



# Before the Education Practices Commission of the State of Florida



PAM STEWART as the  
Commissioner of Education,

Petitioner,

vs.

MICHAEL R. HERNACKI,

Respondent.

EPC CASE N<sup>o</sup>: 18-0201-RT

Index N<sup>o</sup>: 18-408-FOI

PPS N<sup>o</sup> 167-3772

Certificate No.: 946242

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## Final Order

This matter appeared before the Education Practices Commission ("Commission") at a duly-noticed public meeting on July 24, 2018 in Bonita Springs, Florida. Petitioner has filed an Administrative Complaint seeking suspension, revocation, permanent revocation or other disciplinary action against the certificate. A copy of the Administrative Complaint is attached to and made a part of this Order.

Service of the Administrative Complaint was made upon Respondent by certified mail. Respondent has failed to respond to the Administrative Complaint and has not requested a hearing or any other proceeding. Respondent was present.

### FINDING OF FACTS

The Commission finds that Respondent was properly served with the Administrative Complaint, has failed to respond timely, and has waived any right to be heard.

The Commission adopts as its finding of facts the facts alleged in the Administrative Complaint.

### **CONCLUSIONS OF LAW**

Based upon the Findings of Fact, the Commission concludes the Respondent has violated Section(s) 1012.795(1)(j), Florida Statutes.

The Commission is empowered by Sections 1012.795(1) and 1012.796(7), Florida Statutes, to impose a penalty against the Respondent.

Therefore, it is ORDERED that:

1. Respondent is hereby issued a letter of reprimand.
2. Respondent is assessed an administrative fine of \$750.00 to be paid within the probationary period.
3. Upon employment in any public or private position requiring a Florida educator's certificate, Respondent shall be placed on 2 employment years of probation with the conditions that during that period, (s)he shall:
  - A. Immediately notify the investigative office in the Department of Education upon employment or termination of employment in the state in any public or private position requiring a Florida educator's certificate.
  - B. Have Respondent's immediate supervisor submit annual performance reports to the investigative office in the Department of Education.
  - C. Pay to the Commission during the first 6 months of each probation year the administrative costs (\$150) of monitoring probation assessed to the educator.
  - D. Violate no law and shall fully comply with all district school board policies, school rules, and State Board of Education rules.

E. Satisfactorily perform all assigned duties in a competent, professional manner.

F. Bear all costs of complying with the terms of a final order entered by the Commission.

G. Provide a certified college transcript to verify successful (a grade of "pass" or a letter grade no lower than a "B") completion of 3 hours of college level course-work in the area(s) of Classroom Management, which may be taken online, within the first year of probation.

H. Not be employed as a pre-kindergarten, kindergarten, first or second grade teacher during the probationary period.

This order shall become effective upon filing with the Clerk of the Commission.

DONE AND ORDERED, this 6<sup>th</sup> day of August, 2018.

  
\_\_\_\_\_  
NICHOLAS PIETKIEWICZ, 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

**NOTICE OF RIGHT TO JUDICIAL  
REVIEW**

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

Lee Ann Gustafson  
Senior Assistant Attorney General

Claudia Llado, Clerk  
Division of Administrative Hearings

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 MICHAEL R. HERNACKI, [REDACTED], Melbourne, FL 32904 by Certified U.S. Mail and by electronic mail to Darby Shaw, Deputy General Counsel, Suite 1232, Turlington Building, 325 West Gaines Street, Tallahassee, Florida 32399-0400 this 6<sup>th</sup> day of August, 2018.



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Lisa Forbess, Clerk  
Education Practices Commission

**STATE OF FLORIDA  
EDUCATION PRACTICES COMMISSION**

**PAM STEWART, as  
Commissioner of Education,**

**Petitioner,**

**vs.**

**CASE NO. 167-3772**

**MICHAEL R. HERNACKI,**

**Respondent.**

\_\_\_\_\_ /

**ADMINISTRATIVE COMPLAINT**

Petitioner, Pam Stewart, as Commissioner of Education, files this Administrative Complaint against MICHAEL R. HERNACKI. 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 946242, covering the areas of Elementary Education, English for Speakers of Other Languages (ESOL) and Exceptional Student Education, which is valid through June 30, 2019.

2. At all times pertinent hereto, the Respondent was employed as a Kindergarten Teacher at Riviera Elementary School in the Brevard County School District.

**MATERIAL ALLEGATIONS**

3. On or about October 11, 2016, Respondent inappropriately disciplined a kindergarten student, [REDACTED] when Respondent yelled at [REDACTED] excessively while leaning close to [REDACTED]'s face, picked him up by his arms, and pulled him by his shirt. On or about October 20, 2016, as a result of his conduct with [REDACTED] Respondent was issued a Letter of Reprimand by his principal.

4. On or about May 5, 2017, Respondent inappropriately disciplined a kindergarten student, [REDACTED] when Respondent placed his hand on [REDACTED]'s chest and yelled at [REDACTED] excessively while leaning close to his face. On or about May 24, 2017, as a result of his conduct with [REDACTED] Respondent was issued a Letter of Reprimand by his principal.

The Petitioner charges:

**STATUTE VIOLATIONS**

**COUNT 1:** 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 2:** 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 3:** The allegations of misconduct set forth herein are in violation of Rule 6A-10.081(2)(a)5, 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 16<sup>th</sup> day of March, 2018.



**PAM STEWART**, as  
Commissioner of Education  
State of Florida



**EDUCATION PRACTICES COMMISSION**  
**STATE OF FLORIDA**

**GRETCHEN KELLEY BRANTLEY**

Executive Director

**LEE ANN GUSTAFSON**

Legal Counsel

**LISA FORBESS**

Clerk of Court

**CHRISTIE GOLD**

Chairperson

**NICHOLAS PIETKIEWICZ**

Co-Chairperson

August 13, 2018

Michael Hernacki

[REDACTED]  
Melbourne, Florida 32904

Re: Pam Stewart vs. Michael Hernacki  
EPC No.: 18-0201-RT; DOE No.: 946242

Dear Mr. Hernacki:

As you know, the teacher panel of the Education Practices Commission reviewed the matter pending against you. The panel concluded that you violated the Principles of Professional Conduct for the Education Profession prescribed by the State Board of Education rules and hereby reprimands you for the conduct alleged in the Administrative Complaint which is incorporated herein.

This panel, which includes fellow educators, 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 and have diminished your position as an educational leader. The profession cannot condone your actions, nor can the public who employ us.

The Education Practices Commission sincerely hopes it is your intention never 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.

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,

A handwritten signature in blue ink, appearing to read "N. Pietkiewicz".

Nicholas Pietkiewicz  
Presiding Officer