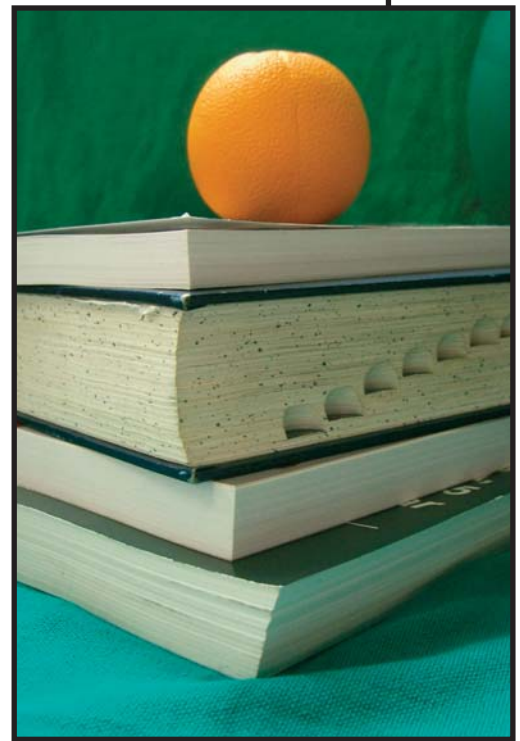


FLORIDA DEPARTMENT OF EDUCATION

# PROFESSIONALISM THROUGH INTEGRITY

## The Code of Ethics and The Principles of Professional Conduct



Awareness Training  
Participant Training Manual

The Florida Education Standards Commission  
and  
The Florida Education Practices Commission

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## **JUST ONE THING AFTER ANOTHER**

Joe Jones is an elementary physical education teacher who is continually in trouble. In December of Year One, he was arrested for petty theft. Very soon after, he was arrested and charged with battery. It was one of those incidents where things went quickly from inappropriate remarks to physical hitting. While walking down the hall, he interjected offensive comments into a private conversation between two substitute teachers. (The subject of their talk was totally inappropriate for school hallways.) A "tit-for-tat" conversation got out of hand when the offended teacher challenged him, poked him with her finger on the shoulder, and he reacted by shoving her on the floor. She sustained injuries. A parent filed a complaint because her child observed the "fight." When the battery case went before the court during year two, he was placed on six months deferred prosecution with fines to pay, contributions to charity to make, and community service to complete. The Practices Commission assigned him to two years probation with a stipulation that he file quarterly performance reports that indicate improved performance.

In year three and during probation, he was charged with two counts of issuing worthless checks to a grocery store. The court assigned him to complete 30 days of probation, and to pay court costs and restitution. Shortly afterwards, he was stopped for a traffic violation. He tried to run off and was arrested and charged with resisting arrest. In year four, Mr. Jones applied to extend his teaching certificate and did not indicate this series of arrests (even though adjudication was withheld). In year five an administrative complaint was filed against him for obtaining a teaching certificate by fraudulent means, submitting fraudulent documentation and fraudulent statements. The school district issued a letter of reprimand for unprofessional conduct and required him to submit to random drug tests.

## **MS. JONES AND HER RELATIONSHIPS**

Ms. Jones is a high school math teacher in Central County. She is only 24-years-old and has been suffering emotionally due to her recent separation from her husband and his subsequent accidental death. She doesn't really have any friends--teaching takes up most of her time and her students have become her social circle. John was a student in Ms. Jones' homeroom as a sophomore, and a student in her algebra class as a junior. Ms. Jones' department head, Ms. Frank, was the closest thing she had to a friend. She suggested that Ms. Jones get to know John's family after her husband died. Ms. Jones told Ms. Frank about their get-togethers, and Ms. Frank encouraged the relationship.

When John began having trouble in his Calculus class, Ms. Jones started to tutor John, sometimes at school, sometimes at his home or at her apartment. As always, he was very easy-going and friendly. She began to look forward to their sessions. She realized that she missed the male company her deceased husband had provided, and her relationship with John progressed. By the time John was in the last few months of his senior year at a high school in Florida, their teacher/student relationship had developed into a sexual relationship. Ms. Jones reasoned to herself that John was nineteen years old at the time. Further, his parents approved of the relationship, often inviting her over for meals and including her on family outings.

# **AWARENESS TRAINING**

## **Agenda**

**Opener: Written Case and Discussion**

**Workshop Objectives**

**Participants' Issues and Questions**

**Pre-Test and Discussion**

**Description of Agencies**

**An Overview**

The Code of Ethics

Principles of Professional Conduct

**Exercise #1**

Read, Discuss, and Analyze Principles Violated

**Exercise #2**

Read, Discuss, and Analyze EPC Action

**What to Expect**

**Guidelines and Common Sense**

**Closing Remarks**

Unanswered Questions

*Adams and Tomerlin Cases*

## WORKSHOP OBJECTIVES

- Participants will understand the three essential elements of The Code of Ethics of the education profession in Florida.
- Participants will be able to discuss their obligations to the student, the public, and the profession from the Principles of Professional Conduct.
- Participants will understand the different roles of the Florida Education Standards Commission, the Bureau of Professional Practices Services, and the Florida Education Practices Commission.
- Participants will be able to describe the process: What to Expect.
- Participants will be able to list appropriate steps to take:
  - during interactions with students,
  - during record keeping and accounting, and
  - while in the community.
- Participants will understand the high moral standard to which they are held.
- Participants will be able to list activities that are not school-related that could lead to charges of ethical conduct violations.
- Participants will be able to list violations that may lead to dismissal from district employment.
- Participants will be able to list violations that may lead to revocation or suspension of educator certificates.
- Participants will understand the differences in perceptions and reactions of others.

# PROFESSIONAL CONDUCT FOR EDUCATORS

## PRE-TEST

Directions: Check the correct response to each statement.

**1. As of September, 1998, 198,091 individuals held a State of Florida Educator's Certificate. What is the percentage of educators with adjudicated cases for violations of the Principles of Professional Conduct and other sections of Florida Law during the 1998-99 Fiscal Year?**

- a. 20%
- b. 2%
- c. 1 %
- d. .2%

**2. It is generally held acceptable for a teacher to date their students:**

- a. if the student is 18 years old or older.
- b. if the student's parent(s) consent in writing.
- c. after the student graduates from the school system.

**3. If you are found to be deficient in your education duties, the district must initiate which of the following:**

- a. Provide written Notice to you that deficiencies exist.
- b. The Notice must provide a thorough Explanation which describes your unsatisfactory performance.
- c. Provide Assistance to help you correct the deficiencies.
- d. Provide Time (90 calendar days from the receipt of the Notice) to correct all deficiencies noted.
- e. All of the above.
- f. You (the educator) may hope for the district to provide any of the above, but you had best rely on yourself to figure out what your deficiencies are and "fix" them fast.

**4. Violations of The Principles of Professional Conduct and other sections of Florida Law shall subject the individual's Educator's Certificate to revocation or suspension or other penalties as provided by law.**

- a. True
- b. False
- c. Maybe

**5. Educators can be held liable for:**

- a. administering corporal punishment in accordance with state law.
- b. use of excessive force.
- c. maintaining order in the classroom.

**6. Which standard of proof is used by the Department of Education in taking action against an Educator's Certification?**

- a. criminal
- b. civil
- c. administrative
- d. No standard of proof is required.

**7. According to The Principles of Professional Conduct, it is generally held acceptable for educators to drink socially with their students:**

- a. if the student is still in the K - 12 school system but over 21 years old.
- b. if the drinking does not take place on school grounds.
- c. if the student is 21 years old or older and not in the K - 12 school system.
- d. None of the above.

**8. Unethical and/or illegal conduct by educators in their private lives:**

- a. is grounds for disciplinary action (which may include action against the certificate).
- b. may lead to disciplinary action only if the nature of the misconduct impairs the educator's effectiveness or trustworthiness in the classroom.
- c. is a private matter and not subject to disciplinary action.

**9. Educators are explicitly forbidden from discriminating against:**

- a. students based upon their sexual orientation.
- b. students based upon their handicapping condition.
- c. students based upon their age.
- d. all of the above.
- e. some of the above.

**10. The Principles of Professional Conduct stipulate that if an educator is arrested for or charged with child abuse or the sale and/or possession of a controlled substance, the educator shall:**

- a. keep the information to him or herself so as to protect the integrity of the education profession's reputation.
- b. shall self-report the arrest to appropriate district authorities within 48 hours.
- c. shall self-report to the Office of Professional Practices Services within 48 hours.
- d. resign immediately.

## ~CODE OF ETHICS~

The educator **values**:

- ~the worth and dignity of every person
- ~the pursuit of truth
- ~devotion to excellence
- ~acquisition of knowledge
- ~the nurture of democratic citizenship

The educator's **primary professional concern** will always be for the student and the development of the student's potential.

The educator **strives** to achieve and sustain the highest degree of ethical conduct.



# PRINCIPLES OF PROFESSIONAL CONDUCT

## Obligations to the Student

The educator will:

- ~**commit** to academic openness, fairness, honesty, and objectivity to students and the learning material,
- ~**avoid** harassment of, embarrassment of, or discrimination against students.

## Obligations to the Public

The educator will:

- ~**distinguish** between personal views and the views of the educational institution with which the educator is affiliated,
- ~**refuse** to accept gifts or favors which will influence professional judgment, and
- ~**avoid** using their professional position for personal gain or advantage.

## Obligations to the Profession

The educator will:

- ~**respect** and be fair to colleagues,
- ~**report** alleged violations of state or local school board rules by other educators,
- ~**avoid** misrepresenting qualifications or assisting unqualified personnel to gain or continue employment in the profession, and
- ~**self-report** within 48 hours to appropriate authorities any arrests/charges involving the abuse of a child, the sale and/or possession of a controlled substance.

## **EXERCISE #1 CASES**

- 1. A Picture is Worth...**
- 2. If the Sixth Time You Don't Succeed**
- 3. Inappropriate Language**
- 4. Kiss and Tell**
- 5. A Mother's Word**
- 6. Under 21-Twenty Years Later**
- 7. Misdirected Love**
- 8. Equal Opportunity Battery**

## **A PICTURE IS WORTH...**

Will Rock is a 32 years old vocational education teacher. He discovered pornographic pictures through electronic communication and downloaded them into a computer he brought home from school. Then, he took the computer back to school where he began showing the pictures to the boys in his classes. Over the semester, he taught from lesson plans less and less and showed more and more pictures. Eventually, a parent overheard her child complaining to a friend that they were not learning anything in this teacher's class. All they did was look at "dirty pictures." The parent called the principal. The principal went to the classroom after hours, found some suspicious materials on the computer, and then asked the technology teacher, who knew a lot more about computers, to assist her. The "expert" found several computer files of pictures of homosexual and bestiality activities both on the computer and on disks. The principal took the computer and disks and called the police. The police took the computer and disks. The next morning the principal met the teacher in the parking lot and sent him home.

The police arrested him that day at home and charged him with two counts of exhibition of obscene material to minors. He resigned his position with the school board and pleaded nolo contendere to the charges. The court system withheld adjudication; placed him on three years probation; stipulated that he undergo a psychological evaluation and receive counseling, if needed, and that he perform 100 hours of community service; and pay \$256.00 in court costs. Meanwhile, a complaint was filed against him with the Department of Education. In the Professional Practices Services investigation, eight students from various class periods reported that they had viewed the pictures on the teacher's computer during class and during lunch periods.

## **IF THE SIXTH TIME YOU DON'T SUCCEED...**

Ms. Rhonda Trillum has been teaching elementary education in a large school district for several years with a Temporary Certificate. She has run out of time to meet requirements for her Florida Educator's Certificate because she has not successfully passed all of the parts of the Florida College Level Academic Skills Test (CLAST). She previously tried three times to pass the remaining parts of the test and she failed to pass. The fourth time the Department of Education investigated and determined that the individual taking the last exam and the one taking the first three were not the same individual. She was notified that the scores from the fourth examination were removed from her records. This was reported to the Bureau of Teacher Certification and to the Office of Professional Practices Services. Two years later, she retook the CLAST and again did not pass. The sixth time she sat for the examination it was again found that someone else took the examination for her. It was again reported to the Bureau of Teacher Certification and to Professional Practices Services.

Shortly after the sixth examination, she applied for her Florida Educator's Certificate. The application was denied because she had not passed the CLAST and she had violated Florida statutes that require holders of a Florida Educator's Certificate to be of good moral character. She had also violated the Principles of Professional Conduct. For an informal hearing before the Education Practices Commission, Mrs. Trillum submitted a letter from her medical doctor which indicated that she was suffering from depression and, as a result, was not attending to her studies. She herself wrote a letter stating that she was suffering from depression.

## **INAPPROPRIATE LANGUAGE**

Mark Mason is a guidance counselor in a middle school. He has over twenty years experience in guidance counseling and works with a variety of programs including Drop-Out Prevention, suspended students, and exceptional education. He taught elementary education for two years previously. He has been married for many years. For two school years he was overheard using profanity around students, making inappropriate sexual comments to the students, and using offensive slang words to describe body parts and sexual acts. He added stories of his own personal sex life and then began to berate the female students for alleged sexual promiscuity, accused them of contracting sexually transmitted diseases, and told them they got what they "deserved." Ultimately, he described a parent's appearance in inappropriate sexual terms.

The school district investigated complaints from parents about Mr. Mason's language. Over twenty-five individuals stated that they had heard such language. Based on the findings, the school board issued a letter of reprimand, suspended him without pay, and planned to terminate him from the district. A complaint was filed with the Office of Professional Practices Services which then investigated the case. The local newspaper printed the story and reported that he denied the charges. Mr. Mason said that people were trying "to get" him, that the administrators had a "vendetta" against him, and that they had made up the allegations.

## **KISS AND TELL**

Mr. Andrew Navarre had been teaching for sixteen years in a large district when he befriended a student. The student did not have classes with him, but Mr. Navarre took an unusual interest in him. The student's parents separated and the mother moved north and the father told the boy not to come home for a while. The student was sleeping in the high school football field house when Mr. Navarre gave him the key to his classroom. The student moved in some clothes and was sleeping there when Mr. Navarre began buying him food and clothes, and giving him money. One day, Mr. Navarre drove the boy to his home and started kissing him in the parked car. On another day, he paid over \$1000.00 in car repairs for the student and asked for "favors." This time when Mr. Navarre drove him to his home, the neighbors complained to the police about the kissing they saw between an older and younger male in the car. The police investigated and found that since the student was 18 and would not file a complaint, the situation was adult to adult with consent.

Some months later, the student told the high school counselor that he was afraid of Mr. Navarre because he had become more demanding of sexual favors. Meanwhile, the student was threatened by Mr. Navarre's relatives for talking to the police investigator. Later, he received a love letter from Mr. Navarre which he gave to the counselor. The counselor reported it to the assistant principal. They learned from a custodian that the two were seen leaving the school grounds together everyday and that the student had been sleeping in Mr. Navarre's classroom. Further investigations with other teachers revealed that Mr. Navarre was pulling the student out of his classes and that he seemed to be abnormally interested since he did not have this student in his own classes.

The district began an investigation and filed a complaint with the Office of Professional Practices Services. When confronted with this information, Mr. Navarre resigned from the school district. He wrote that he had other career options. The district informed him, that although he had resigned, some things were not altered: information would be provided to authorities for investigation of criminal charges, formal notification would be sent to the Department of Education for licensure investigation, future employment would be prohibited in the district schools in any capacity, and there would be retention of all information regarding the preliminary investigation as official record.

## **A MOTHER'S WORD**

Mr. Beau Harrison has been a district school psychologist for over ten years. When he first applied for his certificate, an earlier arrest record for dealing in stolen property showed up, but he was cleared with the Office of Professional Practices Services and his certificate was issued. He was going to various schools in the district and often saw a professional woman from another multi-district state agency at a school in a rural area. In the summer he often saw her with her children. One day she told him that she was not pleased with the screening for the gifted program that her child's school district had conducted. She asked him to test her child "as a professional courtesy." The mother assured him that the evaluation results would "NOT" be used to insist her child be determined eligible for the gifted program. She also led Mr. Harrison to believe that the child was in a private school.

One afternoon, on his employer's time and using his employer's evaluation materials, Mr. Harrison administered a psychological examination for one and one-half hours at the mother's worksite. He dictated the results and his district staff typed up the reports. A referral for services was generated which then became a legal document of the school board.

It was not long before Mr. Harrison's supervisor, Mrs. Rogers, received a phone call from her counterpart in the neighboring school district. It seems the other school district had a referral for the gifted program based on psychological testing by Mr. Harrison's school district. Furthermore, the child tested did attend one of the neighboring district's public schools. Mrs. Rogers called a meeting of several individuals involved and informed Mr. Harrison that he had administered an unauthorized psychological examination.

He had generated a legal document of the school board that was fraudulent, had violated the school district's testing policies, had used district resources including about \$300.00 for the testing materials to create the fraudulent document, and he had operated outside the parameters of his authority and had operated outside his supervisor's direction. Therefore, he had violated the requirements for his professional licensure. In addition to the district filing a complaint with the Office of Professional Practices Services concerning his certificate, Mrs. Rogers was going to inform the Board of Professional Regulation of his violation regarding his professional license. Mr. Harrison was quite remorseful and very alarmed that he was misinformed by the parent.

## **UNDER 21 - TWENTY YEARS LATER**

Matt Soucheck is nearly 50 years old, is certified as both a social studies teacher and as a school principal. He has been in the school district over twenty-five years and is now principal of one of the district's large high schools. He was fingerprinted when he first started teaching in the school district. About ten years later, he was fingerprinted by the local town police department when he started doing some summer volunteer work with the police department. There were no negative results for him either of these two times. Imagine his surprise when a recent routine fingerprint check showed an arrest record in a neighboring county. The assistant superintendent sent him a letter telling him to provide, within thirty days, the following: an explanation as to why he did not declare the arrest on his employment application, a written explanation of the circumstances, and certified copies of the arrest records. It took him a while to remember his arrest.

When Mr. Soucheck was twenty years old, he borrowed a friend's fake driver's license to obtain entrance to a nightclub and buy alcohol. He was caught, arrested, and charged with possession of alcohol as a minor and with possession of a fraudulent driver's license. He posted bond and court records showed that he pled guilty. In his explanation to the assistant superintendent, Mr. Soucheck wrote that at the time of his arrest, the family lawyer had told him that the alcohol charge was dropped and that there would be no prosecution. Furthermore, the lawyer had told him that the incident was "non-reportable" for college or job applications because it would be "erased." However, the arrest records were not expunged. Meanwhile, he was reported to the Office of Professional Practices Services because he had not reported his criminal history when submitting documents regarding his certification application and subsequent renewal.

## **MISDIRECTED LOVE**

Harry Buckmaster was divorced and a physical education teacher. He told one student he was looking for a wife who would not talk, would watch football games on television, and who would not put up a fuss or ask questions when he went off on a three-day fishing trip. One day he was talking with Melissa, a high school senior, about her ex-boyfriend and he gave her his phone number to call him at home "to talk." They had many phone calls of extensive conversation. Later he kept her back in class and kissed her. The next day he gave her underwear and several stuffed toys and suggested that he really knew what would make her feel good. In fact, he continued on about sexually explicit matters. Melissa sent him a note that explained that she did not want to talk with him anymore. She gave the gifts to other students. He confronted her and asked if his kissing "was bad." He also told her not to tell anyone; he could get fired.

One night, on the way to the movies with neighbors, she told them what was going on with the coach. The next day, the neighbors took her to school to discuss the issue with the school administrators. The police were called in and their investigation included interviews with several students who knew about coach and Melissa. A complaint was filed with the Office of Professional Practices Services.

## **EQUAL OPPORTUNITY BATTERY**

Sally Smith had eleven years of teaching experience and was certified in early childhood and elementary education when she lost her temper in an argument with her husband. She hit him in the face with her fist and caused a laceration that required medical treatment. The neighbors called the police and she was arrested for battery and domestic violence. The court placed her in the misdemeanor intervention program and ordered no contact with the victim (her husband). Two months later she was applying for the renewal of her certificate. She checked "Yes" to having an arrest record. The school district reported the case to the Office of Professional Practices Services which investigated. An Administrative Complaint was filed against her.

## **EXERCISE #2 CASES**

- 1. Assault and Battery on Ex-Husband**
- 2. A Lost Temper**
- 3. Private Acts in Public Places**
- 4. A Case of Domestic Violence**
- 5. At-Home Hobbies**
- 6. Just A Little Help**
- 7. Teacher Takes A Hit-and A Hike**
- 8. Ms. Hartson and Her Anger**

## **ASSAULT AND BATTERY ON EX-HUSBAND**

Ms. Canning is an elementary education teacher with additional certification in early childhood. When she applied to renew her certificate, she indicated that she had an arrest record for assault and battery/domestic violence which had taken place three years before. A complaint was filed by the school board against her with the Office of Professional Practices Services (PPS). The Commissioner of Education found probable cause to take action against her certificate. Mrs. Canning chose not to dispute the allegations, but requested an informal hearing before the Education Practices Commission to present evidence and testimony in mitigation.

Ms. Canning presented the following information. Her ex-husband was coming by one Saturday to pick up their daughter for one of the agreed upon visits. Ms. Canning had written a letter to give to him explaining that his lack of child support payments was creating financial problems for the family. In addition, she was really upset because the insurance company had just notified her that the daughter's health insurance coverage was dropped because the premiums were not paid. (In the divorce settlement, it was agreed that he would pay the insurance payments.) She planned to give him the letter she had written him rather than say something and get in an argument. When she went out to the car, the ex-husband had rolled up all the windows and refused to roll one down and talk with her. She found one in the back halfway down and she threw in the letter and hit him on the back of the head. He called a police officer and pressed charges.

Ms. Canning added in her testimony that she realized that it was very immature behavior to hit him.

## **A LOST TEMPER**

Eli Smith is a middle school teacher certified in Emotionally Handicapped and Social Studies. Mr. Smith has lost control of the classroom and it has been reported that his lack of proper lesson plans is a large part of the problem. The assistant principal in regular visits to his class has recorded that the students are not properly supervised, that they are beginning to disregard his authority and that the students are not constructively using their time. The assistant principal has asked another staff member to assist Mr. Smith. The specialist has suggested to Mr. Smith that he become more organized and efficient, his classroom management is suffering because of his lack of planning. She has tried to give him "pointers." He has responded in a hostile manner to her suggestions.

Recently a student refused to sit down and, when Mr. Smith came over and tried to force the student into his chair, the student punched Mr. Smith in the stomach. Mr. Smith was sending this student to "time out" when a female student became disruptive. The classroom aide witnessed Mr. Smith force the girl against the wall and when she also started hitting him, he pinned her arm behind her back. She ended up sitting on the floor crying. She went home and reported the event to her mother. Her arm was sprained and she went to the doctor. The medical report became part of the evidence against Mr. Smith. Meanwhile, the sheriff was notified and investigated the incident. The principal wrote a letter of reprimand which went in Mr. Smith's personnel file and the case was reported to the Office of Professional Practices Services.

## **PRIVATE ACTS IN PUBLIC PLACES**

Mr. Leslie Grant stopped at the beach restrooms on his way home one day. He did not know that there were numerous complaints about homosexual activity at this restroom. Indeed, the beach ranger observed him exposing himself and masturbating in one of the stalls. His arrest for lewd and lascivious behavior made the newspaper along with this news about two unrelated other men. He resigned from his teaching job the next day and ended twenty years of successful teaching experience. For the court case he pled no contest and was fined, sentenced to three months probation, and ordered to complete two hours of instruction on sexually transmitted diseases.

Some months later he was not able to find steady employment and was under treatment for depression. He went to a party and had something to drink which might have intensified his medication. Anyway, on the way home from the party he fell asleep at the wheel and ran into another car. Luckily, no one was hurt. He was arrested for DUI. This time his Driver's License was suspended for six months and he was required to attend DUI School. Now his life was really a mess.

Mr. Grant applied to renew his teaching certificate and he included his arrest record for both situations. An investigation by the Office of Professional Practices Services followed. The Commissioner found probable cause and an Administrative Complaint was filed.

## **A CASE OF DOMESTIC VIOLENCE**

Fred Knight had many years of experience teaching middle school physical education. He and his girlfriend of some years were living together. One night in the early fall, they had an argument. Mr. Knight had consumed a number of beers and, in a rage, struck the girlfriend with his hand. She was left with a noticeable bruise and some cuts under her eye. The police were called and found him intoxicated and very uncooperative. They arrested him for battery and domestic violence. The court placed him in a domestic violence diversion program which he successfully completed by the following summer.

In the following year he had to apply to renew his certificate. On the application he checked "yes" that he had an arrest record and he wrote that the charge was battery from two years previous. The school district filed this information with the Office of Professional Practices Services and following the investigation, the Commissioner notified Mr. Knight of probable cause.

## **AT-HOME HOBBIES**

Jim Black enjoyed communicating on the computer e-mail. He had a number of e-mail "friends" with whom he exchanged correspondence and pictures. He engaged in this hobby at home, after hours, and thought it was only his business. It did not matter that he was an elementary school teacher during the day. One of his e-mail "friends" from another state began sending him pictures of children engaged in sexual activity. Mr. Black let his friend know where he lived in Florida and his occupation. One spring break the friend came to Florida and invited Mr. Black to an apartment where there were some photography "shoots" going on. Pictures were being taken of young males. Then it was suggested that video tapes be made of Mr. Black with the boys. After the visit he took his tape home. The next week, after the break, he went back to teaching.

In the fall his e-mail friend was arrested in his state for dealing in child pornography. He named Mr. Black as a recipient of his pictures. The U.S. Customs got a federal search warrant and searched Mr. Black's house where they found many pictures and the video tape. Mr. Black was arrested and charged with 5 counts of the Receipt of Visual Depiction of Children Engaged in Sexually Explicit Conduct. The fact that the pictures were received over e-mail from another state made it an interstate commerce offense. Mr. Black pled guilty. He resigned from his teaching position the next day. His case came before the Education Practices Commission before the courts sentenced him. He did not respond to the Administrative Complaint.

## **JUST A LITTLE HELP**

Michelle Gardener was an elementary education teacher with many years experience. She was teaching in a rural school where her students did not always perform acceptably on the assessment tests. So one spring just before the tests, she wrote some vocabulary words, math problems, and social studies items on the chalkboard and told her students to copy the information. Later in the day another teacher saw the material and wondered why such unrelated items would be on the board, especially as none were related to the curriculum they were currently teaching. She asked another teacher who looked at the board and then went to the school counselor. The counselor told the principal, but by the time he got to the class, the items were erased. He called in the students one by one and they gave him their notes. He compared the notes to the CTBS test and found that several items were the same.

The school district suspended Ms. Gardener with pay and told her that they would terminate her employment. She requested a formal hearing to contest the board's action. The board adopted a settlement agreement with her which included that she would resign her employment, all matters related to the suspension and termination would be sealed, she withdrew her request for a hearing, and a notation was placed in her file that her resignation was accepted. Her case was reported to the Office of Professional Practices Services.

## **TEACHER TAKES A HIT - AND A HIKE**

Sherwood Rosselli was teaching successfully for over twenty years in a high school vocational program when he was assigned a first period "Last Chance" group of potential drop-out students. They were real troublemakers, hard kids who were not interested in any class, and definitely were not interested in Mr. Rosselli's class. Mr. Rosselli lost his planning period when he was assigned to this class. One student, Randy, every day did something obnoxious to distract the students. He had a long record of discipline referrals. One day Mr. Rosselli asked Randy to stop sucking on his water bottle. He teased Randy about it and said that the whole football team must be waiting for him. The other students laughed, but it did not amuse Randy. He hit Mr. Rosselli with the water bottle. Mr. Rosselli responded with a tap on the back and Randy hit him in the ribs. From that point on, it turned into a real scuffle which led to a fist fight. Randy got a split lip that bled and Mr. Rosselli got a bruised rib.

Mr. Rosselli wrote up the incident and reported it to the school authorities. Mr. Rosselli was placed on administrative leave. The matter was investigated by the school district for his alleged inappropriate language and inappropriate discipline and by the police department for assault and battery. The case was reported to the Office of Professional Practices Services. Before his case went before the Education Practices Commission, he resigned his teaching job.

## **MS. HARTSON AND HER ANGER**

Ms. Suzy Hartson was having a terrible spring semester. She was teaching the fifth grade but her real interest was in pre-kindergartners. Either way, she used inappropriate language when teaching either class. First, one year she told the Pre-kindergartners to "shut up" and later said she was "pissed off" with their behavior. When she got fifth graders she had more troubles and called the female students "sluts" when they did not sit "like ladies" and she threw one boy's jacket in the trash. Things came to a head when a classroom aide witnessed her telling one boy to get on the carpet and to put his face in it and "shut up." She then slammed the head of another child on his desk. The aide reported it.

The district investigated and placed a letter of reprimand in her file. Her contract was reduced to annual for three years, and she was suspended without pay for three days. Her behavior was reported to the Office of Professional Practices Services which further investigated.

## WHAT TO EXPECT

**1. If incompetence is charged, then the NEAT process begins. See N-E-A-T Process handout (following page).**

If the problem is not remediated, the educator receives unsatisfactory evaluations for two years and administration is moving to terminate the employee, then charges of incompetence are filed and the procedures illustrated in the Flow Chart are followed.

**2. For all other ethical and conduct violations, the Flow Chart (pages 33-34) procedures are followed.**

<ul style="list-style-type: none"> <li>• Complaint is filed with Professional Practices Services Section.</li> </ul>
<ul style="list-style-type: none"> <li>• Investigation and informal conference with NOTICE sent to educator.</li> </ul>
<ul style="list-style-type: none"> <li>• Report is prepared and reviewed.</li> </ul>
<ul style="list-style-type: none"> <li>• Either Probable Cause or No Probable Cause is recommended to the Commissioner.</li> </ul>
<ul style="list-style-type: none"> <li>• If No Probable Cause, case is closed, parties are notified, and the case becomes public information.</li> </ul>
<ul style="list-style-type: none"> <li>• If Probable Cause, the Commissioner signs a formal Complaint, and notice is made and filed with the Florida Education Practices Commission (EPC).</li> </ul>
<ul style="list-style-type: none"> <li>• Certified Educator has 20 days to respond as follows:             <ul style="list-style-type: none"> <li>▪ request mitigation, or</li> <li>▪ contest allegations, or</li> <li>▪ negotiates agreement (settlement option), or</li> <li>▪ surrender certificate, or</li> <li>▪ not respond (leads to default)</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>• EPC hearings follow (except for surrender).</li> </ul>
<ul style="list-style-type: none"> <li>• Education Practices Commission makes any of the following Final Orders, which can be appealed to the District Court:             <ul style="list-style-type: none"> <li>▪ dismiss complaint,</li> <li>▪ revoke certificate,</li> <li>▪ letter of reprimand,</li> <li>▪ fine up to \$2,000 per count or offense,</li> <li>▪ limit scope of practice,</li> <li>▪ deny issuance of certificate or endorsement,</li> <li>▪ require conditional issuance of appropriate certification,</li> <li>▪ place on probation,</li> <li>▪ stipulation or settlement agreement, and/or</li> <li>▪ suspend certificate</li> </ul> </li> </ul>

## N-E-A-T PROCESS

Section 1012.34 (3)(d), Florida Statutes, explains the N-E-A-T process:

**N = NOTICE** to the educator that deficiencies exist which may lead to disciplinary action if not corrected.

**E = EXPLANATION** of the deficiencies should be thorough and detailed in written form, and include suggestions for improvement.

**A = ASSISTANCE** must be provided to the educator by those responsible for evaluation and supervision of the educator. A practical plan for remediation of each deficiency noted must be developed. When possible, the educator should be included in the development of the plan to improve performance.

**T = TIME** must be provided for correction of all deficiencies noted. The time allotted must be reasonable and commensurate with the volume of deficiencies listed so that the educator is provided a sincere opportunity to improve sufficiently to meet the expectations of those responsible for evaluation.

### **Conferences should be held with the educator:**

Use clear, concise language to outline the deficiencies, the expectations, and the consequences involved with unsatisfactory performance.

### **Offer specific assistance:**

Develop a list of suggested plans for performance improvement. Work with the educator to devise a plan for correction and set a time certain for reevaluation of performance.

### **Confirm the substance of conferences:**

A letter or memorandum should be prepared following each conference confirming the topic, content, suggestions, interactions and resolutions with a copy to the educator.

### **Provide promised assistance:**

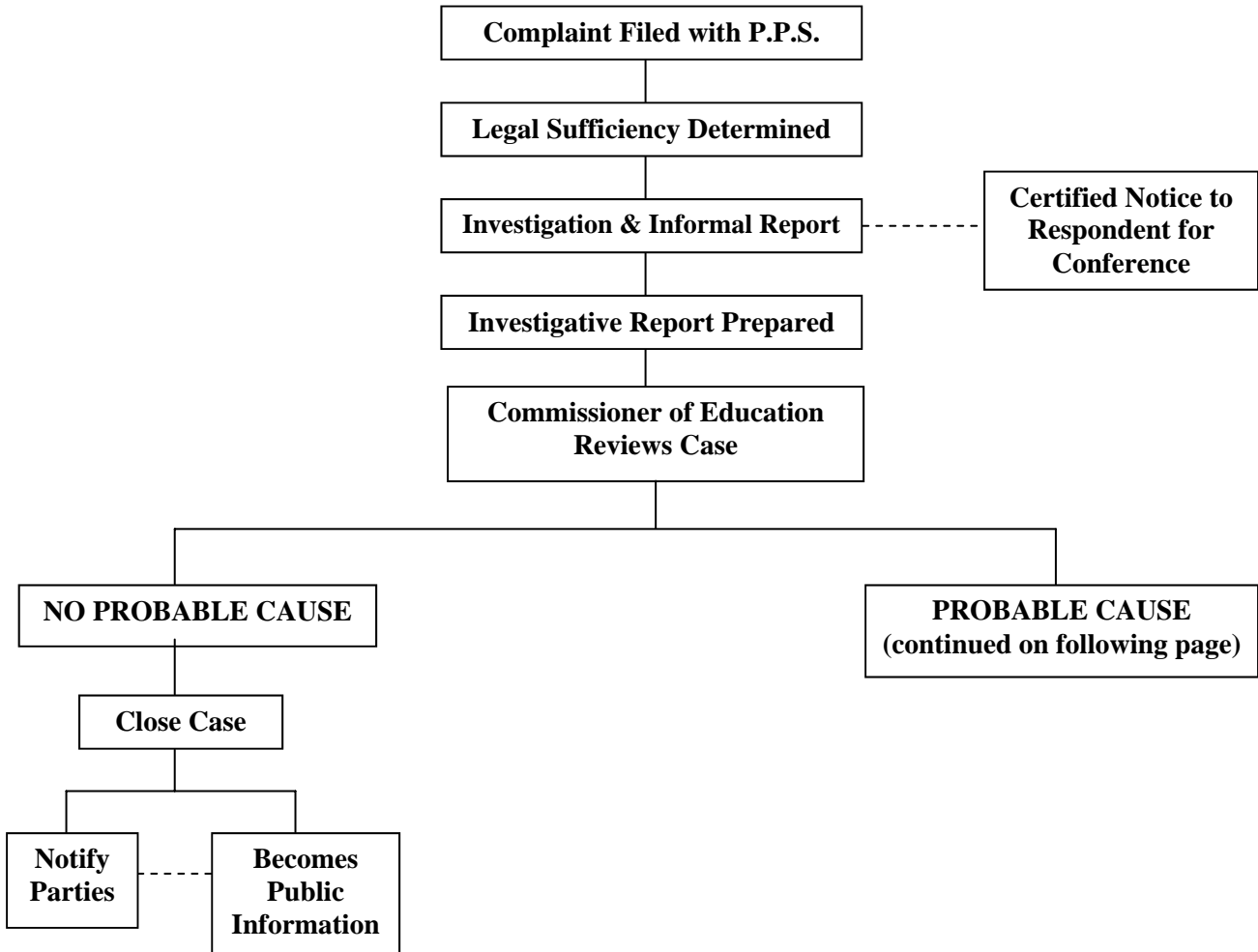
Be prepared to document all assistance rendered, all improvement noted, and all deficiencies which have not been corrected or need further attention.

### **Provide interim feedback:**

Frequent conferences are preferred to facilitate feedback and optimum achievement of goals. At each conference, note improvements of specific deficiencies and nonimprovement of specific deficiencies. Follow up conferences with letters or memorandums containing the substance of each conference. Provide a copy to the educator.

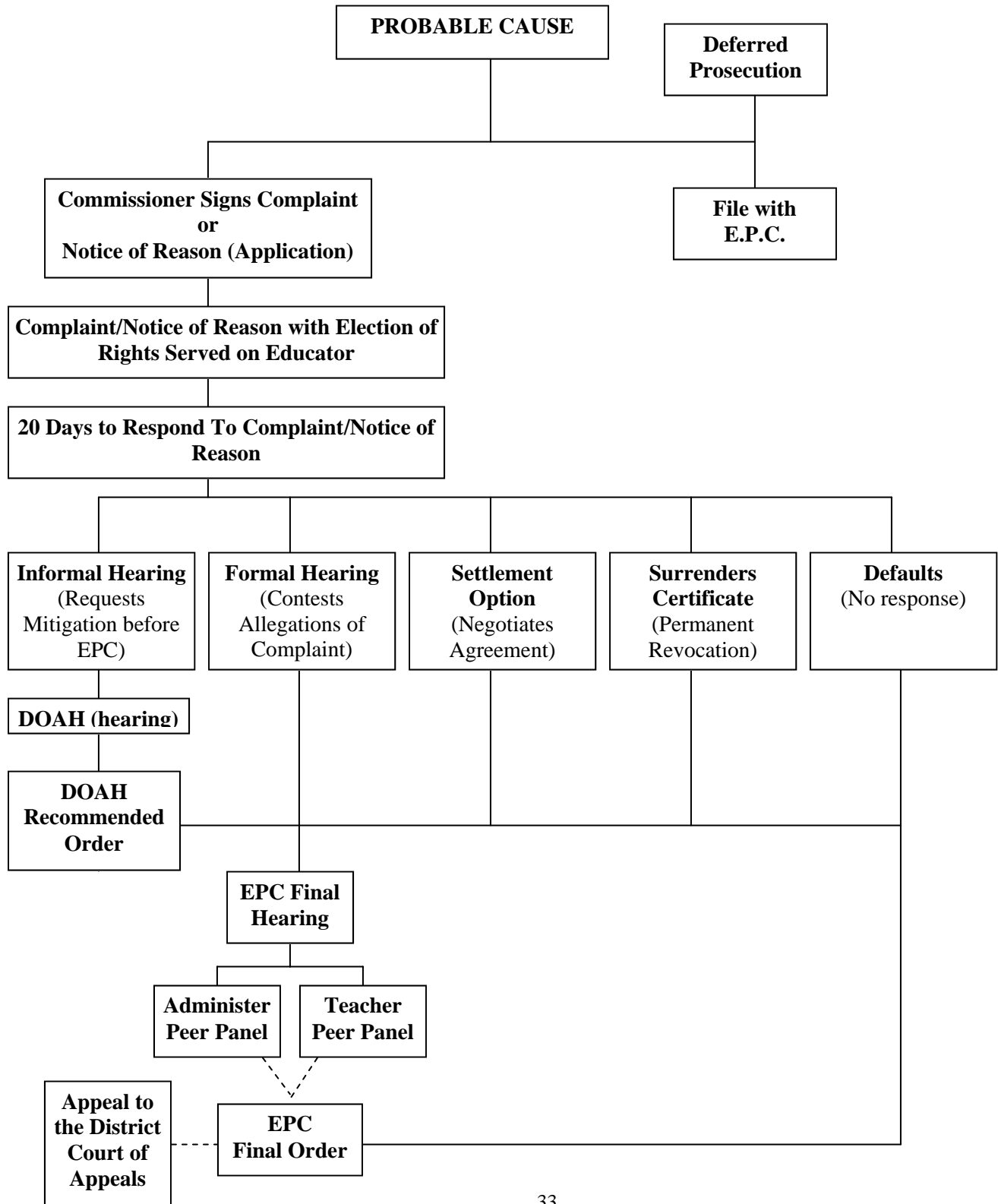
**FLOW CHART OF PROCEDURES TO IMPLEMENT  
1012.79, 1012.795, 1012.796, F.S. & 6B-1.006, FAC.**

**Chart 1**



**FLOW CHART OF PROCEDURES TO IMPLEMENT  
1012.79, 1012.795, 1012.796, F.S. & 6B-1.006, FAC.**

**Chart 2**



## **DISTRICT EMPLOYMENT DISMISSAL**

Section 1012.33(1)(a) and (4)(c), Florida Statutes, describes the circumstances for “just cause” dismissal from district employment and suspension or dismissal.

### **(1)(a) JUST CAUSE FOR DISMISSAL FROM DISTRICT EMPLOYMENT**

Includes, but is not limited to:

- Misconduct in office
- Incompetency
- Gross insubordination
- Willful neglect of duty
- Conviction of a crime involving moral turpitude

### **(4)(c) AND INCLUDES IN ADDITION:**

- Immorality
- Drunkenness

## **SUSPENSION/REVOCAION OF CERTIFICATE**

Section 1012.795(1), Florida Statutes, describes causes for disciplinary actions taken against an educator's certificate.

### **SUSPENSION/ REVOCATION OF CERTIFICATES**

- Fraudulent Certificate
- Incompetency
- Committed an act of moral turpitude
- Guilty of gross immorality
- Revocation, suspension or surrender of certificate in another state
- Conviction of a misdemeanor felony, or any other criminal charge other than a minor traffic violation
- Guilty of personal conduct which seriously reduces effectiveness as an employee of the school board
- Breach of local contract
- Violation of The Principles of Professional Conduct for The Education Profession in Florida

## TYPES OF CASES INVOLVING SUSPENSION/REVOCAION OF CERTIFICATE

1. Assault/battery/rape
2. Breach of contract
3. Fraudulent certificate application
4. Drug abuse
5. Alcohol abuse
6. Misappropriation of school money/property (FTE, fraudulent sick leave, travel...)
7. Public assistance fraud (welfare, food stamps...)
8. Worthless checks
9. Shoplifting/petit theft
10. Illegal use of firearm/weapons
11. Improper use of corporal punishment
12. Incompetence
13. Grand theft/larceny (credit card, possession of stolen property...)
14. Manslaughter
15. Miscellaneous felony (burglary, robbery, arson, counterfeiting...)
16. Miscellaneous misdemeanors (trespassing, loitering, prowling, violation of probation...)
17. Reduction of effectiveness <ul style="list-style-type: none"> <li>A. Altering student grades, records, FTE records; test answers to students</li> <li>B. Alcohol or other drugs to/with students</li> <li>C. Absent without leave, fraudulent leave records</li> <li>D. Miscellaneous misconduct in office leading to reduction of effectiveness</li> </ul>
18. Revocation/suspension of certificate in other states
19. Sexual misconduct: <ul style="list-style-type: none"> <li>A. Heterosexual romantic (hugs, kisses, comments)</li> <li>B. Heterosexual lewd &amp; lascivious with minors (fondling, proposition)</li> <li>C. Heterosexual battery (intercourse, oral sex)</li> <li>D. Homosexual lewd &amp; lascivious with minors</li> <li>E. Adult sexual misconduct (exposure, solicitation for sex, sexual harassment of employees)</li> </ul>

## **GUIDELINES AND COMMON SENSE**

The Code of Ethics for the Education Profession in Florida mandates you to value the worth and dignity of individuals, to place your primary concern for the development of each student's potential, and to strive to achieve and sustain the highest degree of ethical conduct.

~ ~ ~

The Principles of Professional Conduct for the Education Profession in Florida obligate you to perform to standards of behavior dealing with STUDENTS, the PUBLIC, and the PROFESSION.

~ ~ ~

In addition to the more obvious actions (e.g. child abuse/molestation), you can also be charged with a crime of moral turpitude or gross immorality if you shoplift, drink on school grounds, or have multiple arrests for Driving Under the Influence (DUI), possess or sell drugs with or without student involvement, make comments of a sexual nature to students, fondle or touch students in an inappropriate manner, commit food stamp or public assistance fraud, commit assault, misuse school funds, or submit fraudulent transcripts.

These are just a few examples.

~ ~ ~

As you can see, you are held to a high moral standard because of your role in educating children. You are held accountable for your private life as well as your public life.

~ ~ ~

Keep in mind that relatively few educators ever commit violations.

~ ~ ~

It is best to arm yourself with knowledge so that you do not advertently or inadvertently violate any standards and become one of the statistics.

~ ~ ~

Many problems educators have encountered could have been avoided if they used some common sense and rational judgment.

# HOW TO USE COMMON SENSE AND PROFESSIONAL JUDGMENT TO AVOID LEGAL COMPLICATIONS IN TEACHING

## Interaction with Students

1. Maintain a professional barrier between you and students. You are the adult, the teacher, and the professional; act like the expert not like another one of the "kids."
2. Keep the classroom door open when talking with students.
3. Refer students to the appropriate resource person for counseling and/or discussions about personal matters.
4. Do "NOT" flirt with students.
5. Do "NOT" discuss your personal life or personal matters with students. Do "NOT" discuss your husband, wife, girlfriend, boyfriend, or dates with students.
6. When transporting students, coordinate transportation ahead of time, and use school or mass transportation if possible. If necessary, call a taxi for the student. If you must transport a student in your vehicle, ask a co-worker to accompany you.
7. Avoid leaving your students unsupervised; have an alternate plan of action.
8. Keep hands and other parts of your body to yourself.
9. Use verbal praise and reinforcement.
10. Know your school policies and district and state laws governing corporal punishment. Establish and follow a consistent behavior plan. Treat each student with respect. Know the student's rights.
11. Chaperon only school-sponsored functions. Do "NOT" socialize with students. If you chaperon a field-trip, put in writing what your responsibilities will be. Do "NOT" drink alcoholic beverages in front of students. Do "NOT" take children home with you.
12. Do "NOT" make telephone calls or write notes of a personal nature to students.
13. Do "NOT" harass students; respect their differences. What you intend as humor may, in fact, be cultural bias or harassment.

## **Record Keeping and Accounting Procedures**

1. Know the laws, school board policies, and school rules and follow them. Know your rights.
2. Know your school policies and district and state laws regarding collecting money, purchasing materials and equipment, and follow them. Work in pairs when collecting large amounts of money.
3. Establish a policy regarding your grading system consistent with school and district policies, where applicable. Give a written explanation of it to students and parents at the beginning of the year or when they begin your class or unit of instruction.
4. Establish a policy regarding your behavioral management system. Give a written explanation of it to students and parents at the beginning of the year or when they begin your class unit of instruction.

## **Reputation in the Community**

1. Keep your co-workers and supervisors informed; work and communicate as a team; plan and teach together.
2. Communicate with parents and document your communication.
3. Dress and act appropriately and professionally. You are a role model in the community as well as in the school; be a good example for students.
4. Use common sense and good judgment. Ask yourself how someone else could perceive your comments or actions. Ask yourself if your comments or actions could be taken out of context and/or misinterpreted.
5. Avoid putting yourself in a position where you have to defend, explain, or justify your behavior or actions. Avoid putting yourself in a position where it's your word against another person's word.
6. Maintain a professional reputation in the community. When you "party," be discreet.

## ADAMS AND TOMERLIN CASES

**“By virtue of their leadership capacity, teachers are traditionally held to a high moral standard in a community.” Adams v. State Professional Practices Council, 406 So.2nd 1170 (Fla. 1st DCA 1981).**

**“A school teacher holds a position of great trust. We entrust the custody of our children to the teacher. We look to the teacher to educate and to prepare our (sic) children for their adult lives. To fulfill this trust, the teacher must be of good moral character; to require less would jeopardize the future lives of our children.” Tomerlin v. Dade County School Board, 318 So.2nd 159 (Fla 1st DCA 1975).**



**The State of Florida  
Department of Education  
Jeanine Blomberg, Commissioner**

**FOR FURTHER INFORMATION PLEASE  
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