

Office of the Superintendent of Schools
School Board Meeting of July 15, 2009

July 15, 2009

Luis M. Garcia, Interim School Board Attorney

**SUBJECT: AUTHORIZATION TO RETAIN OUTSIDE LEGAL COUNSEL IN THE
CASE OF JULIEANN RICO v. THE SCHOOL BOARD OF MIAMI-DADE
COUNTY PUBLIC SCHOOLS and MARTA PEREZ, CIRCUIT COURT
CASE NO. 09-51104 CA31**

On July 13, 2009, the School Board was served with the Complaint in the above-referenced case, which was filed by its former School Board Attorney. Although the Complaint lists Board member, Dr. Marta Pérez, individually, as a defendant, service of process has not been effectuated upon her. The Complaint contains four (4) counts, including breach of contract and defamation.

At its Special meeting of September 4, 2008, the Board selected Mr. Murray Greenberg as its Special Counsel to provide legal services with respect to the employment contracts of the School Board Attorney and the Superintendent (Item SP-2). Since that time, Mr. Greenberg became of counsel with the law firm of Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A. Subsequently, at its meeting of June 17, 2009, the Board approved the extension of Mr. Greenberg's contract, commencing on July 1, 2009, for an additional six (6) month period.

After the termination of the former School Board Attorney's contract and prior to this lawsuit being filed, the Interim School Board Attorney contacted several nationally recognized law firms for the purpose of retaining outside counsel to represent the Board should a lawsuit be filed by the former School Board Attorney. Mr. Robert T. Kofman, a shareholder with the firm of Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A., who is the Co-Chair of the firm's Labor Law Department was one of the attorneys contacted at that time. Based upon Mr. Greenberg's experience with this matter and Mr. Kofman's expertise in the field of labor and employment law, it is recommended that the Board retain Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A. to represent it in this case. Although Mr. Greenberg was not employed to handle any litigation arising out of his representation of the Board in these matters, his present law firm will honor the fee arrangement in its representation of the School Board.

In addition, pursuant to School Board Rule 6GX13- 1C-1.021, *Defense and Indemnification of Board Members and Superintendent*, and the authority granted under § 1012.26, Fla. Stat. (2008), the Board Attorney's office hereby requests that the Board

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authorize the provision of legal representation for Dr. Marta Pérez, Vice-Chair, who is a co-defendant in this lawsuit. In accordance with the aforementioned Board Rule, the Board member is permitted to select legal counsel of her choice. Dr. Marta Pérez has selected Mr. Thomas R. Julin, a partner with the law firm of Hunton & Williams LLP to represent her in this case. Mr. Julin's practice focuses on, among other things, the representation of clients in defamation cases. Mr. Julin has agreed to initially represent Dr. Pérez on a *pro bono* basis. Should this litigation, with respect to Dr. Pérez, not be resolved within the next few months, ratification will be sought from the Board with regard to an established hourly fee for the continued retention of Mr. Julin. The costs of this litigation will be funded through the district's Risk Management Loss Fund.

This item does not appear in the published Agenda. There is good cause to vary from the Agenda because responsive pleadings and/or motions to this lawsuit must be filed prior to the next School Board meeting.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, authorize:

- 1) the retention of Mr. Robert T. Kofman, Esquire, a shareholder with the firm of Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A. to represent the School Board as its legal counsel in this litigation. Shareholders will be compensated at the discounted rate of \$350.00 per hour; associates will be compensated at \$250.00 per hour, and paralegals from his firm, will be paid an hourly fee of \$125 per hour; and
- 2) the retention of Mr. Thomas R. Julin, Esquire, a partner with the law firm of Hunton & Williams, LLP, to represent Dr. Marta Perez, Board member, initially on a *pro bono* basis, with any agreed upon hourly fee arrangement to be presented to the Board for approval or ratification at a future date.