

Office of Superintendent of Schools
Board Meeting of December 11, 2002

December 10, 2002

Office of School Board Attorney
Johnny Brown, Board Attorney

**SUBJECT: PAYMENT FOR ACCRUED SICK DAYS FOR FORMER SUPERINTENDENT
ROGER C. CUEVAS**

Effective October 21, 2001, the School Board terminated the Employment Agreement dated December 11, 1996, between Mr. Roger C. Cuevas and The School Board of Miami-Dade County, Florida. Section 7 of the Employment Agreement provided that "Upon termination of employment hereunder, the Superintendent shall receive a lump sum payment equal to the Superintendent's per diem Salary at that time multiplied by the Superintendent's accrued vacation and sick days, all in accordance with applicable State law and Board rules."

An issue arose concerning the former Superintendent's entitlement to terminal pay for accrued sick leave. The issue revolved around the interpretation of School Board Rule 6Gx13-4E-1.16 concerning terminal pay and whether that Board Rule applied to the Superintendent. A legal opinion was issued by the Board Attorney's Office which concluded that the former Superintendent was entitled to terminal pay for sick leave as provided in the Employment Agreement. Additionally, an Attorney General's opinion was requested on the issue, however, the Attorney General's response was that they were precluded from formally commenting on the matter due to statutory constraints because the inquiry involved the interpretation of the term "managerial employee" used in the Board's local rule, rather than the interpretation of State law.

As of this date, the lump sum payment for accrued sick leave has not been released to the former Superintendent, and having received formal demand for payment, the matter needs to be addressed through direction from the Board. Therefore, the purpose of this item is to have the Board determine whether the lump sum payment for accrued sick leave should be released to the former Superintendent pursuant to the terms of his Employment Agreement.

This item does not appear in the published agenda. There is good cause to vary from the agenda in order to proceed in good faith to resolve this matter prior to engaging in any further legal proceedings.

RECOMMENDED: That The School Board of Miami-Dade County, Florida determine whether the lump sum payment for accrued sick leave should be released to the former Superintendent, Mr. Roger C. Cuevas, pursuant to the terms of the Employment Agreement dated December 11, 1996, as amended.

JB:pr

GOOD CAUSE

C-5