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In the Matter of the Disciplinary :
Proceeding :

- Between -

: SED File #18457, 18639,
19219

: Findings and Award

NEW YORK CITY DEPARTMENT OF :
EDUCATION :

"Complainant" :

- against - :

DAVID SUKER :

"Respondent" :
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Pursuant to Section 3020-a
of the Education Law

APPEARANCES

For the Complainant

MICHAEL BEST, ESQ., GENERAL COUNSEL TO THE CHANCELLOR
Nancy Ryan, Esq., of Counsel

For the Respondent

RICHARD CASAGRANDE GENERAL COUNSEL NYSUT
Steven Friedman, Esq., of Counsel
David Suker, Respondent

BEFORE: ELEANOR ELOVICH GLANSTEIN, ESQ., HEARING OFFICER

BACKGROUND

The New York City Department of Education ("Department" or "Complainant") preferred charges pursuant to Section 3020-a of the Education Law upon David Suker, a tenured teacher formerly assigned to GED Plus @ Bronx Regional Referral Center in the Bronx. Pursuant to the rules and regulations of the State Education Department and Article 21F 3020-a Procedures of the agreement between the Department of Education and the United Federation of Teachers, the undersigned was selected to serve as Hearing Officer to hear and decide this matter. A pre-hearing conference was held on February 8, 2012. Hearings were held on April 3, 5, 20, 2012; May 2, 8, 11, 15, 2012. Closing arguments were held on May 23, 2012. The hearing was closed after receipt of the final transcript.

The parties were afforded full opportunity to offer evidence and to examine and cross-examine witnesses. The evidence adduced and the positions and arguments set forth by the parties have been fully considered in the preparation and issuance of these Findings and Award.

THE CHARGES¹

David Suker (hereinafter referred to as "Respondent"), under File #749566, is a tenured teacher formerly assigned to GED Plus @ Bronx Regional Referral Center in the Bronx. During the 2011-2012 school year, Respondent engaged in inappropriate conduct and conduct unbecoming his profession.

In Particular:

SPECIFICATION 1: On or about September 16, 2011 Respondent followed teacher Yanira Rodriguez into the guidance office saying, in a manner causing her to feel threatened, words to the effect of may it be the last time you talk about me behind my back.

[REDACTED]

SPECIFICATION 3: Respondent was arrested on November 2, 2011 and failed to report the arrest in a timely manner as required by Chancellor's Regulation C-105.

¹At the pre-hearing the Department moved to consolidate the two sets of charges. The motion was granted. The first set of charges were designated D 1a and the second set of charges D 1b. The designation "T" refers to pages in the transcript. "D" refers to the Department's exhibits and "R" to the Respondent's exhibits.

The Foregoing Constitutes:

- Just cause for disciplinary action under Education Law §3020-a;
- Conduct unbecoming Respondent's position, or conduct prejudicial to the good order, efficiency, or discipline of the service;
- Substantial cause rendering Respondent unfit to perform properly his obligations to the service;
- Violation of Chancellor's Regulation C-105;
- Just cause for termination.

THE CHARGES

David Suker (hereinafter referred to as "Respondent"), under File #749566, is a tenured teacher formerly assigned to GED Plus @ Bronx Regional Referral Center in the Bronx. During the 2008-2009 and 2011-2012 school years, Respondent engaged in excessive absenteeism, inappropriate conduct and conduct unbecoming his profession.

In Particular:

SPECIFICATION 1: Respondent was excessively absent in that he was absent on the following dates:

- | | | |
|----|--------------------|-----------|
| a. | September 15, 2011 | Thursday |
| b. | September 21, 2011 | Wednesday |
| c. | September 22, 2011 | Thursday |
| d. | September 23, 2011 | Friday |
| e. | October 5, 2011 | Wednesday |
| f. | October 17, 2011 | Monday |
| g. | October 25, 2011 | Tuesday |
| h. | October 27, 2011 | Thursday |
| i. | October 31, 2011 | Monday |

- j. November 3, 2011
- k. November 4, 2011

Thursday
Friday

SPECIFICATION 2: On or about October 24, 2011 Respondent, at Town Hall meetings held in the auditorium of the Bronx Regional High School:

- a. Acted in an unprofessional and disruptive manner by causing students to make excessive noise and be uncooperative during a presentation provided by the New York City Police Department.

■ [REDACTED]

- c. Publicly noted his dislike of the police.
- d. Said that he had been arrested and beaten by the police.
- e. Showed a scar on his head that he claimed came from being beaten by police.

■ [REDACTED]

- g. Exchanged high-fives and raised fist gestures with students.

■ [REDACTED]

[REDACTED]

SPECIFICATION 4: On or about February 13, 2009, Respondent threw Student LG's* SED test application into the garbage can and directed her to leave the room when she refused to participate in a game of Jeopardy.

SPECIFICATION 5: On or about February 15, 2009, Respondent refused to allow student LG

to enter his classroom requiring her to work alone.

SPECIFICATION 6: On or about the dates below, Respondent directed Student EB* to work independently and did not permit her to remain in his class:

- a. February 27, 2009
- b. March 3, 2009

The Foregoing Constitutes:

- Just cause for disciplinary action under Education law §3020-a;
- Conduct unbecoming Respondent's position, or conduct prejudicial to the good order, efficiency, or discipline of the service;
- Substantial cause rendering Respondent unfit to perform properly his obligations to the service;
- Violation of Chancellor's Regulation C-105;
- Violation of Chancellor's Regulation A-421;
- Excessive absenteeism;
- Just cause for termination.

At the May 2, 2012 hearing the Department moved to consolidate the first two sets of charges with a third set of charges. The motion was granted.²

²The third set of charges were designated D 1c.

THE CHARGES

David Suker (hereinafter referred to as "Respondent"), under File #749566, is a tenured teacher formerly assigned to GED Plus@ Bronx Regional Referral Center in the Bronx. During the 2002-2007 and 2008-present school years, Respondent engaged in criminal conduct, and conduct unbecoming his profession.

In Particular:

SPECIFICATION 1: On or about 2001 to present, Respondent submitted false documents to the Department of Education which listed addresses where neither he nor his daughter, a student attending Columbia Secondary School for Math, Science & Engineering, lived.

SPECIFICATION 2: On or about December 1, 2006,, Respondent submitted false documents to the Department of Education with the intent to defraud the Department by improperly obtaining admission of his daughter into the Columbia Secondary School for Math, Science & Engineering.

SPECIFICATION 3: On or about October 4, 2001, Respondent submitted false documents to the Department of Education with the intent to defraud the Department by improperly obtaining admission of his daughter to a school she was not zoned for.

The Foregoing Constitutes:

- Just cause for disciplinary action under Education Law §3020-a;
- Conduct unbecoming Respondent's position, or conduct prejudicial to the good order, efficiency, or discipline of the service;

- Substantial cause rendering Respondent unfit to perform properly his obligations to the service;
- Criminal conduct;
- Just cause for termination.

POSITIONS OF THE PARTIES

Respondent moved to dismiss Specification 2 of the charges in D-1a as not rising to the level of a disciplinary offense. With respect to Specification 1 of the charges in D-1a Respondent maintains that Respondent was upset but never did anything of a physical nature toward Ms. Rodriguez that would suggest an imminent physical threat. Respondent contends that he did report his arrest on November 2, 2011 in a timely manner.

With respect to the second set of charges, Respondent maintains that Student ■G. was a disruptive out of control student and the Respondent had reasons for doing what he did that were reasonable under the circumstances. Respondent contends that there was no violence or physical confrontations at the Town Hall meetings, and the students did not cause any disturbance in the hallway when they left the meeting to go to lunch.

Respondent maintains that the October 3, 2011 staff meeting is an open forum that teachers routinely leave and re-enter. Respondent contends that he reported both his November 2, 2011 and November 6, 2011 arrests on November 8, 2011. With respect to the charge regarding excessive absences, Respondent maintains he had to take time off because of an eye condition and to care for his father. Respondent asserts he believed he had approval for the absences because the principal signed his request for FMLA leave.

Respondent contends he was exercising his federally protected first amendment right to speak out on matters of public concern at the Town Hall meeting and his actions there do not rise to a disciplinable offense. Respondent asserts Student ■■■B. had behavior problems and he directed her to leave the class because of her aggressiveness and profanity. With respect to the third set of charges, Respondent contends he did not intend to defraud the Department and made a series of errors during a very unstable period in his life.

Respondent asserts he is a fourteen year employee with no prior 3020-a charges. Respondent states he is sorry for the mistakes he made.

The Department contends that all twelve of the charges have been substantiated by a preponderance of the evidence which is the standard of proof in a Section 3020-a case. It is maintained that the charges that have been established include excessive absences, unprofessional conduct towards colleagues, inappropriate and potentially harmful behavior in riling up students at an assembly, inappropriate behavior towards students including improperly excluding them from class with no disciplinary documentation for the exclusions, to abusing a student by embarrassing her in front of the class and throwing out a paper related to her GED exam, to failing to follow Chancellor's Regulations relating to his arrests.

The Department maintains that Respondent's conduct as set forth in the third set of charges standing alone is sufficient to warrant his termination. It is contended the ten years of false filings Respondent made with the DOE so his daughter could attend a school she was not zoned for constitute

a fraud upon the DOE. The Department states that in addition to his criminal conduct, Respondent has also failed to appropriately treat both colleagues and students and failed to conform to the most basic of policies of the DOE relating to attendance and reporting arrests. It is maintained Respondent must be terminated.

DISCUSSION AND FINDINGS

Based on the weight of the credible evidence, I make the following findings:

Specification 1 of the first set of charges (D-1a) alleges that on or about September 16, 2011 Respondent followed teacher Yanira Rodriguez into the guidance office saying, in a manner causing her to feel threatened, words to the effect of may it be the last time you talk about me behind my back. Respondent did not dispute that on September 16, 2011 he followed Ms. Rodriguez into the guidance office after first attempting to speak with her in the hallway near the office. He testified that he was upset when he entered the room and raised his voice saying to Ms. Rodriguez, "If you have something to say, say it to my face don't talk about me behind my back." T-516, 646.

The three other staff members in the room when Respondent spoke to Ms. Rodriguez, Janet Declet, Jackie Rangel, and Kathleen Gilbert, all testified and gave statements regarding the incident. All three, as well as Ms. Rodriguez, testified Respondent's tone was aggressive; his voice was loud; his face was red and he seemed angry. The evidence established that, while he was in the office Respondent was never closer than five feet from Ms. Rodriguez. However, Ms. Rodriguez testified that she felt Respondent's body language was aggressive and contacted the principal, Robert Zweig, and called the police. T-35-36.

Respondent testified that a few weeks after the incident after he heard, during a meeting with Mr. Zweig, of the effect that his statement and his behavior had on Ms. Rodriguez he apologized to her because "I didn't feel good about it." T-526. He testified that, after he said he was sorry for what happened, Ms. Rodriguez said, "okay." T-528. Ms. Rodriguez testified that she never spoke with Respondent after the incident. T-44. I credit her testimony. The credible evidence supports this specification.

[REDACTED]

[REDACTED]

Specification 3 of the first set of charges alleges Respondent was arrested on November 2, 2011 and failed

to report the arrest in a timely manner as required by Chancellor's Regulation C-105. Respondent was arrested on November 2, 2011. T-648, D-7. Chancellor's Regulation C-105 requires an employee to immediately notify the N.Y.C. Department of Education Office of Personnel Investigation and the employee's supervisor of an arrest. Jean Horan, a technician specialist in the Office of Personnel Investigation, testified she handles the documents regarding arrest notification and Respondent did not notify OPI of his arrest. T-63 72.

Respondent testified that he faxed a notification of his arrest to OPI. R-5. A transmission verification report of a 3 page fax to a fax number that was identified as the fax number for OPI by Ms. Horan was introduced into evidence as R-6, T-74. Although the transmission verification report does not state what was being faxed, assuming it was R-5, Respondent was arrested on November 2, 2011 and a notification by Respondent of his arrest on November 8, 2011 was not done in a timely manner as required by Chancellor's Regulation C-105. Respondent is guilty of this charge.

Specification 1 of the second set of charges alleges that Respondent was excessively absent as he was absent on eleven days between September 15, 2011 and November 4, 2011. Respondent did not dispute that he was absent on the dates listed but stated his father had been sick with Parkinson's disease; he had eye surgery and his fiancé was pregnant. However, he could not state that any of the dates in the charged absences corresponded to the eye surgery, his father or his fiancé. T-550-2. Respondent did testify that he was absent on November 3 and 4, 2011 because he was in jail after his November 2, 2011 arrest.

Respondent testified that he called in his absences on several of the dates in the charges. The record does not support Respondent's claim to have called to advise he was absent. Respondent was not charged for authorized FMLA absences during this time period. Respondent was on notice of the consequences of excessive absences as he was fined \$1,000 for excessive absences in a time and attendance arbitration for the 2010-2011 year. Yet he was again excessively absent at the start of the next school year. The evidence supports this charge.

Specification 2 of the second set of charges alleges that on or about October 24, 2011 Respondent at Town Hall meetings held in the auditorium of the Bronx Regional High School:

- a. acted in an unprofessional and disruptive manner by causing students to make excessive noise and be uncooperative during a presentation provided by the NYC Police Department.

All GED Plus classes including Respondent's class were directed to attend Town Hall meetings scheduled for October 24, 2011. [REDACTED]

[REDACTED]

[REDACTED]

there, that there was no need for them to be there, that the students weren't criminals. T-235.

Two of the teachers present during the second segment of the meeting, Evelyn Idoko and Haynese Lamey both testified and gave statements. D-24, 25. Ms. Lamey wrote in her statement that, after Respondent stated the police have no right to be at the meeting, the students responded by cheering and clapping and "Mr. Suker then made a reference to how he dislikes police officers." D-25. The credible evidence supports the charge (Specification 2c) that Respondent publicly noted his dislike of the police.

Respondent did not dispute that during the second meeting he said that he had been arrested and beaten by the police (Specification 2d) and showed a scar on his head that he claimed came from being beaten by the police (Specification 2e). T-578, 680. Respondent did not dispute that he exchanged high fives and raised fist gestures with students. (Specification 2g). T-679.

Ms. Declet testified that, when Respondent spoke at the second meeting about an incident he had with the police, showing a scar on his head the students started getting agitated, jeering and cheering

agreeing with what Respondent was saying about the police. Ms. Declet testified she had to ask Respondent several times to sit down before he sat down. T-235-6. She testified that after the police officer spoke Respondent again went to the front of the auditorium and was agitating the students. T-287.

Ms. Lamey testified that when "it was beginning to look like [the meeting] was getting out of control" she went up to the Respondent and asked him to sit down, but he did not and when another teacher walked to the mic Respondent sat on the stage. T-281-2. Ms. Lamey testified that when she went to the mic and was speaking Respondent sat on the stage pumping his fists and students were chanting and cheering - Black power, White power, Puerto Rican power. T-293, 298. Ms. Lamey further testified that "we pretty much lost control" and Ms. Declet closed the meeting.

Ms. Declet testified that, after Respondent started raising his fists, students got agitated and started to raise their fists as Respondent was doing. Ms. Declet testified that, when Ms. Lamey couldn't calm the students when they kept jeering and raising their fists, she had to close the meeting without being able to finish the program. T-237-8.

Respondent's disruptive and unprofessional behavior during the second Town Hall meeting, as established in Specification 2c, d, e, and g, caused the students to make excessive noise and be uncooperative as alleged in Specification 2a.

[REDACTED]

[REDACTED]

[REDACTED]

Specification 3 [REDACTED]

Specification 4 of the second set of charges alleges that on or about February 13, 2009, Respondent threw Student █G.'s GED test application into the garbage can and directed her to leave the room when she refused to participate in a game of Jeopardy. Respondent did not dispute that he threw Student █G.'s GED test application into the garbage can and told her to leave the room. T-688, 591. Respondent

testified that he threw the test application into the garbage but he did not do it on purpose. T-687. He testified he was collecting scrap paper and the application was accidentally thrown out with the scrap paper he put in the garbage can. The weight of the credible evidence does not support his testimony.

Student ■G. testified that she and Respondent were arguing and Respondent told her he was going to throw her test predicator away, then he took it out of a manila folder, crumbled it up in front of the class and threw it in the garbage. T-94-96. Two students who were in the class at the time gave statements that Respondent threw ■G.'s test form in the garbage. Principal Roger Zweig testified that, when he interviewed Respondent about the incident with ■G., Respondent said that a student's behavior is one of the criteria of whether a student should sit for an exam and he acknowledged that he threw ■G.'s paper in the garbage. T-191-92. Respondent acknowledged that he did not tell Principal Zweig that he accidentally threw out ■G.'s application with the scrap paper. T-691.

Respondent testified he told ■G. to leave the classroom because she cursed him a few times but she

did not go. Principal Zweig testified that there are procedures to be followed if a student's behavior is not appropriate and Respondent had not followed them. I credit his testimony. Respondent is guilty of Specification 4.

Specification 5 alleges that Respondent on or about February 15, 2009 refused to allow Student ■G. to enter his classroom requiring her to work alone. Respondent did not dispute that he refused to allow Student ■G. to enter the classroom. T-600. Respondent testified the problems with ■G. were not being resolved and he told the guidance counselor ■G. would have to work independently with the paraprofessional until there was a meeting with the guidance counselor. T-601-2.

Principal Zweig testified that, when he spoke with Respondent, Respondent acknowledged that at the time he barred ■G. from the class there was no appointment scheduled with the guidance counselor. Principal Zweig testified that the guidance counselor does not work at the school and it was not appropriate to handle ■G.'s behavior issues in the manner Respondent did. Principal Zweig testified he was not questioning whether the student's behavior was

appropriate but there are procedures to be followed and the Respondent did not follow them. Respondent did not dispute there are procedures to be followed before a student can be barred from the classroom but he stated he followed those procedures. T-694-5. I credit Principal Zweig's testimony that Respondent did not follow the appropriate procedures. The evidence supports this charge.

Specification 6 of the second set of charges alleges that on or about February 27, 2009 and March 3, 2009 Respondent directed ■B. to work independently and did not permit her to remain in his class. Respondent did not dispute the allegation in this charge. T-606. Respondent testified that he told ■B. to leave the class and work with the paraprofessional because she made profane remarks towards homosexuals. T-606. Student ■B. did not testify.

Principal Zweig testified that, when he spoke to Respondent about the incident, there was no evidence that Respondent had followed the appropriate procedures before removing ■B. from the class. Principal Zweig testified that he was not questioning whether the student's alleged behavior was appropriate, but Respondent's failure to follow the

appropriate procedures to address the behavior. T-189. Respondent testified that he was aware that steps have to be taken before a student can be barred from the classroom. T-677. The evidence establishes that Respondent did not follow those procedures. Respondent is guilty of this charge.

Specification 1 of the third set of charges alleges that on or about 2001 to present Respondent submitted false documents to the Department of Education which listed addresses where neither he nor his daughter, a student attending Columbia Secondary School for Math, Science and Engineering lived. Respondent testified that his daughter has attended public schools on the Upper West Side of Manhattan since 2001. He testified she attended P.S. 87 for kindergarten. He testified she attended P.S. 9 on 84th Street in Manhattan for the first through fifth grades and then was accepted at the Columbia Secondary School where she attended the middle school and is now a student at Columbia Secondary High School on 123rd Street in Manhattan. T-612-13.

The documentary evidence established that students attending those schools were required to reside in specific school districts. D-53.

Respondent did not dispute that when he contacted P.S. 87 about enrolling his daughter in kindergarten he was told he had to live in School District 3. T-620.

Respondent acknowledged that he signed and submitted documents to the Department of Education containing his and/or his daughter's address. D-35, 37, 54, 56, 38, 39, 59. Respondent did not dispute that neither he nor his daughter ever resided at 262 West 145th Street in New York. T-707. He did not dispute that neither he nor his daughter resided at 64 West 84th Street in Manhattan. T-708. Respondent testified that he never resided at 64 West 85th Street and while his daughter spent a lot of time there with her friend's family for sleepovers, she lived with her mother in the Bronx during the school week. Respondent testified that he never resided at 555 Edgecombe Avenue in New York but his daughter would have sleepovers with her friend at that address. T-709-10. The evidence supports this charge.

Specification 2 of the third set of charges alleges that on or about December 1, 2006 Respondent submitted false documents to the Department of Education with the intent to defraud the Department by improperly obtaining admission for his daughter into the Columbia

Secondary School for Math, Science and Engineering. Susan Cofield, the Executive Director of Manhattan enrollment, testified that Columbia Secondary School for Math, Science and Engineering is a highly desirable school with many applicants that has a school based admissions process that is open to families in the requisite areas. T-468.

The credible evidence established that Respondent's daughter did not live in one of the requisite areas. A copy of the application for admission for Respondent's daughter was introduced into evidence as D-54. The application dated December 1, 2006 lists 262 West 145th Street as Respondent's daughter's address. Respondent did not dispute that he did not live at that address, but testified that he worked at that location and used it because of his unstable living situation. T-630.

The evidence established that Respondent listed other addresses in the requisite areas for attendance at Columbia Secondary School for Math, Science and Engineering on documents submitted to the DOE where neither he nor his daughter lived. Respondent testified he put the Edgecombe Avenue address on the

enrollment form because his daughter was spending time there and he needed a stable place to receive mail.

Respondent testified that he didn't think it was fraud or anything illegal to use these addresses. He testified that he knew that you had to live in the district. Respondent testified that he believed he lived in the district and that it was not until he was served with the charges [D-1c] that he realized that may have been an error. T-638.

However, his actions prior to that establish that he knew his daughter did not qualify for admission to schools in the district. Respondent acknowledged that he never lived at 64 West 85th Street yet he had Helen Gorman, the payroll secretary at Offsite Educational Services, prepare a letter that Respondent's official address was 64 West 85th Street. T-712; D-37. Respondent had Verizon enter his name and the address at 64 West 85th Street, Apartment 3B in their accounts although he did not live there. Respondent submitted a paid phone bill with his name and the West 85th Street address as proof of residence. T-713-14. The credible evidence establishes that he knew the district requirements and did not meet them so he knowingly submitted false documents so his daughter

could attend school in the district. Respondent is guilty of this charge.

Specification 3 of the third set of charges alleges that on or about October 4, 2001 Respondent submitted false documents to the Department of Education with the intent to defraud the Department by improperly obtaining admission for his daughter to a school she was not zoned for. Respondent did not dispute that in September 2001 he contacted P.S. 87 to enroll his daughter. Respondent testified that he was told he had to live in District 3 and had to provide verification that he lived in District 3. T-620. Respondent did not dispute that he told school officials he lived in District 3. Respondent did not dispute that he used the address of his daughter's friend where his daughter had sleepovers as proof of residency in District 3 in Manhattan on the application he submitted for his daughter's admission to P.S. 87. T-621-22.

Respondent testified that he did research and knew there were good schools on the Upper West Side and the schools where his daughter lived with her mother in the Bronx during the week were the worst schools in the City. T-637. His testimony that he

believed he lived in District 3 is not credible. The credible evidence establishes that Respondent did not live in the district and knew that he had to live in the district for his daughter to go to school there so he knowingly submitted false documents to the Department of Education to gain her admission to a school she was not zoned for. Respondent is guilty of this charge.

The final issue concerns the appropriate penalty for the charges of which Respondent has been found guilty. Respondent has been found guilty of a number of charges including excessive absenteeism, unprofessional conduct towards a colleague, inappropriate and disruptive behavior at a school assembly, inappropriate behavior in the manner he dealt with Students ■G. and ■B. and failure to report an arrest in a timely manner. He has further been found guilty of intentionally submitting false documents to the Department of Education for over ten years to have his daughter obtain admission to schools she was not zoned for.

Respondent maintains he did not intend to defraud the Department of Education and made a series of errors during an unstable period in his life. He

states that the decisions he made were not fully thought out but he did not intend to do harm and accepts responsibility for his actions. Respondent states that he only wanted the best education for his daughter and now realizes where he went wrong, is sorry and requests a second opportunity.

It is understandable that Respondent, as do all parents, wanted the best education for his daughter. As testified to by Susan Cofield, the schools in District 3 in Manhattan are highly regarded and very much in demand. The evidence established that Respondent's daughter did not meet the residency requirements for admission to schools in District 3 and Respondent knew she did not meet the requirements. In order to gain her admission to schools in District 3 Respondent knowingly and intentionally submitted fraudulent documents to his employer, the Department of Education, over a ten year period. Respondent now states that he is sorry but that does not diminish the seriousness of his misconduct. Given all the facts and circumstances of this case the Department of Education has just cause to terminate the services of Respondent, David Suker, upon its receipt of this Award.

Therefore, for the above reasons, I issue the following

AWARD

1. Respondent, David Suker, is guilty of Specifications 1 and 3 of the first set of charges. He is not guilty of Specification 2 of the first set of charges.
2. Respondent is guilty of Specifications 1, 2a, c, d, e, g; 4, 5, 6 of the second set of charges. He is not guilty of Specifications 2b, f, h; 3 of the second set of charges.
3. Respondent is guilty of Specifications 1, 2, 3 of the third set of charges.
4. Respondent's service with the Department of Education is to be terminated.

DATED: August 17, 2012 Eleanor E. Glanstein
Eleanor E. Glanstein, Esq.
Hearing Officer

I, Eleanor E. Glanstein, Esq., do hereby affirm upon my oath as Hearing Officer that I am the individual described in and who executed this instrument, which is my Award.

DATED: August 17, 2012 Eleanor E. Glanstein
Eleanor E. Glanstein, Esq.
Hearing Officer