

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

MARTIN COUNTY SCHOOL BOARD,

Petitioner,

vs.

Case No. 25-6580TTS

MATTHEW THEOBALD,

Respondent.

RECOMMENDED ORDER

The final hearing in this matter was conducted before Administrative Law Judge Jodi-Ann V. Livingstone of the Division of Administrative Hearings (DOAH), on April 2, 2026, in Stuart, Florida.

APPEARANCES

For Petitioner: Anthony R. Gonzalez, Esquire
Beauchamp, Sang, Gonzales & Philpott, P.A
3335 Northwest Boca Raton Boulevard
Boca Raton, Florida 33431

For Respondent: Martin French Powell, Esquire
Meyer, Blohm and Powell, P.A.
Post Office Box 1547
Tallahassee, Florida 32302

STATEMENT OF THE ISSUE

Whether the Martin County School Board (School Board or Petitioner) had just cause to suspend and terminate Matthew Theobald (Mr. Theobald or Respondent).

PRELIMINARY STATEMENT

On October 7, 2025, the School Board voted to impose a suspension against Respondent, without pay, and recommended termination. On October 8, 2025, Respondent requested a hearing before DOAH to contest the suspension and the proposed termination. On December 22, 2025, Petitioner forwarded this matter to DOAH for the assignment of an administrative law judge to conduct the requested hearing.

Prior to the hearing, the parties filed a Joint Pre-Hearing Stipulation in which they stipulated to a number of facts. The agreed facts are incorporated in the Findings of Fact below, to the extent relevant.

At the final hearing, Petitioner's Exhibits 1 through 11 were admitted. Petitioner presented the testimony of Mr. Theobald, Francesco Frangella, Jennifer Deshazo, Heather Lundstrom, Jeffrey Raimann, and Michael Maine. Respondent's Exhibits 1 through 17 were admitted into evidence. Respondent testified on his own behalf and presented the testimony of Sherry Richardson.

The parties were reminded that, even though their exhibits were admitted into evidence, hearsay evidence contained in the exhibits would not be relied on as the sole basis for findings of fact unless the hearsay evidence would be admissible over objection in a civil action in Florida. *See* § 120.57(1)(c), Fla. Stat.; Fla. Admin. Code R. 28-106.213(3).

At the close of the hearing, the parties were informed about the ten-day timeframe, following DOAH's receipt of the hearing transcript, to file proposed recommended orders (PROs). A Transcript of the final hearing was filed with DOAH on April 24, 2026. On April 28, 2026, Respondent filed a Consented Motion for Extension of Time to File Proposed Recommended Orders. The undersigned granted the motion, ordering the parties to file their

PROs no later than May 18, 2026. Petitioner and Respondent timely submitted PROs; both PROs were duly considered in preparation of this Recommended Order.

Unless otherwise indicated, all references to the Florida Statutes and Florida Administrative Code are to the 2025 versions.

FINDINGS OF FACT

1. The School Board is the entity responsible for operating, controlling, and supervising the public schools of Martin County pursuant to section 1001.32(2), Florida Statutes. *See also* §§ 1001.41, 1001.42, and 1001.43, Fla. Stat. The day-to-day operations are undertaken and overseen by the Martin County School District's (the School District) superintendent and his administrative team. This includes the discipline of staff and termination decisions warranting the School Board's approval at a duly held public School Board meeting. *See* §§ 1001.51 and 1012.27, Fla. Stat.

2. Mr. Theobald is a teacher in the School District and has been for approximately 17 years. He is certified to teach social studies in grades six through 12 and has taught several subjects.

3. By all accounts, Mr. Theobald is a good teacher. Respondent's annual professional evaluations for his entire career show scores considered "effective" and "highly effective." Prior to the allegations at issue, Mr. Theobald had never been subjected to discipline.

4. During the 2025 to 2026 school year, Mr. Theobald taught at Spectrum Academy, an alternative education school. Before transitioning to Spectrum Academy, he had spent his entire teaching career at Martin County High School, where he attended school as a student.

5. Mr. Theobald served as president of the Martin County Education Association (MCEA). The MCEA is a teachers' union that maintains a Collective Bargaining Agreement (CBA) with the School Board. Prior to

serving as president, Mr. Theobald held several leadership roles within the MCEA. These included the roles of vice president and membership on MCEA's executive board. He also served as a negotiator on the MCEA bargaining team. In that role, he represented the union in collective bargaining negotiations with the School District.

6. The School Board and Mr. Theobald are parties to an annual employment contract as defined in section 1012.335, Florida Statutes.

7. The parties' employment relationship is governed by School Board policies, Florida laws, and the CBA between the MCEA and the School Board.

8. Mr. Theobald was employed under the employment contract, until he was terminated.

9. Mr. Theobald exercises caution in his use of Facebook and limits his friends list to individuals whom he knows personally.

10. Mr. Theobald does not send friend requests to, nor accepts friend requests from, any of his current students, in an effort to maintain a separation between his personal and professional life.

11. Mr. Theobald primarily uses Facebook to share personal content, including photographs of sunsets, sunrises, and family pictures.

12. On September 10, 2025, Charlie Kirk, a well-known public figure, was killed on the campus of Utah Valley University while speaking at an event for students. On the same day, there was also a school shooting at Evergreen High School in Evergreen, Colorado.

13. The School District posted the following comment on its Facebook page, in response to the shootings:

Our feeds are flooded with words and thoughts that fall short of the sorrow we feel within our hearts. For the families and loved ones left behind, for lives tragically cut short by senseless and abhorrent violence. Our deepest sympathies, thoughts and hearts remain with all who knew and loved Charlie Kirk, as well as those hurting in the Evergreen High School community.

14. On September 11, 2025, Mr. Theobald authored the following three comments on Facebook related to the killing of Charlie Kirk:

The man created Turning Point U.S.A., which is literally the equivalent of a modern-day Hitler Youth organization, and people are mourning him like he's some sort of a folk hero. I just don't get it... apparently it's tragic when their guy gets killed, but it was completely ok for that same guy to threaten my life and the lives of my family members just because we don't share his political ideology?!?! Come on, man.

I legitimately knew nothing about him until I heard he was shot, but the more I'm learning, the more I realize he was not a good guy. He was a racist, misogynistic, fearmongering neo-nazi who used religion to justify all of the evil things he's said and done. The Bible called those folks Pharisees, and they were the ones Jesus preached against. So in this scenario, WWJD... well, I can't imagine he'll be greeting him at the pearly gates anytime soon.

I think the real question is how are those kids going to grow up knowing that their father was a racist, misogynistic, fear-mongering, xenophobic neo-nazi???

15. The record reflects that the statements above were not made in an original post authored and posted by Mr. Theobald, but, rather, appeared as three separate response posts within the comment section of a post written by his mother on her Facebook page.

16. His mother's post compared two separate incidents of violence on school campuses—specifically, she compared the shooting of Charlie Kirk to the school shooting at Evergreen High School that occurred the same day. His mother's post highlighted her view that the incident at Evergreen High School received less public attention and discussion than the incident involving Charlie Kirk.

17. The people with whom Mr. Theobald communicated in the comment section of his mother's post were mostly friends, family members, and mutual acquaintances.

18. Mr. Theobald was not acting in his capacity as a teacher at the time he made the Facebook comments. The comments were made outside of work hours, on Mr. Theobald's personal social media account, and were not directed to students, colleagues, or any audience connected to the school.

19. There is no evidence that the statements were made in the course of any school-related function or that Mr. Theobald invoked his professional role when making the comments. Rather, the conduct occurred in a purely personal context, separate and apart from his official duties.

20. Likewise, there is no allegation or evidence that the activity involved the use of the School District's resources or property.

21. Mr. Theobald's comments gained wide attention. Numerous individuals viewed and shared the comments, which circulated extensively on social media platforms, including in various Facebook groups. The comments became a topic of discussion within the broader community.

22. The widespread dissemination and resulting controversy did not originate from Mr. Theobald's actual posts. Instead, the evidence demonstrates that a third party compiled excerpts of Mr. Theobald's Facebook posts—apparently combining multiple comments, removing them from their original context, and omitting reference to the posts to which Mr. Theobald responded—and paired those excerpts with Mr. Theobald's name, photograph, and professional titles, as reflected on his social media profile.

23. This compiled material was then circulated in several widely followed Facebook groups within the community, where it gained traction and was further disseminated.

24. On the evening of September 11, 2025, Florida Department of Education Commissioner, Anastasios Kamoutsas, sent a public letter to all

School District superintendents regarding social media comments about Charlie Kirk's death, emphasizing the importance of maintaining professional conduct and ethical responsibilities among Florida educators.

The letter stated as follows:

Although educators have First Amendment rights, these rights do not extend without limit into their professional duties. An educator's personal views that are made public may undermine the trust of the students and families that they serve. If an educator's conduct causes a student or his or her family to feel unwelcome or unwilling to participate in the learning environment, it may be a violation of Rule 6A-10.081, F.A.C. Florida law allows the Commissioner to find probable cause to discipline an educator who, "upon investigation, has been found guilty of personal conduct that seriously reduces that person's effectiveness as an employee of the district school board."

25. That evening, the superintendent's chief of staff disseminated the letter to the School District's instructional personnel and leadership team. Mr. Theobald deleted his comments after reading the letter from Commissioner Kamoutsas.

26. On September 12, 2025, at 8:43 a.m., Heather Lundstrom (Ms. Lundstrom), a middle school teacher in the School District, contacted Sherry Richardson, the School District's director of professional standards and employee relations, to complain about Mr. Theobald's Facebook posts. Ms. Lundstrom characterized Mr. Theobald's comments as "hate speech" and said that she was "sickened" by what he wrote. Ms. Lundstrom found out about Mr. Theobald's comments through a Facebook group, where it had been posted by others.

27. It bears noting that Ms. Lundstrom serves as president of the United Teachers of Martin County, an organization whose interests were, at the relevant time, adverse to those of Mr. Theobald and the MCEA. The United Teachers of Martin County sought to field candidates in opposition to

Mr. Theobald and pursued efforts to decertify the MCEA as the bargaining representative for teachers in Martin County. The assessment of these circumstances take into consideration that Ms. Lundstrom had interests that were not aligned with Mr. Theobald's continued success in his leadership role and provide relevant context for evaluating her testimony.

28. Pictures of Mr. Theobald's posts were forwarded to members of the School Board and officials within the School District. Superintendent Maine received several phone calls and emails from School Board members, community members, and other individuals with concerns regarding Mr. Theobald's Facebook comments.

29. On September 12, 2025, the School District authored its own Facebook post in response to the commentary regarding Mr. Theobald's post. The statement informed the community that the School District was "aware of recent social media comments made by one of [their] educators regarding the death of Charlie Kirk" and included a picture of the letter issued by the Florida Commissioner of Education on September 11, 2025. The post provided that Mr. Theobald had been removed from instructional duties and that the School District would "continue to work closely with the Department of Education and follow all applicable guidelines in this matter."

30. The School District's public post did not diminish the public attention surrounding Mr. Theobald's comments; to the contrary, it amplified public attention as evidenced by the fact that the post itself generated several hundred comments—some were in support of Mr. Theobald and others in opposition.

31. The evidence established that Mr. Theobald's Facebook posts generated public attention and prompted members of the public to contact the School District. As a result of the posts, the School District received telephone calls, emails, and comments on its social media platforms expressing various opinions regarding the posts and Mr. Theobald's continued employment. However, the evidence did not establish that the

posts resulted in any picketing, demonstrations, protests, or any substantial disruptions at any school within the School District.

32. The School District conducted an investigation into Mr. Theobald's Facebook posts.

33. On September 25, 2025, following the conclusion of the investigation, Superintendent Maine issued Mr. Theobald a Notice of Suspension Without Pay and Recommendation for Dismissal. The notice advised Mr. Theobald that he would be suspended without pay effective September 26, 2025, and that Superintendent Maine would recommend to the School Board, at its next meeting, that the suspension be continued and that Mr. Theobald's employment be terminated.

34. The School Board generally adheres to the practice of progressive discipline, although whether each step in the progression of discipline will occur in a given case depends on the nature of the violations and the circumstances of the case. The possible steps in the progression of disciplinary actions are verbal reprimand, written reprimand, suspension with or without pay, and then termination.

35. Here, the School Board did not employ progressive discipline. The September 25, 2025, five-day suspension letter, that recommended suspension and termination, states that Superintendent Maine found that just cause existed to suspend Mr. Theobald and terminate his employment for numerous ethical violations of the School Board's policy on use of social media.

36. The content, timing and tone of Mr. Theobald's comments were offensive, disrespectful, and made in poor taste, given that the remarks concerned an individual who had recently been killed. However, these considerations do not change the fact that none of these comments were made in an official capacity or, by any stretch, related to Mr. Theobald's employment as a teacher.

37. Despite the public dissemination of the Facebook comments and the allegations against Mr. Theobald—through third parties who shared screenshots of his comments and the School District's public statements regarding its investigation—the record reflects that he has retained the confidence of the community. Notably, he was subsequently chosen as Teacher of the Week through a public voting process conducted by TCPalm News.

CONCLUSIONS OF LAW

38. DOAH has jurisdiction over the parties and the subject matter of this cause pursuant to sections 120.569, 120.57(1), and 1012.33, Florida Statutes.

39. In its Notice of Suspension without Pay and Recommendation for Dismissal of Employment, the School Board asserted that it had just cause to suspend and recommend Respondent for termination based on violations of Florida Administrative Code Rule 6A-5.056(1), (2), and (5); rule 6A-10.081(1)(a), (b), and (c); rule 6A-10.081(2)(a) and (c); School Board Policy 3210, A through C and A.1.; School Board Policy 7540.04; and the Martin County School District Employee Handbook policy on Electronic Communications and Social Networking Sites.

40. Due process prohibits the School Board from disciplining a teacher based on matters not specifically alleged in the charging document. *See Pilla v. Sch. Bd. of Dade Cnty.*, 655 So. 2d 1312, 1314 (Fla. 3d DCA 1995); *Texton v. Hancock*, 359 So. 2d 895, 897 n.2 (Fla. 1st DCA 1978); *see also Sternberg v. Dep't of Pro. Regul., Bd of Med. Exam'rs*, 465 So. 2d 1324, 1325 (Fla. 1st DCA 1985) ("For the hearing officer and the Board to have found Dr. Sternberg guilty of an offense with which he was not charged was to deny him due process.").

41. As a classroom teacher, Respondent is classified as "instructional personnel," as that term is defined in section 1012.01(2). Petitioner has the

authority to dismiss instructional personnel pursuant to chapter 1012. *See* §§ 1012.22(1)(f), 1012.33(1)(a), and 1012.33(6)(a), Fla. Stat.

42. Employment with the School Board is governed by an instructional staff contract. §§ 1012.01(2)(a) and 1012.33, Fla. Stat. The terms of Respondent's employment with the School Board are also governed by the CBA.

43. The standard of proof in this proceeding is a preponderance of the evidence. *McNeill v. Pinellas Cnty. Sch. Bd.*, 678 So. 2d 476, 477 (Fla. 2d DCA 1996); *Dileo v. Sch. Bd. of Dade Cnty.*, 569 So. 2d 883, 884 (Fla. 3d DCA 1990).

44. Section 1012.33(6)(a) provides that any member of the instructional staff may be suspended or dismissed at any time during the term of the person's contract for just cause as provided in paragraph (1)(a).

45. Section 1012.33(1)(a) lists some of the instances that qualify as "just cause," which includes immorality, misconduct in office, incompetency, gross insubordination, and willful neglect of duty, as defined by rule of the State Board of Education. *See also* § 1012.33(4)(c), Fla. Stat.

46. The School Board has discretion in defining what constitutes "just cause" for taking disciplinary action against employees, including suspension or termination. *See Dietz v. Lee Cnty. Sch. Bd.*, 647 So. 2d 217, 218 (Fla. 2d DCA (1994) (Blue, J. concurring); *see also* § 1012.23(1) (authorizing district school boards to adopt rules governing personnel matters, except as otherwise provided by law or the State Constitution).

Principles of Professional Conduct

47. In its PRO, Petitioner asserts it terminated Respondent for engaging in immorality, misconduct in office, and willful neglect of duty. Rule 6A-5.056 defines these terms, as follows:

(1) "Immorality" means conduct that is inconsistent with the standards of public conscience and good morals. It is conduct that brings the individual concerned or the education profession into public

disgrace or disrespect and impairs the individual's service in the community.

(2) "Misconduct in Office" means one or more of the following:

(a) A violation of the Code of Ethics of the Education Profession in Florida as adopted in Rule 6A-10.080, F.A.C.;

(b) A violation of the Principles of Professional Conduct for the Education Profession in Florida as adopted in Rule 6A-10.081, F.A.C.;

(c) A violation of the adopted school board rules;

(d) Behavior that disrupts the student's learning environment; or

(e) Behavior that reduces the teacher's ability or his or her colleagues' ability to effectively perform duties.

* * *

(5) "Willful neglect of duty" means intentional or reckless failure to carry out required duties.

48. The School Board failed to prove, by a preponderance of the evidence, that Respondent engaged in immorality or willful neglect of duty. The evidence presented at the final hearing does not show that Mr. Theobald's actions were inconsistent with the standards of public conscience or good morals or that he brought the teaching profession into public disgrace. There was no evidence that demonstrated that Mr. Theobald's ability to serve his community was impaired by his comments. Mr. Theobald's actions do not constitute immorality or willful neglect of his duties, as defined by rule.

49. Misconduct in office includes behavior that disrupts the student's learning environment or reduces the teacher's ability or his or her colleagues' ability to effectively perform duties. Mr. Theobald's Facebook comments did

not disrupt his students' learning environment or reduce any teacher's ability to teach.

50. Misconduct in office is further defined by violations of Florida Administrative Code Rule 6A-10.080 (which has been repealed), rule 6A-10.081, and School Board rules. Rule 6A-10.081 is incorporated by reference in School Board Policy 3210 – Standards of Ethical Conduct and rule 6A-5.056(2)(c). Rule 6A-10.081, which is set forth in pertinent part below, provides that:

(1) Florida educators shall be guided by the following ethical principles:

(a) The educator values the worth and dignity of every person, the pursuit of truth, devotion to excellence, acquisition of knowledge, and the nurture of democratic citizenship. Essential to the achievement of these standards are the freedom to learn and to teach and the guarantee of equal opportunity for all.

(b) The educator's primary professional concern will always be for the student and for the development of the student's potential. The educator will therefore strive for professional growth and will seek to exercise the best professional judgment and integrity.

(c) Aware of the importance of maintaining the respect and confidence of one's colleagues, of students, of parents, and of other members of the community, the educator strives to achieve and sustain the highest degree of ethical conduct.

(2) Florida educators shall comply with the following disciplinary principles. Violation of any of these principles shall subject the individual to revocation or suspension of the individual educator's certificate, or the other penalties as provided by law.

(a) Obligation to the student requires that the individual:

1. Shall make reasonable effort to protect the student from conditions harmful to learning and/or to the student's mental and/or physical health and/or safety.

51. The principles set forth in rule 6A-10.081(1)(a) through (c) are aspirational goals for instructional personnel and are not a basis for discipline. The rule specifies that the conduct in paragraph (2), as opposed to those aspirational principles in paragraph (1), may serve as a basis for discipline or termination. Therefore, no recommendation is made for discipline or termination based upon a purported violation of the aspirational goals in rule 6A-10.081(1).

52. In its charging document, the School Board did not state which provision of rule 6A-10.081(2)(c) Respondent is alleged to have violated. In its PRO, Respondent made argument only in relation to rule 6A-10.081(2)(a)1. Accordingly, a violation of any provision of rule 6A-10.081(2)(c) will not be analyzed and is considered abandoned.

53. With regard to rule 6A-10.081(2)(a)1., the School Board did not prove that Respondent failed to make reasonable effort to protect his students from conditions harmful to their learning, mental or physical health, or safety. The Facebook comments were not directed toward any student, did not reference any student, and bore no relationship to Respondent's students or his classroom duties. The comments were made on Respondent's personal Facebook account in the course of a discussion with adults and were not made in the presence of any students. Moreover, the evidence established that Respondent does not accept friend requests from current students and does not maintain Facebook connections with them. As a result, it would not have been reasonably foreseeable that his students would encounter the comments through Respondent's Facebook page.

School Board Policy 3210

54. The School Board also asserts that Respondent violated School Board Policy 3210, which is set forth in pertinent part, as follows:

3210 - STANDARDS OF ETHICAL CONDUCT

Instructional staff members shall be guided by and adhere to the following ethical principles:

A. The instructional staff member values the worth and dignity of every person, the pursuit of truth, devotion to excellence, acquisition of knowledge, and the nurture of democratic citizenship. Essential to the achievement of these standards are the freedom to learn and to teach and the guarantee of equal opportunity for all.

B. The instructional staff member's primary professional concern will always be for the student and for the development of the student's potential. The instructional staff member will, therefore, strive for professional growth and will seek to exercise the best professional judgment and integrity.

C. The instructional staff member strives to achieve and sustain the highest degree of ethical conduct because s/he is aware of the importance of maintaining the respect and confidence of one's colleagues, of students, of parents, and of other members of the community.

District instructional staff members shall comply with the following disciplinary principles. Violation of any of these principles shall subject the individual to revocation or suspension of the individual instructional staff member's certificate, or the other penalties as provided by law.

A. Obligation to the student requires that the District instructional staff member shall:

1. make a reasonable effort to protect the student from conditions harmful to learning and/or to the

student's mental and/or physical health and/or safety.

55. School Board Policy 3210, paragraphs A through C, mirror the aspirational principles set forth in rule 6A-10.081(1)(a) through (c). Accordingly, for the same reasons set forth above, no discipline or termination may be based on any purported violation of those goals. As to paragraph A.1., also for the same reasons set forth above, the School Board did not prove that Respondent failed to make reasonable effort to protect his students from conditions harmful to their learning, mental or physical health, or safety.

School Board Policy 7540.04

56. School Board Policy 7540.04 regulates staff member usage of the School District's computer network and Internet system. The policy provides, in pertinent part, as follows:

An employee's personal or private use of social media may have unintended consequences. While the School Board respects its employees' First Amendment rights, those rights do not include permission to post inflammatory comments that could compromise the District's mission, undermine staff relationships, or cause a substantial disruption to the school environment. This warning includes staff members' online conduct that occurs off school property including from the employee's private computer. Postings to social media should be done in a manner sensitive to the staff member's professional responsibilities.

57. The School Board did not prove, by a preponderance of the evidence, that Respondent violated the policy set forth above. The evidence fails to demonstrate that Mr. Theobald's posts compromised the School District's mission, undermined staff relationships, or caused a *substantial* disruption to the school environment. There was no evidence presented that anyone from Mr. Theobald's school, Spectrum Academy, complained about the comment or

that anything out of the ordinary occurred at Spectrum Academy following the dissemination of the Facebook comments. Ms. Lundstrom, a colleague, from another school, complained about Mr. Theobald's comments, but the relationship between the two was already strained because of their pre-existing disputes.

58. There is no competent substantial evidence that the posts interfered with Mr. Theobald's ability to perform his professional responsibilities.

59. The School Board presented evidence that the superintendent had to field calls and emails from the public about the Facebook comments, but the competent substantial evidence does not show that any disruption caused was substantial.

60. Respondent asserts in his PRO that his Facebook post is speech protected by the First Amendment to the United States Constitution. The undersigned does not have authority to rule on whether the School Board's suspension and termination of Mr. Theobald is a violation of his free speech rights. *Caggiano v. Duval Cnty. Sch. Bd.*, 403 So. 3d 1081, 1084 (Fla. 5th DCA 2025) ("On appeal, Caggiano argues that his suspension and reprimand violate his free speech rights, a claim the administrative law judge lacked authority to rule upon, but which can be asserted for the first time in a Florida appellate court, provided the record is sufficient to adjudicate the claim.").

61. The undersigned's role in this action is to assist the School Board in formulating final agency action. *See Fla. Dep't of Transp. v. J.W.C. Co., Inc.*, 396 So. 2d 778, 785 (Fla. 1st DCA 1981). This is the role of the administrative law judge. In assisting the School Board in formulating action, the undersigned points the School Board to the Fifth District Court of Appeal's opinion in *Caggiano*.¹

¹ In *Caggiano*, the Fifth District Court of Appeal considered whether a public-school teacher's first amendment rights were violated when a school board disciplined him for Facebook posts made on his personal account outside of work.

The School District Employee Handbook

62. The School Board alleges Respondent violated the School District's Employee Handbook. The handbook contains a subsection titled Electronic Communications and Social Networking Sites and states as follows:

All Martin County School District employees shall use caution and good judgment when using electronic communications and social networking sites. Any information relayed to students via electronic communications shall be professional in nature and related to a student's academic progress. Any information posted to or communicated through

Thomas Caggiano (Mr. Caggiano) taught mathematics in Duval County for more than 25 years and had no prior disciplinary history. During the 2020 presidential election season, he reposted several politically themed memes and comments on Facebook. Following a complaint, the School Board charged him with violating various provisions of the educator code of ethics and conduct. After an administrative hearing, the administrative law judge concluded that two posts justified discipline and recommended a three-day suspension, a written reprimand, and diversity training. The School Board adopted those recommendations.

On appeal, Mr. Caggiano argued that the discipline violated his First Amendment rights. The Fifth District agreed and reversed. The Court emphasized that the case involved no use of school resources, no communications with students, no conduct occurring on school property, and no statements concerning school administration. Instead, the discipline was based solely on two political reposts made from Mr. Caggiano's personal computer on his own time.

The Court employed the *Pickering-Connick* test and concluded that the posts addressed matters of public concern because they related to a candidate for President of the United States. See *Pickering v. Bd. of Educ. of Township High School District 205*, 391 U.S. 563 (1968), as refined in *Connick v. Myers*, 461 U.S. 138 (1983). The Court further found that the School Board presented virtually no evidence that the posts disrupted school operations, interfered with workplace efficiency, or adversely affected the educational environment. Because the School Board failed to demonstrate any meaningful disruption or operational impact, the Court held that the balance under the *Pickering-Connick* framework favored Mr. Caggiano.

The case at hand involves very similar circumstances. Respondent's Facebook posts reflected his personal opinions, expressed in a private social media forum. The posts were made outside of school hours, on Respondent's own time, and did not occur on school grounds. There is no evidence that Respondent used school-owned equipment, resources, or technology to make the posts. Nor were the posts directed toward students, school personnel, the School Board, or any individual connected to Respondent's employment as a teacher. Rather, the posts were part of online discussions involving friends, family members, and other social media users concerning matters of public interest. The matter of Charlie Kirk's death is certainly a matter of public concern and, further, there is no competent, substantial evidence that the posts adversely affected the operation of the School District or the School Board's ability to perform its duties.

a social networking site shall not bring disfavor, embarrassment or condemnation to the employee, student, or District.

63. It is clear from a full reading of this portion of the handbook that this provision relates to an employee's use of school computers, including the school network and internet service, while in the workplace. The title of the section under which this subsection is included is Use of Technology in the Workplace. It is clear from the record that Respondent made the posts on his own equipment and personal time. Further, there is no allegation that any of Mr. Theobald's Facebook comments were relayed to students.

Progressive Discipline

64. The CBA between the School Board and the MCEA provides that employee discipline "shall be progressive except for serious offenses" and must be supported by just cause. The record establishes that Mr. Theobald has never been disciplined during his employment with the School Board. Nevertheless, the School Board seeks to bypass every step of progressive discipline—including counseling, reprimand, and lesser forms of corrective action—and proceed directly to a five-day suspension without pay and termination.

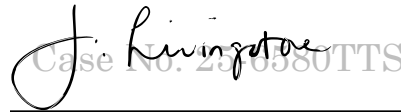
65. Assuming, arguendo, that the School Board were to reject the undersigned's conclusions regarding the alleged rule violations, the proposed penalty remains disproportionate to the conduct at issue. Nothing in the record supports a finding that Mr. Theobald committed a "serious offense" warranting departure from the contractual requirement of progressive discipline. The conduct did not involve students, was not directed at students, and did not affect student learning, safety, or well-being. Nor is there evidence that Mr. Theobald's ability to perform his duties was impaired or that the educational environment was substantially disrupted. Given

Mr. Theobald's unblemished employment record, the facts of this case do not justify disregarding the progressive discipline provisions of the CBA or imposing the ultimate sanction of termination.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that a final order be entered by the Martin County School Board rescinding Respondent's suspension and termination and awarding him back pay and benefits.

DONE AND ENTERED this 17th day of June, 2026, in Tampa, Hillsborough County, Florida.

 Case No. 23-0580TTS

JODI-ANN V. LIVINGSTONE
Administrative Law Judge
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Filed with the Clerk of the
Division of Administrative Hearings
this 17th day of June, 2026.

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.