

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

LEE COUNTY SCHOOL BOARD,

Petitioner,

vs.

Case No. 25-5779TTS

MARIAH ROLLER,

Respondent.

RECOMMENDED ORDER

Administrative Law Judge ("ALJ") Andrew D. Manko of the Division of Administrative Hearings ("DOAH") presided over the final hearing in this matter, under section 120.57(1), Florida Statutes (2025),¹ on June 11, 2026, by Zoom video conference.

APPEARANCES

For Petitioner: Douglas B. Szabo, Esquire
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For Respondent: Mark S. Herdman, Esquire
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STATEMENT OF THE ISSUE

Whether the Lee County School Board ("School Board") had just cause to terminate Mariah Roller for allegedly causing a substantial disruption at the

¹ All references to the Florida Statutes and Florida Administrative Code are to the 2025 versions.

school² in violation of Florida Administrative Code Rule 6A-5.056(2) and School Board Policies (“SB Policies”) 3210, 3210.01, 3231, and 7544.

PRELIMINARY STATEMENT

On October 5, 2025, the School Board issued a Petition for Termination of Employment against Respondent, which recommended termination of her employment as a classroom teacher for engaging in misconduct in violation of the Florida Administrative Code and SB Policies. Respondent timely requested an administrative hearing challenging the termination and the School Board referred the case to DOAH to conduct an evidentiary hearing under chapter 120.

The final hearing was initially scheduled for April 30, 2026. On March 24, 2026, the parties filed an Agreed Motion to Continue and Reschedule Final Hearing, which was granted in an Order dated March 26, 2026. On May 19, 2026, after the previously-assigned ALJ announced his retirement, the case was transferred to the undersigned who presided over the final hearing.

The final hearing occurred on June 11, 2026. The School Board elicited testimony from three witnesses: Forrest Walker, Jr., the school’s principal; Justin Helm, PhD, a School Board professional standards coordinator; and Michael Harris, the School Board professional standards assistant director. Petitioner’s Exhibits A through H were admitted in evidence.

Respondent did not present any witness testimony; instead, she relied on her deposition testimony already in evidence. Respondent offered no exhibits.

² At the hearing, the parties initially disagreed as to whether the School Board’s allegation of a substantial disruption focused only on the school individually or the school district as a whole. However, in its Proposed Recommended Order, the School Board solely argued that Respondent’s conduct caused a substantial disruption within the school.

The Transcript of the final hearing was filed on June 29, 2026. After receiving an agreed-upon extension, the parties timely filed their Proposed Recommended Orders (“PROs”) on July 17, 2026, which were considered in preparing this Recommended Order.

FINDINGS OF FACT

1. The School Board is duly constituted and charged with the duty to operate, control, and supervise public schools within Lee County, Florida. Art. IX, § 4(b), Fla. Const.; §§ 1001.33 and 1001.42, Fla. Stat.

2. Ms. Roller, a licensed Florida educator, became employed by the School Board as a beginning classroom teacher in March 2024. During the 2024-2025 school year, her first full year of teaching, she received a highly effective rating on her annual evaluation.

3. For the 2025-2026 school year, the School Board assigned Ms. Roller to Three Oaks Middle School (“TOMS”). Until the School Board suspended her without pay in September 2025, Ms. Roller served as an English Language Arts (“ELA”) teacher at TOMS. Prior to the incident giving rise to the charges at issue, no students, parents, or colleagues complained about Ms. Roller.

4. Ms. Roller maintains a private, personal Facebook account. She has no affiliation on her profile to the School Board or TOMS, she has never used it for school-related purposes, and she does not accept friend requests from students. Her account also is set to private so that only friends she has accepted can view her profile or her posts. Most of her Facebook friends live in Iowa where she is from and, thus, they have no affiliation to the School Board, or other teachers, parents, or students in Lee County.

5. On September 10, 2025, Charlie Kirk, a well-known political activist, was killed on a college campus in Utah. His death became the subject of national political commentary on social media and otherwise.

6. On the evening of September 10, 2025, Ms. Roller posted the following on her private Facebook profile: “What’s that about the cost of the second

amendment being ‘some gun deaths every year,’? Bye Charlie” followed by a waving emoji and three fire emojis.

7. The post was only accessible to Ms. Roller’s Facebook friends. It was neither school-related nor directed to any colleague, parent, or student. It was made outside of school hours on Ms. Roller’s personal account. The post was not made in, or otherwise linked or tied to, her official capacity as a School Board employee. And, there is no evidence that the post was made from any School Board resource or property.

8. Notwithstanding Ms. Roller’s privacy settings, one of her Facebook friends took a screenshot of her post and then re-posted it in a public forum, which then became widely disseminated on social media and the subject of local and national news coverage. Thus, the widespread dissemination and resulting controversy at issue did not actually originate from Ms. Roller’s post, but rather the actions of a third party taking a screenshot and re-posting it in a public forum.

9. Ms. Roller discovered the repost—and the resulting controversy— about 43 minutes after making her original post. She immediately deleted her post from her profile and informed Mr. Walker, the principal of TOMS, about what occurred that evening.

10. Ms. Roller was not the only Florida educator to post about Charlie Kirk’s death on social media that became widely disseminated and covered by the media. In fact, ten other School Board employees made posts about the death on their social media accounts. And, enough Florida educators made posts that the Secretary of the Florida Department of Education sent a letter on September 11, 2025, to all Florida superintendents to discipline educators whose posts violated the Principles of Professional Conduct.

11. Over the next few days, members of the public criticized Ms. Roller and other employees who made posts. The complaints were made in various ways, including on social media (which garnered more media attention), via

email to School Board officials, other local and state-wide elected officials, and Mr. Walker, and by telephone to the School Board.

12. The School Board began investigating whether Ms. Roller violated the Principles of Professional Conduct and SB Policies for causing a substantial disruption by making inappropriate comments on social media. Although the School Board investigated all of the employees who made posts relating to Charlie Kirk, it only sought to discipline Ms. Roller.

13. On September 16, 2025, six days after Ms. Roller's post was disseminated, the School Board suspended her without pay effective September 17, 2025. On October 5, 2025, the School Board issued a Petition confirming the suspension (making the suspension without pay effective as of October 6, 2025) and seeking to terminate her employment. Shortly thereafter, as a result of the School Board's decision to suspend her and its refusal—despite her expressing her willingness to return in one to two days at a predetermination hearing—to allow her to continue teaching at TOMS, Ms. Roller moved back to Iowa where she currently resides.

14. The School Board is not seeking to discipline Ms. Roller for the substance of the post or for any disruption that may have resulted to School Board operations. Rather, it seeks to terminate Ms. Roller for causing a substantial disruption at TOMS in violation of several SB Policies.

15. Initially, it is important to emphasize again that the widespread dissemination of the post resulted from the actions of a third party without Ms. Roller's consent. Ms. Roller made the post to her personal, private Facebook page where only her accepted friends could view it. Social media privacy settings are clearly not absolute and, if this case were about the substance of the post, Ms. Roller's actions in making the post initially might carry more weight. But, the record is clear that she did not intend for the post to be disseminated, the actual post itself was not forwarded through Facebook, and she did not authorize the third party to take a screenshot and then repost it in a public forum in a manner that would identify her as a

teacher at TOMS. Thus, although Ms. Roller initially made the post, the widespread dissemination and media coverage that ensued was in large part the result of the intervening acts of a third party.

16. Regardless, the School Board relies on the following circumstances to argue that Ms. Roller's conduct resulted in a substantial disruption at TOMS: (1) the number of emails and complaints received about her; (2) media attention; (3) safety concerns at TOMS; and (4) the fact that she had to be replaced by a non-certified ELA instructor for the remainder of the year.

17. The School Board initially focuses on the number of emails and complaints received, which it argues substantially disrupted the school and undermined the public's confidence in Ms. Roller's effectiveness as an educator. Mr. Walker testified that he received approximately 15 to 20 emails, which he characterized as being "bombarded." Yet, he conceded that he only responded to a few of the emails and did so with a generalized response that the matter was being handled by School Board personnel; he left the rest unanswered.

18. Although Mr. Walker testified that parents communicated that they did not want their children to be in Ms. Roller's class, the credible evidence confirmed that those complaints were not made to him. Other than speaking to one parent about Ms. Roller during a meeting on an unrelated issue, during which the parent simply asked about the status of the investigation, the two parents referenced by Mr. Walker directed their complaints to School Board officials and they were handled at the School Board level. Thus, any disruption resulting from having to triage the two parent complaints did not affect operations at TOMS. Indeed, as it relates to Ms. Roller, Mr. Walker confirmed that he received no phone calls, that no parents came to TOMS to complain to him, and that no colleagues or students complained to him. The weight of the credible evidence does not support a finding that the receipt of 15 to 20 emails by a principal—the school's lead administrator—is either

substantial or disruptive, particularly given that he only took the time to send a generic response to a few of them.

19. The School Board also relies on the disruption allegedly caused by the 17 emails and complaints that it received. Yet, as previously confirmed, the basis for terminating Ms. Roller is solely the disruption she caused within TOMS, not the entire School Board. Thus, the fact that the School Board had to expend resources triaging complaints, emails, and phone calls is immaterial. Regardless, the credible evidence confirmed that School Board officials did not respond to the emails, but simply catalogued them for purposes of its investigation into Ms. Roller. In other words, any disruption even at the School Board level was minimal.

20. As to its argument that the community lacked confidence in Ms. Roller's effectiveness as an educator, the School Board points to the complaints it received. However, none of the individuals who sent emails/complaints to Mr. Walker or the School Board testified at the hearing; thus, it is unclear if the vast majority of them were local parents with a real stake in TOMS or its faculty. In fact, only a few of the emails sent to Mr. Walker were admitted in evidence and none of them indicated that the individuals resided in or around Lee County, much less that they were parents with children attending TOMS. Even Mr. Walker believed that at least some of the emails he received came from non-local individuals given the references to TOMS as being in Estero, where Ms. Roller resided, as opposed to Ft. Myers, where TOMS is located.

21. Of all the emails/complaints received, the record confirms that only two of them came from actual parents of children at TOMS—one of whom emailed a School Board member with concerns about her son staying in Ms. Roller's class, and the other who filed a complaint even though her child was not in Ms. Roller's class. The undersigned cannot find, based on the weight of the credible evidence, that Ms. Roller's effectiveness as an educator

had been sufficiently threatened based on just two complaints from parents who have children attending TOMS.

22. The School Board also relies on Mr. Walker's conclusory testimony that the emails and complaints generally made it difficult for students to maintain their focus and undermined public confidence in Ms. Roller. But, that statement is unsupported by the weight of the credible evidence. Mr. Walker confirmed that there were no unusual teacher or student absences in the days following the post and that the school continued to function as normal. Indeed, there was no evidence from any students or parents as to how the complaints about Ms. Roller caused students to be unable to maintain their focus.³

23. Next, the School Board points to safety concerns that Mr. Walker had for both Ms. Roller and the rest of the school as support for an alleged substantial disruption at TOMS. As for Ms. Roller, other than a general concern for her well-being, no credible evidence was presented as to how that concern substantially disrupted school operations. Within six days of the post, the School Board suspended Ms. Roller without pay and refused to allow her to return to TOMS to continue teaching, thus ending any potential concern for her safety. Even during the six days leading up to the suspension, no credible evidence was presented detailing how those concerns or any measures that may have been taken to ensure safety actually disrupted school operations. In fact, as already mentioned, Mr. Walker confirmed that there were no unusual teacher or student absences on September 10, 11, or 12, 2025, and the credible evidence showed that TOMS continued to function

³ The record contains three direct messages purportedly sent to Ms. Roller from three students at TOMS. Two were her students whose messages basically mocked her original post; the third was a student at TOMS who was not in any of her classes and his message called her a "fucking faggot," which resulted in that student being suspended. However, none of these students testified, which means the record lacks non-hearsay, reliable evidence from any student that is probative on the issue of Ms. Roller's effectiveness. Regardless, even if these three messages were not hearsay and were reliable, the weight of the credible evidence would still not support a finding that Ms. Roller's effectiveness was so undermined that just cause existed for her termination.

as usual. And, as discussed below, the School Board (not Ms. Roller) bears responsibility for any purported disruption at TOMS that may have resulted when it decided to suspend her, even if that decision was based in part on generalized concerns for her safety or the safety of the school as a whole.

24. Moreover, the only record evidence that shows at least some level of disruption due to a safety concern was a threat that no one should go to TOMS on September 24, 2025. Aside from the fact that Ms. Roller was no longer teaching at that time given her suspension, so the threat likely had nothing to do with her being on campus, Mr. Walker confirmed it was a generalized threat. Other than it being made about two weeks after Charlie Kirk's death, no credible, non-hearsay evidence was presented (such as the post itself) relating it to Ms. Roller. At most, the witnesses who testified seemed to assume that the threat must have been related to Ms. Roller because it was made within two weeks of her post, but that speculation is not enough to tie it to Ms. Roller's post and blame her for any disruption it might have caused. Further, the weight of the credible evidence confirmed that the threat was ultimately deemed not credible and, although additional security was placed on campus that day, the school operated as usual.

25. The School Board next points to media attention as causing a substantial disruption at TOMS, proposing a finding in its PRO that "[l]ocal media came by the school to broadcast about the incident." It is true that the social media posts by School Board employees, including Ms. Roller, garnered media attention. However, the only credible evidence that supports the School Board's proposed finding is Mr. Walker's testimony that a news truck came to the school once or twice to broadcast about the incident. However, Mr. Walker confirmed that the broadcast truck came only once or twice for a few minutes and it stayed outside the school fence. Mr. Walker never spoke to the media or fielded any calls from the media. In short, no evidence was presented that the one or two times a media truck appeared outside the

school had any adverse impact on TOMS's operations, much less that the media's presence on those occasions was specifically related to Ms. Roller.

26. Lastly, the School Board argues that a substantial disruption resulted from Ms. Roller having to be replaced mid-year by another teacher. However, no credible evidence was presented as to how this fact alone substantially disrupted the school or the students in Ms. Roller's classes. No evidence was presented that Ms. Roller's students were without a teacher for any specific length of time or that the students' learning or assessment test scores were negatively impacted as a result of Ms. Roller leaving the classroom. More importantly, the credible evidence confirmed that Ms. Roller did not voluntarily leave her position at TOMS. The School Board suspended her without pay within six days of making the post. She confirmed that she did not move out of state until weeks after the suspension, and that she would have returned to teaching had the School Board allowed her to do so. Thus, even if Ms. Roller's absence from the classroom had caused a substantial disruption (it had not), the School Board's decision to remove her from the classroom is what caused that disruption.

27. In sum, the School Board failed to prove by a preponderance of the evidence that the dissemination of Ms. Roller's post caused a substantial disruption at TOMS or that Ms. Roller's effectiveness as an educator had been sufficiently undermined to warrant just cause for her termination.

CONCLUSIONS OF LAW

28. DOAH has jurisdiction over the subject matter and parties hereto under sections 120.569, 120.57(1), and 1012.33(6)(a)2., Florida Statutes.

29. The School Board is duly constituted and charged with the duty to operate, control, and supervise public schools within Lee County, Florida. Art. IX, § 4(b), Fla. Const.; §§ 1001.33 and 1001.42, Fla. Stat.

30. Ms. Roller was employed by the School Board as a teacher, which is considered "instructional staff." § 1012.01(2), Fla. Stat. Her employment is

governed by a staff contract and the Teachers Association of Lee County collective bargaining agreement. §§ 1012.01(2)(a) and 1012.33, Fla. Stat.

31. 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).

32. The School Board must prove by a preponderance of the evidence each element of the charged offense. *E.g., Cropsey v. Sch. Bd. of Manatee Cnty.*, 19 So. 3d 351, 355 (Fla. 2d DCA 2009). A preponderance is defined as “the greater weight of the evidence,” or evidence that “more likely than not” tends to prove a certain proposition. *S. Fla. Water Mgmt. Dist. v. RLI Live Oak, LLC*, 139 So. 3d 869, 872 (Fla. 2014).

33. Sections 1012.33(1)(a) and (6)(a) provide that school district instructional staff, like Ms. Roller, may be dismissed during their contractual term for “just cause,” which includes engaging in “misconduct in office.”

34. Rule 6A-5.056(2) defines “misconduct in office” as, among other things, “[a] violation of the adopted school board rules.”

35. The School Board charges Ms. Roller with misconduct in office based on violations of SB Policies 3210, 3210.01, 3231, and 7544.⁴ Specifically, it seeks to terminate Ms. Roller for causing a substantial disruption at TOMS based on a Facebook post she made about the death of Charlie Kirk.⁵

⁴ Although the School Board initially charged Ms. Roller with violating rule 6A-10.081 and SB Policy 3120 in its Petition for Termination, its failure to include any proposed findings or argument in its PRO on those two charges confirms its decision to waive them.

⁵ The School Board confirmed at the hearing that it was not disciplining Ms. Roller for what the post said, but rather only the substantial disruption at the school that allegedly resulted from the post. That said, the School Board nevertheless focused its attention in opening statements and at other times during the hearing on the substance of the post, accusing Ms. Roller of celebrating Mr. Kirk’s murder. It proposed a similar conclusion of law in its PRO. Because the School Board is not seeking to discipline Ms. Roller for the substance of the post, these accusations are gratuitous and irrelevant to the charges at issue.

36. SB Policy 3210, "Standards of Ethical Conduct," adopts the Principles of Professional Conduct that are found in rule 6A-10.081. As noted by the School Board, SB Policy 3210 provides in pertinent part:

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.

37. Importantly, however, these principles are merely aspirational goals; they are not an independent basis for discipline. Indeed, rule 6A-10.081—the rule being adopted almost verbatim in SB Policy 3210—makes clear that only conduct enumerated in subdivision (2) of the rule (and the remainder of that policy that adopts subdivision (2) of the rule in toto), may serve as a basis for discipline or termination. Accordingly, no recommendation is made for discipline for violating the aspirational goals of SB Policy 3210.

38. SB Policy 3210.01, "Ethics in Education," provides in pertinent part:

The School Board expects all covered individuals to abide by ethical requirements, preserve the integrity of the School District, and preserve public trust. To that end, the Board has implemented a "Speak Up Listen Up" culture throughout the School District. The Speak Up Listen Up Culture allows employees and others to report concerns to leadership without fear of retaliation. In an effort to establish the parameters of the Speak Up Listen Up Culture, to clearly define standards of performance for ethical conduct, and to achieve the overall interest of preserving the public trust in elected officials, appointed officers, and employees of the School District, the Board believes it is necessary to adopt a comprehensive policy to assist in the identification, consolidation, implementation, and oversight of existing policies, processes, and procedures necessary to secure ethics in education.

The Superintendent is responsible for the direction of staff necessary to accomplish this objective. Appropriate procedures for the adoption or revision of relevant policies shall be followed and reports shall be made at Board meetings to ensure that the public is aware of these efforts and their results.

All covered employees shall follow the Principles of Professional Conduct for Education Professionals. The guiding documents for covered employees shall include, but not be limited to the Principles of Professional Conduct for Education Professionals in Florida, the Code of Ethics for Public Officers and Employees, Board policies, and other laws and regulations. All covered individuals shall be reminded of the education professional's duties owed to students, their profession, to each other, and the public.

39. Based on the Findings of Fact above, the School Board failed to prove by a preponderance of the evidence that Ms. Roller violated SB Policy 3210.01 by acting unethically in a manner that undermined the public trust.

Ms. Roller's private Facebook post on her personal Facebook page was not unethical, and it was not her action, but that of a third party, that resulted in its dissemination. Regardless, the School Board does not complain of the content of the post. And, as explained above, the weight of the credible evidence did not establish that Ms. Roller's effectiveness as an educator had been so sufficiently threatened that just cause exists for her termination.

40. SB Policy 3231, "Outside Activities of Staff," provides in pertinent part:

Instructional staff members should avoid situations in which their personal interests, activities, and associations conflict with the interests of the District. If such situations threaten a staff member's effectiveness within the school system, the Superintendent and/or School Board shall evaluate the impact of such interest, activity, or association upon the instructional staff member's responsibilities.

* * *

The constitutional right to express political and other opinions as citizens is reserved to all employees.

Staff members should refrain from expressions that disrupt the efficient operation of the school and/or interfere with the maintenance of discipline by school officials.

41. Based on the Findings of Fact above, the School Board failed to prove by a preponderance of the evidence that Ms. Roller's post caused a substantial disruption at TOMS in violation of SB Policy 3231. For one, the widespread dissemination and resulting media coverage actually was the result of the act of a third party reposting the private post in a public forum. Regardless, as detailed above, the weight of the credible evidence did not establish that the operation of TOMS was substantially disrupted.

42. SB Policy 7544, "Use of Social Media," provides in pertinent part:

Employees' Use of Personal Communication Devices at Work to Access Social Media for Personal Use

Employees are permitted to use personal communication devices to access social media for personal use during breaks and mealtimes.

Employees are prohibited from posting or engaging in communication that violates State or Federal law, Board policies, or administrative procedures. If an employee/volunteer's communication interferes with his/her ability to effectively perform his/her job or violates State or Federal law, Board policies, or administrative procedures, the District may impose disciplinary action and/or refer the matter to appropriate law enforcement authorities.

43. However, SB Policy 7544 focuses on staff's use of social media "at Work" generally for school-sponsored activities, accessing social media via School Board technology for both personal or school-related purposes, and accessing social media via their own personal device while at school. By its title and actual text, the policy does not purport to govern a staff's use of social media for purely personal reasons away from campus after hours.

44. Based on the Findings of Fact above, the School Board failed to prove that Ms. Roller violated SB Policy 7544. Indeed, as detailed above, the weight of the credible evidence confirmed that Ms. Roller made the post after hours, on her personal, private Facebook page that had no affiliation with TOMS or the School Board; the post also was not made using School Board technology or for a school-related purpose.

45. In sum, based on the Findings of Fact above, the School Board failed to prove by a preponderance of the evidence that Ms. Roller caused a substantial disruption at TOMS or that her effectiveness as an educator had been sufficiently undermined to be deemed violations of rule 6A-5.056(2) or

SB Policies 3210, 3210.01, 3231, and 7544. Thus, the School Board failed to prove that it had just cause to terminate her employment.

RECOMMENDATION

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

DONE AND ENTERED this 14th day of August, 2026, in Tampa, Hillsborough County, Florida.

 Case No. 201579TTS

ANDREW D. MANKO
Administrative Law Judge
DOAH Tampa Office

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Filed with the Clerk of the
Division of Administrative Hearings
this 14th day of August, 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.