




Memorandum

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To: Hon. Agustin J. Barrera, Chair
and Members, Miami-Dade County School Board

From:  Christopher R. Mazzella, Inspector General
for Miami-Dade County Public Schools

Date: July 29, 2008

Subject: OIG Final Report Re: Employment Agreement of JulieAnn Rico, School Board Attorney, Payment of Moving Expense Allocation, Ref. IG08-36SB

Attached please find the Office of the Inspector General's (OIG) final report on the above-captioned matter. As you are aware, the OIG was requested to review the matter, and our procedures required us to provide draft copies of the report to individuals affected by the OIG's findings, namely Ms. JulieAnn Rico. A draft was also provided to Mr. Frank Bolaños, as the chief negotiator on behalf of the School Board and co-executor of the agreement. The drafts were provided to Ms. Rico and Mr. Bolaños on July 10, 2008. Written responses have been received by the OIG and they are included as Appendix A and B to the report.

Our draft report had contained our opinion that Ms. Rico repay the \$15,000 moving expense allocation or work out some other arrangement with the Board. On or about July 15, 2008, Ms. Rico repaid the Miami-Dade School Board \$15,000. Nevertheless, the OIG presents you with this report of our findings, which supported our opinion. While the money has been repaid, whether the matter is moot is not a legal opinion to be rendered by the OIG. As such, the OIG provides you this report for your consideration. Copies will also be provided to other parties as noted below.

cc: Ms. JulieAnn Rico, School Board Attorney
Mr. Frank Bolaños
Mr. Joe Centorino, Chief Asst. State Attorney Miami-Dade State Attorney's Office

Attachment (OIG Final Report)

MIAMI-DADE COUNTY PUBLIC SCHOOLS OFFICE OF THE INSPECTOR GENERAL
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INTRODUCTION & SYNOPSIS

On June 25, 2008, Joe Centorino, Chief Assistant State Attorney, Miami-Dade State Attorney's Office (SAO), requested that the Office of the Inspector General (OIG) review the details surrounding the contractual arrangements between the School Board of Miami-Dade County and School Board Attorney, JulieAnn Rico, (f/k/a JulieAnn Rico Allison) as it relates to a payment for moving expenses.

Based on the SAO's request, the OIG conducted an investigation of the allegation that Ms. Rico received a one-time allocation in the amount of \$15,000 to move to Miami-Dade County but, in fact, did not move to Miami-Dade County. The OIG investigation disclosed that the final, official version of the employment agreement that was approved by the School Board (hereinafter the Board) on September 28, 2005, as maintained by the Office of Compensation, provided that:

The ATTORNEY shall be provided a one-time moving expense allocation in an amount of \$15,000 should the ATTORNEY decide to move to Miami-Dade County within the first year of the term of this agreement, payable on Jan 15, 2005.¹

This final, official language contains a hand written change to the typed text of the agreement, which originally stated:

The ATTORNEY shall be provided a one-time moving expense allocation in an amount not to exceed \$15,000 should the ATTORNEY decide to move to Miami-Dade County within the first year of the term of this agreement.

The hand written change was initialed by both Ms. Rico and by then Board Chair Frank J. Bolaños or his Assistant, Carlos Becerra, on his behalf.² When first asked by the OIG about the hand written change, Mr. Bolaños indicated that it was his recollection that the hand written text was the version approved by the Board because the Board had before them all the latest revisions. However, in his response to the OIG's draft report, Mr. Bolaños did not address the timing of the hand written change. Mr. Bolaños' response to the OIG's draft report is included herein as OIG Appendix A.

¹ The date was a Scrivener's error. The date should have read January 15, 2006, not January 15, 2005.

² In an interview with former Board Chair Bolaños, he stated to the OIG investigator that he did initial the handwritten change; however, in his response to the OIG's draft report, Mr. Bolaños indicated that the initials appear to have been made by his Assistant, as this was a customary practice.

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Ms. Rico received a payment of \$10,102.50 (\$15,000 less federal taxes) on January 17, 2006. Ms. Rico did not move to Miami-Dade County and she has remained a resident of Palm Beach County from the time of her hiring by the Miami Dade School Board to the present. Prior to the execution of her employment agreement, but during the period of the employment agreement negotiation, Ms. Rico listed her Palm Beach County home for sale and had a proposed contract for its sale. The sale, however, was not consummated and Ms. Rico continues to make the Palm Beach County house her residence.

According to former Board Chair Bolaños, who was the primary negotiator of the contract on behalf of the Board, it was the Board's intent that Ms. Rico actually move to Miami-Dade County so that she could effectively perform her duties. Mr. Bolaños told the OIG that it had never entered his mind that she would collect the \$15,000 moving payment and not move to Miami. According to Ms. Rico, her employment was not conditional on her moving to Miami Dade-County and the payment was not conditional on her having to move.

The OIG's examination of this issue concludes that the Board intended for Ms. Rico to re-locate to Miami-Dade County within the first year of her employment, however, her employment was not conditioned on her move. Ms. Rico was paid \$15,000 (less tax) in advance for her relocating to Miami-Dade County. Nevertheless, she has not moved to Miami-Dade County and should, therefore, repay the money—which she has now done since our providing her a copy of the draft report.

That being said, it is equally clear that the Board's intent to have Ms. Rico move to Miami- Dade County within the first year of her employment was poorly drafted in the contract language. Our opinion is the same under both the original text version of the contract section and the version containing the hand written change. Neither clearly describes the payment as either a reimbursement or a payment as part of an overall compensation package. Instead, it contains a vague and oddly worded conditional phrase of "should the ATTORNEY decide to move..." It is not clear whether deciding to move is moving, or just thinking about moving. On its face, it seems counterintuitive that one is paid moving expenses if one does not move. Moreover, we acknowledge that the presence of the word "allocation" as opposed to "payment" or "reimbursement" muddles the matter further. Lastly, the agreement does not contain any language of what should happen if Ms. Rico did not relocate to Miami Dade County after having received monies in the form of a "moving expense allocation."

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RESPONSES TO THE OIG'S DRAFT REPORT & OIG COMMENTS

On July 10, 2008, the OIG provided this report in its draft form to Mr. Frank Bolaños and Ms. JulieAnn Rico for their discretionary comment and written response. The OIG received written responses from both of them, which are appended hereto as Appendix A and B, respectively.

As we acknowledged above, Mr. Bolaños' response indicates that his Assistant Carlos Becerra may have initialed the contract change on his behalf, as it was a customary office practice.

Ms. Rico's written response provides two main arguments: one that factually posits the propriety of the payment, and the second, which focuses on the legal issues involved in determining such propriety. First, Ms. Rico states that her use of the moving expense allocation funds to move to Miami on a part time basis during the summer months and to move office furniture, materials, and personal effects into the District office was within the contemplation of the parties and her understanding of what the moving expense provision allowed for.

Secondly, Ms. Rico explains in her response:

The fact that the provision regarding the moving expense allocation was revised subsequent to this Board meeting [meeting of September 28, 2005] indicates that the Board may simply have been unaware of or unconcerned about the provision, although at the time I assumed that the Board was aware of the provision [footnote omitted] and that Mr. Bolaños had the apparent authority to agree to revisions to it after the Board had taken action to approve the contract.

As a result of the foregoing, it must be concluded that the Board had no specific intent regarding a requirement for me to move to Miami-Dade County at the time my contract was approved and that neither at the September 28, 2005 meeting nor a subsequent meeting, did the Board review and approve the document that ultimately was executed by the parties. These facts require a legal conclusion that there was no meeting of the minds as it relates to this provision ... (See page 5 of Ms. Rico's response, **Appendix B**.)

Additionally, Ms. Rico argues that the OIG should conduct a legal analysis of the issue and conclude that the provision "fails because the parties did not have a meeting of the minds; contained terms susceptible of differing interpretations requiring

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review of the intent of the parties and of a determination performance by substantial compliance; and in light of [Ms. Rico's] action on July 15, 2008, to reimburse the Board the full \$15,000.00 paid [to her] in January 2006, this matter is now moot." (See page 6 of Ms. Rico's response, **Appendix B.**)

Mr. Bolaños' response does not alter the conclusion that the final executed contract contained terms which the Board did not review and authorize. The hand written changes, whether initialed by Mr. Bolaños or Mr. Becerra, on behalf of Mr. Bolaños, altered the provision in two important ways: 1) it made the amount payable to Ms. Rico a definite amount, therefore avoiding a process whereby a District official had to inquire and determine how much should be paid out pursuant to a move, and 2) it required payment by a date certain whether or not the move had yet occurred.

Ms. Rico asserts that her use of the funds to relocate during the summer months and to move office furniture was well within what the parties contemplated. However, Mr. Bolaños, the other party to the negotiations, indicated to the OIG that it was not. Ms. Rico's response requests that the OIG engage in a legal analysis of the contract provision. The OIG does not provide advisory legal opinions. The OIG's function is to investigate and report the findings of our investigation for management and/or the governing board—in this case, the School Board—to consider. Likewise, Ms. Rico's contention that there was no meeting of the minds over this issue is a matter that is rightfully reserved for a judicial determination of an ultimate issue of fact. It is not the place for the OIG to determine contractual disputes.

OIG JURISDICTIONAL AUTHORITY

The Miami-Dade County Office of the Inspector General, through an Interlocal Agreement (ILA) between Miami-Dade County and the Miami-Dade County School Board, serves as Inspector General for MDCPS. The ILA for inspector general services is expressly authorized by School Board Rule 6GX13-8A-1.08. The scope and jurisdiction of the Inspector's General's activities is dictated by the ILA.

Among the responsibilities, function, authority, and jurisdiction conferred upon the OIG through the ILA is the authority and jurisdiction to make investigations of School Board affairs and the power to review past, present and proposed School Board programs, accounts, records, contracts and transactions. The OIG have shall the power to require reports and the production of records from the Superintendent, School Board members, School District departments and allied organizations, and District officers and employees, regarding any matter within the jurisdiction of the Inspector General.

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BACKGROUND

JulieAnn Rico is a MDCPS employee. Ms. Rico serves as the School Board Attorney under an employment agreement between her and the Board, dated September 28, 2005. (**Exhibit 1**) Ms. Rico continues to serve in that position. The term of said agreement is for four years, effective November 14, 2005 to November 13, 2009.

In March 2005, the Board began the process of hiring a new Board attorney. In May 2005, the Board engaged the services of Korn/Ferry International (Korn/Ferry), an employment placement firm, to conduct a national search. On August 31, 2005, in a special meeting of the Board, Ms. Rico was selected as the new Board Attorney. Between September 1 and September 28, 2005, contract negotiations were conducted by then Board Chair Bolaños; he was assisted by Korn/Ferry and out-going Board Attorney Mr. Johnny Brown.

On September 28, 2005, at a special meeting of the Board, Ms. Rico's employment agreement was discussed and voted upon by the Board. The agreement, as amended,³ was approved unanimously. The employment agreement was signed afterwards by Ms. Rico and Mr. Bolaños, then Chair of the MDCPS Board, and attested to by Rudolph F. Crew, Superintendent of MDCPS.

On June 25, 2008, an article appeared in the Miami-Herald newspaper questioning the appropriateness of Ms Rico receiving a \$15,000 payment from the MDCPS. On June 25, 2008, Assistant State Attorney Joe Centorino requested that the OIG review the details of the contractual arrangements between the MDCPS Board and the MDCPS Board Attorney, JulieAnn Rico, as it relates to the payment for moving expenses. Shortly thereafter, Ms. Rico was apprised of our review and she agreed to fully cooperate.⁴

INVESTIGATION

During the course of the investigation, agents of the OIG reviewed numerous documents pertaining to the hiring of Ms. Rico, including the employment agreement, Board meeting minutes, video of Board meetings, financial disclosures, and the contract for sale of Ms. Rico's home in Palm Beach County. In addition to reviewing documents,

³ Several amendments were proffered during the discussion on the item. Amendments that were passed by the Board related to language concerning Scheduling Conflicts, Reimbursement for Mileage, and Removal for Cause.

⁴ The OIG's draft report indicated that Ms. Rico also requested the OIG to review this matter. However, Ms. Rico in her response states that she did not request the OIG to review the matter, but rather that the Board should refer the matter to the MDCPS Chief Auditor. Regardless, Ms. Rico has answered all questions and provided documents for the OIG's review.

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agents of the OIG conducted interviews of Ms. Rico, former Board Chair Frank Bolaños, and others. Our findings are set forth below.

Residency of JulieAnn Rico

Ms. Rico does not dispute the fact that she resides in Palm Beach County and has so resided since the inception of her employment agreement. A review of property records, MDCPS employment records, and financial disclosures filed with the Department of Elections in Palm Beach County lists Ms. Rico's residence as being located in Palm Beach County, Florida.

The Employment Agreement - Chronology of Revisions to Subsection III(E)(2)

The OIG's review of the employment agreement, video of Board meetings, the official minutes of the September 28, 2005 Board meeting (Exhibit 2), and documents provided by Ms. Rico relating to Ms. Rico's employment contract revealed the following:

- The earliest version of the employment agreement (as proposed by the Board) was dated September 2, 2005, and did not contain any provision relating to moving expenses or having Ms. Rico move as a condition of her employment.⁵
- On September 6, 2005, Ms. Rico, through her attorney at the time, Ms. Susan Horovitz Maurer, sent a memorandum and counterproposal to Korn/Ferry International for submission to Chairman Bolaños.⁶ The counterproposal added a new subsection (2) under Article III *Compensation*, Section (E) *Other Benefits* to read: "Relocation expenses in the amount of Fifteen Thousand Dollars (15,000)." The memorandum couched the counterproposal as a "\$15,000.00 one-time moving/relocation stipend payable within 30 days of start date."
- On or about September 15, 2005, the Board proposed the following language relating to the provision of moving expenses:

The Attorney shall be provided a one-time moving expense allocation in an amount not to exceed \$15,000.00 should the Attorney decide to move to Miami-Dade County within the first year of the term

⁵ This version was attached as Attachment 1 to the Innovation, Efficiency and Governmental Relations Committee, Revised Agenda Item B-11, for the School Board Meeting of September 7, 2005.

⁶ The aforementioned memorandum was Attachment 3 to Revised Agenda Item B-11. The draft revision to the agreement was Attachment 2 to Revised Agenda Item B-11.

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of this Agreement. This expense allocation will be payable within 30 days of the district's receipt of documentation establishing the amount of moving expenses.

- Through negotiations, Ms. Rico and/or her representative drafted a final proposed version of the contract. This version of the agreement was sent by fax to Mr. Bolaños at 9:30 a.m. on the morning of the September 28, 2005 Board meeting. Ms. Rico was not present at the meeting. Subsection III(E)(2) of Ms. Rico's proposed language read:⁷

The ATTORNEY shall be provided a one-time moving expense allocation in the amount of \$15,000.00 payable to ATTORNEY on or before January 15, 2006 for her move to Miami-Dade County.

- At 10:00 a.m. Ms. Rico was e-mailed the employment agreement incorporating that morning's changes relating to the effective date of employment and the change to Section III(E)(3) regarding dependent care.⁸ The OIG believes that the document that was e-mailed to Ms. Rico was the document presented to the School Board during its Special Meeting of September 28, 2005.⁹ Ms. Rico's requested change to the provision regarding Subsection III(E)(2), as evidenced by her 9:30 a.m. fax, was not incorporated in the version presented to the Board.
- According to the Board minutes, the meeting started at 10:25 am. As explained above, the OIG has determined that the Board had before them the following version:

The ATTORNEY shall be provided a one-time moving expense allocation in an amount not to exceed \$15,000.00 should the ATTORNEY decide to move

⁷ This fax also contained changes to the effective date of the employment term, and a change to Section III(E)(3) regarding dependent care. At 9:45 am on September 28, 2005 another fax was sent to Mr. Becerra by Ms. Rico again noting the change to the effective date of employment.

⁸ It should be noted that Ms. Rico faxed a signed copy of the agreement. Her modifications were then incorporated into an electronic version (maintained on the School Board side), which would have then been distributed to the Board for its morning meeting on this matter.

⁹ The OIG has not been able to conclusively obtain a copy of the version that was passed out for the September 28 meeting. As noted in the minutes and through our established chronology, they were negotiating up to meeting. A copy of the agreement was not attached to the Agenda Item.

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to Miami-Dade County within the first year of the term of this Agreement.

In other words, what was before the Board was not the final language, on this particular section, that Ms. Rico agreed to that morning.

- At 10:39 a.m. on September 28, 2005, Ms. Rico sent an e-mail to Chairman Bolaños' assistant Carlos Becerra noting the difference between her final contract versus the School Board's final contract and having found only one difference on page 6. She goes on to say, "I do prefer my version." At the time of Ms. Rico's e-mail, the Board meeting had already begun.
- At 12:00 p.m., Mr. Becerra sent Ms. Rico the final employment agreement as amended by the Board that morning. Again, Ms. Rico's requested change to Section III(E)(2) was not made. Further, Mr. Becerra noted, "[t]his is the School Board's best and final offer." He added that Mr. Bolaños would be calling shortly. **(Exhibit 3)**
- At 12:26 p.m. Ms. Rico sent an e-mail to Mr. Becerra acknowledging her "...acceptance of the terms and conditions *and the noted discussion about clarification on the one provision discussed...*[sic]". (Emphasis added by OIG.) **(See also Exhibit 3.)**
- A hand written change was made afterwards to Section III(E)(2) changing the words "not to exceed" to "of" and adding "payable on Jan 15, 2005"¹⁰ to the end of the sentence. The pen and ink change was initialed by JulieAnn Rico and Frank Bolaños. Ms. Rico advised the OIG that she made this change after noticing that the "final" version of the agreement was not the language that she had agreed to. Ms. Rico could not recall whether Mr. Bolaños had already signed the agreement at that point. When asked by the OIG about the hand written change, Mr. Bolaños indicated that it is his recollection that the hand written text was the version approved by the Board because the Board had before them all the latest revisions. He also confirmed to the OIG that he had, in fact, initialed off on the hand written change to Section III(E)(2).¹¹

¹⁰ The date was a Scrivener's error. The date should have read January 15, 2006, not January 15, 2005.

¹¹ Notwithstanding Mr. Bolaños' recollection, the OIG has established from the chronology of emails and varying versions faxed/emailed on September 28, 2005 that the pen and ink changes were made after the Board meeting concluded at 11:39 a.m. The version that was emailed to Ms. Rico 20 minutes later, at 12:00 p.m., contained the three amendments that were passed by the Board during its meeting.

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- A payment of \$10,102.50 was made to Ms Rico on January 17, 2006 by MDCPS, which equaled the required \$15,000.00 less federal taxes. The withholding of federal taxes shows that this payment was deemed income¹² by MDCPS.

It is clear from the above chronology that Ms. Rico first proposed the relocation expenses. Had the original sentence, as proposed in the revision of September 15, requiring the submission of some kind of supporting documentation been left in, Ms. Rico would have received the actual amount of her moving expenses not to exceed \$15,000. However, Ms. Rico rejected that sentence, and alternate language was proposed in its place, i.e., the language suggested by Ms. Rico contained in the 9:30 am fax on the morning of September 28. However, Ms. Rico's language was not considered by the Board.

In both the typed text version brought before the Board and the hand written amended version of Section III(E)(2), the subsection is devoid of any specific language actually requiring Ms. Rico to move to Miami-Dade County. The Board's poorly drafted provision is not clear about whether Ms. Rico must actually move to Miami-Dade County in order for her to receive payment. Instead, the only conditional language rests upon her deciding to move, but it gives her a year to do so. The pen and ink change made the payment amount definitive at \$15,000 and not subject to a "not to exceed" clause. It also guaranteed payment on a certain date, which was two months after the effective date of her employment but yet 10 months prior to the expiration of time for her to "decide to move." The intent of either party is not clearly reflected in the actual words of the agreement—whether it was the typed text considered by the Board or the subsequent modified text.

The Special Board Meeting of September 28, 2005 (See Exhibit 2 for the minutes.)

During the Special Board Meeting held on September 28, 2005, Ms. Rico's employment agreement was discussed and voted on as item SP-1. Board Chair Frank Bolaños explained to the Board that negotiations began on September 1, 2005 and continued right up to that morning [Board meeting of September 28, 2005]. According to Chair Bolaños, the contract that was before the Board had the latest revisions up to that point. It contained a new effective date and it contained Ms. Rico's proposed language regarding a dependent care allowance. It did not contain Ms. Rico's proposed and agreed to language—as contained in the 9:30 a.m. fax—as alternate language regarding the one-time moving expense allocation. Based upon our reconstruction of that morning's timeline and the various drafts and email correspondences back and forth, we believe that the text before the Board read:

¹² The payment was actually labeled a "bonus payment" to avoid its calculation towards Florida Retirement System contributions.

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The attorney shall be provided a one-time moving expense allocation in an amount not to exceed \$15,000 should the attorney decide to move to Miami-Dade County within the first year of the term of this agreement.

As illustrated in the above-chronology, Ms. Rico, upon reviewing the “final” version that was sent to her at 10:00 a.m., noticed that her proposed language regarding the moving expense allocation had not made it into the “final” version. She sent an email at 10:39 a.m. stating that she preferred her version of Section III(E)(2); by that time, the meeting had begun, and as stated earlier, Ms. Rico was not present.

No issues were raised during the Board meeting regarding moving expenses.¹³

Issues were raised, however, on other aspects of the agreement and the Board passed three amendments to the agreement. (See footnote 2.) Thereafter, a revised final text of the agreement was drawn up to include the three amendments passed during the meeting. No change, however, was made to Section III(E)(2). The Chair’s Assistant, Mr. Becerra, emailed the revised final agreement to Ms. Rico at noon. The email contained a note that, “Mr. Bolaños will be calling you shortly.” **(See Exhibit 3.)** As noted in the timeline above, Ms. Rico emailed back at 12:26 p.m. noting the discussion about clarification on the one provision. Ms. Rico has explained to the OIG that she made the change to Subsection III(E)(2) and initialed it. Mr. Bolaños also told the OIG that either he or his assistant, on his behalf, initialed the change (see footnote 2); however, his recollection of the sequence of events is that all the changes were in the version approved by the Board.

The \$15,000 Payment

The investigation revealed that on January 17, 2006, MDCPS manual payroll check number 009119511 in the amount of \$10,102.50 was issued in the name of JulieAnn Rico Allison. The supporting documentation for the check shows that the original earnings amount was \$15,000 with a net payable of \$10,102.50. The earnings description showed the payment as a “BONUS PMT.” **(Exhibit 4)** Ms. Odalis Garces, Executive Director, Payroll Department, explained that categorizing the earnings as a bonus payment simply meant that it would not be calculated as compensation as it related to the Florida State Retirement System (FRS). Nevertheless, the OIG will explore separately the propriety of misclassifying a moving allocation as a bonus payment, which, in this case, it was clearly not.

¹³ The absence of any discussion on this provision is reflected in the minutes (see Exhibit 2) and is confirmed by our watching the video of the entire meeting.

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OIG Interview of JulieAnn Rico and other representative

Ms. Rico was interviewed on June 27, 2008.¹⁴ She explained to the OIG that the \$15,000 payment for a one-time moving expense allocation was negotiated as part of the overall compensation package for her salary. She stated that she had attempted to re-locate to Miami-Dade County upon accepting the School Board Attorney position. She said she listed her home in Palm Beach County, Florida, for sale with a real estate firm on a six-month listing. She received an offer for the house, but was unable to complete the sales transaction due to the parties not agreeing on a sales price. She stated that during this period, the real estate market in South Florida took a downturn making a sale of her house unlikely. However, she continued to work to renovate her home so it could be sold. She stated that she moved to Miami each summer since she was hired. She stated she has leased a condominium each summer for periods ranging from 40 days to about eight (8) weeks. Ms. Rico provided copies of payment documents supporting her statement regarding the condominium rentals. Ms. Rico stated that she believes her efforts to sell her house and the fact she has moved to Miami each summer met her contractual requirements as it pertained to the spirit and intent of the contract as contemplated during the negotiations.

Eric Sain, the real estate agent who listed Ms. Rico's house for sale, confirmed that he did in fact have Ms. Rico's house in Palm Beach County listed for sale. The house was listed on September 23, 2005 and the listing expired on May 31, 2006. A copy of the listing was provided by Mr. Sain. The proposed contract for sale on her Palm Beach County residence was signed and dated on November 25, 2005 by Ms. Rico. Ms. Rico provided the OIG a copy of that contract.

OIG Interview of Frank Bolaños

On June 30, 2008, Frank Bolaños, former Board Chair for the Board, was interviewed.¹⁵ He stated that he was the individual responsible for the primary contract negotiations with Ms. Rico. He stated that he believed the contract was clear in that it was the Board's intent that Ms Rico actually move to Miami-Dade County within the first year of her contract. He stated that his recollection of the contract negotiations was that it was made clear to Ms. Rico that it was very important that she move to Miami-Dade County to be able to effectively perform her duties with the School Board. Mr. Bolaños stated that it never entered his mind that she would collect the \$15,000 moving payment and not move to Miami.

¹⁴ In addition to the interview on the subject date, an agent of the OIG has spoken with Ms. Rico to seek clarification of certain points and obtain additional documentation.

¹⁵ In addition to the interview on the subject date, an agent of the OIG has spoken with Mr. Bolaños to obtain additional clarification.

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Subsequent Revisions to School Board Rules Relating to Moving Expenses

The OIG reviewed School Board Rule 6Gx13-4D-1.022 (*Compensation and Related Benefits*) *Manual of Procedures for Managerial Exempt Personnel*. This manual, as codified by the aforementioned School Board Rule, delineates the wages, benefits, and terms and conditions of employment for MDCPS managerial exempt employees. The Board Rule and manual, was amended on April 18, 2006, to specifically include a procedure to address the payment of moving expenses.¹⁶ Section B-17 states the procedure for the payment of a relocation allowance. The procedure states, in part:

Therefore, the Superintendent is authorized to include in his final negotiations with qualified job applicants whose principal residence is outside of Miami-Dade, Broward, Monroe and Collier counties at the time of their application for employment, a relocation assistance allowance of not more than fifteen thousand dollars (\$15,000). The Superintendent will advise the Board of the amount of the relocation assistance offered to the job applicant at the time that the Board considers the employment of the applicant. If approved by the Board, the relocation assistance ***shall be paid to the job applicant upon receipt of paid invoices for expenses*** that are deductible by the job applicant pursuant to Internal Revenue Code Section 217 and the applicable regulations promulgated by the Internal Revenue Service pursuant to the code section. (Emphasis added by OIG.)

Although this procedure was not in effect at the time Ms. Rico's contract was negotiated, the OIG recommends that the Board use this language for all prospective employment agreements negotiated and/or approved by the Board, should that be the Board's intent. Further, although not directly related to the issue at hand, we do not believe it is prudent to have the School Board Attorney's Office involve itself in negotiations, interpretations, or drafting of employment agreements for the Board Attorney position. Rather, this exercise should be performed by a party unrelated to that office.

CONCLUSIONS AND RECOMMENDATION

School Board Attorney JulieAnn Rico resides in, and has resided in, Palm Beach County since the execution of her employment agreement. Ms. Rico does not dispute this fact. It is the view of the OIG that Ms. Rico's renting of a condominium in Miami-Dade during the summer months does not constitute moving to Miami-Dade County.

¹⁶ The incumbent Rule/Manual did not contain a provision on the payment of moving expenses.

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Payment of Moving Expense Allocation

Further, it is our belief that the Board intended that for Ms. Rico to receive moving expenses (whether it be deemed reimbursement or compensation), she must permanently move to Miami-Dade County within the first year of her employment. The version of the moving expense provision seen by the Board during its meeting of September 28, 2005, couched the expense allocation in an amount not to exceed \$15,000. We understand that this language was not the language that Ms. Rico expected to have been presented to the Board that morning. Her suggested language contained a definite amount--\$15,000--and a definitive payment date of "on or before January 15, 2006." Whether it was by oversight in the reconciliation of the various drafts, typographical error, or mere rejection of the suggested revision, we cannot be sure. But the OIG is certain that the hand written pen and ink change to Section III(E)(3) of the agreement was a material change to both the payment amount (definitive amount of \$15,000) and payment timeline (definitive payment date of January 15, 2006, approximately two months after the effective date of the agreement and ten months prior to the one-year moving window).

Notwithstanding the pen and ink change, had Ms. Rico's proposed language been the language of the final, official agreement, our conclusion would be the same. In fact, her proposed language makes it even clearer that the money is "for" moving. Early on in the negotiations, it was Ms. Rico who proposed a relocation expense. Ms. Rico's actions of listing her house for sale shows her intent to move. Moreover, while she intended to move and made efforts to move, Ms. Rico has not moved to Miami-Dade County but has accepted a \$15,000 (less tax) moving expense allocation.

In the OIG's draft version of this report, we recommended that Ms. Rico should either repay the money or make some other arrangements with the Board. Since issuing the draft version of this report, Ms. Rico has repaid the District \$15,000. (See Appendix B, Ms. Rico's response, which includes a copy of said payment.) While the OIG's recommendation has thus been satisfied, we did not believe that changes to our findings and conclusion regarding the sequence of events were warranted. Likewise, upon review of the responses received from Bolaños and Ms. Rico, we do not believe material changes to the report were necessary.

While this report provides factual findings, and our deductive conclusions derived from these facts, this report should not be considered a legal opinion or a legal analysis of the contractual rights between the parties.

EXHIBIT # 1

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT is made this 28th day of September, 2005, by and between THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA (hereinafter BOARD) and JULIEANN RICO ALLISON (hereinafter ALLISON or ATTORNEY).

WHEREAS, the Board is responsible for retaining the Board Attorney for the Miami-Dade County Public Schools; and

WHEREAS, ALLISON has agreed to be employed by the BOARD in such capacity, and on the terms and conditions provided herein, giving her time, energy and ability to the furtherance of the Miami-Dade County Public Schools (MDCPS).

THEREFORE, in consideration of the premises and the mutual agreements herein, the BOARD and ALLISON hereby agree as follows:

I. Employment and Term. The BOARD hereby employs ALLISON as Board Attorney, and ALLISON hereby accepts and agrees to such employment, for a term commencing November 14, 2005, and ending November 13, 2009, unless sooner terminated as provided herein.

II. Duties.

A. The ATTORNEY shall be responsible for the selection, recommendation for hiring, supervision and termination of such additional in-house attorneys and support staff as may be necessary for the proper handling of the legal work of the BOARD, subject to budgetary limitations established by the MDCPS Administration utilizing a zero based budgeting method and approved by the BOARD.

B. Insofar as the school system demands for legal services exceed the capacity of the ATTORNEY and her staff, the ATTORNEY, with the approval of the BOARD, shall have the right to engage outside counsel to handle specific cases, types of cases, or items of legal business, the compensation for such outside counsel to be approved and paid by the BOARD. The ATTORNEY will not be required to provide legal representation to individual members of the Board, or render legal opinions to the general public.

C. The ATTORNEY shall be responsible for the handling of all the legal matters of the BOARD, which shall include but not be limited to the examination of land titles, acquisition of real property, including condemnation suits, advice and consultation with the various administrative departments, preparation of legal opinions for the BOARD, drafting contracts, bond issues, and representation of the BOARD and Administration in litigation and at administrative hearings. The ATTORNEY shall make assignments of the legal work to the in-house attorneys assisting her and shall direct the activities of such attorneys.

D. The BOARD, within established budgetary limitations, will furnish the ATTORNEY with clerical services, office supplies and equipment, costs, and expenses reasonable and necessary to run the office effectively and efficiently, and adequate office space in the School Board Administration Building to maintain and properly staff the offices of the Board Attorney as those needs shall from time to time be required, and where necessary, authorize out-of-county travel for the ATTORNEY and members of her in-house attorney staff.

E. The ATTORNEY will not accept any other legal business and will spend her full time employment on BOARD business.

F. SCHEDULING CONFLICTS. ATTORNEY is head of household and raising a minor child. Various needs of the child including school functions, health needs and other activities may conflict with meetings or other obligations of the position. In such event, ATTORNEY is authorized to delegate such meetings and/or obligations to such staff as ATTORNEY selects. ATTORNEY will use her best efforts to provide as much advance notice as possible of these conflicts and will notify the Chair of the conflicts and who will be covering in her absence. Time taken with respect to any scheduling conflicts shall be in accordance with applicable leave provisions contained in board rules.

III. Compensation. For all services rendered by the ATTORNEY pursuant to this Agreement, the BOARD shall pay to and provide for the ATTORNEY the salary, compensation and other benefits described in this Agreement.

A. Salary. The ATTORNEY shall receive an annual base salary of \$215,000.00 Dollars per annum for the first year of this Agreement, less appropriate deductions for employment taxes and income tax withholding. This salary shall be paid in accordance with the Board's normal payroll practices. For the second and each subsequent year that this Agreement is in effect, the ATTORNEY will receive a four (4%) percent increase in base salary.

B. Retirement. In addition to the salary provided in paragraph A. above, the ATTORNEY shall continue to participate in the Florida Retirement System (Senior Management class) and all other retirement programs for which she is or may become eligible during the term of this Agreement.

C. Expenses. Within established budgetary limitations, the ATTORNEY and members of her in-house attorney staff shall be reimbursed for their reasonable and necessary expenses incurred in the performance of their duties hereunder in accordance with applicable

state law and Board rules. Without limiting the generality of the foregoing, the BOARD shall pay within the established budget, all expenses for the ATTORNEY and for members of her in-house attorney staff designated by her to attend professional and official meetings, seminars, conventions, and other meetings and functions that the ATTORNEY deems relevant to the performance of their duties hereunder without further BOARD approval. The BOARD shall pay all membership fees and dues (including Florida Bar and Florida School Board Association dues) of the ATTORNEY in such legal organizations as the ATTORNEY deems appropriate, and shall pay only Florida School Board Association dues for in-house attorneys in furtherance of the performance of their duties. The ATTORNEY and in-house attorney staff (with ATTORNEY'S approval) may hold offices or accept responsibilities in such professional organizations and associations, provided that such responsibilities do not materially interfere with the performance of their duties to the BOARD.

D. Insurance Benefits and Investments.

1. Employee Benefits. For each year of this Agreement, the BOARD shall provide health, dental, vision, life insurance and other flexible benefits which the ATTORNEY elects for herself from the BOARD'S standard benefit program available to all managerial employees, without cost to the ATTORNEY. The ATTORNEY'S family will be eligible for these benefits in the same manner as are the families of other managerial employees of the BOARD.

2. Additional Insurance and Investment. The BOARD shall contribute a sum for additional insurance coverage and investment for the ATTORNEY in an amount up to a total of Six Thousand and 00/100 (\$6,000.00) DOLLARS as follows:

(a) Life Insurance. The BOARD shall at the discretion of the ATTORNEY contribute a portion of the \$6,000 set forth above per year each year this Agreement is in force toward the payment of premiums, for an individual cash building life insurance policy, insuring the life of ATTORNEY. The exact amount, if any, to be contributed to pay premiums for such life insurance policy will be determined by the ATTORNEY. Such life insurance policy will be chosen by the ATTORNEY and may be purchased pursuant to an insurance program designed to achieve current income tax advantages for the ATTORNEY without detriment to the BOARD. Policy ownership and beneficiary designation shall be at the option of the ATTORNEY.

(b) Disability Insurance. The BOARD shall, at the discretion of the ATTORNEY, contribute a portion of the \$6,000 set forth above, during each year this Agreement is in force, toward the payment of premiums, for an individual disability income policy insuring the ATTORNEY. The exact amount, if any, to be contributed to pay premiums, if any, for such policy will be determined by the ATTORNEY. Such disability insurance policy shall be chosen by the ATTORNEY and shall be on the terms and from the carrier deemed acceptable to the ATTORNEY.

(c) Investment. The BOARD shall, at the discretion of the ATTORNEY, contribute a portion of the \$6,000 set forth above per year each year this Agreement is in force toward the payment of an investment program of the ATTORNEY'S choosing. The exact amount, if any, to be contributed to pay for the program will be determined by the ATTORNEY.

E. Other Benefits. Any other benefits afforded to other managerial employees shall be incorporated into the ATTORNEY'S package of benefits automatically.

1. The ATTORNEY shall be provided a vehicle for her use during the term of this Agreement under the same terms and conditions as other Senior Managerial Administrators for whom vehicles are provided.

2. The ATTORNEY shall be provided a one-time moving expense allocation in an amount ~~not to exceed~~ ^{of} \$15,000.00 should the ATTORNEY decide to move to Miami-Dade County within the first year of the term of this Agreement, *payable on Jan 15, 2005*

3. The BOARD shall contribute to a flexible spending account on or before January 15 of each year the sum of \$5,000 per year of employment by ATTORNEY which sum shall be for dependant care.

F. Vacation, Sick Leave and Terminal Pay. During the term of employment under this Agreement, the ATTORNEY shall be entitled to accrue vacation leave in accordance with applicable School Board Rules. However, in the first year of this Agreement, ATTORNEY shall be permitted to advanced vacation days in order to accommodate pre-planned family vacation upon notification to the Chair. In addition, the ATTORNEY shall be entitled to sick leave and terminal pay as provided in Florida Statutes, Chapter 1012, Section E, and any successor provisions and School Board Rules. Upon termination of employment, the ATTORNEY shall receive in lump sum an amount equal to the ATTORNEY'S per diem salary at that time multiplied by the ATTORNEY'S accrued vacation and sick days in accordance with applicable State law and Board rules. This lump sum payment shall be in addition to any other amounts payable to the ATTORNEY upon termination of employment under this Agreement and applicable law. Upon commencement of this Agreement, ATTORNEY shall also be entitled to transfer accrued sick days from her former employer, the School Board of Palm Beach County.

IV. Salary, Increases and Performance Goals

The ATTORNEY shall receive annual increases in salary as set forth in Section III A. In addition, ATTORNEY may be entitled, in the Board's sole discretion, to an additional six (6%) percent salary increase based on the ATTORNEY'S satisfactory completion of Performance Goals that the Board and ATTORNEY shall develop and agree upon within sixty (60) days of the commencement of this employment, and shall be amended and approved annually.

The Board may award all or part of the six (6%) percent salary increase based on the percentage of Performance Goals reached during that year. For example, if one half of the goals are reached, then in that event, there shall be a one half of the total increase for which ATTORNEY is eligible (which would for purposes of this example equal 3% of the base salary). In the event that the goals established are not met in part or in whole, the failure to accomplish these goals shall not be used as a disciplinary grounds against ATTORNEY.

V. Termination.

A. Termination for Cause. The ATTORNEY may be removed from office after public notice of the action at any time by a majority vote of the Board as a whole, for cause, in accordance with the provisions set forth hereinafter. The term "for cause" shall be deemed to include:

Misconduct in office, incompetency, gross insubordination, willful neglect of duty, or conviction of a crime involving moral turpitude, as these terms are defined by Chapter 435, Florida Statutes.

The removal process "for cause" shall require a majority vote of the Board to adopt a Notice of Termination setting forth the reasons for removal and after such adoption, to furnish a copy to the ATTORNEY. At or subsequent to the adoption of the Notice of Termination, the Board may

suspend the ATTORNEY from duty with pay for a period not to exceed thirty (30) days. The ATTORNEY shall have a period of thirty (30) days from the adoption of the Notice of Termination to submit to the Board a response in writing to any or all of the reasons set forth in the Notice of Termination. In the event the ATTORNEY provides such written response to the Board, then at the end of the aforesaid thirty (30) day period, the Board shall make a final determination as to termination. If the ATTORNEY does not provide a written response in the thirty (30) day period, the termination shall then be considered final without further Board consideration. In the event of termination pursuant to this paragraph, the ATTORNEY shall be paid only for unpaid salary and benefits accrued to the date of termination. ATTORNEY retains the right to pursue any and all appropriate legal action upon termination.

B. Termination for No Cause. The ATTORNEY may be removed from her position at any time after public notice in the event that a majority of the Board determines that it is in the Board's best interest to terminate this Employment Agreement. In the event the Board terminates this Agreement pursuant to this subparagraph, the Board shall provide as severance payment to the ATTORNEY, all salary and accrued benefits under this Agreement; provided, however, that the ATTORNEY shall in no event receive less than two (2) years severance pay if termination occurs within the first two (2) years of the term of this Agreement; and if termination occurs within the months 24-36, then there shall be an equivalent of all salary and benefits for an eighteen (18) month period; and if termination occurs in months 36-48 of this Agreement, then ATTORNEY shall be due an equivalent of twelve (12) months salary and benefits.

C. Termination by Resignation. The ATTORNEY may resign during the term of this Agreement without the consent of the BOARD upon ninety (90) days notice. In

such case, the BOARD shall pay the ATTORNEY her accrued vacation and sick days at the per diem salary rate in effect during her last year of employment as Board Attorney.

D. Indemnification. While performing duties within the course and scope of ATTORNEY'S employment. ATTORNEY shall be indemnified for judgments, claims, provided a competent and appropriate legal defense, through all levels of appeal and covered by the District and its insurance policies, if any, for any claims, suits, or actions made against the ATTORNEY. This provision shall survive the term of this agreement.

VI. Payment In the Event of Death. In the event of death of the ATTORNEY at any time during the term of this Agreement, the BOARD shall pay to the ATTORNEY'S estate, an amount equal to the portion of the ATTORNEY'S salary to which she was entitled through the date of her death, payable within one month of the date of her death, together with such payments or benefits as are authorized by law or Board rules.

VII. Annual Report. In June of each year of this Agreement, the ATTORNEY will provide to the BOARD a report of all expenditures for legal counsel for the preceding fiscal year and a report of the ethnic and racial composition of the School Board's in-house legal counsel, as well as the ethnic and racial composition of outside legal counsel. Also, contained in the report will be a list of legal organizations in which the BOARD pays fees or dues for the ATTORNEY to attain membership.

VIII. Entire Agreement. This Agreement contains the entire agreement concerning employment arrangements between the BOARD and the ATTORNEY. This Agreement may not be changed except by written agreement of the parties.

IX. Notices. Any notice required or permitted to be given under this Agreement shall be sufficient if in writing, and sent by registered mail, return receipt requested, to the party

involved at the address shown on the signature page, or to such other address as either party may specify to the other in writing. The date three (3) days after the date of mailing of such notice shall be deemed to be the date of delivery thereof.

X. Assignment. This Agreement shall inure to the benefit or, and shall be binding upon, the BOARD, its successors and assigns, and the ATTORNEY, his heirs and personal representatives, but may not be assigned by the ATTORNEY.

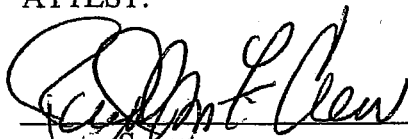
XI. Severability. In the event any term, paragraph or provision of this Agreement or its application to any circumstances shall to any extent be deemed invalid or unenforceable, the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

XII. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.


XIII. Paragraph Headings. The paragraph headings contained herein are for reference only and shall not in any way affect the meaning or interpretation of this Agreement.

IN WITNESS WHEREOF the parties hereto have hereunto signed their names and affixed their seals at Miami, Miami-Dade County, Florida, this 28th day of September, 2005.

ATTEST:


Secretary

**THE SCHOOL BOARD OF MIAMI-DADE
COUNTY, FLORIDA:**

By: 
Frank J. Bolaños, Chairman
1450 NE 2nd Avenue, Room 700
Miami, FL 33132

ATTORNEY:

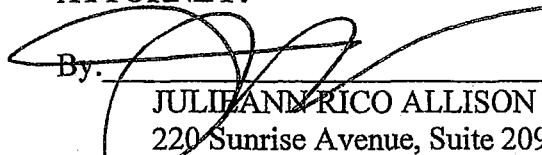
By: 
JULIENNE RICO ALLISON
220 Sunrise Avenue, Suite 209
Palm Beach, FL 33480

EXHIBIT # 2

Board acknowledges that Attorney is head of household and raising minor child. To acknowledge that, and by acknowledging it to incorporate the spirit that we have that understanding, that we know it is an issue that we know there could be a scheduling conflict in the future. Ms. Allison and her attorneys came back with a very strong request that the language that we have before us be, in fact, the language that is included in the contract." Mr. Bolanos, Mr. Brown, and Mr. Kurtz continued to respond to issues/concerns raised and debated. Mr. Bolanos then suggested that wording be amended in the contract if there were any concerns with the majority of the Board.

ITEM SP-1
CONTINUED

Dr. Ingram expressed concerns for the record about unions coming forward and asking for similar items to be negotiated within their contracts. He said that he would back the unions.

Following discussions, Mr. Barrera moved to amend Page 3, Item F - Scheduling Conflicts, to include language to the contract which states that, "Time taken with respect to any scheduling conflicts shall be in accordance with applicable leave provisions contained in board rules;" Seconded by Dr. Ingram. Upon vote being taken to amend, the same carried 8-1, with Ms. Greer opposing.

MOTION TO AMEND
PAGE 3 PASSED

Dr. Stinson moved to amend Page 6, Item E (1), to delete language as follows: "~~ATTORNEY shall be entitled to reimbursement for expenses and mileage according to School Board policy and procedures.~~" Dr. Ingram seconded the motion. Upon vote being taken to amend, the same carried 6-3, with Ms. Hantman, Ms. Greer, and Ms. Rivas Logan opposing.

MOTION TO AMEND
PAGE 6 PASSED

A Chair then entertained a motion to take a vote on the issue on Page 6, Item E (3), as it pertained to flexible spending, to delete this item and moving the \$5,000 compensation to Page 5, Item 2 (C) - Investment. Dr. Ingram seconded. Board members then engaged in extensive discussion with regard to the intent of the motion, during which time Dr. Ingram called the question; and upon vote being taken, the same carried unanimously.

Upon vote being taken on the previous question, the motion failed 3-6, with Mr. Bolanos, Dr. Ingram, and Dr. Perez voting in favor.

Dr. Stinson moved to strike Item No. 3 on Page 6; seconded by Dr. Ingram. The motion failed 3-6, with Drs. Ingram, Stinson, and Perez voting in favor.

MOTION TO AMEND
ITEM E (3) FAILED

Mr. Barrera moved to amend Page 7, Section IV, to make the 6% performance goals part of an incentive pay instead of a salary increase. Dr. Stinson seconded. Ms. Rivas Logan then called the question; seconded by Dr. Ingram. Upon vote being made to call the question, the same carried unanimously.

Upon vote being taken on the previous question, the motion failed 4-5, with Dr. Ingram, Dr. Stinson, Dr. Perez, and Mr. Barrera voting in favor.

MOTION TO AMEND
PAGE 7 FAILED

Dr. Stinson moved to amend Page 8, Item V (B), by striking language as follows: The removal process "for cause" shall require a majority vote of the Board as a whole to adopt..." Dr. Ingram seconded. Upon vote being taken to amend, the same carried 5-4, with Ms. Greer, Dr. Karp, Ms. Hantman, and Ms. Rivas Logan opposing.

MOTION TO AMEND
PAGE 8, ITEM V (B)
PASSED

Randee S. Schatz

From: Julieann Allison [allison@palmbeach.k12.fl.us]
Sent: Wednesday, September 28, 2005 12:26 PM
To: Becerra, Carlos A.; lsgoldman@adelphia.net; rsschatz@adelphia.net
Cc: Bolanos, Frank J
Subject: RE: Employment Agreement

thank you for sending the agreement, please acknowledge my acceptance of the terms and conditions and the noted discussion about clarification on the one provision discussed...I appreciate your professionalism and cooperation to reach full agreement. I look forward to doing great things together for the good of our community and the children we serve..thank you and th Board for your confidence in me. Thank you! JulieAnnRico Allison

-----Original Message-----

From: Becerra, Carlos A. [mailto:CBecerra@dadeschools.net]
Sent: Wednesday, September 28, 2005 12:00 PM
To: lsgoldman@adelphia.net; rsschatz@adelphia.net; Julieann Allison
Cc: Bolanos, Frank J
Subject: Employment Agreement

Julieann:

This is the employment agreement approved unanimously by the School Board at their meeting earlier today. This is the School Board's best and final offer. Mr. Bolaños will be calling you shortly.

Carlos Becerra

Carlos A. Becerra

Assistant to Frank J. Bolaños, Chairman

Miami-Dade County School Board . 1450 NE 2 Avenue Suite 700 . Miami, FL 33132

t 305.995.1342 f 305.995.1374 c 305.439.8158

cbecerra@dadeschools.net MailScanner has detected a possible fraud attempt from "www.dade.k12.fl.us" claiming to be www.dadeschools.net/bolanos

EXHIBIT # 4

432876

SECURITY FEATURES INCLUDE WATERMARK LOGO, METAL VOID FEATURE, SECURITY ON, FLUORESCENT AND VISIBLE FIBERS

No. 009119511
 63-1012
 632
 (NO GOOD) UNLESS CASHED WITHIN 6 MONTHS
 Date 01-17-2006

SCHOOL BOARD OF MIAMI DADE COUNTY, FLA.
 1450 N.E. 2nd Avenue, Room 1615
 Miami, Florida 33132

278229 9014

Pay Ten Thousand One Hundred Two And 50/100 Dollars

To the Order of JULIEANN RICO ALLESON

WACHOVIA BANK
 Payroll Account

PAY \$10,102.50

10001010250

109119511 10632101251 2079940002566

101961232

1063107513
 WACHOVIA NA SVCS 06 10ST
 URLAND FL 01262006

FL CYCLE#070 PRT:01
 DDACYC 01272006

2002109360

THIS IS WATERMARKED PAPER
 DO NOT ACCEPT WITHOUT NOTING WATERMARK
 HOLD TO LIGHT TO VERIFY WATERMARK

DO NOT WRITE / SIGN / STAMP BELOW THIS LINE

DEPOSITOR BANK ENDORSEMENT
 J.B. Hanauer & Co.
 FIRST CLEARING, LLC #10967
 DEPOSIT ONLY - 5050000000903
 WACHOVIA BANK
 Credit account of the within named payee
 Checks Payable to JB Hanauer/FCC
 Absence of Endorsement Guaranteed
 BY FIRST CLEARING, LLC

JAN - 0 05

FM-4262 (REV. 08/03)

1/3

SCHOOL BOARD OF MIAMI DADE COUNTY, FLA.
RICO ALLISON, JULIEANN

EMPLOYEE NO. ██████████	BEG. PERIOD	END PERIOD	CHECK DATE 01-17-2006	CHECK NUMBER 009119511
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CURRENT PER. YEAR-TO-DATE	EARNINGS 1500000	DEDUCTIONS 489750	NET PAY 1010250	YTD DEFER	NET \$10,102.50
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EARNING DESC.	P/C	LOC.	RATE	TIME	EARNINGS	DEDUCTION DESC.	TAXES/DED	YTD
BONUS PMT	C	9014			1500000	FEDERAL TAX	375000	
						SOC SEC TAX	83000	
						MEDICARE TAX	21750	
Total					1500000			
CHECK LOC.	9014	SS NO.	TAX STATUS		504			
TIME AVAILABLE	VACATION	PERSONAL	SICK	RET. PLAN		Total	489750	
	115	500	850	280000				

SECURITY FEATURES INCLUDE: WATERMARK, LOGOLINE, VOID FEATURE, SECURITY FONT, FLUORESCENT AND VISIBLE FIBERS.



SCHOOL BOARD OF MIAMI DADE COUNTY, FLA.
1450 N.E. 2nd Avenue, Room 615
Miami, Florida 33132

No. **009119511**

63-1012
632

NOT GOOD UNLESS CASHED
WITHIN 6 MONTHS

278229 9014

Date: 01-17-2006

Pay Ten Thousand One Hundred Two And 50/100 Dollars

PAY \$10,102.50

To the Order of **JULIEANN RICO ALLISON**

\$10,102.50 - NEGOTIABLE

WACHOVIA BANK
Payroll Account

NON-NEGOTIABLE

COPY COPY COPY

SCHOOL BOARD OF MIAMI DADE COUNTY, FLA.
1450 N.E. 2nd Avenue, Room 615
Miami, Florida 33132

278229 9014 01-17-2006 009119511

JULIEANN RICO ALLISON



FACSIMILE CHECK

2/3

PAYROLL SECTION

EMPLOYEE NO.	EMPLOYEE NAME	RET. PLAN	NET AMOUNT	DEDUCTIONS	FED TAX
[REDACTED]	Julieann Rico Allison	ZS 0.0		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> 28 %
DEFERRED DED.	ADDRESS (if different)		DIST. CODE	CHECK DATE	
<input type="checkbox"/> YES <input type="checkbox"/> NO				1/17/06	

WORK LOCATION	P/C	CD	TIME	RATE	Amount Gross	Charged Location	Object	Program	Function	Year	Month	DEDUCTION CHANGES		
												DOE	AMOUNT	CD
9014	C	R			15,000.00	9918	5157	8140	5000			01	3750.00	
TOTAL GROSS AMOUNT					15,000.00						REASON	12		

MANUAL CHECK
 VOID CHECK
 RETURN ITEM
 REPLACEMENT CHECK

REMARKS moving expenses
per contract

CHECK NO. 9119511

PREPARED BY Lena 1/17/06
(Date)

ENTERED BY me 1-17-06
(Date)

AUTHORIZED SIGNATURE [Signature]

- DISTRIBUTION CODES:
- H - HOLD FOR PICK UP
 - U - U.S. MAIL
 - D - HOLD FOR AFFIDAVIT (DECEASED)
 - P - HOLD FOR SPECIAL INSTRUCTIONS
 - S - HOLD FOR AFFIDAVIT (STOP PAYMENT)
 - L - LOCATION CHANGE

EMPLOYEE LEAVE INFORMATION					
DATE	THRU	TYPE LEAVE	S/P/V/O	DAYS	+/-

- REASONS:
- 1 - CHECK VOIDED
 - 2 - NOT SET UP
 - 3 - TERM. VAC.
 - 4 - TERM. SICK LEAVE
 - 5 - SUBMITTED LATE
 - 6 - HARDSHIP LEAVE
 - 7 - APPROVED INJURY
 - 8 - SALARY ADJUSTMENT
 - 9 - BOARD ITEM
 - 10 - S/L BANK AWARD
 - 11 - DEFERRED PAYMENT
 - 12 - OTHER - ENTER IN REMARKS COLUMN.
- FM-4164 Rev. (09-00)

B A S H E A D E R I N Q U I R Y
OBJECT =====>

06/27/08 10:15:26

PR03-15-H9MA

CODE	DESCRIPTION
5157	BONUS PAYMENTS ✓
5158	INSURANCE OPT OUT WAGES
5159	TRADES APPRENTICE
5161	RETIREMENT INCENTIVE
5162	DRIVER-TRAINER
5164	INSPECTOR GENERAL
5165	VICE-PRINCIPAL
5166	SCH RESOURCE SPECIALIST
5167	MILITARY LEAVE
5168	SUPPORT SPECIALIST
5169	SUBSTITUTE-NON TEACHER
5177	SUPPLEMENT-COMM SCH
5179	BUS AIDE
5180	TRANSPORT. HELPER
5181	TRANSPORT DIFFERENTIAL
5187	MTNCE LABOR CHARGES -COMP
5189	ABATEMENT-SALARIES
5191	ABATE-O/T SAL

PF3=BD CD, PF4=FUNC, PF6=JOB CD, PF7=JOB CD RANGE, PF8=LOC, PF11=PROG, PF13=OBJ

MORE AVAILABLE

OIG

Miami-Dade County Public Schools

APPENDIX A

IG08-36SB

Final Report July 29, 2008

From: Frank Bolanos [mailto:frankbolanos@bellsouth.net]

Sent: Wednesday, July 23, 2008 1:34 PM

To: Mazzella, Christopher (OIG)

Subject: INSPECTOR GENERAL'S REPORT - Ms. Rico

As I mentioned in our phone conversation yesterday, I want to make an observation regarding the handwritten initials on Exhibit 1, page 6, item E.2. The initials "FB" are not mine, they appear to be those of my former aide Carlos Becerra. They appear to be the same as the initials on the cover memo (see attached) that went to the board on September 30, 2005 . It was an established procedure in my office, and not uncommon, for Carlos to initial some documents on my behalf. If you have any questions, please feel free to call me. Thank you.

file

MEMORANDUM

September 30, 2005

TO: The Honorable Members of the School Board of Miami-Dade County

FR: Frank J. Bolaños, Chairman

FJB/cr

RE: Board Attorney Employment Agreement

Following the action at the Board Meeting of Wednesday, September 28th, the Employment Agreement with Ms. JulieAnn Rico Allison was executed later that day. Attached is a copy for your records.

CC: Dr. Rudolph Crew
Ms. JulieAnn Rico Allison

**Omitted from Appendix A is the
10-page fully executed Employment
Agreement, which is reproduced by the
OIG as Exhibit 1.**

OIG

Miami-Dade County Public Schools

APPENDIX B

IG08-36SB

Final Report July 29, 2008

July 28, 2008

Mr. Christopher R. Mazzella
Inspector General
Miami-Dade County Public Schools
19 West Flagler Street, Suite 220
Miami, Florida 33130

Subject: Confirmation of Receipt of the Response to the Draft Report Re:
Employment Agreement of Julie Ann Rico, School Board Attorney –
Payment of Moving Expense Allocation Reference #IG08-36SB

Dear Mr. Mazella:

Enclosed is a hard copy of my response to the Draft Report Re: Employment Agreement of Julie Ann Rico, School Board Attorney – Payment of Moving Expense Allocation Reference #IG08-36SB, which was also faxed to you on Friday, July 25, 2008. Please sign and date below indicating you have received the hard copy of this report. Thank you.

Sincerely yours,


Julie Ann Rico
School Board Attorney

JR:dlm

I acknowledge receipt of Julie Ann Rico's Response to the Draft Report Re: Employment Agreement of Julie Ann Rico, School Board Attorney – Payment of Moving Expense Allocation Reference #IG08-36SB.

Christopher R. Mazzella, Inspector General

Date

July 25, 2008

Via Email Delivery and Facsimile; Hard Copy to Follow

Mr. Christopher R. Mazzella
Inspector General
Miami-Dade County Public Schools
19 West Flagler Street, Suite 220
Miami, Florida 33130

Subject: Draft Report Re: Employment Agreement of JulieAnn Rico,
School Board Attorney – Payment of Moving Expense Allocation
Reference #IG08-36SB

Dear Mr. Mazella:

This is my response to your draft report, dated July 10, 2008, regarding the School Board's payment of a moving expense allocation to me. I appreciate you granting me additional time to provide this response. I understand that this response will be attached to your final report.

I entered into an Employment Agreement with the Miami-Dade County School Board on September 28, 2005. It was my certain and definite understanding that the provision contained within that Contract on page six, Section III (E) (3), was drafted with the mutual understanding that latitude would be applied and that moving to Miami on a part time basis was within the contemplation of the parties. Based on my very certain understanding of this provision, I accepted the payment which was issued on January 17, 2006, in the net amount of \$10,102.50, and applied these funds to part time residencies throughout the term of my Contract, in addition to the cost of moving office furniture, business materials, books, and personal effects into my office at the District headquarters (see Exhibit 1).

I based my understanding of the contract term on the following:

1. During the negotiations leading up to the final Agreement, full disclosure and discussion occurred which made it clear that I would likely encounter difficulty in selling my house, that the cost of maintaining an additional permanent residence in

Miami would be cost prohibitive, and that I would use the moving allocation funds to defray costs of temporary or other housing in the event I could not sell my house (see Exhibit 2).

2. Because of the above understandings, the Contract provision as written was devoid of any requirement to establish proof of residency, permanent residency, permanent relocation, invoices or receipts for moving expenses, or other such documentation which would typically be included in a relocation expense provision or conditional payment provision.
3. The Contract required the payment to be issued on a date certain, which was the same date as other compensation benefits were to be paid under the Contract. The payment was issued as a bonus payment, and was taxed as salary.
4. The Contract did not include any repayment term or conditions which would require repayment.

I have never concealed any aspect of this matter from the Board, and I believe that I have met the terms and conditions of the Agreement as I understood them to be. I understand that now after almost three years, the Board has raised this issue and wishes to apply a different standard than what was in place at the time of the execution of the contract. Accordingly, I have refunded the payment in full (see Exhibit 3).

However, I also request that you consider revision of the draft report for the reasons stated below.

I. Introduction and Synopsis:

On June 23, 2008, I provided a memorandum to Board Member, Dr. Marta Pérez¹, notifying her that the procedures initiated to review my receipt of a moving expense allocation under an agenda item for the June 25, 2008 special meeting were "incorrect and improper." I indicated that the auditor should undertake a comprehensive review of the circumstances under which I received the allocation and requested that the proposed agenda item regarding this matter be withdrawn. Although the item was not placed on the June 25 Special Board meeting, the Superintendent placed the agenda item on the regular School Board meeting scheduled for July 15, 2008, where it received designation as Board Item H-1.

On June 25, 2008, an article was published by the *Miami Herald*, "Dade schools attorney's vow to move questioned," which discussed this matter. The article was initiated by an e-mail message received from Board Member Marta Pérez. The following day, I was contacted by representatives of your office and advised that after reading the article in the newspaper, the Office of Inspector General (OIG) decided to review this matter. At no time during this inquiry

¹ Copies of this memorandum were also provided to the Chair and other members of the Board and the Superintendent. A copy of this memorandum is attached as Exhibit 1.

did your representatives inform me that Mr. Centorino, Chief Assistant State Attorney, requested that your office review this matter. At the conclusion of the several days' interviews, one of your representatives advised me that the State Attorney had requested that a copy of the OIG's final report be provided to him. Nor did I "also ask you to conduct this review," as stated on page three of the draft report. Rather, I advised you that I had previously requested that the Board refer the matter to the auditor for review and that I was happy that you had voluntarily undertaken responsibility for the review. I told you and your representatives that I would cooperate with you during the course of your review and I have done so.

II. Jurisdictional Authority:

Pursuant to School Board Rule 6GX13-8A-1.08, and the Interlocal Agreement between the County and the School Board, the Inspector General is to review and/or investigate matters to determine if fraud, waste or corruption has occurred. The draft report does not specifically state the standard for review. However, based upon the conclusions and recommendations provided in the draft report there is no evidence or finding of fraud, waste, or corruption. The Inspector General has jurisdiction to find that the only reasonable conclusion in this instance is that:

- There was no meeting of the minds regarding Section III (E) (3) of the employment contract and as a result, the provision is void.
- The language of the provision was indefinite and ambiguous, susceptible to differing interpretations requiring a review of all facts and circumstances which substantiate that the employee substantially complied with the provision as it was originally intended.
- The employee returned the funds and the issue is now moot.

III. Findings of Fact:

A. Intent of the Parties

I have provided your office with documentation from both me and my attorney(s) who represented me during the course of the negotiation of my employment contract². This documentation confirms that there was discussion and negotiation regarding my relocating to Miami, although there were numerous other terms and conditions which were much more paramount to the negotiations. The primary negotiations concerned creating a compensation package that included a base salary and other benefits, which taken as a whole would total the salary for the first year of employment along with an automatic increase(s) in salary and performance incentive(s) for the subsequent term of my contract.

As you have noted on page four of the draft report, residency in Miami was not a condition for hire to the position of School Board Attorney. However, during the course of the negotiations, Mr. Bolanos discussed the issue of relocation with me. He never stated any requirement for me to move to Miami-Dade County so that I could "effectively perform" my duties. Even when this matter was raised in June 2008, there was no suggestion by the Board that my performance was

² Attached as Exhibit 2 is the statement of Randee S. Schatz, Esq., which further clarifies my intent as it relates to Section III (E) (3) of my employment contract.

impeded because I am not a resident of Miami-Dade County. The course of the contract negotiations proceeded as follows:

1. After conducting a national search, on August 31, 2005, the Board selected me as the new School Board Attorney;
2. Between September 1 and September 7, 2005, negotiations of my contract were conducted by Mr. Bolanos and me and my attorney. The School Board Attorney at that time, Johnny Brown and Christopher Kurtz, School Board Labor and Employment Attorney, also were involved in the negotiations on behalf of the Board;
3. On September 7, 2005, Mr. Bolanos provided the Board with a status report on the contract negotiations and the Board agreed to hold a special meeting to approve the contract;
4. On September 15, 2005, Mr. Becerra, assistant to Mr. Bolanos, provided me with a draft of the proposed Employment Agreement. A meeting was scheduled thereafter to review and discuss the draft. The meeting was attended by me and Ms. Schatz (refer to Exhibit 2);
5. As a result of discussion during our meeting, it was my understanding that the moving expense allocation provision contained on page six, paragraph two, of the draft contract document contemplated that latitude would be applied and that my moving to Miami on a part-time basis was within the contemplation of the parties;
6. On September 22, 2005, Ms. Schatz sent my counter proposals to Mr. Becerra. Those counter proposals related to the indemnification clause, scheduling conflicts and the performance bonus. Mr. Becerra copied me on an e-mail he sent to Mr. Bolanos, Mr. Brown and Mr. Kurtz, forwarding my counter proposals to them;
7. On September 27, 2005, Ms. Schatz prepared the final document to be presented to the Board, which included the terms I understood to have been agreed upon. The Special Board meeting to approve the contract was scheduled for September 28, 2005 at 10:00 a.m.; and
8. September 28, 2005 (see Exhibit 4):
 - a. 9:30 a.m. – I execute the final document and it is sent to Mr. Bolanos via fax. This document incorporates the last issues discussed with Mr. Bolanos on September 27, 2005. I understand that this is the document that will be presented to the Board for consideration and approval;
 - b. 9:45 a.m. – Page one of the contract is sent to Mr. Bolanos with a revision. The revision corrects the commencement date to November 14, 2005;
 - c. 10:39 a.m. – Ms. Schatz's legal assistant sends a redlined version comparison of my final contract version and a differing version received from Mr. Becerra. There is one difference noted regarding the language relating to the moving expense allocation on page six. I indicated that I prefer my version; and,
 - d. 12:00 p.m. – Mr. Becerra indicates in an e-mail that he has provided the Board's best and final offer. I provided an e-mail stating that I agree to the terms and conditions except for the last paragraph on page six (moving expense allocation).
9. The final contract is executed with a modified paragraph initialed by both parties.

As indicated in the draft report at page five, footnote 7, the Board has not and apparently cannot produce the actual document that was represented by Mr. Bolanos to be the agreed upon contract at the September 28, 2005 Board meeting. Neither I nor my attorney was present at the meeting and we do not know with certainty what the Board reviewed with respect to the provision in question. As noted in the draft report, the Board did not discuss the moving expense allocation during its deliberations. The fact that the provision regarding the moving expense allocation was revised subsequent to this Board meeting indicates that the Board may simply have been unaware of or unconcerned about the provision, although at the time I assumed that the Board was aware of the provision³ and that Mr. Bolanos had the apparent authority to agree to revisions to it after the Board had taken action to approve the contract.

As a result of the foregoing, it must be concluded that the Board had no specific intent regarding a requirement for me to move to Miami-Dade County at the time my contract was approved and that neither at the September 28, 2005 meeting nor a subsequent meeting, did the Board review and approve the document that ultimately was executed by the parties. These facts require a legal conclusion that there was no meeting of the minds as it relates to this provision (see discussion below).

B. Later Adopted Policies

The fact that the Board amended Rule 6Gx13-4D-1.022 in April 2006 to allow for payment of moving expenses to a job applicant only upon receipt of paid invoices for expenses is not applicable to this situation. First, I am not a MEP employee and this rule applies only to the members of the employee unit. I have a separate and distinct contract of employment with the Board and the only provisions that apply to my employment are the terms and conditions provided in my contract. Second, even if I was a MEP employee, this amendment had no retroactive application and to my knowledge, there was no applicable rule on the payment of moving expenses at the time I was hired. While it is true that if the amended rule had been in effect in September 2005, this situation would have not likely occurred, this information cannot be used to prove culpable conduct on my part. It appears that this information is included in the draft report to bolster very poor proof in support for the position of the Board⁴; or it is included to provide guidance and suggestions to the Board for future employment practices. In either case, it cannot and should not be included to imply conditions which clearly did not exist in connection with my contract.

C. Form of Payment

³ It could be inferred that the Board was not aware of the provision in light of Dr. Pérez raising this issue almost three (3) years after the contract was approved by the Board. I provided the Board with a copy of my contract most recently on June 12, 2008, in addressing another matter. It was after that communication that Dr. Pérez raised the question regarding the moving expense allocation.

⁴ Public comments by Board members in the media, memoranda and at meetings on June 25, 2008, June 28, 2008, July 10, 2008 and July 15, 2008, indicate that it is the position of the Board that the moving expense allocation should not have been provided and that in accepting the payment, I have engaged in wrongful conduct.

The draft report takes issue with the form of the payment provided to me and suggests that the payment was misclassified as a bonus payment. Although the draft report at page nine indicates that "OIG will explore separately the propriety of misclassifying a moving allocation as a bonus payment....," there is no further reference to this issue in the report.

Again, this information appears to be included to suggest culpable conduct on my part. However, I had no input into the decision regarding how to classify this payment and accepted the payment with the understanding that I was entitled to receive the payment and that the form of the payment was proper. Furthermore, this is evidence to support the conclusion that the payment was intended to be considered part of my compensation, and not a reimbursable expense.

D. Other Concerns

At page four, the report indicates that OIG interviewed "...Ms. Rico, former Board Chair Frank Bolafios [sic], and others." The report should detail the list, by name, of all individuals interviewed. This is particularly true since the report is being provided to the Board and Office of the State Attorney and is a public record⁵.

IV. Legal Conclusions

The issue to be resolved is whether there has been a breach of Section III (E) (3) of my employment contract. This requires a legal conclusion rather than a layman's opinion. It is unclear from the draft report whether the appropriate legal principles for determination of a breach have been applied. It appears that the OIG has chosen to address the issue by simply treating this problem as one to be solved by intuition⁶. However, this is not sufficient. The report should include an appropriate legal analysis and if such an analysis is completed, the conclusion will be that Section III (E) (3) fails because the parties did not have a meeting of the minds; contained terms susceptible of differing interpretations requiring review of the intent of the parties and of a determination performance by substantial compliance; and in light of my action on July 15, 2008, to reimburse the Board the full \$15,000.00 paid to me in January 2006, this matter is now moot.

A. No Meeting of the Minds

At the time that my contract was executed by Mr. Bolanos, the proper contracting entity – the School Board – was not presented with the modified provision regarding a moving expense allocation and the OIG has deemed the modification a material change. Consequently, the Board

⁵ I respectfully request that information revealing my residential addresses in Palm Beach County and Miami be kept confidential. For safety and security reasons, I am requesting the real estate listing and contract of sale not be included as an exhibit. Should any documents be attached to the final report containing such information, I request that it be redacted.

⁶ The draft report states at page two that "...it seems counterintuitive that one is paid moving expenses if one does not move."

agreed to one version of this provision and I agreed to the different and final provision contained in the fully executed contract. The OIG determined that the change was material. As a matter of law, no agreement exists on this particular term and therefore, it cannot be binding on either party.⁷

B. Indefinite/Ambiguous Language

If a provision of the contract is susceptible to more than one interpretation, ambiguous or uncertain, then the rules of contract construction are to be applied in order to determine what the contract provision means.

Even if the parties were in agreement with the language in that provision, the OIG recognizes its indefinite nature. The provision in its final form or even the form that may have been presented to the Board called for a payment of the moving expense allocation “should the attorney decide to move to Miami-Dade County.” The literal interpretation of this provision suggests that the term would be satisfied if the attorney decided to move, without anything further. There are no means provided for in the contract for evaluating the extent of actions that the attorney would need to perform to fulfill this term. A promise reserving to the promisee (the employee in this instance) an unlimited right to decide the nature or the extent of performance is too indefinite for enforcement.

In reviewing Exhibit 4, Comparison of Contract Language, it is plain to see that the language of the provision which was originally proposed and agreed to by the employee called for a move but did not specify a time period. In the version which was apparently passed by the Board; the term allowed for a decision to move, within a one year period, and amount up to \$15,000, and no specific date for payment.

The final term (apparently after further negotiations between myself and Mr. Bolanos), included the up-front time for a flat payment amount but still contained the language “decide to move” within the one-year time frame.

The phrase “decide to move” was drafted by the Board, and according to the rules of contract construction must be construed against the Board and in favor of the employee, when attempting to construe an ambiguity. In this case, resolving the ambiguity can be discerned from the intent of the parties in negotiations and discussions leading up to the contract, (see Exhibit 2), and the actions of the parties acting upon its terms (i.e. the payment was issued without requirement of proof of a permanent move), and the employee acted in reliance upon her understanding of the provision by expending the funds on temporary residencies in Miami (see Exhibit 3).

While the OIG suggests that this contract term is susceptible to two interpretations and that one of the interpretations is “counter intuitive,” the OIG’s analysis is incomplete. The review must include consideration of all of the background information submitted, which outlines the parties’ negotiations and clearly shows a difference in understanding of the intent of the contract term.

⁷Severability of the contract: This provision is severable because it is not an essential term of the contract.

In earlier negotiations I clearly rejected a term that would have required the moving allocation to be conditioned on proof of permanent residency in Miami within one year of employment. I disclosed during negotiations that my home in Palm Beach County was under construction and would likely pose difficulty in effectuating a sale. Both my attorney and I discussed the potential use of the funds allocated for a moving expense to set off expenses that I would undertake for obtaining temporary housing in Miami in the event the sale of my home did not occur. The actions that I took subsequent to execution of my contract, e.g., listing my home for sale, entering into a sales contract, renting an apartment in Miami each summer for three years, are consistent with my understanding of the contract provision.

I accepted the payment that was issued to me on January 17, 2006, and applied these funds to the cost of part-time residences in Miami during the summer months, in addition to the cost of moving office furniture, business materials, books and personal effects into my office at the District headquarters.

C. This matter is moot

On July 15, 2008, without any admission of wrongdoing on my part, I tendered payment to the Board in the amount of \$15,000.00⁸. My goal in providing the Board with reimbursement was to expedite the resolution of this dispute to avoid unnecessary expenditure of time by numerous government officials on a minor financial issue. The repayment is consistent with the recommendation of the OIG to "...either repay the money or make some other arrangements with the Board."

While I believe that I have operated in good faith and substantially complied with the term of my contract relating to receipt of a moving expense allocation, I believe that the cost to me personally as well as to the school district in continuing this dispute far outweighs the cost to me to reimburse the payment. As the payment was acknowledged and accepted by the Board at its meeting on July 15, 2008, complete accord and satisfaction has occurred and this matter is now moot. Neither the OIG nor the Board, nor any other agency should take any further action.

Conclusions and Recommendations

The draft report should conclude that I have not committed fraud or engaged in any wrongdoing in receiving the moving expense allocation. I desired and intended to move to Miami-Dade County when I accepted the position of School Board attorney. I believed that as long as I continued to work on selling my home in Palm Beach County and moved to Miami on a part-time basis during the term of my contract, I met the spirit and intent of Section III (E) (3). I did not conceal from the Board the fact that I continued to have my primary residence in Palm Beach County at any time during my employment. I did not conceal the fact that I lived in Miami during the summer months. Financial constraints prohibit me from supporting two full-time residences, and the continued decline of the real estate market has and will likely prohibit the sale of my home.

⁸ A copy of the memorandum and the check provided to the Board are attached as Exhibit 3.

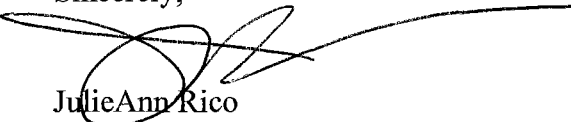
I respectfully request that you consider revising the draft report to include the following:

- There was no meeting of the minds regarding Section III (E) (3) of the employment contract and as a result, the provision is void.
- The language of the provision was indefinite and ambiguous, susceptible to differing interpretations requiring a review of all facts and circumstances which substantiate that the employee substantially complied with the provision as it was originally intended.
- The employee returned the funds and the issue is now moot.

I strongly feel that a fair and complete review of the facts and circumstances upon which I based my acceptance of these funds along with the uncontroverted evidence of my having made all possible efforts to move while relying on the contract in expending the funds for the purposes intended, should support my entitlement to the funds. I understand, however, that the Board has raised this issue after almost three years and now wishes to apply a different standard. In good faith, I have therefore refunded the \$15,000 in full in an effort to dispose of and finally conclude this entire matter.

Thank you for the opportunity to respond to the draft report.

Sincerely,



JulieAnn Rico
School Board Attorney

**Attachment 1
Housing Costs**

Year	Location	Expenditures
2006	Brickell Avenue Condominium	\$5,264.00
2007	Key Biscayne and Brickell Avenue Condominium	\$2,004.00
2008	Brickell Key Condominium	\$4,700.00*
Total		\$11,968.00

*Expenditures through August 6, 2008 only.

Exhibit 2

Randee S. Schatz, P.A.

Attorney at Law

220 Sunrise Avenue, Suite 209

Palm Beach, Florida 33480

Telephone (561) 833-1846

Fax (561) 833-1881

E-Mail RSSchatz@comcast.net

Reply to Palm Beach

Delray Beach:
15 Northeast 4th Street, Suite A
Delray Beach, FL 33444
Tel: 561-272-0398

July 23, 2008

To: Whom it may concern

I ask that this letter be considered in conjunction with the draft report dated July 10, 2008 entitled "Miami-Dade County Public Schools Office of the Inspector General Draft Report Re: Employment Agreement of Julie Ann Rico, School Board Attorney Payment of Moving Expense Allocation". The letter to Ms. Rico provides her an opportunity to respond to the draft report and I ask that this letter be submitted as part of her response.

I acted as counsel to Julie Ann Rico during the majority of the time that the negotiation and drafting the contract which she ultimately signed. This letter is limited to those matters that affect the payment of moving expenses. It should be noted that no one from the Inspector General's office contacted me during the course of the investigation which resulted in the letter and draft report dated July 10, 2008.

In September, 2005, I accompanied Ms. Rico to the meeting at the office of the former Chair of the School Board, Frank J. Bolanos, for the purpose of discussing and negotiating the terms and conditions of the contract between Ms. Rico and the School Board. Ms. Rico had been offered the position of school board attorney at the time of the meeting; however, the terms and conditions were not yet finalized including but not limited to salary and benefits. Mr. Bolanos at all times during the meeting represented that he had full authority to negotiate the terms and conditions of the contract in behalf of the School Board.

One of the issues which was discussed and negotiated was whether Ms. Rico would relocate to Miami-Dade County. No person present at the meeting stated that the offer to Ms. Rico was contingent on her relocating to Miami-Dade County. During the course of the discussion regarding the issue of relocation, Ms. Rico explained that she currently owned a home in Palm Beach County, Florida which she was trying to sell. The home which Ms. Rico owned was in a partially complete state due to extensive renovations that had been undertaken some months prior to the offer from the Miami-Dade School Board. It was explained by Ms. Rico at that meeting that there was a substantial economic burden to her due to the house in Palm Beach County which she owned and for which she was financially responsible in so far as mortgage, taxes, insurance and other customary costs of home ownership. In addition, Ms. Rico explained she had the added expense of repairs, renovations and construction expense associated with trying to ready the house for a potential sale as at that time she needed to find a buyer who would be willing to purchase the house in a half finished state if the construction and renovation was not completed.

Ms. Rico did indicate that she did not object to moving to Miami-Dade County, but she could not agree or stipulate to a move under the current financial situation based on her ownership of the property in Palm Beach County. Mr. Bolanos did not indicate she would be required to move to Miami-Dade County, nor did he indicate that she would be required to change her homestead, driver's license or place of voting in order to receive the contract.

There was substantial discussion regarding the base salary which Ms. Rico was to receive as she was being offered a lower starting salary than she desired. As I recall, the starting salary offered Ms. Rico was lower than the salary of the departing school board attorney as was the annual increases in salary being offered to her. As a result of the discussion about the move to Miami-Dade County and the base salary discussion, it was suggested that she receive a flat rate of \$15,000.00 to help defer moving expenses in lieu of a higher starting salary. At the time of this discussion, I recall no strings being attached to Ms. Rico receiving the additional \$15,000.00. This was ultimately determined to be acceptable, and at that meeting there was no requirement or agreement as to the type of move or when the move would take place. The agreement was that the funds would be paid by a date certain with no requirement of the type of move, receipts or notice. It was also discussed that the funds could be used by Ms. Rico for any number of items such as the cost of a mover or semi and/or possible permanent housing in Miami-Dade as her circumstances permitted. The agreement was that Ms. Rico would get a flat rate of \$15,000.00 payable at the beginning of the contract term.

At the time of the meeting which I attended, there was no requirement of a time certain for any type of a move. All of the above is to the best of my recollection of events that transpired at the meeting which I attended with Ms. Rico.

I was not in attendance at the school board meeting as it was scheduled at a time when I was out of town at a previously scheduled continuing education course. I was in communication with Mr. Bolanos office during my absence regarding the contract and as of September 27, I believe that there was an agreed upon final contract which did not impose any new conditions regarding the payment or obligation of the use of the \$15,000.00 moving expense stipend and did not believe that this agreed upon provision would be not be presented to the school board at their meeting on September 28.

Sincerely yours,



Rande S. Schatz

RSS:rs



Miami-Dade County Public Schools

giving our students the world

Superintendent of Schools
Rudolph F. Crew, Ed.D.

School Board Attorney
JulieAnn Rico, Esq.

Miami-Dade County School Board

Agustin J. Barrera, Chair
Perla Tabares Hantman, Vice Chair
Renier Diaz de la Portilla
Evelyn Langlieb Greer
Dr. Wilbert "Tee" Holloway
Dr. Martin Karp
Ana Rivas Logan
Dr. Marta Pérez
Dr. Solomon C. Stinson

MEMORANDUM

TO: Mr. Agustín Barrera, Honorable Board Chair

FROM: JulieAnn Rico, School Board Attorney

DATE: July 15, 2008

SUBJECT: Refund of Moving Expense Allocation

Contrary to the accusations in agenda items H-1 and H-18 scheduled for today's Board meeting, I believe that I have substantially complied with the terms of my contract providing for a moving expense allocation. Even as I continue to refute the accusations of wrongly accepting the moving expense allocation, I desire to remove even the slightest suspicion that I would ever want to knowingly accept even a penny more than that to which I am entitled under the contract. Even though I did everything reasonably possible to fulfill the contractual provision and actually expended amounts equaling or exceeding the allocation, I have decided to refund the allocation and provide the attached check in the amount of \$15,000. In light of this refund, the Board should deem that District has been made whole and that no further action is necessary regarding agenda items H-1 and H-18..

For the record, it must be noted that this refund does not in any way constitute or imply any manner of admission of wrong doing on my part. I intend to provide a comprehensive response to the Inspector General's inquiry and I reserve the right to take any further measures necessary to clear my name. This refund simply serves as a testament to my good faith desire to minimize the time and effort expended on this matter and remove a source of distraction that has diverted both the Board's and my attention from our primary responsibility of assuring that the school system is providing the greatest educational benefits for the children enrolled in our schools. Now, beginning with today's Board meeting, I hope the Board and I can put this matter behind us and we can return our focus to our important responsibilities.

If you should have any questions regarding this offer of resolution, please contact me.

Thank you in advance for your anticipated cooperation.

**JULIEANN RICO
PAYROLL ACCOUNT**

1773

Date 7/15/08

63-8376/2670
158

Pay to the Order of Miami Dade School Board \$ 15,000.00

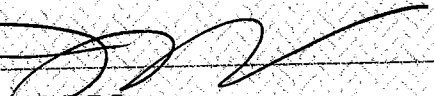
Fifteen thousand dollars Dollars

 Security features are included. Details on back.

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Manalapan, FL 33462
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For (refund moving allocation)


1773

MP

Exhibit 4
Comparison of Contract Provisions

Provision agreed to and signed as final proposed by Ms. Rico September 28, 2005 at 9:30 a.m.:
The Attorney shall be provided a one-time moving expense allocation in the amount of \$15,000 payable to Attorney on or before January 15, 2006 for her move to Miami-Dade County.

Received from Mr. Bolanos September 28, 2005 at 12:00 noon:
The Attorney shall be provided a one-time moving expense allocation in an amount not to exceed \$15,000 should the Attorney decide to move to Miami-Dade County within the first year of the term of this Agreement.

Final executed revised language:
The Attorney shall be provided a one-time moving expense allocation in an amount of \$15,000 should the Attorney decide to move to Miami-Dade County within the first year of the term of the Agreement payable on January 15, 2006.