of misconduct set forth herein are in violation of Rule 6A-10.081(2)(c)1, Florida Administrative Code, in that Respondent has failed to maintain honesty in all professional dealings.

(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 16th day of March, 2018.

Pam Stewart

PAM STEWART, as
Commissioner of Education
State of Florida

RECEIVED

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STATE OF FLORIDA
EDUCATION PRACTICES COMMISSION

PAM STEWART, as
Commissioner of Education

Petitioner,

vs. **CASE NO. 167-0258**

KAILA RIVERA,

Respondent.

_____/

SETTLEMENT AGREEMENT

Petitioner and Respondent hereby stipulate and agree as follows:

1. **Certification.** Respondent holds Florida Educator's Certificate Number 870388 issued by the Department of Education covering the areas of Educational Leadership, Elementary Education, English for Speakers of Other Languages (ESOL), Reading and Varying Exceptionalities, which is valid through June 30, 2019.

2. **Employment.** At all times pertinent hereto, Respondent was employed as an Assistant Principal at Miramar High School in the Broward 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. **Fine.** Respondent agrees to pay a fine in the amount of $750.00 to the Education Practices Commission (EPC) within one (1) year of the date of the Final Order accepting this Settlement Agreement.

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.

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 has no force or effect unless executed by all parties. Upon execution by the parties, this Settlement Agreement is a binding contract and neither party may withdraw prior to consideration of this Settlement Agreement by the EPC. Approval of this Settlement Agreement by the EPC is a condition subsequent. If the executed Settlement Agreement is rejected by the EPC, it becomes void. 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, 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.** The parties intend to be bound by this Agreement. When fully executed, this Settlement Agreement is a binding contract and 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.

IN WITNESS WHEREOF, the parties have executed this Settlement Agreement on this 3rd day of October, 2018.

KAILA RIVERA

STATE OF FLORIDA
COUNTY OF Broward

The foregoing instrument was acknowledged before me this 3RD day of October, 2018, by Katarena Palivets who is personally known or produced Florida Drivers license P626 513 77 906 0 exp 1226·21 as identification [type of identification produced].

Katarena Palivets
Notary Public
State of Florida
My Commission Expires 07/04/2022
Commission No. GG 235242

K. Palivets
NOTARY PUBLIC
My commission expires: 07·04·2022

Ron Weaver

RON WEAVER, ESQUIRE
The Law Office of Ron Weaver
Post Office Box 770088
Ocala, Florida 34477-0088
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ATTORNEY FOR PETITIONER

Christopher Whitelock

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Facsimile (954) 463-0410

ATTORNEY FOR RESPONDENT

EDUCATION PRACTICES COMMISSION
STATE OF FLORIDA

GRETCHEN KELLEY BRANTLEY
Executive Director
LAWRENCE HARRIS
Legal Counsel
LISA FORBESS
Clerk of Court

CHRISTIE GOLD
Chairperson
NICHOLAS PIETKIEWICZ
Co-Chairperson

May 8, 2019

Kaila Rivera
[redacted]
Hollywood, Florida 33019

Re: Pam Stewart vs. Kaila Rivera
EPC No.: 18-0352-RA; DOE No.: 870388

Dear Ms. Rivera:

As you know, the administrator 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 an administrator, 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 Broward County School Board for placement in your personnel file.

Sincerely,

Christie Gold

Christie Gold
Presiding Officer