



VISION:  
*To be a world-class school system*

**THE SCHOOL BOARD OF LEE COUNTY**  
**Special School Board Meeting – M I N U T E S (Approved 10/24/06)**  
**Tuesday—September 26, 2006 / 2:30 p.m.**

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**Attendees:** Mr. Steven K. Teuber, J.D., Board Chairman  
Mr. Robert D. Chilmonik, Board Member  
Dr. Jane E. Kuckel, Board Member  
Dr. James W. Browder, Secretary & District Superintendent  
Dr. Elinor C. Scricca, Vice Chair  
Mrs. Jeanne S. Dozier, Board Member  
Mr. Keith Martin, Board Attorney  
Mrs. Denise Mangus, Recording Secretary

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**I. CALL TO ORDER** – The School Board of Lee County, Florida, met on Tuesday, September 26, 2006 in the School Board Meeting Room for a Special School Board Meeting. Chairman Teuber called the meeting to order at 2:48 p.m. (Student Hearings of the same time preceded this meeting). *Motion by Dr. Scricca, and second by Mrs. Dozier, carried 5-0 to accept the agenda presented as the Order of Business.*

**II. PUBLIC COMMENT** (Mr. Martin provided the Public Comment guidelines) – none

**III. SUPERINTENDENT’S RECOMMENDATIONS**

**A. Good Cause – None**

**B. Final Order on Administrative Law Judge’s Recommendation – Gary T. Gianinoto**

Attorney Robert Coleman (Coleman & Coleman) spoke on behalf of the employee; he noted the Administrative Law Judge’s (ALJ) Final Order found the latter guilty of misconduct, with sufficient evidence of terminating. Mr. Coleman recommends his client be suspended for a period of time. It was noted that the Superintendent has taken exception which Staff Attorney Rob Dodig filed; it’s not just adoption of the Order but taking exception and terminating Mr. Gianinoto. Mr. Coleman’s client did commit misconduct; Mr. Coleman has stood before the Board prior and at the inception of the process, telling his client the Board told the ALJ to make recommendations. Mr. Coleman’s suggesting this afternoon to trust the process and to rely on the authority the Board placed in the ALJ who found sufficient mitigating factors to decline termination. Mr. Coleman wants client suspended and not terminated; the conduct was wrong and he deserves being penalized. It was explained that there are two options—adopt the Superintendent’s Recommendations (adopting the Final Order) or adopt the ALJ opinion.

Mr. Dodig noted he’ll address the conclusion of law the ALJ made; on page 19 of the Recommended Order, re mitigation Mr. Coleman mentioned—showing a competent/liable employee—the Superintendent’s recommendation is to terminate this employee based on violation of 2.71 and 4.71 (using force against Mr. De Leon, Director to obtain his property back), possessing a weapon on a school bus (admittedly for some time), refusing to submit to District-ordered drug test, and then leaving District property. The ALJ thought as a three-year employee Mr. Gianinoto could be suspended but to leave it to Dr. Browder whether to have back for the next school year; that direction was not proceeded with as Mr. Gianinoto’s contract can’t be just simply non-renewed (judge may not have understood this) but it is left up to the Superintendent to make a recommendation. There were three offenses not becoming of a District employee, and Mr. Dodig supports the Superintendent’s recommendation. Mr. Coleman declined rebuttal. *Dr. Scricca made a motion, with Mrs. Dozier seconding, to adopt the exceptions and enter the Final Order terminating Gary T. Gianinoto’s employment with The School District of Lee County, Florida, effective end of day, September 26, 2006.*

Mrs. Dozier asked if there were any similar cases like this where a drug test refused; in past cases, the Superintendent’s recommendation of termination was followed. Mrs. Dozier noted the Board wants to be consistent in what they do; there’s agreement with the trust process and to be consistent in how the Board votes on Superintendent Recommendations. Mrs. Dozier asked if the ALJ had any other information than the facts of the case to base this decision on; Mr. Dodig noted there were previous cases of other

ALJ/competent jurisdictions. Dr. Kuckel noted her concern about a weapon due to the District’s zero tolerance and refusal to take a drug test (which was never administered)—these are two major violations for her, and she supports the Superintendent’s recommendation. Mr. Teuber noted the process and being data driven; the Superintendent and the Board are charged with painstakingly trying to validate the process; or if they don’t allow the process to run its course, it’s not used—this weighs heavily with him. Even though the Board trusts the process, the judge did not; the ALJ recommended two sentences—the sole discretion of the Superintendent to renew contract in the new school year this can’t be allowed—there’s a defect in the process. The outcome would not be valid, per SPALC and TALC recommendations; in trying to fashion a remedy for the intent of the ALJ to make a call after suspension, Dr. Browder has made that call—because of this, Mr. Teuber will defer to Mr. Dodig’s argument. Mr. Teuber noted trusting the process and leaving the second stage of discipline to the Superintendent; he’ll be supporting that motion.

Mr. Chilmonik noted seeing employees on school campuses carrying tools; Mr. Dodig noted a carpenter, for example, has a type of tool used in their job. Mr. Chilmonik’s curious that every employee doesn’t know they’re not allowed to carry a knife; it was explained to him that the employee handbook has zero tolerance and they sign for this book; so no penknife unless in the use of that employee’s job (e.g., a teacher wouldn’t have one). The ALJ didn’t know what parameters we operate in with SPALC and TALC; the ALC hears other cases other than school district ones but he chose not to use the language in his decision. The Cox case decision was cited where the employee had vested rights as a union employee. Mr. Chilmonik noted it’s very complex for one to get their hands around this and feels a lot of employees may be violating policy. Dr. Scricca noted support of Dr. Browder’s recommendation as it’s logical to her, but she appreciates trusting the process. The Superintendent’s recommendation was re-read. *Motion carried 5-0.*

**IV. OTHER BUSINESS**

**A. Board Members’ Comments/Reports – none**

**B. Attorney’s Comments/Reports – none**

**C. Superintendent’s Comments/Reports – none**

**D. Next Scheduled Meetings of the Board (today): 3:00 p.m., School Board Briefing; and 6:30, School Board Action Meeting.**

**V. ADJOURNMENT – There being no other business, Chairman Teuber adjourned the meeting at 3:09.**

/dwm

*MINUTES BOOK NO. 41 - FY07*

**Steven K. Teuber, J.D., Chairman**

ATTEST:

**James W. Browder, Ed.D., Secretary and District Superintendent**

*An audio/visual tape of this meeting has been produced to provide a verbatim record of the proceedings. Members of the public may obtain a copy of the tape of any meeting by making a request for such through the Communications Department and paying the actual cost of copying the tape. Members of the public may view any Board meeting tape at the Communications Department at no cost. Anyone wishing to view a Board meeting tape should contact the Communications Department at 337-8327 to make such a request.*