



Ken Burke, CPA

CLERK OF THE CIRCUIT COURT AND COMPTROLLER
PINELLAS COUNTY, FLORIDA

Division of Inspector General

510 Bay Avenue
Clearwater, FL 33756
Telephone: (727) 464-8371
Fax: (727) 464-8386
Fraud Hotline: (727) 45FRAUD (453-7283)
Clerk's website: www.mypinellasclerk.org

Clerk of the County Court
Recorder of Deeds
Clerk and Accountant of the Board of County Commissioners
Custodian of County Funds
County Auditor

REPORT NO. 2019-01

January 8, 2019

Lung Chiu, Inspector General
School District of Palm Beach County
Office of Inspector General
3300 Forest Hill Boulevard, C-306
West Palm Beach, FL 33406-5869

RE: Investigation Of A Complaint Filed With The School District Of Palm Beach County, Office Of Inspector General (PBCSD/OIG) On August 31, 2018, Alleging Dr. Debra L. Robinson, Vice Chairwoman for Palm Beach County School Board, Of Misconduct Or Other Wrongdoing.

Pursuant to the Interlocal Agreement for Provision of Inspector General Services Between the School Board of Palm Beach County, Florida and the Office of the Clerk of Circuit Court and Comptroller of Pinellas County, Florida, the Division of Inspector General received an allegation of fraud, waste, and abuse.

The anonymous Complainant alleged that, *"School Board Member Debra Robinson threatened a radio station livelihood and used profanity."*

The Complainant provided the following documentation to assist with the investigation:

- A copy of a Palm Beach Post article written by Andrew Marra, *"After election win, school board member vows to cut off 'business' to Haitian radio station."*

To determine whether the allegation was substantiated, we reviewed policies, procedures, and any other records deemed appropriate. We also conducted interviews of staff and other parties, as needed. Our investigation was performed according to the *Principles and Standards for Offices of Inspector General* and *The Florida Inspectors General Standards Manual* from The Commission for Florida Law Enforcement Accreditation.

The Pinellas County Division of Inspector General (PCIG) uses the following terminology for the conclusion of fact/finding(s):

- **Substantiated** – An allegation is substantiated when there is sufficient evidence to justify a reasonable conclusion that the allegation is true.
- **Unsubstantiated** – An allegation is unsubstantiated when there is insufficient evidence to either prove or disprove the allegation.
- **Unfounded** – An allegation is unfounded when it is proved to be false or there is no credible evidence to support it.

The Division of Inspector General's investigation of the allegation has determined that the allegation noted above is **substantiated**. Our analysis of the complaint, our findings, and recommendations are presented herein.

We appreciate the cooperation shown by the staff of the School District of Palm Beach County and Dr. Debra L. Robinson, Vice Chairwoman, during the course of this investigation.

Respectfully Submitted,



Hector Collazo Jr.
Inspector General/Chief Audit Executive

cc:

Ken Burke, CPA
Pinellas County Clerk of the Circuit Court and Comptroller
Ex Officio County Auditor

The Honorable Chairman and Board Members
of the School District of Palm Beach County

Dr. Donald E. Fennoy II, Ed.D., Superintendent
School District of Palm Beach County



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A. THE COMPLAINT

On September 7, 2018, we received a complaint sent to the PBCSD/OIG related to Palm Beach County School Board Member Dr. Debra L. Robinson, Vice Chairwoman (Respondent). The Complainant alleges the Respondent threatened a radio station's livelihood and used profanity. The complaint refers to a copy of a Palm Beach Post article written by Andrew Marra, "*After election win, school board member vows to cut off 'business' to Haitian radio station.*"

B. BACKGROUND

Understanding what is required of the PBCSD Board Members.

We reviewed Florida Statute Chapter 112, Part III, Code of Ethics for Public Officers and Employees, which states:

"112.313 Standards of conduct for public officers, employees of agencies, and local government attorneys.

(6) MISUSE OF PUBLIC POSITION.—No public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others. This section shall not be construed to conflict with s. 104.31."

We reviewed the School Board of Palm Beach County Policies, Policy 3.02 - Code of Ethics, last revised June 7, 2017, which states:

"1. Purpose and Authority

The School Board of Palm Beach County (Board) believes it is imperative that public officials and public employees act in the highest ethical manner and preserve the public trust. To carry out the important duties and responsibilities entrusted to the Board, Superintendent and Board/District employees, it is important that clear, comprehensive ethical requirements be established so that members of the public will have confidence in the operations of the Board and the management of the Palm Beach County School District (District). To ensure the citizens of Palm Beach County and the State of Florida a degree of accountability within the School District, this Code of Ethics is designed to protect the health, safety, and general welfare of students and employees and to define unethical conduct justifying administrative or disciplinary action.

It is the Board's intent to create a culture that fosters trust, a commitment to excellence and responsibility, personal and institutional integrity, and

avoids conflicts of interest and appearances of impropriety. Thus, the Board Members, the Superintendent, administrators, teachers and other employees of Palm Beach County Public Schools, as public servants and educators, are to be bound by this Code of Ethics. The term "employee" as used herein, applies to all these groups regardless of full, part time or interim status. This policy shall extend also to the District's guests, invitees, and volunteers while they are on District property or are participating in District-related activities.

All Board Members and employees shall adhere to this policy, the 'Code of Ethics for Public Officers and Employees', as set forth in the Florida Ethics Code, Part III of Chapter 112, Florida Statutes, and the 'Principles of Professional Conduct for the Education Profession in Florida', Chapter 6A-10.081, F.A.C., and the 'Ethics in Education Act', Chapter 2008-108, Laws of Florida, as now or hereafter amended, which are incorporated by reference and made a part of this policy. This Code of Ethics shall be viewed as additive or supplemental to the above state laws, rules and regulations. To the extent this Code of Ethics is not in conflict with any laws, regulations or School Board policies, this Code of Ethics shall control. Specific authority for the adoption of this policy is provided by Sections 112.326 and 1001.42, Florida Statutes.

2. Application and Enforceability

The Code of Ethics applies to all Board Members and employees and extends to guests, invitees, and volunteers while they are on District property or are participating in District-related events. Violations of this Code of Ethics may result in administrative or disciplinary action, up to and including suspension, dismissal, or other actions as required by law. This Code may apply when the conduct of the employee occurs on or off District property, at a school sponsored event or non-school sponsored event."

C. ANALYSIS, FINDINGS, AND CONCLUSIONS

Determine if the Respondent threatened a radio station's livelihood and/or used profanity.

1. On August 28, 2018, the Respondent was video recorded (through a Facebook Live video) celebrating her re-election to the School Board of Palm Beach County with her supporters. The PCIG's review of the video determined the Respondent used profanity and discussed Vision Nouvelle, WPON 1600 AM radio station (WPON 1600 AM). The Respondent said:

"...Whooped that ass, whooped that ass, whooped that fucking ass."

"I keep saying I am making a list and checking it twice, and I am writing that shit on the wall..."

"...Wait listen 1600 AM already got shut down, I said not only are they not getting business from the school district, they getting negative business..."

2. The Palm Beach Post wrote an article on August 30, 2018, stating, *"After election win, school board member vows to cut off 'business' to Haitian radio station."* The article included interview comments from the Respondent. The Respondent/article stated, *"...that the program's dynamic had upset her, causing her to lash out later."* The Respondent/article further stated, *"These were inappropriate statements, I will admit, but made in the heat of the moment after a yearlong battle... It was just fueled by frustration and adrenaline."* The program referenced was the on-air interview with WPON 1600 AM.
3. The Respondent was interviewed by PCIG on November 5, 2018, who confirmed she made the statements in the video during the victory celebration on August 28, 2018, summarized above. The Respondent stated she made the statements the moment she had found out she had won, *"I was just shooting off at the mouth."*

Regarding WPON 1600 AM, the Respondent had been interviewed a week prior to the August 27, 2018 interview, and was asked to come back for another interview, which she agreed to. When she arrived for the second interview, she noticed one of her opponent's staff member at the radio station studio, and later her opponent unexpectedly showed up. Since she had not been given any notice that her opponent was going to be part of the second interview, she stated she felt she was *"being ambushed."*

4. The PCIG confirmed that the Respondent had a meeting with Mr. James Leger, the owner and radio host of WPON 1600 AM, on September 4, 2018, and apologized for her inappropriate actions, and Mr. Leger accepted her apology.
5. The investigation determined that PBCSD regularly issues radio media related purchase orders associated with various media outlets, including JC Radio Group, the parent company for WPON 1600 AM radio. The values of the media related purchases are under the PBCSD threshold for bidding, and are processed as purchase orders, not requiring PBCSD Board approval. During the investigation, a purchase order was issued to the JC Radio Group for media services on October 11, 2018. As of the date of this report, the investigation has not noted any inconsistencies of the Respondent's threats having a negative financial effect on WPON 1600 AM (JC Radio Group); furthermore, Mr. Leger confirmed they have not seen a negative impact in revenues from PBCSD.

Findings:

Through review of evidence, we have determined the Respondent verbally threatened the radio station and used profanity, as captured in the video evidence and confirmed by the Respondent.

Florida Statute Chapter 112, Part III, Code of Ethics for Public Officers and Employees, Section 112.313, outlines the standards of conduct for elected officials. Subsection (6) relates to the misuse of public position, and states that elected officials shall not, *"...corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others."* Acting inappropriately, or even a perceived threat, unless made in an attempt to coerce some sort of privilege or benefit, is not on its own a violation. There is no indication that the Respondent's actions would be considered "corrupt." Since the concerned citizen is anonymous (Complainant), we could not reach out and recommend they submit a complaint to the Florida Commission on Ethics for a thorough review of whether there was an ethics violation or misuse of position.

The Respondent has attended the Florida Statutes Section 112.3142 mandated ethics training for specified constitutional officers and elected municipal officers, which is provided by the Florida School Boards Association (FSBA). The records indicate the Respondent, at minimum, attended five (2013-2017) FSBA annual ethics training sessions, indicating she has a general knowledge of what is expected of public officials with respect to the principles of ethics. The FSBA training is broad and does not specifically address the PBCSD Board's Policy 3.02 Code of Ethics, which is more stringent. However, as a PBCSD Board Member, the Respondent is required to adhere to the Board policy.

The School Board of Palm Beach County Policy 3.02, Code of Ethics, in 1. Purpose and Authority, states;

"The School Board of Palm Beach County (Board) believes it is imperative that public officials and public employees act in the highest ethical manner and preserve the public trust... It is the Board's intent to create a culture that fosters trust, a commitment to excellence and responsibility, personal and institutional integrity, and avoids conflicts of interest and appearances of impropriety... All Board Members and employees shall adhere to this policy..."

Overall Conclusion:

The allegation that the Respondent publically threatened Vision Nouvelle, WPON 1600 AM radio station's livelihood and used profanity is **substantiated**, which is a violation of PBCSD Board's Policy 3.02, Code of Ethics.

D. RECOMMENDATIONS

We recommend the PBCSD Board require the Respondent:

1. Attend a comprehensive code of ethics training program that includes a detailed review of the PBCSD Board's Policy 3.02, Code of Ethics.
2. Recuse herself from any media related discussions and/or votes placed on the PBCSD Board's agendas.
3. Officially apologize to the Palm Beach County citizens for the inappropriate behavior and violating the PBCSD Board's Policy 3.02, Code of Ethics.

E. Debra L. Robinson, M.D. Response:

See Attachment 1

Attachment 1, Debra L. Robinson, M.D. Response

TO: Hector Collazo, Jr.
Inspector General/Chief Audit Executive
Division of the Inspector General
Clerk of the Circuit Court and Comptroller
Pinellas County, Florida

FROM: Debra L. Robinson M.D.
School Board Member, District 7
Palm Beach County School Board
Palm Beach County, Florida

January 3, 2019

Subject: Response to Draft of Investigation of A Complaint Filed with SDPBC OIG on August 31, 2018 Alleging Dr. Debra L. Robinson, Vice Chairwoman for the Palm Beach County School Board, of Misconduct or Other Wrongdoing.

The above referenced draft report states that the allegation that I “publicly threatened Vision Nouvelle, WPON 1600 AM radio station’s livelihood and used profanity is substantiated, which is a violation of PBSCD Board’s Policy 3.02 , Code of Ethics.”

However, I respectfully disagree with the report's conclusion that I violated School Board Policy 3.02 (Code of Ethics) for the following reasons:

(1) The report fails to cite a violation of any ethical standard of conduct provided for in Policy 3.02. Ethical standards of conduct are enumerated in Paragraph 5(a) - (i) of the policy. Board members, employees, and other identified parties are expected to adhere to the standards enumerated in Paragraph 5.

(2) The report argues there has been a violation of Policy 3.02 by quoting and referencing a portion of the "Purpose and Authority", Paragraph 1 of the policy. The purpose, intent, or authority of the policy does not establish a standard of conduct. Paragraph 1 only serves as an introductory, providing aspirational language. To allege a violation of Policy 3.02 by relying upon the inspirational language in Paragraph 1 versus an ethical standard raises the question of whether such a finding meets due process.

(3) The report indicates there was no violation of the Florida Code of Ethics. School Board Policy 3.02 is consistent with the Florida Code of Ethics. The report addressing the Florida Code of Ethics states, "(a)cting inappropriately, or even a perceived threat, unless made in an attempt to coerce some sort of privilege or benefit, is not on its own a violation." Thus, for the report to imply an ethical violation while relying on language embedded in Paragraph 1 (Purpose and Authority) of Policy 3.02 does not sound of fairness. When one is charged with an ethical violation, there should be a specific standard of conduct which the party has failed to adhere to.

As your report states, I confirmed that "These were inappropriate statements, I will admit, but made in the heat of the moment after a yearlong battle."

In fact, I publicly apologized via multiple media outlets on 8/31/18 with the following statement:

I apologize for making distasteful comments at a victory party due to frustration, exhaustion and exhilaration.

I am not excusing them. I apologize.

I am now turning my attention back to the children, staff and community of PBC School Board District 7.