STATE OF FLORIDA
PUBLIC EMPLOYEES RELATIONS COMMISSION

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Phone: (407) 422-1400	Date: 07/19/2019
Case: CA-2018-052	Re: Final Order

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STATE OF FLORIDA

PUBLIC EMPLOYEES RELATIONS COMMISSION

ORANGE COUNTY CLASSROOM TEACHERS ASSOCIATION, INC., Charging Party, v. SCHOOL DISTRICT OF ORANGE COUNTY, FLORIDA, Respondent.	Case No. CA-2018-052 FINAL ORDER Order Number: 19U-226 Date Issued: July 19, 2019

Tobe M. Lev, Orlando, attorney for Charging Party.

John C. Palmerini, Orlando, attorney for Respondent.

On November 28, 2018, the Orange County Classroom Teachers Association, Inc. (Union) filed an unfair labor practice charge alleging that the School District of Orange County, Florida (School District) violated section 447.501(1)(a) and (c), Florida Statutes 2018),[1] by repudiating a settlement agreement. On November 30, the Commission's General Counsel issued a notice of sufficiency. On December 4, the Commission appointed a hearing officer and a hearing was scheduled. A telephonic hearing was held on February 7 and 13, 2019, between Orlando and Tallahassee.

The hearing officer issued his recommended order on April 25, concluding that the School District violated section 447.501(1)(a) and (c), Florida Statutes. The hearing officer awarded attorney's fees and costs to the Union. On May 10, the School District filed twelve exceptions. The Union did not file exceptions to the recommended order.

[1]All references to the Florida Statutes are to the 2018 edition.

After receiving an extension of time, the Union filed responses to the School District's exceptions. A transcript of the hearing was filed with the Commission.[2]

Background

Prior to addressing the School District's exceptions, we will briefly review the pertinent facts. The School District and the Union are parties to a collective bargaining agreement (CBA). The School District's director of labor relations, and its chief negotiator, is LeighAnn Blackmore. The School District's director of professional standards is Jason Batura, who is authorized to enter into settlement agreements on behalf of the School District. Wendy Doromal is the Union's president and chief negotiator.

The School District initiated "District Professional Learning Communities" (DPLC), in October 2017. DPLC is a three-year initiative to teach literacy strategies to students, with the goal of improving literacy and student performance on the required statewide English language assessments. Each school's DPLC team is comprised of the school principal and five to eight volunteer teachers. DPLC teams attend district-wide training meetings approximately five times a year at central locations and work on literacy strategies. After attending the district meetings, DPLC team members return to their schools and share the techniques they learned at the DPLC training sessions with other

[2]References to the transcript are designated as "T" followed by the appropriate page number(s). The Union's Exhibits will be designated "CP" followed by the relevant exhibit number(s). The School District's Exhibits will be designated "R" followed by the relevant exhibit number(s).

teachers. During the 2017-2018 and 2018-2019 school years, DPLC focused on "close reading," which is a method to help students improve their reading comprehension. At each of the schools, teachers had to attend meetings and develop plans regarding close readings.

There are school-based groups that are referred to as Professional Learning Communities (PLC). PLC and DPLC are two separate and distinct programs with similar goals, however, the two programs are not interchangeable. A PLC is a school-based collaborative group of teachers organized by grade levels, content, and subject areas. These teachers collaborate on their practices, conduct research, and utilize data-based decision-making with the goal of improving overall student achievement. These groups are also known as "common planning." Pursuant to the CBA, Article XIV, Section B(3)(h), the schools are required to provide a common planning time once a week, which is strictly planning time for instruction that a teacher may use as he or she sees fit.

The School District's implementation of DPLC caused many problems for the teachers. Union President Doromal received numerous complaints from teachers across the school district regarding the impact of DPLC. At the school level, the implementation of DPLC adversely affected teachers' lesson planning and their ability to prepare students for state-wide mandated testing. Further, the question arose whether DPLC was voluntary or mandatory. On February 8, 2018, Doromal sent an email to Director of Labor Relations Blackmore notifying the School District that teachers reported they were

mandated to perform a variety of DPLC work that caused them to work beyond their contracted workday without pay.

In response to the Union's complaints, former Deputy Superintendent Dr. Jesus Jara and District Director of Evaluation Systems Stephanie Wyka made efforts to clarify how DPLC was being implemented. On February 19, Wyka sent an email to Doromal stating, "We have restated that this process is voluntary with all facilitators of DPLC sessions to help clarify this message. I have reached out to the school you shared with me last week to address this and the principal was to address the issue with his staff and explain that this process is voluntary."

On March 16, due to the problems persisting, the Union's former Executive Director, Michelle VanderLey, sent Blackmore and Dr. Jara a letter demanding that the School District cease and desist from certain specified DPLC practices. VanderLey stated that the implemented actions, without being negotiated, constitute an unfair labor practice. On March 22, Blackmore sent a response letter to VanderLey. In the letter, Blackmore stated that the CBA allowed for some of the DPLC activities to be required of the teachers and that the School District has the management right to make certain assignments to the teachers.

Eventually, the Union filed a class action grievance regarding the implementation of DPLC with Director Batura, whose office is responsible for handling grievances. Batura is authorized to enter into settlement agreements on the School District's behalf and routinely signs these settlement agreements. Batura worked with Doromal and

VanderLey and the parties were able to reach a settlement of the grievance. Batura drafted a settlement agreement and met with School District Attorney John Palmerini to discuss it. Thereafter, Batura signed the settlement agreement on behalf of the School District and Doromal signed it on behalf of the Union. The settlement agreement, dated June 28, 2018, provides, in part.

> Participations by teachers in DPLC is purely voluntary. If there are no volunteers, the school site shall not be required to participate in the DPLC. No teacher will be penalized in Domain 4 of their evaluation for failure to voluntarily participate in DPLC.
>
> Teachers who choose not to participate in DPLC will not be required to observe their peers or to be observed by their peers. If the teacher voluntarily chooses to participate in the DPLC, then they must perform all functions required of the DPLC, including observing peers when necessary.
>
> With respect to splitting of classes, if a teacher is a participant in a DPLC and is going to be off the work site, and there is no substitute available to cover the teacher's class, then the teacher will not be released to go off-site for the DPLC and there will be no splitting of that teacher's classes among other teachers.
>
> With respect to mileage and tolls incurred by teachers traveling to DPLC, such mileage and tolls will be reimbursed to teachers prospectively as delineated in School Board Policy DKC. In accordance with School Board Policy DKC, Section 1(c), to the extent the teacher's supervisor determines the teacher's first work location of the day is not their primary work location, the first work location becomes the teacher's primary work site for the day. Travel will then be reimbursed for travel to the next work site that day but travel will not be reimbursed from the teacher's home to the first work location.

(CP 5(b))

On August 2, Blackmore learned of the settlement agreement. The 2018-2019 school year started on August 13, following a one-week preplanning period. In early August, Doromal began receiving complaints from teachers about the implementation of the DPLC program. Doromal sent an email to Blackmore presenting the teachers' issues. On August 13, Blackmore and Batura met with Doromal and VanderLey to discuss the settlement agreement and the DPLC issues. On August 20, Blackmore sent a memo to the Union regarding the meeting and the settlement agreement. In the memo, Blackmore discussed the school-based PLC program and the DPLC initiative, and eventually stated that "that there was never a meeting of the minds between the District and the Union on the settlement agreement." The School District refused to honor the settlement agreement. On November 16, Blackmore sent another memo to Doromal in which she specifically repudiated the settlement agreement.

The School District's repudiation of the settlement agreement and ongoing implementation of the DPLC program has adversely impacted the teachers' working conditions. The School District has stated that participation in DPLC is voluntary, but teachers are required or pressured to participate in DPLC at their schools. Teachers were told that the DPLC program was not voluntary. Additionally, when teachers attended contractually required PLC and staff meetings, the meetings actually had presentations about DPLC and the teachers were forced to participate in mandatory DPLC training. Teachers were assigned homework to prepare for the next DPLC meeting and were required to prepare lesson plans to implement the DPLC initiative.

Also, the schools ceased making distinctions between school-based PLC and the DPLC program during presentations, on calendars, in handouts and other material, and when teachers asked for clarification.

The School District's implementation of DPLC includes "ghosting," which is when teachers are directed to inspect, observe, and write up what other teachers are doing to comply with the DPLC initiatives. The observation teachers are to determine whether the teachers being observed have posted the required DPLC materials on the classroom walls and set up the classroom in the appropriate manner. Teachers who do not comply with DPLC requirements are at risk of being downgraded on "Domain 4" of their evaluations.

Exceptions

We begin with the School District's exception three, which excepts to paragraph sixteen in the hearing officer's findings of fact. In that paragraph, the hearing officer found that Batura is authorized to enter into settlement agreements on the School District's behalf. The School District asserts that the hearing officer should have also found that Batura "was not authorized to enter into settlement agreements which conflicted with the collective bargaining agreement." In resolving this exception, we are mindful that it is the hearing officer's primary function to consider all of the evidence presented, resolve conflicts, judge credibility, weigh evidence, draw permissible inferences from the evidence, and make findings of fact. *See Boyd v. Department of Revenue*, 682 So. 2d 1117, 1118 (Fla. 4th DCA 1996). When the evidence presented at

an administrative hearing supports two inconsistent versions of events, it is the hearing officer's role to decide between them. *Id.* The Commission must accept the hearing officer's findings unless they are not supported by competent substantial evidence. *Id.*; *Holmes v. Turlington*, 487 So. 2d 150 (Fla. 1st DCA 1985); § 120.57(1)(l), Fla. Stat.

Moreover, when reviewing exceptions that contend the hearing officer should have made additional findings, the Commission will remand a case for additional fact finding only when a fact that is allegedly omitted is material to the ultimate determination and appears to have been overlooked by the hearing officer. *See, e.g., Suncoast Professional Firefighters and Paramedics, International Association of Fire Fighters, Local 2546 v. Southern Manatee Fire Rescue District*, 36 FPER ¶ 144 (2010); *SEIU Florida Healthcare Union, Local 1999 v. Health Care District of Palm Beach County*, 33 FPER ¶ 157 (2007); *Professional Association of City Employees, Inc. v. City of Jacksonville*, 31 FPER ¶ 11 (2005). The evidence cited by the School District does not demonstrate that the hearing officer overlooked the alleged fact. *See Suncoast Professional Firefighters and Paramedics*, 36 FPER ¶ 144. Rather, the record demonstrates that the hearing officer considered the evidence presented and resolved conflicts when making the finding of fact. In addition, there is competent substantial evidence in the record supporting the hearing officer's finding. (CP 37; T 366-71, 383, 387-91) Exception three is denied.

In exception four, the School District excepts to the portion of finding twenty-six wherein the hearing officer found that the "School District refused to honor the settlement

agreement." The August 13 and November 16, 2018, memos that Blackmore sent to Doromal clearly inform the Union that the School District will not honor the settlement agreement. (CP 16 and 17) In the August 13 memo, Blackmore stated that there was no "meeting of the minds" between the School District and the Union regarding the settlement agreement. She then cited case law holding that without a meeting of the minds, specific performance can be denied and a party cannot be found in breach of the contract. In the November 16 memo, Blackmore stated that the memo was formally repudiating the settlement agreement. In addition to the School District's own two memos, there is a plethora of competent substantial evidence in the record supporting the hearing officer's finding that the School District refused to honor the settlement agreement. (CP 6, 7, 9-16, 21-23, 26, 27, 29, 32, 33; T 89-90, 92-93, 95, 103-05, 108, 109, 137-40, 143-44, 154-55, 162-66, 182, 193-94, 206, 209, 217, 221, 226, 227, 234, 235, 237-39, 245, 257, 258, 261, 262, 269-73, 466, 467) Consequently, exception four is denied.

In exception five, the School District excepts to paragraph twenty-eight of the hearing officer's findings of fact challenging the use of the term "voluntold." In the paragraph, the hearing officer found that teachers "are either required or are pressured to participate in DPLC at their schools" and that teachers "who objected to mandatory DPLC were told it was not voluntary." The hearing officer noted that some teachers used the term "voluntold" to describe the School District's implementation of DPLC. In its exception, the School District argues that the term "voluntold" is hearsay. This exception

is without merit. The term "voluntold" was not offered to prove the truth of the matter asserted and therefore is not hearsay. § 90.801(1)(c), Fla. Stat. More significantly, the hearing officer's findings of fact in paragraph twenty-eight are supported by competent substantial evidence. (CP 22 and 23; T 88-90, 93-95, 103-05, 108, 137-40, 154, 155, 163, 182,193-95, 208, 209, 217, 218, 221, 226, 227, 234, 237-39, 245, 257, 258, 261, 269-73, 467) Exception five is denied.

In exception six, the School District excepts to paragraph thirty-three of the hearing officer's findings of fact. The paragraph, in its entirety, states, "Teachers who do not comply with DPLC requirements are at risk of being downgraded on 'Domain 4' of their evaluations. (T 43, 236, 237)" (Emphasis added) In its exception, the School District argues there is no evidence that a teacher was actually downgraded. Here, the School District seeks to reframe the finding of fact to present a different argument. The hearing officer found that teachers were at risk of being downgraded, not that teachers had been downgraded. The record demonstrates that teachers were at risk, as opposed to having suffered actual harm, because they would not receive the Domain 4 evaluations until much later in the school year. *See* T 229 and 253 (witnesses would not receive their Domain 4 evaluations until several months after the hearing); *see also* T 190 (certain teachers had been "talked to" by school administration for not participating in DPLC, but it was unclear whether they had been downgraded). The hearing officer's findings of fact are supported by competent substantial evidence. (T 43, 121, 180, 183, 187, 188, 190, 229, 236, 237, 253) Therefore, exception six is denied.

In exception one, the School District excepts to paragraphs eight and nine of the hearing officer's findings of fact, which deal with complaints Doromal received from teachers. The School District asserts that these findings are based on hearsay and should be overturned. This exception is without merit. Doromal did not provide that information for the truth of the matter asserted; thus, it is not hearsay. § 90.801(1)(c), Fla. Stat. Rather, Doromal was providing background information to explain why she began looking into the impact of the DPLC implementation on teachers. It is well-established that a statement is not hearsay if offered to explain the subsequent conduct of the listener. *See Jenkins v. State*, 189 So. 3d 866, 869 (Fla. 4th DCA 2015); *Krampert v. State*, 13 So. 3d 170, 174 (Fla. 2d DCA 2009); *Alfaro v. State*, 837 So. 2d 429, 432-33 (Fla. 4th DCA 2002). Further, the hearing officer's findings of fact are supported by competent substantial evidence in the record because many of the teachers who had contacted Doromal testified regarding their issues with the DPLC implementation. Consequently, exception one is denied.

In exception two, the School District excepts to paragraphs ten through fourteen of the hearing officer's findings of fact. The School District argues that Doromal's testimony, which the School District claims is the basis for these findings, is not relevant. Relevance is not a basis upon which a hearing officer's finding of fact is subject to rejection by the Commission. *See Osceola Classroom Teachers Association v. Osceola County School District*, 36 FPER ¶ 417 (2010); *Rush v. Department of Transportation*, 10 FCSR ¶ 302 (1995). Furthermore, these findings of fact by the hearing officer are supported by

competent substantial evidence, which includes exhibits submitted by the School District. (CP 38; R 1, 3, 4; T 419, 420, 441, 480-84) Therefore, exception two is denied.

In exception nine, the School District excepts to the hearing officer's legal conclusion that the settlement agreement did not violate the parties' CBA. *See* Hearing Officer's Recommended Order (HORO), pp. 30-33. DPLC is a three-year initiative regarding literacy strategies. The CBA does not contain a provision specifically addressing the DPLC initiative. Therefore, on its face, the settlement agreement does not change any DPLC provisions in the CBA because the CBA contains no DPLC provisions. The School District asserts that the settlement agreement violates the CBA because it impacts five CBA provisions: Article XIV(B)(1) and (2); Article XV(E); Article VII(A); Article VII(I); and Article XXI.

The School District asserts that the settlement agreement conflicts with CBA provisions Article XIV(B)(1) and (2), which allow for a school administrator and the Faculty Advisory Committee (FAC), after a vote of the faculty, to mutually agree on scheduling arrangements for teachers to include coverages of classes in lieu of using substitutes. In contrast to the School District's exception, the settlement agreement does not prevent a FAC from reaching agreements on class coverage arrangements among the teachers at the school where the FAC serves, such as whether to hire substitute teachers or split the students among other classes when a teacher is out. A FAC only has powers within the particular school it serves, and its agreements are with the school principal. A FAC is not a certified labor organization representing employees. The

record does not demonstrate the existence of an actual conflict between the settlement agreement and any agreement reached by a school's FAC and the principal regarding how that school will address teacher absenteeism.

Next, Article XV(E) provides, in part, that "Attendance at in-service activities off the school campus shall be voluntary except when attendance at such activities is necessary for the implementation of a required program." Under this portion of exception nine, the School District makes a strained argument that the settlement agreement violates this CBA provision because it could prevent a school principal from making a portion of DPLC, called close reading, a required program at that particular school and mandate teachers to attend off-campus training. In contrast to these arguments, the settlement agreement does not mention close reading and the hearing officer found DPLC is a voluntary program. Thus, there is not a conflict created by the settlement agreement stating that DPLC is voluntary and the CBA's Article XV(E). The latter plainly states that attendance at off-campus events is voluntary unless the attendance is needed for a required program. DPLC is a voluntary program.

The School District also claims that the settlement agreement violates Article XXI, regarding management rights, by prohibiting the School District from mandating that teachers use close reading techniques. The settlement agreement addresses DPLC and does not mention close reading so there is no conflict between the settlement agreement and Article XXI.

In another portion of exception nine, the School District asserts that Article VII(A) gives it the management right to question, consult, and direct its teachers whenever necessary. The School District claims that the manner in which it requires teachers to teach reading is a management right and the settlement agreement cannot prohibit the School District from requiring teachers to use close reading techniques. According to the School District, if the settlement agreement is read to make the use of close reading techniques voluntary, it conflicts with Article VII(A). This argument is without merit. The hearing officer found that the settlement agreement does not address close reading and therefore there is not a conflict between the settlement agreement and Article VII(A).

Under exception nine, the School District presents one final argument. The School District notes that Article VII(I) governs the manner in which school system personnel shall conduct visits to a teacher's class. The School District claims that the settlement agreement conflicts with Article VII(I) because it can be read to change how school system personnel conduct class visits. The School District's argument is meritless. In contrast to these misplaced arguments, the settlement agreement addresses the observation of teachers, not classroom visits. Article X(C) governs observations of teachers, not Article VII(I). Pursuant to Article X(C), teachers "may choose to observe fellow teachers," which makes peer observation voluntary. In the implementation of DPLC, the School District required teachers to watch and critique their peers regarding the teachers' use of DPLC techniques. In addition, there was no reason to require teachers to observe and critique a teacher regarding the use of DPLC

techniques, if the teacher being observed did not volunteer to participate in the DPLC program.

Upon consideration of the record and the School District's challenges under exception nine, we agree with the hearing officer's legal analysis and conclusions that the settlement agreement does not conflict with these provisions of the CBA. Therefore, exception nine is denied.

For exception eight, the School District asserts that the hearing officer erred in his legal conclusion that Batura had authority to modify the CBA. The School District expends significant argument to show that Batura is not on the School District's collective bargaining team. In this exception, the School District does not accurately state the hearing officer's analysis and conclusion. *See* HORO, pp. 26-30.

The record demonstrates that Batura has authority to settle grievances. Batura routinely resolves grievances at the third step, reviews contract language in the CBA when resolving grievances, and signs the settlement agreements. In this instance, Batura reviewed the CBA articles presented in the Union's grievance, drafted the settlement agreement, and met with the School District's attorney to discuss the settlement agreement before Batura proceeded to sign it. In *Dade County Association of Fire Fighters, Local 1403, IAFF v. Metropolitan Dade County*, 17 FPER ¶ 22277 at 492 (1991), the Commission considered whether a settlement agreement was a de facto amendment to a CBA and set forth the following test:

> [T]he test for determining whether a settlement agreement represents a resolution of grievances, or instead, constitutes collective bargaining is dependent upon a factual determination of whether the agreement merely construes an existing contract. If so, then it is a grievance settlement. However, if the agreement purports to modify, clarify, alter, or place conditions upon the contract, then it is a de facto an amendment to the collective bargaining agreement.

Here, as already discussed under exception nine, the settlement agreement does not conflict with the CBA. In addition, it does not amend the CBA. In the settlement agreement to resolve the Union's grievance, the parties mutually agreed how to harmonize the DPLC initiative with the existing CBA. Further, Article II(J) of the CBA expressly authorizes the parties to enter into settlement agreements that mutually interpret the CBA as long as the interpretation does not constitute a substantive change in employees' salaries or benefits. Thus, because the settlement agreement does not amend or substantively impact the CBA, we agree with this portion of the hearing officer's analysis and legal conclusion. In addition, after considering the parties' arguments and response, we reiterate that a public employer and union cannot modify or amend a CBA without having such modification or amendment ratified. *See Carroll v. City of Tampa and Hillsborough County Police Benevolent Association*, 18 FPER ¶ 23164 (1992). Here, since the grievance settlement did not modify or amend the CBA, ratification was unnecessary. Exception eight is denied.

In exception seven, the School District excepts to the hearing officer's conclusion that the term "DPLC," as used in the settlement agreement, includes more than the four-or-five meetings that occur off-campus per year. *See* HORO, pp. 23-26. The School

District contends that the term "DPLC" is not ambiguous and the hearing officer erred in concluding that DPLC includes on-campus participation.

The settlement agreement uses the acronym DPLC and does not provide the name District Professional Learning Communities. The parties' intent was to resolve the grievance through the settlement agreement, and the grievance concerned issues regarding the implementation of the District Professional Learning Communities. (R 5; T 28-31, 121-22, 368-69) Thus, it is clear that the settlement agreement is referring to the District Professional Learning Communities initiative when using the term DPLC.

The hearing officer discerned the intent of the parties from the language they used in the settlement agreement, which Batura drafted and discussed with the School District's attorney. *See Florida Investment Group 100, LLC v. Lafont*, 271 So. 3d 1, 4 (Fla. 4th DCA 2019) ("[T]he actual language used in the contract is the best evidence of the intent of the parties, and the plain meaning of that language controls."); *Sugar Cane Growers Co-op. of Florida, Inc. v. Pinnock*, 735 So. 2d 530, 535 (Fla. 4th DCA 1999) ("In construing a contract, the legal effect of its provisions should be determined from the words of the entire contract."). The third paragraph of the settlement agreement discusses teachers observing their peers and being observed by their peers. These activities take place at the school. The fourth paragraph of the settlement agreement refers to splitting of classes, which occurs at the school and has teachers who are not participating in DPLC responsible for the classes of teachers who are participating in DPLC. In addition, the second paragraph of the settlement agreement directly discusses

school sites by stating that if there are no teachers volunteering to participate in DPLC, the school site shall not be required to participate in DPLC. Thus, the plain language of the settlement agreement demonstrates that the DPLC initiative has a broader meaning than the four or five off-campus meetings per year. DPLC was having an impact at the schools and affecting teachers who were not participating in the DPLC initiative. We agree with the hearing officer's legal analysis and conclusions. Therefore, exception seven is denied.

In exceptions ten and eleven, the School District challenges the hearing officer's award of attorney's fees and costs to the Union. Section 447.503(6)(c), Florida Statutes, authorizes the Commission to award attorney's fees and costs to a prevailing party when it determines such an award is appropriate. A prevailing charging party is entitled to attorney's fees and costs when the respondent knew or should have known that its conduct was unlawful. *See DeMarois v. Military Park Fire Control Tax District No. 4*, 7 FPER ¶ 12065 (1981), *aff'd*, 411 So. 2d 944 (Fla. 4th DCA 1982). Here, the Union is the prevailing party in this case and is therefore eligible for such an award. In addition, for the reasons stated by the hearing officer, the School District knew or should have known that it could not lawfully repudiate the settlement agreement it entered into with the Union to resolve the grievance. The School District did not prevail and is not entitled to an award of attorney's fees and costs. Therefore, exceptions ten and eleven are denied.

For exception twelve, the School District excepts to the hearing officer's recommended posting, which would require the School District to post the Notice to Employees at all of its schools. The School District requests that the notices only be posted at the thirteen schools of the teachers who testified. We deny the request. The Union filed a class action grievance on behalf of all District teachers regarding the implementation of DPLC. The DPLC initiative was District-wide. In addition, the settlement agreement applied to all District schools because the DPLC program impacted all District teachers. Thus, all teachers in the District should be informed by the notice. Exception twelve is denied.

Conclusion

Upon review of the record, we conclude that the hearing officer's findings of fact are supported by competent substantial evidence received in a proceeding which satisfied the essential requirements of law. *See Boyd v. Department of Revenue*, 682 So. 2d 1117 (Fla. 4th DCA 1996). Therefore, we adopt the hearing officer's findings of fact. § 120.57(1)(l), Fla. Stat. We agree with the hearing officer's analysis of the dispositive legal issues, his conclusions of law, and his recommendations. § 120.57(1)(l), Fla. Stat. Accordingly, the hearing officer's recommended order is incorporated in this final order and the Union's unfair labor practice charge is SUSTAINED.

The School District is ORDERED to:

1. Cease and desist from:

   (a) Repudiating the settlement agreement it entered into with the Union on July 30, 2018;

(b) Failing to bargain in good faith with the Union and interfering with, restraining or coercing its employees in the exercise of rights guaranteed them by Chapter 447, Part II, Florida Statutes (2018), in any like or related manner; and

(c) In any like or related manner, interfering with, restraining, or coercing public employees in the exercise of any right guaranteed them under Chapter 447, Part II, Florida Statutes (2018).

2. Take the following affirmative action:

(a) Rescind the action it took on November 16, 2018, in repudiating the settlement agreement and comply with the provisions of the July 30, 2018, settlement agreement;

(b) Pay to the Union its reasonable attorney's fees and costs of litigation; and

(c) Post immediately the attached Notice to Employees in the manner in which the School District customarily communicates with its employees.[3]

The Union is directed to file its attorney's fees and costs proposal within thirty days from the date of this order. The Clerk of the Commission is directed to open an attorney's fees case and schedule a hearing.

This order may be appealed to the appropriate district court of appeal. A notice of appeal must be received by the Commission and the district court of appeal within **thirty**

[3]The School District can satisfy this requirement by emailing the Notice to Employees to bargaining unit members or by posting the Notice to Employees on its website. *See School District of Orange County v. Orange County Classroom Teachers Association*, 146 So. 3d 1203 (Fla. 4th DCA 2014) (commenting on the practicality of posting requirements given advancements in modern technology).

CA-2018-052

days from the date of this order. Except in cases of indigency, the court will require a filing fee and the Commission will require payment for preparing the record on appeal. Further explanation of the right to appeal is provided in sections 120.68 and 447.504, Florida Statutes, and the Florida Rules of Appellate Procedure.

It is so ordered.
POOLE, Chair, BAX and KISER, Commissioners, concur.

I HEREBY CERTIFY that this document was filed and a copy served on each party on July 19, 2019.

BY: Barry Edwards
Clerk

/bjk

NOTICE TO EMPLOYEES

POSTED PURSUANT TO AN ORDER OF THE
PUBLIC EMPLOYEES RELATIONS COMMISSION

AN AGENCY OF THE STATE OF FLORIDA

AFTER A HEARING IN WHICH ALL PARTIES HAD AN OPPORTUNITY TO PRESENT EVIDENCE, IT HAS BEEN DETERMINED THAT WE HAVE VIOLATED THE LAW AND WE HAVE BEEN ORDERED TO POST THIS NOTICE. WE INTEND TO CARRY OUT THE ORDER OF THE PUBLIC EMPLOYEES RELATIONS COMMISSION AND ABIDE BY THE FOLLOWING:

WE WILL NOT repudiate the settlement agreement we entered into with the Union on July 30, 2018.

WE WILL NOT fail to bargain in good faith with the Union and interfere with, restrain or coerce its employees in the exercise of rights guaranteed them by Chapter 447, Part II, Florida Statutes (2018), in any like or related manner.

WE WILL NOT, in any like or related manner, interfere with, restrain, or coerce public employees in the exercise of any right guaranteed them under Chapter 447, Part II, Florida Statutes (2018).

WE WILL rescind the action we took on November 16, 2018, in repudiating the settlement agreement and comply with the provisions of the July 30, 2018, settlement agreement

WE WILL pay to the Union its reasonable attorney's fees and costs of litigation.

_____
SCHOOL DISTRICT OF ORANGE COUNTY, FLORIDA

_____	_____	_____
DATE	BY	TITLE

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for **60** consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Commission.

(ULP)