

AGENDA REQUEST FORM
THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Meeting Date 02/01/11	Open Agenda Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Time Certain Request <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	ADDED ITEM Agenda Item Number B-1
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TITLE:

Employment Agreement for Marylin Batista-McNamara as Interim General Counsel

REQUESTED ACTION:

Approve the Employment Agreement of Marylin Batista-McNamara as Interim General Counsel.

SUMMARY EXPLANATION AND BACKGROUND:

At the December 14, 2010 Special School Board Meeting, the School Board authorized advertising for an Interim General Counsel from within the Office of the General Counsel. A memorandum advertising the opportunity was provided to each internal candidate. Interested candidates were given until January 4, 2011 to submit a resume and cover letter. Two candidates from within the Office of the General Counsel submitted a resume and cover letter expressing their interest in the position of Interim General Counsel.

At the January 11, 2011 Special School Board Meeting, the School Board interviewed both candidates. After the interviews were concluded, the School Board Members voted to authorize the recommendation of Ms. Marylin Batista-McNamara as Interim General Counsel and for the Board Chair to enter into negotiations with her for an interim contract.

Contract discussions were conducted between Ms. Batista-McNamara and the Board Chair, and the Agreement was prepared for consideration and approval by The School Board. Ms. Marylin Batista-McNamara will serve in the capacity of Interim General Counsel until such time as the advertising, interviewing and selection process is completed for the General Counsel position.

SCHOOL BOARD GOALS:

- Goal One: Raise achievement of all students to ensure graduation from high school and readiness for post-secondary education.
- Goal Two: Improve the health and wellness of students and personnel.
- Goal Three: Provide a safe and secure physical and technological environment for all students and employees.
- Goal Four: Promote innovation which focuses on best practices and quality efforts that improve our best-in-class position.
- Goal Five: Recruit, develop, retain, and recognize high performing and diverse faculty and personnel.
- Goal Six: Build strong partnerships with family, business, community and government at the classroom, school, area, and district level.
- Goal Seven: Ensure district's leadership as an environmental steward through innovative ecology and energy conservation programs.

FINANCIAL IMPACT:

An additional cost (including Florida Retirement and FICA increases) for the Interim General Counsel position for the three months is estimated to be in the amount of \$16,573. The vacant General Counsel position cost for the three months is \$60,924. Therefore, the net savings will be approximately \$44,351.

EXHIBITS: (List)

Employment Contract for Interim General Counsel
 Job Description

BOARD ACTION:

APPROVED

SOURCE OF ADDITIONAL INFORMATION:

Benjamin J. Williams, Chair

754-321-2005

Name

Phone

(For Official School Board Records' Office Only)

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

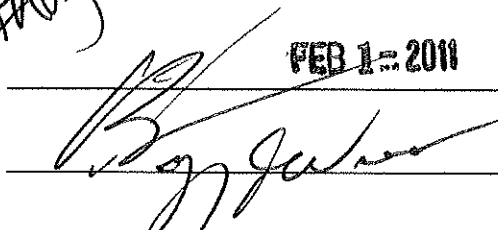
James F. Notter, Superintendent of Schools
 Office of the Superintendent

Approved in Open Board Meeting
 on:

FEB 1 2011

By:

Revised July 2008 JFN/GMD:dp



School Board Chair

EMPLOYMENT AGREEMENT FOR
INTERIM GENERAL COUNSEL

THIS EMPLOYMENT AGREEMENT is made and entered into as of this 1st day of February, 2011, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

MARYLIN BATISTA-McNAMARA
(hereinafter referred to as "BATISTA-McNAMARA" or
"Interim General Counsel")
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301.

WITNESSETH:

WHEREAS, SBBC is responsible for retaining the General Counsel for The School Board of Broward County, Florida; and

WHEREAS, at its special meeting on January 11, 2011, SBBC selected Batista-McNamara as the candidate to fill the position of General Counsel for an interim period and authorized the Board Chair to negotiate the terms and conditions of the employment agreement.

WHEREAS, the Interim General Counsel has agreed to be employed by SBBC in such capacity, and on the terms and conditions provided herein, giving her time, energy and ability to the furtherance of The School Board of Broward County, Florida.

NOW, THEREFORE, in consideration of the premises and mutual agreements herein, SBBC and Interim General Counsel hereby agree as follows:

ARTICLE I.

1.1 Recitals. The foregoing recitals are true and correct and incorporated herein by reference.

TERM

1.2 Term. SBBC hereby employs Interim General Counsel in the position of General Counsel, and Interim General Counsel accepts employment as Interim General Counsel of Schools for SBBC for a term commencing on January 11, 2011, and terminating upon any one of the following events:

- A. Resignation of the Interim General Counsel;
- B. Upon assumption of duties by a permanent General Counsel; or
- C. Upon termination of the Employment Agreement for Interim General Counsel by SBBC with or without cause.

ARTICLE II.

EMPLOYMENT

2.1 Duties. The Interim General Counsel shall faithfully perform the duties of the position of General Counsel for SBBC as prescribed in the job description (A-017 Revised adopted 4/20/2010) and as may be assigned by SBBC, and shall comply with all Board directives, state and federal law, School Board policies, rules, and regulations that exist or may hereinafter be adopted or amended. Except as provided in this Agreement, the Interim General Counsel agrees to devote her full time and energy to the performance of those duties in a faithful, diligent, and efficient manner.

2.2 Professional Activities. The Interim General Counsel shall attend and participate in appropriate professional meetings at the local, state, and national levels with the reasonable

expenses for such attendance to be borne by SBBC, including membership fees and dues of the Interim General Counsel in such organizations as she deems appropriate in the performance of her duties. The Interim General Counsel may hold offices or accept responsibilities in these professional organizations, provided that such responsibilities do not interfere with the performance of her duties as Interim General Counsel. The Interim General Counsel shall be entitled to the reimbursement of reasonable expenses incurred in the performance of her duties in accordance with the applicable policies adopted by SBBC.

2.3 Consultation Activities. The Interim General Counsel shall be permitted to undertake writing, teaching, and speaking engagements, provided that these activities do not interfere with the performance of her duties as Interim General Counsel. Any consulting work undertaken by the Interim General Counsel for compensation must be accomplished on the Interim General Counsel's vacation days, holidays, or other non-duty days.

2.4 Reassignment. In the event of resignation of the Interim General Counsel as Interim General Counsel, the assumption of duties by a permanent General Counsel or upon termination of this Agreement with or without cause by SBBC, the Interim General Counsel shall be returned to her previous position, Deputy General Counsel, with all benefits and salary increments as if she had been serving in that capacity during the term of this Agreement.

ARTICLE III.

COMPENSATION AND SALARY

3.1 Additional Compensation. In addition to her base salary as Deputy General Counsel, the Interim General Counsel shall receive additional compensation of \$12,500 to be paid in equal installments over a three-month period ending April 19, 2011, at which time it is anticipated that the Permanent General Counsel will be in place. In the event the Permanent

General Counsel is not in place, the previously determined monthly increment will be continued until the Permanent General Counsel assumes duties.

In the event the Interim General Counsel applies and is selected to the Permanent General Counsel position, a salary and compensation package shall be negotiated at that time.

3.2 Reimbursable Expenses. In order to assist and enhance the Interim General Counsel's ability to perform her job responsibilities and to meet and/or exceed the performance objectives, to the extent permitted by law, SBBC shall pay or reimburse the Interim General Counsel for reimbursable expenses incurred by her in the performance of her duties under this Agreement. Without limiting the generality of the foregoing, SBBC agrees to pay or reimburse the Interim General Counsel for the cost and necessary expenses to attend professional and official meetings, seminars, continuing legal education programs, conventions, and other meetings and functions that the Interim General Counsel deems relevant to the performance of her duties and functions. Such expenses include, without limitation, those for airline tickets, hotels, and accommodations, meals, rental car, and other reasonable expenses incurred in the performance of the business of the school district. All expenses that are payable or reimbursable under this section shall be governed by Florida law and School Board Policy 3400.

3.3 Vacation, Holidays, and Sick Leave. The Interim General Counsel shall be entitled to vacation, holidays, and sick leave as provided under School Board policies for any other twelve-month employee. The assumption of the duties of Interim General Counsel shall not affect the accumulation of vacation and sick leave she already earned in her prior positions.

3.4 Benefits. During the term of this Agreement, the Interim General Counsel shall be entitled to receive, without interruption, all benefits she was provided by SBBC when she served

as Deputy General Counsel, except, as it relates to the benefits afforded the position of General Counsel with the Florida Retirement System.

ARTICLE IV.

TERMINATION OF EMPLOYMENT AGREEMENT

4.1. Subject to the provisions of 2.4, this contract may be terminated as follows:

- A. Resignation of the Interim General Counsel;
- B. Upon assumption of the duties by a permanent General Counsel; or
- C. Upon termination of the Employment Agreement for Interim General Counsel by SBBC with or without cause.

4.2 Termination by Resignation. The Interim General Counsel may resign during the term of this Agreement without the consent of SBBC upon forty five (45) days notice.

4.3 Termination by School Board. Subject to the provision of 2.4, this Agreement may be terminated with or without cause by SBBC upon sixty (60) days written notice to the Interim General Counsel.

ARTICLE V.

MISCELLANEOUS

5.1 Controlling Law. This Agreement shall be interpreted and construed according to the laws of the State of Florida. This Agreement is made and entered into in Broward County, Florida which is the proper venue for any litigation arising under this Agreement.

5.2 Complete Agreement. This Agreement embodies the entire agreement between the parties, and except as expressly provided herein, it cannot be amended except by written agreement of the parties.

5.3 Indemnification SBBC shall defend, save harmless, and indemnify the Interim General Counsel against any legal action arising directly or indirectly out of her services as Interim General Counsel to the extent permitted by Florida Statutes and in a manner consistent with the treatment afforded to other officers and employees of SBBC.

5.4 Notice. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To THE SCHOOL BOARD: Chair
The School Board of Broward County, Florida
600 Southeast Third Avenue, 14th Floor
Fort Lauderdale, Florida 33301

To MARYLIN BATISTA-MCNAMARA: Marylin Batista-McNamara
The School Board of Broward County, Florida
600 Southeast Third Avenue, 11th Floor
Fort Lauderdale, Florida 33301

5.5 Savings Clause. In the event any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provisions thereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein. This Agreement constitutes the entire agreement between the parties unless amended pursuant to the terms of this Agreement.

5.6 Authority. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of

the party for whom he or she is signing, and to bind and obligate each party with respect to all provisions contained in this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

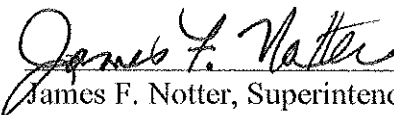
FOR SBBC

(Corporate Seal)

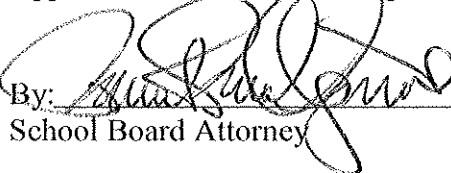
THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

By 
Benjamin J. Williams, Chair

ATTEST:


James F. Notter, Superintendent of Schools

Approved as to Form and Legal Content:

By: 
School Board Attorney

FOR MARYLIN C. BATISTA-MCNAMARA

Joanne C. Fritz
Witness

M. Batista-McNamara
Marylin C. Batista-McNamara

Kathleen King
Witness

Marylin C. Batista-McNamara
Printed Name

STATE OF Florida

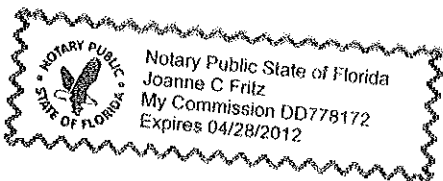
COUNTY OF Broward

The foregoing instrument was acknowledged before me by Marylin C. Batista-McNamara, who is personally known to me or who produced n/a as identification and who did/did not first take an oath this 27th day of January, 2011.

My Commission Expires:

Joanne C. Fritz
Signature – Notary Public

(SEAL)



Joanne C. Fritz
Notary's Printed Name

Notary's Commission No.

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA



JOB DESCRIPTION

POSITION TITLE:	General Counsel
CONTRACT YEAR:	244 day calendar
CONTRACT TERM:	As negotiated
PAY GRADE:	N/A – salary set by Board-approved contract
BARGAINING UNIT:	N/A

QUALIFICATIONS:

EDUCATION: An earned Doctor of Jurisprudence degree from an accredited law school.

EXPERIENCE: A minimum of ten (10) years of progressively more responsible work experience in the field related to the title of the position.

ADDITIONAL REQUIREMENTS:

REQUIRED: Admission to and member in good standing of the State Bar of Florida; computer skills as required for the position.

PREFERRED: Admission to the General Bar of the United States District Court for the Southern district of Florida; admission to the Bar of the United States Court of Appeals for the Eleventh Circuit. Substantial experience with education and district school board law or as an attorney for a public agency, including experience in the supervision of attorneys. Bilingual skills preferred.

REPORTS TO: The School Board of Broward County, Florida

SUPERVISES: Deputy General Counsels, Assistant General Counsels, Law Clerks, and Clerical Staff of the Office of the General Counsel.

POSITION GOAL: Protect the legal interests of the Broward County School District by overseeing and monitoring legal services provided for the school district by the Office of the General Counsel and by outside attorneys.

ESSENTIAL PERFORMANCE RESPONSIBILITIES:

The General Counsel shall:

1. have overall responsibility for the provision of legal advice to and representation of The School Board and supervision and direction of all legal and support staff assigned to the Office of the General Counsel.
2. provide legal services in highly complex legal matters, including preparation of cases for trial, presentation of cases, and the rendering of opinions upon significant legal matters.
3. represent The School Board at School Board meetings, committee meetings, and other official functions.
4. work collaboratively with, but not limited to, school, area, and district personnel to safeguard the legal interests of the school district by performing a wide variety of duties including provision of professional legal services for all departments, divisions and offices of the school district.
5. draft and/or review of board policies, contracts, deeds, and other legal documents.
6. direct legal research and preparation of legal opinions for the School Board, Superintendent, departments, divisions and offices of the school district.
7. coordinate and direct investigations of claims and complaints by or against The School Board, as appropriate.
8. represent The School Board in litigation filed by or against The School Board, including but not limited to administrative proceedings, court proceedings, civil matters and constitutional issues.
9. coordinate and monitor work performed and services billed by outside counsel in preparing, planning, and representing The School Board in litigation.
10. recommend changes in policies and procedures to ensure compliance with applicable federal and state laws and Department of Education regulations.
11. recommend budget, expenditures, amounts to be allocated, and amendments thereto when necessary for the effective operations of the Office of the General Counsel.
12. coordinate and provide in-service training on legal matters which pertain to the overall administration of the school system.
13. provide legal advice to school district officials as needed with regard to legal issues arising in the course of district operations.
14. review, supervise, evaluate and approve work of legal staff, including Deputy General Counsels, Assistant General Counsel and outside counsel in the provision of legal services to the district.
15. direct and assist in the acquisition of land for The School Board through negotiation or condemnation proceedings.
16. select and make recommendations to The School Board for the hiring and termination of Deputy General Counsels, Assistants General Counsels and other legal and support staff.

17. provide The School Board with an annual report of legal services provided by the Office of the General Counsel.
18. perform and promote all activities in compliance with equal employment and non-discrimination policies of The School Board of Broward County, FL.
19. participate successfully in the training programs offered to increase the individual's skill and proficiency related to the assignments.
20. review current developments, literature and technical sources of information related to job responsibility.
21. ensure adherence to good safety procedures.
22. follow Federal and State laws, as well as School Board policies.
23. perform other duties as assigned, consistent with the goals and objectives of this position, by The School Board of Broward County, Florida or designee.

SIGNIFICANT CONTACTS –frequency, contact, purpose, and desired end result:

Acts, on behalf of the Broward County School District, as the senior legal representative for The School Board in litigation filed by or against The School Board, including but not limited to administrative proceedings, court proceedings, civil matters and constitutional issues.

PHYSICAL REQUIREMENTS:

Light work: Exerting up to 20 pounds of force occasionally, and/or up to 10 pounds of force as frequently as needed to move objects.

TERMS OF EMPLOYMENT:

Salary, benefits, and/or contract amount shall be paid consistent with the School Board approved employment contract. Length of the work year and hours of employment shall be those established by the School Board.

FLSA OVERTIME CATEGORY:

Job is exempt from the overtime provisions of the Fair Labor Standards Act.

EVALUATION:

Performance will be evaluated in accordance with the School Board approved employment contract.

Board Approved: 7/16/96

Board Approved: 02/17/2010

Board Adopted: 04/20/2010