

VARIOUS SUITS, APPEALS KEEP SCHOOL OFFICIALS IN COURT



A teacher who had formerly worked for the Palm Beach County School District in Florida brought action against the superintendent and a principal of one of the schools. He claims that his termination was a retaliation for his constitutionally protected right of free speech. The man was employed as a high school history teacher beginning in 1993. In 2001, through letters and at school board meetings, he expressed his opinion that the District was not in compliance with a state statute requiring the inclusion of African and African American history in the schools' curriculums. In May of 2002, the teacher was given an unsatisfactory performance evaluation and was subsequently placed on a "remedial teaching performance plan," or a "site assistance plan." During the two academic years between 2002 and 2004, the employee was transferred to varying positions among the District's schools. His response was a lawsuit in August of 2002, alleging that the transfers were retaliation for noting the state statute violation. In the fall of 2003, the teacher was moved again to Roosevelt Middle School to teach seventh grade geography. The principal of this school testified in court that she was initially pleased with the man's work but eventually heard complaints from parents concerning heavy work assignments and changes to the curriculum. After receiving the complaints and seeing unsupervised students outside of the teacher's classroom, the principal gave him an unsatisfactory evaluation and in February of 2004 recommended to the superintendent that the teacher be fired for not improving his performance. The superintendent took the matter to the school board,



and at a board meeting, after the teacher was allowed to speak on his own behalf, the man was terminated. The teacher appealed to the Division of Administrative Hearings, and an Administrative Law Judge's decision concurred with the school board. This ruling was appealed, and the Fourth District Court of Appeals reversed the decision in November of 2006 and remanded the case to the school board for further proceedings. In February of the same year, the teacher's first suit proceeded to trial. The jury found in favor of the teacher, but the district court vacated (or overruled) the decision. Appeals were denied, the first deemed by the court as untimely. A second suit was filed in March of 2007, this time, in addition to retaliation, charging a violation of the aforementioned statute and a violation of due process, the latter based on actions by the principal and school board attorneys. The district court dismissed the suit based on res judicata, meaning that the case had already been judged. The appeals court reversed the decision, and the charge of retaliation survived. Both parties requested summary judgment. The defendants' motion was denied, as the court believed that the decision to fire the teacher may have been pretextual and also ruled that neither defendant was entitled to qualified immunity, which protects officials from liability in cases where the violation concerns a law that may not be clearly defined. The superintendent and principal appealed, believing that res judicata should void the retaliation claims and that they are entitled to qualified immunity. The appeals court did not address the former issue, but reversed the district court's ruling and instructed it to grant summary judgment based on qualified immunity.