

THE SCHOOL BOARD OF SEMINOLE COUNTY, FLORIDA

BELINDA EWEN,

Petitioner,

vs.

SEMINOLE COUNTY SCHOOL BOARD,

Respondent.

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RECOMMENDED ORDER

The hearing in this matter was conducted on December 16, 2021, via WebEx, before James A. Robinson, Esq., who was designated by Respondent to hear this matter and to submit this Recommended Order.

APPEARANCES

For Petitioner: Ms. Belinda Ewen.

For the School Board: Gregg A. Johnson, Esq., Associate School Board Attorney.

STATEMENT OF THE ISSUE

Whether a video created by BrainPOP entitled “Civil Rights Movement” complies with applicable statute, Next Generation Sunshine State Standards, and School Board policy, and whether Petitioner’s objection should be granted or denied.

## PRELIMINARY STATEMENT

Those attending the hearing were Ms. Belinda Ewen (the Petitioner), Mr. Johnson (Associate School Board Attorney), Dr. Jason Wysong (Deputy Superintendent), Mr. Jake Novak (Principal), and Ms. Debra Whalen (teacher). The Petitioner, Dr. Wysong, and Ms. Whalen testified at the hearing.

The School Board's Exhibits 1 through 28 were admitted without objection and, together with applicable statutes and policies, are available for viewing at the following hyperlink provided by the School Board Attorney's Office:

<https://www.dropbox.com/sh/4wmnwn6gn71dczn/AACsblPzk7s6KHoW-YSaLZ7fa?dl=0>

The exhibits include applicable Nest Generation Sunshine State Standards, (which should be marked as Exhibits 20 through 28, not 19 through 27, with Exhibit 19 being a copy of Sec. 1014.05, F.S.) The exhibits include those reflecting the Petitioner's objection and appeal, and others upon which the Petitioner relies in support of her challenge.

The Petitioner agrees with the overall message of the video in support of civil rights for all. Her challenge is not to student instruction on the history of the civil rights efforts, which she supports. As stated in her written objection (Exhibit 1), Petitioner challenges those portions of the video (Exhibits 6 and 7) depicting signs stating, "White Silence is Violence", "Stop Police Violence", and "Full Rights for Immigrants", and one depicting a rainbow flag and gender symbol

(Exhibit 7). She views these signs as being “racially divisive”, “politically partisan”, and “controversial”. She asserts they misrepresent police and immigration policies. She views the picture of the rainbow flag and gender symbol as a reference to “sexuality”, and as the introduction of “sex education without parental permission” (Exhibit 1).

School Board Policy 2240 provides that the “consideration of controversial issues has a legitimate place in the instructional program of the schools.” The policy recognizes that certain instructional material may contain content or activities that some parents may consider inconsistent with their religious beliefs or value system. The policy provides for consideration of a parent’s written request for his/her child to be excused from a particular class for specified reasons.

In paragraph 9 of her written objection (Exhibit 1), when asked what she would like the school or district to do about this material, Petitioner states, “Remove the app or block content without parental permission”.

#### FINDINGS OF FACT

1. The video is not instructional material adopted pursuant to the public notice, review, comment, and hearing procedures under Sec. 1006.283(2)(b)8., 9., and 11, F.S.

2. The video was used as a supplemental resource available at the school, viewable through the Google Classroom Portal.

3. The Petitioner filed an objection to the video with the Principal, Mr. Novak (Exhibit 1). The school review committee convened on April 30, 2021 to consider and discuss Petitioner's objection. The minutes of that meeting are found at Exhibit 2.

4. The school did not uphold the Petitioner's objection, and the Petitioner appealed to the Superintendent (Exhibit 4).

5. A district instructional materials review committee met on Wednesday, July 28, 2021 to consider Petitioner's challenge. The committee was comprised of a principal supervisor, a coordinator, a school principal, a parent representative of the Seminole County Council, and a layperson from the Seminole County community. The purpose of the review was to provide for an objective, transparent study of, and receive stakeholders' input on, the material in question. The Petitioner attended in person. She participated in the discussion and provided documents in support of her challenge.

6. The committee concluded the video was an appropriate supplemental educational resource and was consistent with applicable Nest Generation Sunshine State Standards (see Exhibits 20 through 27).

7. Superintendent Beamon wrote to the Petitioner on September 3, 2021 (Exhibit 9) to thank her for her involvement and concern, and to express her support of the committee's finding. The Superintendent advised the Petitioner that she would take no further action, and that Petitioner could appeal her

decision to the School Board. Petitioner timely appealed the Superintendent's decision. (See Exhibit 4).

8. The video was marked by BrainPOP as "sensitive". Deputy Superintendent Wysong testified at the hearing that all such material designated as "sensitive" is no longer made available to students without parental notice and consent.

### CONCLUSIONS OF LAW

1. The video is aligned with applicable Next Generation Sunshine State Standards, including the standard marked SS.5.C.2.In.b, Civic and Political Participation (Exhibit 27), which calls for the identification of "examples of political participation used in the past and today, such as voting, signing petitions, and public protests".

2. The video is consistent with the requirement in Sec. 1003.42, F.S. for instruction on "the civil rights movement to the present".

3. The video does not constitute the teaching of reproductive health within the meaning of Sec. 1003.42(3), F.S.

4. The video does not constitute "Critical Race Theory" within the meaning of State Board of Education Rule 6A-1.094124, F.A.C.

5. Since the district no longer allows student access to material deemed "sensitive" without parental consent, the Petitioner's concern with the video as

being “controversial” has been adequately addressed and no further relief is available to her under Policy 2240.

RECOMMENDATION

Based upon the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Seminole County School Board enter a final order denying Petitioner’s appeal.

DONE this 20th day of December 2021.

*James A. Robinson*

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