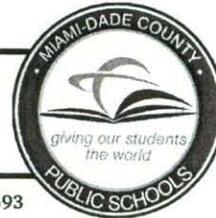


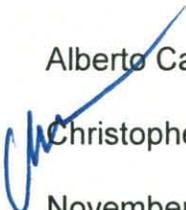


Christopher R. Mazzella
Inspector General
Office of the Inspector General for Miami-Dade County Public Schools



19 West Flagler Street ♦ Suite 220 ♦ Miami, FL 33130 ♦ Phone: (305) 375-1946 ♦ Fax: (305) 579-2593

To: Alberto Carvalho, Superintendent, Miami-Dade County Public Schools

From:  Christopher Mazzella, Inspector General

Date: November 18, 2010

Subject: OIG Final Report Re: *Manipulation of the McKay Scholarship Program Process by M-DCPS Employees*, Ref. IG09-49SB

Attached please find the Office of the Inspector General's (OIG) final report, which stems from an investigation conducted in conjunction with the Miami-Dade State Attorney's Office, that led to the arrest of Deborah Swirsky-Nunez, a Miami-Dade County Public Schools (M-DCPS) administrator, on June 8, 2010, for defrauding the State of Florida John McKay Scholarship for Students with Disabilities Program (McKay Scholarship Program) to obtain scholarship monies to pay for her children's private school tuition. During the course of the investigation, the OIG learned of actions performed by other M-DCPS employees that benefitted Ms. Swirsky-Nunez by moving the scheme to defraud forward and without delay.¹

The OIG provided copies of this report, in its draft form, for review and comment to M-DCPS employees George Nunez (Ms. Swirsky-Nunez' husband), Lisa Parker, Elissa Rubinowitz, Matthew Welker, Richard Rosen, Kim Rubin, and Michele Weiner; and to former employee Larry Davidson.² Mr. Nunez and Ms. Parker (through their attorneys) and Dr. Welker, Mr. Davidson, and Ms. Weiner provided the OIG with written responses, which are attached to the final report.

The OIG investigation confirmed that the above-identified employees expedited, subverted, or manipulated certain processes relating to the McKay Scholarship on behalf of Ms. Swirsky-Nunez, which allowed her to obtain scholarship monies to pay for her children's private school tuition. Specifically, the investigation determined that M-DCPS employees facilitated Ms. Swirsky-Nunez' scheme to defraud by allowing Ms. Swirsky-Nunez to use a false address when enrolling her daughter at Krop Senior High School; accommodated Ms. Swirsky-Nunez by reducing a normally lengthy student evaluation process to a number of days; failed to ensure compliance with program requirements; and signed, and soliciting the signing, of documents that falsely represented that M-DCPS personnel had participated in

¹ Ms. Swirsky-Nunez, who was arrested and charged with felony criminal violations in June 2010, is not the subject of this report, which focuses instead on the other individuals whose actions manipulated the McKay Scholarship Program.

² Mr. Davidson retired in July 2010.

the process. Additionally, the investigation determined that Mr. Nunez made a false statement to his superior regarding his lack of knowledge about his daughter's enrollment status at an M-DCPS school she had been enrolled in.

The OIG believes that the actions of the individuals identified herein should be brought to the M-DCPS Superintendent and Board's attention. While their actions may not have risen to the level of criminally aiding and abetting Ms. Swirsky-Nunez' in her scheme to defraud the State of Florida, each person's actions played an important role in moving the scheme forward, without delay, for the benefit of Ms. Swirsky-Nunez and Mr. Nunez.

Attachment

cc: Hon. Perla Tabares Hantman, Chair
and Members, Miami-Dade County School Board
Walter J. Harvey, School Board Attorney
Jose Montes-de-Oca, Chief Auditor, M-DCPS
Edward Jordan, Inspector General, Florida Dept. of Education
Laura Harrison, Director, Scholarship Programs and Home Education
Office of Independent Education and Parental Choice, Florida Dept. of Education
Individuals previously furnished with a draft report (under separate cover)

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INTRODUCTION & SYNOPSIS

This report stems from an investigation conducted by the Office of the Inspector General (OIG) for Miami-Dade County Public Schools (M-DCPS), in conjunction with the Miami-Dade State Attorney's Office (SAO), that led to the arrest of Deborah Swirsky-Nunez, an M-DCPS official, on June 8, 2010, for defrauding the State of Florida John McKay Scholarship for Students with Disabilities Program (McKay Scholarship Program) to obtain scholarship monies to pay for her children's private school tuition. During the course of the investigation, the OIG learned of actions performed by other M-DCPS employees that benefitted Ms. Swirsky-Nunez by moving the scheme to defraud forward and without delay.¹

In June 2009, the OIG received a complaint alleging that Ms. Swirsky-Nunez, and her husband, George Nunez, an M-DCPS Regional Superintendent, committed the aforementioned fraud by falsely enrolling their child at an M-DCPS school for only a limited short time for the sole purpose of being counted as a public school student, in an attempt to qualify for scholarship funds. Additionally, they used their positions within M-DCPS to have certain processes—that normally take months—expedited, and they subverted other application processes to facilitate their child's qualification for the funds. The individuals identified in this report as either expediting, subverting or manipulating certain processes on the Nunez' behalf all acknowledged that they performed these activities because of friendship or collegiality with the Nunez's and/or because of their fear for the positions of power the Nunez's held at M-DCPS.

Their motivations aside, the OIG's concerns of improper actions committed by these other M-DCPS employees are substantiated and presented herein. Additionally, the OIG investigation determined that the defendant's husband, Mr. Nunez, made a false statement to his superior regarding his lack of knowledge about his daughter's enrollment status at an M-DCPS school she had been enrolled in.

Aside from the criminal prosecution of the defendant, the OIG believes that the actions of the individuals identified herein should be brought to the M-DCPS Superintendent and Board's attention. While their actions may not have risen to the level of criminally aiding and abetting the defendant in her scheme to defraud the State of Florida, each person's action played an important role in moving the scheme forward, without delay, for the benefit of the defendant and her husband.

¹ Ms. Swirsky-Nunez is not the focus of this administrative report. This report specifically focuses on those other individuals whose actions expedited, subverted, and manipulated the McKay Scholarship Program process.

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TERMS USED IN THIS REPORT

American Heritage	American Heritage Private School
ESE	Exceptional Student Education
FDOE	Florida Department of Education
FTE	Full Time Equivalent
Highland Oaks	Virginia Boone Highland Oaks Elementary School
IEP	Individual Education Plan
ISIS	Integrated Student Information System
Krop	Dr. Michael M. Krop Senior High School
Matrix	Matrix of Services
McKay Scholarship Program	John McKay Scholarship for Students with Disabilities Program
M-DCPS	Miami-Dade County Public Schools
SAO	Miami-Dade State Attorney's Office

OIG JURISDICTIONAL AUTHORITY

The OIG provides inspector general services to M-DCPS pursuant to the Interlocal Agreement (ILA) between Miami-Dade County and M-DCPS. The ILA for inspector general services is expressly authorized by M-DCPS School Board Rule 6GX13-8A-1.08. The scope and jurisdiction of the OIG's activities is dictated by the ILA. Among the authority jurisdiction, responsibilities and functions conferred upon the OIG through the ILA is the authority and jurisdiction to make investigations of M-DCPS affairs, including the power to review past, present and proposed programs, accounts, records, contracts and transactions. The OIG has the power to require reports and the production of records from the M-DCPS Superintendent, School Board members, School District departments and allied organizations, and School District officers and employees, regarding any matter within the jurisdiction of the OIG.

INDIVIDUALS AND ENTITIES COVERED IN THIS REPORT

Deborah Swirsky-Nunez

Ms. Swirsky-Nunez has been employed with M-DCPS since 1986. During all periods relevant to this investigation, she was assigned as the Instructional Supervisor of Exceptional Student Education (ESE), North Regional Center

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(Region II).² Ms. Swirsky-Nunez' duties include overseeing school psychologists and ESE Program Specialists assigned to Region II schools, and administrative tasks such as budgeting, goal-setting, program planning, monitoring, auditing, and evaluating.

George Nunez

Mr. Nunez is the husband of Deborah Swirsky-Nunez and has been employed with M-DCPS since 1985. During all periods relevant to this investigation, he was Regional Superintendent for the South Central Region. Between 2001 and 2005, Mr. Nunez was the Principal at Krop.

Lisa Parker

Ms. Parker has been employed with M-DCPS since 1986. She is currently a Lead Staffing Specialist for Region II.

Elissa Rubinowitz

Ms. Rubinowitz has been employed with M-DCPS since 1994. She is currently an Exceptional Student Education Program Specialist at Krop.

Matthew Welker

Dr. Welker has been employed with M-DCPS since 1982. He is currently the Principal at Krop. Dr. Welker was an Assistant Principal at Krop during Mr. Nunez' tenure there as Principal.

Larry Davidson

Mr. Davidson was employed with M-DCPS from 1970 until July 2010, when he retired. During all periods relevant to this investigation, Mr. Davidson was a General Education teacher at Krop.

Richard Rosen

Dr. Rosen has been employed by M-DCPS as a School Psychologist since 1984.

² Region II encompasses a number of elementary, middle and senior high schools within the northern section of Miami-Dade County.

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Kim Rubin

Dr. Rubin has been employed by M-DCPS since 1969. She is currently the Principal of Virginia Boone Highland Oaks Elementary School (Highland Oaks).

Michele Weiner

Ms. Weiner has been employed by M-DCPS since 1990. She is currently an Assistant Principal at Sunny Isles Beach K-8 School. During all periods relevant to this investigation, Ms. Weiner was an Instructional Supervisor for Region II.

Dr. Michael M. Krop Senior High School

Krop is an M-DCPS senior high school located at 1410 County Line Road, Miami, Florida. Krop educates students enrolled in the ninth through twelfth grades.

Virginia Boone Highland Oaks Elementary School

Highland Oaks is an M-DCPS elementary school located at 20500 NE 24th Avenue, North Miami Beach, Florida. Highland Oaks educates students enrolled in the pre-kindergarten through fifth grades.

American Heritage Private School

American Heritage is a private day school located at 12200 W. Broward Boulevard, Plantation, Florida. American Heritage educates students enrolled in the pre-kindergarten through twelfth grades.

RELEVANT GOVERNING AUTHORITIES

M-DCPS School Board Rule 6Gx13-4A-1.21, *Responsibilities and Duties*, states in part:

All persons employed by The School Board of Miami-Dade County, Florida are representatives of the Miami-Dade County Public Schools. As such, they are expected to conduct themselves, both in their employment and in the community, in a manner that will reflect credit upon themselves and the school system.

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M-DCPS School Board Rule 6Gx13-4A-1.213, *Code of Ethics*, states in part:

Employees shall employ independent objective judgment in performing their duties, deciding all matters on the merits, free of partiality or prejudice and unimpeded by conflicts of interest or other improper influences. No employee shall engage in conduct, which creates a conflict of interest. A conflict of interest shall be defined as a situation in which regard for a private interest tends to lead to disregard of a public duty or interest.

BACKGROUND

As background to the report, the OIG incorporates herein pertinent parts of the *Affidavit in Support of Arrest Warrant for Deborah Swirsky-Nunez*:

STATEMENT OF FACTS

On June 5, 2009, the OIG received a complaint alleging that SWIRSKY-NUNEZ and her husband, George A. Nunez, had illegally qualified their daughter for participation in the John McKay Scholarship for Students with Disabilities Program (McKay Scholarship Program). Specifically, the complainant alleged that SWIRSKY-NUNEZ and her husband used their positions as M-DCPS employees to manipulate the McKay Scholarship Program process and fraudulently obtain approximately \$11,000 in funds from the State of Florida for the benefit of their daughter. Their daughter (S.N) was fifteen years old at the time. These funds were to be used to reduce S.N.'s \$19,587 gross annual tuition at American Heritage Private School (American Heritage) located in Broward County, thereby personally benefiting SWIRSKY-NUNEZ and her husband. The OIG opened an investigation on June 19, 2009.

The McKay Scholarship Program Process and Procedures

The McKay Scholarship Program is administered by the Florida Department of Education, Office of Independent Education and Parental Choice (FDOE). The McKay Scholarship Program allows parents of students with disabilities to choose the best academic environment for their child. It provides for a variety of options, including the opportunity for a student to transfer from one public school to another or, in the alternative, to receive tuition money to attend a participating private school.

To apply and qualify for the McKay Scholarship Program, a student must satisfy the criteria set out by Florida Statutes Section 1002.39 and the Florida Administrative Code,

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Section 6A-6.0970. First, the student is required to have spent the prior school year in attendance at a Florida public school, and to have applied for the scholarship before withdrawing from that school. For the purposes of the McKay Scholarship Program, prior school year means that the student was enrolled and reported by a school district for funding during the preceding Full Time Equivalent (FTE) survey weeks, one-week enrollment reporting periods which commence in October and February.

Second, a parent must request participation in the McKay Scholarship program by filing a notice of intent with FDOE. The application is completed online and must be submitted before the student is withdrawn from public school, and at least sixty (60) days prior to the date of the first scholarship payment.

Third, a student must undergo an Exceptional Student Education (ESE) evaluation, which determines if he or she is eligible for special instruction or related services because of a physical, mental, emotional, social or learning exceptionality. The ESE evaluation is administered by a multi-disciplinary team, including a specialist certified by the Florida Board of Education. It generates psychological, educational, and physical evaluation results used to identify the educational programs and opportunities that will assist the needs of the student. Numerous M-DCPS forms must be completed by a variety of participants during the evaluation process. These forms are maintained in the student's cumulative school file

Finally, a student must obtain an Individual Education Plan (IEP) before he or she is withdrawn from a public school. An IEP is a written plan, developed after an evaluation process participated in by the student, a parent, and a school's special education providers, that identifies the areas that are affected by the student's disabilities, and what supports and services he or she may require. Information from the ESE evaluation, including the M-DCPS forms that were completed, is also considered. An IEP is developed only after a determination has been made that the student's disabilities cannot be adequately addressed and resolved by appropriate interventions in the general education environment.

Obtaining an IEP is a lengthy process that normally takes a number of months. Once an IEP is prepared, a Matrix of Services is completed by the evaluation team, and used by FDOE to determine the amount of scholarship money required to provide services to the student. If a parent has obtained acceptance for admission of the student to an eligible private school, McKay Scholarship Program funds can be used at that school for his or her tuition. The funds are awarded every year until the student graduates, or reaches the age of twenty-two (22), whichever comes first. Moreover, a private school is not bound to follow the recommendations, accommodations, or services suggested by the IEP.

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The Scheme to Defraud

Personnel records indicate that SWIRSKY-NUNEZ has been employed with M-DCPS since October 1986. During all periods relevant to this investigation, SWIRSKY-NUNEZ was assigned as the Instructional Supervisor of ESE, North Regional Center (Region II). Region II encompasses a number of Elementary, Middle and Senior High Schools within the Northern Section of Miami-Dade County, Florida. SWIRSKY-NUNEZ' duties included overseeing school psychologists and ESE Program Specialists assigned to Region II schools, and administrative tasks such as budgeting, goal-setting, program planning, monitoring, auditing, and evaluating. SWIRSKY-NUNEZ' husband was at the time relevant to this investigation a Regional Superintendent for M-DCPS. By virtue of her position at M-DCPS, SWIRSKY-NUNEZ is familiar with the McKay Scholarship Program process and procedures, including the ESE evaluation and the development of an IEP.

On October 15, 2008, the third day of the October FTE survey week, SWIRSKY-NUNEZ personally enrolled her daughter, S.N., at Dr. Michael M. Krop High School (Krop) in Miami-Dade County, Florida, within the Region II Service Area. At that time, SWIRSKY-NUNEZ' duties at M-DCPS included oversight of the ESE program at Krop, where her husband had previously been the principal. An IEP was prepared for S.N. on the morning of the same day, and revised on February 9, 2009, during the February FTE survey week. A review of M-DCPS records, and the cumulative file maintained for S.N. reveals that prior to October 15, 2008 no IEP or Matrix of Services existed for S.N. The investigation also determined that S.N. was enrolled as a student at American Heritage for the entire 2008-2009 school year.

The Matrix of Services generated on October 15, 2008 awarded S.N. a score of [redacted], which entitled her to \$7,457 in McKay Scholarship Program funds. On February 9, 2009, S.N.'s IEP was revised, and the Matrix of Services score was increased to a score of [redacted], which entitled S.N. to \$11,356 in funds, an addition of almost \$4,000. The investigation learned from FDOE that a Matrix score of [redacted] is not common, and indicates a severe emotional impairment. However, according to sworn statements taken from S.N.'s teachers at American Heritage, S.N. was an average student with no signs of educational impairment or emotional distress.

Based on the evidence reviewed, including property records, M-DCPS records, sworn statements, and interviews, the investigation determined that SWIRSKY-NUNEZ falsely represented the residence of S.N. for the purpose of enrolling her at Krop. M-DCPS records and Broward County Property Appraiser records reveal that the SWIRSKY-NUNEZ family has a home address of 1854 NW 107th Terrace, Plantation, Broward County, Florida. The Krop Principal, Dr. Matthew Welker, has stated that in October 2008, Krop was a significantly overcrowded school, a fact that usually made it difficult for a student to transfer in from an "out of area" school, such as one located in Broward

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County. According to Dr. Welker, a request to transfer a student from out of the area would require paperwork to be submitted, reviewed, and approved first by the Regional center in the district where he or she lives, and thereafter by the Regional center in the district he or she wishes to transfer to.

In enrolling S.N. at Krop, SWIRSKY-NUNEZ filled out paperwork and submitted it to the school registrar, Ms. Grace Lopez. The records filled out by SWIRSKY-NUNEZ list S.N.'s home address as 3530 Mystic Pointe Dr. #3009, Aventura, Miami-Dade County, Florida, an address within the assigned school attendance area for Krop. The OIG investigation has determined that neither S.N., nor any member of the SWIRSKY-NUNEZ family, has ever owned [that residence or resided in it.] Ms. Lopez has stated that in contravention of normal procedure, no address verification was performed, because she was instructed by Dr. Welker that the enrollment was approved by him. Dr. Welker verified in his sworn statement that he authorized the registration based on his assumption that it had been authorized by the Regional Center, due to the M-DCPS positions held by SWIRSKY-NUNEZ and her husband. The investigation determined that there were no records submitted to the Regional Center requesting admittance for S.N. to an out of area, out of County, school.

According to Miami-Dade County Property Appraiser's records, the Mystic Pointe address, which SWIRSKY-NUNEZ falsely represented as her daughter's home address, was purchased by Jesse D. Bernstein in June 2008. Mr. Bernstein stated that he did not know SWIRSKY-NUNEZ or S.N., and that the SWIRSKY-NUNEZ family had never stayed at his residence. Mr. Bernstein purchased the Mystic Point home from Stan Bronstein. Mr. Bronstein is a retired M-DCPS employee who worked at Krop and is a friend of the SWIRSKY-NUNEZ family. Mr. Bronstein stated the SWIRSKY-NUNEZ family had never resided at the Mystic Point residence when he owned it.

Enrollment contracts and attendance records for American Heritage indicate that S.N. has been continuously enrolled there since 2004. American Heritage administrators confirmed that at no time relevant to this investigation was S.N. ever withdrawn from American Heritage. In fact, attendance records show that she was enrolled as a student at American Heritage during the same time that she was enrolled at Krop. Specifically, S.N. was present in class at American Heritage on October 13, 14, 15, and 16, 2008.

Before enrolling S.N. at Krop, SWIRSKY-NUNEZ requested from Lisa Parker, an M-DCPS employee under her direct supervision, that an IEP be prepared for her daughter. On October 15, 2008, the same day that S.N. was enrolled in Krop, both the ESE evaluation and the IEP were started and completed in a single day. Elissa Rubinowitz, a Krop ESE program specialist who participated in S.N.'s ESE evaluation and IEP, has stated that the ESE evaluation process can take up to six months to complete. In addition, FDOE officials stated that documented meetings, evaluations and accommodations must be in place for a student before the IEP can be completed. S.N.

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was not an M-DCPS student prior to October 15, 2008, when her IEP was prepared, so that the required documented meetings, evaluations and accommodations could not have been in place on that date.

Based on the evidence, including M-DCPS records, sworn statements, and interviews, the investigation determined that SWIRSKY-NUNEZ recruited the services of Ms. Parker, and Ms. Rubinowitz to facilitate the rapid ESE evaluation and IEP for her daughter. Ms. Parker was assigned as a Lead Staffing Specialist in Region II and supervised by SWIRSKY-NUNEZ; and Ms Parker and SWIRSKY-NUNEZ have been personal friends since they were roommates in college. Ms. Rubinowitz is assigned as a Staffing Specialist at Krop. SWIRSKY-NUNEZ has oversight of Ms. Rubinowitz' responsibilities and is also a personal friend of hers. According to Krop Assistant Principal Adrena Williams, Ms. Parker should not have participated in an IEP at Krop. Ms. Williams testified that Ms. Parker does not physically work at Krop, and that there are a sufficient number of qualified employees there who should have been utilized for the IEP.

The investigation determined that in addition to the false address listed on the Krop enrollment documents submitted by Ms. SWIRSKY-NUNEZ, a number of the documents used during the IEP process are also false, forged and fraudulent. Dr. Yolanda Sklar stated that in August 2008, she performed a psychological evaluation of S.N. at the request of SWIRSKY-NUNEZ. Dr. Sklar, who is also under the oversight of SWIRSKY-NUNEZ, stated that she believed it was necessary for her to perform the evaluation to avoid problems at work, and she refused any remuneration for her services. Dr. Sklar was told by SWIRSKY-NUNEZ that the results would be provided to American Heritage to assist her daughter's academic performance. SWIRSKY-NUNEZ did not tell her that the report would be used as part of the IEP prepared for S.N. by M-DCPS staff. One of the documents in the IEP, purportedly signed by Dr. Sklar, indicated that she completed a referral packet on August 22, 2008. Dr. Sklar testified that the signature acknowledging the completion of the referral packet was not hers. That form contains a date of October 9, 2008, six days before S.N. was enrolled at Krop by SWIRSKY-NUNEZ. Another form that should be included in the referral packet, the Secondary Request for Assistance Form, indicates that Dr. Sklar completed the form. Dr. Sklar stated that she did not fill out that form, nor would she have filled it out, since her evaluation was a private evaluation and she was not aware that the evaluation was for the purpose of preparing an IEP.

The Notification of Meeting Form, used to advise parents and school personnel of when the IEP will be conducted, indicates that a meeting was scheduled for October 15, 2008 at 8:30 am, the same morning that SWIRSKY-NUNEZ enrolled S.N. at Krop. Among the M-DCPS staffers noticed for the meeting [were] Dr. Sklar, General Education teacher Larry Davidson, and Head Counselor Larry Ball. Each of these individuals has stated that they had never received or seen a copy of the Notification of Meeting Form, and that they had otherwise never received notice of such meeting. Several witnesses stated they

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signed the IEP but did not actually participate in the IEP meeting, including School psychologist Richard Rosen, who admitted signing the IEP at a later date at the request of SWIRSKY-NUNEZ, and Mr. Davidson, who also admitted signing the IEP at a later date at the request of Ms. Rubinowitz.

M-DCPS Integrated Student Information System (ISIS) computer records reflect that on August 22, 2008, a consent for evaluation and a Student Study Team conference were completed, both pre-requisites for an ESE evaluation and IEP. The entry indicates that Ms. Rubinowitz was the service provider. Ms. Rubinowitz stated that she has no recollection of making the computer entry, and did not perform the services indicated. In fact, Ms. Rubinowitz stated she first became aware of S.N.'s IEP when the IEP meeting was conducted on October 15, 2008. The computer records also indicate that a psychological evaluation case was opened, an evaluation done, and a report submitted, all on August 22, 2008. Those entries list Dr. Sklar as the service provider, but she stated that she did not input that information in the computer, because she has no access to that screen. Additionally, Dr. Sklar stated that she did not complete those items, but rather merely conducted what she believed to be a private evaluation on that date.

The Speech and Language Evaluation Form submitted on October 15, 2008 as part of the IEP process, which contains the purported signature of M-DCPS employee Garnett Reynolds, also appears to be false. Ms. Reynolds stated that she did conduct a screening of S.N. as a courtesy for SWIRSKY-NUNEZ, her supervisor, but that she performed the screening in April 2008, shortly before her retirement. Ms. Reynolds also observed that the form was handwritten, whereas she recalled typing the screening she performed.

Two of the Observation of Student Behavior Forms also submitted as part of the IEP process, purportedly completed by S.N.'s teachers, also appear to be false. Although the first form purports to have been completed by an English teacher named Dulchman, it has been verified that neither American Heritage nor Krop employs a teacher with that name. The second form purports to have been completed by a math teacher with the last name of Levine. It has also been verified that Samantha Levine did, in fact, teach ninth grade algebra and tenth grade geometry to S.N. at American Heritage. However, Ms. Levine stated that although she recalled completing an Observation of Student Behavior Form that S.N. brought to her for completion, the form that was part of S.N.'s IEP records contained a signature that was not hers. Ms. Levine also stated that the form falsely reflected S.N. as having behavioral issues, excessive anxiety, and issues with cognitive skills and perceptual motor problems. Not only did Ms. Levine state that she did not mark those as areas of difficulty on the form, she stated that, in fact, she disagreed with those evaluations, and had given S.N. a positive assessment. Ms. Levine affirmatively stated that the form which was in S.N.'s IEP records is not the form that she completed, and does not reflect what she truthfully put on the form. Ms. Levine recalled returning the form she completed to S.N. to give to her parents.

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The October 15, 2008 ESE evaluation and IEP resulted in a Matrix of Services with a cost factor score of [redacted] assigned to S.N. FDOE official Don Githens stated that the rating of [redacted] would have qualified S.N. for a \$7,457 scholarship. Ms. Parker recalled that SWIRSKY-NUNEZ asked her, in regard to the matrix score, "Is this the best you can get from the IEP?" SWIRSKY-NUNEZ did not submit the October 15, 2008 IEP and Matrix of Services to FDOE at that time. According to Krop records, S.N. was withdrawn from Krop on October 23, 2008.

On February 9, 2009, SWIRSKY-NUNEZ re-enrolled S.N. at Krop. This date coincides with the second FTE Survey Week and would have thus met the attendance requirements to qualify for participation in the McKay Scholarship Program. On that date, a second IEP for S.N. was conducted. Ms. Parker, Ms. Rubinowitz, and SWIRSKY-NUNEZ participated in the evaluation. This evaluation resulted in a second Matrix of Services with an increased cost factor of [redacted]. Ms. Parker stated that she based the Matrix increase from the [redacted] previously calculated on information provided verbally by SWIRSKY-NUNEZ without accompanying documentation, namely, SWIRSKY-NUNEZ' claim that S.N. was receiving intense counseling and was under private therapy. As a result of the second evaluation and increased Matrix score, S.N.'s McKay Scholarship Program award eligibility increased to \$11,356.

Under FDOE guidelines, a student cannot be awarded participation in the McKay Scholarship Program if the student is withdrawn from the public school system prior to filing his or her notice of intent to participate in the scholarship. Krop records, and M-DCPS attendance records, indicate that S. N. withdrew from Krop on February 20, 2009. American Heritage records indicate that S.N. was absent from school on February 9 – 12, 2009, and that February 13 was a teacher's work day. Ms. Lopez stated that on February 20, 2009, Ms. Rubinowitz asked her to withdraw S.N. from school at the request of SWIRSKY-NUNEZ. Ms. Lopez resisted, as school procedure required the parent to be present. After repeated requests, Ms. Lopez withdrew S.N. SWIRSKY-NUNEZ then appeared at the registrar's office and was very upset to learn that her daughter had been withdrawn. SWIRSKY-NUNEZ insisted that Ms. Lopez re-register S.N. SWIRSKY-NUNEZ then went into Ms. Rubinowitz' office, and then returned to Ms. Lopez and requested that S.N. now be withdrawn from Krop.

FDOE documentation shows that SWIRSKY-NUNEZ filed an intent to participate form for the McKay Scholarship Program on February 20, 2009. SWIRSKY-NUNEZ also submitted the February 9, 2009 (second) Matrix of Services with a score of [redacted] on the same day. These actions secured \$11,356 from the FDOE in McKay Scholarship Program funds on behalf of her daughter.

An enrollment contract with American Heritage, dated January 15, 2009, was completed and signed by both SWIRSKY-NUNEZ and her husband for S.N.'s enrollment in the 2009-2010 school year. Based on documents and what was stated by Karen Stearns, the

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McKay Program specialist for American Heritage, between April and May 2009, there were several communications between SWIRSKY-NUNEZ and herself regarding S.N.'s eligibility for the McKay Scholarship Program. Ms. Stearns stated that she questioned S.N.'s eligibility because of the requirement that a student spend the previous year in a public school. SWIRSKY-NUNEZ informed Ms. Stearns that an exception had been made for S.N. due to a possible lawsuit with the public school district, which was supposed to develop an IEP and provide accommodations for S.N. years ago, but had failed to do so.

On June 1, 2009, M-DCPS Attendance Services, relying on attendance information submitted by Krop, advised FDOE that S.N. was present in public school during the two FTE survey weeks. FDOE, relying on that information, then approved S.N.'s eligibility for 2009-2010 McKay Scholarship funds in the amount of \$11,356, to be used at American Heritage. On June 4, 2009, SWIRSKY-NUNEZ reported to FDOE that S.N. was registered at American Academy, American Heritage School; therefore, the fraudulently obtained scholarship money would be paid directly to American Heritage to be applied to S.N.'s tuition for the 2009-2010 school year.

In June 2009, the M-DCPS Office of the Superintendent received a complaint alleging that SWIRSKY-NUNEZ and her husband had illegally qualified their daughter for participation in the McKay Scholarship Program. On June 9, 2009, M-DCPS Deputy Superintendent of Operations Freddie Woodson met with Mr. Nunez and presented him the complaint. Cellular telephone records reflect several calls between SWIRSKY-NUNEZ and her husband that day. During that afternoon, SWIRSKY-NUNEZ called Cecilia Dehlin at the American Heritage Business Office and informed her that the Nunez family had decided not to participate in the McKay Scholarship Program, and that SWIRSKY-NUNEZ would be paying S.N.'s scheduled tuition payment. Later that afternoon, SWIRSKY-NUNEZ arrived at American Heritage, tendered to Ms. Dehlin a payment for S.N.'s tuition in the amount of \$5,700 and directed her to remove S.N. from the McKay Scholarship Program immediately.

The next day, June 10, 2009, SWIRSKY-NUNEZ returned to American Heritage School and met with Ms. Stearns. SWIRSKY-NUNEZ stated to Ms. Stearns that she did not want her daughter participating in the McKay Scholarship Program, or to have an IEP developed. SWIRSKY-NUNEZ directed Stearns to return all of S.N.'s McKay Scholarship Program materials, including the IEP. SWIRSKY-NUNEZ also directed Ms. Stearns to remove her daughter from the program website, and to destroy the affidavit that had been signed by SWIRSKY-NUNEZ and notarized. Ms. Stearns complied with all of SWIRSKY-NUNEZ' directions except for destroying the affidavit, which she retained. On June 16, 23, and 26, 2009, SWIRSKY-NUNEZ contacted Ms. Stearns to confirm that all of the McKay Scholarship Program documents, particularly the affidavit, were destroyed.

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During the course of the M-DCPS-OIG investigation, it was discovered that SWIRSKY-NUNEZ obtained McKay Scholarship Program funds in the amount of \$7,791 for her then 10 year old son, J.N. The funds were applied to his tuition at American Heritage during the 2008-2009 school year. Based on the evidence available to date, it appears that SWIRSKY-NUNEZ obtained those funds as part of her scheme to defraud. Her scheme in fact appears to have started with the McKay Scholarship for her son J.N.

In June 2007, SWIRSKY-NUNEZ telephoned Dr. Kim Rubin, Principal of Virginia Boone/Highland Oaks Elementary School (Highland Oaks) in Miami-Dade County, Florida, and requested that J.N. be tested for gifted at her school, because SWIRSKY-NUNEZ could conduct the testing more quickly at Highland Oaks. SWIRSKY-NUNEZ further asked if Dr. Rubin would enroll J.N. at Highland Oaks so that he could be assigned a student number which would be utilized for his evaluation. During an interview in which Affiant participated, Dr. Rubin stated that she agreed to enroll J.N. even though she knew the enrollment would violate M-DCPS protocols. Dr. Rubin stated that her conduct was motivated by both her friendship with SWIRSKY-NUNEZ, and her concern for the power that SWIRSKY-NUNEZ and her husband exercised as high-ranking M-DCPS officials. M-DCPS records and statements reveal that SWIRSKY-NUNEZ enrolled J.N. at Highland Oaks by using the same Mystic Pointe address in Aventura, Florida, that she later provided to Krop during the enrollment of S.N. A number of J.N.'s ESE evaluation documents contain the same address. Additionally, the Observation of Student Behavior Form, purportedly completed by a teacher named Nancy Webb, was found to be false. The investigation verified that Nancy Webb did, in fact, teach J.N. during the fourth grade at Central Park Elementary in Broward County, Florida. However, Ms. Webb stated that she did not complete the form, and that the signature on the form is not hers.

The investigation determined from interviews with M-DCPS employees that entries made on ISIS regarding J.N. were not made by the persons whose names are listed, and that those persons had not been aware that their names were used. M-DCPS employee Michele Weiner stated that SWIRSKY-NUNEZ approached her in the Region Office and asked that she sign the IEP and other ESE documents as the General Education Teacher. Ms. Weiner stated that she did sign them, but admitted that she did not attend any meetings, and did not review materials. The investigation found that records and interviews of M-DCPS employees also revealed other discrepancies, such as missing documents and false notifications of the IEP meeting. In addition, J.N.'s IEP meeting was conducted on June 25, 2007 at the Region II Offices and not at Highland Oaks, as the meeting notice had indicated. All of the participants were M-DCPS Employees who were supervised by SWIRSKY-NUNEZ. On April 16, 2008, SWIRSKY-NUNEZ filed the intent for participation in the McKay Scholarship Program, which resulted in a \$7,457 award on behalf of J.N that was used for tuition at American Heritage for the 2008-2009 school year.

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As a result of the investigation, Ms. Swirsky-Nunez was arrested on June 8, 2010. She was charged with one count of Organized Scheme to Defraud, a third degree felony, and two counts of Grand Theft, both third degree felonies.

INVESTIGATION

Investigation Overview

This investigation was conducted in accordance with the *Principles and Standards for Offices of Inspector General, Quality Standards for Investigations* as promulgated by the Association of Inspectors General.

This investigation was predicated on the complaint received by the OIG alleging that Ms. Swirsky-Nunez and Mr. Nunez, her husband, manipulated the McKay Scholarship Program process to obtain State of Florida scholarship funds for their daughter. Our investigation substantiated these allegations, which resulted in the arrest of Ms. Swirsky-Nunez for several fraud-related charges. However, as earlier mentioned, our investigation also developed concerns relating to the activities of other M-DCPS employees, which, collectively, enabled Ms. Swirsky-Nunez to pull off the scheme. Based upon additional information gathered in the OIG investigation, we were able to substantiate these additional concerns.

In addition to the evidentiary support detailed in the *Affidavit in Support of Arrest Warrant*, OIG Special Agents also conducted interviews of witnesses, and participated in sworn statements of witnesses conducted by the SAO of several M-DCPS employees and American Heritage employees. Ms. Swirsky-Nunez and Mr. Nunez declined to be interviewed or give sworn statements.

Summaries of Witness Statements and Interviews

The first five summaries are of witness statements that were taken under oath at the SAO. OIG Special Agents appeared for and participated in each of the sworn witness statements, as well as all other sworn witness statements conducted as a part of the investigation.

1. *Statement of Lisa Parker*

Ms. Parker stated that her husband is a teacher at Krop. She also stated that Ms. Swirsky-Nunez is her immediate supervisor. Ms. Parker stated

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that Ms. Swirsky-Nunez is one of her closest friends, and that their friendship began in 1982, when they roomed together in college. Ms. Parker stated that she attended the bat mitzvah ceremony for S.N. She also stated that Ms. Swirsky-Nunez and her family reside in Broward County.

Ms. Parker stated that she was involved in preparing the IEP for S.N. She acknowledged that Dr. Sklar evaluated S.N. on a private basis, but probably assumed at the time that Dr. Sklar was acting on behalf of M-DCPS. Ms. Parker explained that her assumption was an oversight which resulted in her failure to have a school psychologist participate in the IEP, as is required.

Ms. Parker stated that she knew S.N. had been a student at American Heritage for a number of years before the 2008-2009 school year. She acknowledged that the teacher reports from American Heritage that were a part of the IEP did not appear to list negative behaviors, but that she is required to consider reports of such behaviors that are made by a parent, in this case Ms. Swirsky-Nunez.

Ms. Parker stated that Mr. Ball was not present for the IEP evaluation because Ms. Swirsky-Nunez dismissed him. After she examined the IEP packet for S.N., Ms. Parker observed that a number of documents were missing, and others were incomplete. Ms. Parker stated that on October 15, 2008, she wrote the Mystic Pointe address on the IEP documents at the request of Ms. Swirsky-Nunez, even though she believed at the time that S.N. resided in Broward County.

Ms. Parker stated that she set up an IEP meeting for S.N. on October 15, 2008 by calling Dr. Reynolds, Ms. Rubinowitz, and M-DCPS employee Jesus Aviles two days in advance.³ Ms. Parker also stated Dr. Rosen and Mr. Davidson attended the IEP meeting. Ms. Parker stated that after she assigned a Matrix score for S.N., Ms. Swirsky-Nunez asked her, in regard to the matrix score, whether that was the best she could get from the IEP.

³ In their sworn statements, Ms. Rubinowitz and Mr. Aviles both denied receiving such notification from Ms. Parker. During an interview with OIG Special Agents, Dr. Reynolds also denied receiving such notification from Ms. Parker.

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Ms. Parker stated that she participated in a second IEP for S.N. at Krop, which was conducted in February 2009. She stated that she believed another IEP was required, which she described as an interim IEP, to ensure that nothing drastic had changed since the completion of the initial IEP for S.N. Ms. Parker stated that Ms. Swirsky-Nunez completed the Notice of Meeting for the second IEP, which was not appropriate for her to do because she was the parent. Ms. Parker stated that she increased the Matrix score based on information provided verbally by Ms. Swirsky-Nunez without accompanying documentation.

2. *Statement of Elissa Rubinowitz*

Ms. Rubinowitz stated that Ms. Swirsky-Nunez was her supervisor for at least six years, including the 2008-2009 school year. In addition, Ms. Rubinowitz stated that she has known Ms. Swirsky-Nunez for fifteen years, and that they have socialized on occasion. Ms. Rubinowitz stated that she attended the bat mitzvah ceremony for S.N. She also stated that Ms. Swirsky-Nunez and her family lived in Broward County.

Ms. Rubinowitz stated that normally the participants in an IEP meeting are given notice between 10 and 14 days before the meeting. However, she stated that on October 15, 2008, Ms. Swirsky-Nunez, Ms. Parker, and S.N. walked into her office unannounced, ready to conduct the initial IEP. Ms. Rubinowitz stated that she did not question the lack of adherence to the normal process, even though she had not received any prior notification. Ms. Rubinowitz also stated that Dr. Sklar, Mr. Ball, and Mr. Davidson did not attend the meeting, and she did not recall whether Dr. Rosen was present. Ms. Rubinowitz stated that she later asked Mr. Davidson to sign IEP forms so that the IEP packet could be completed.

Ms. Rubinowitz stated that she recognized her signature affixed to a document indicating that she attended the February 2009 IEP for S.N., but stated that she had no independent recollection of the meeting. Ms. Rubinowitz acknowledged that the IEP process for S.N. was not routine.

3. *Statement of Matthew Welker*

Dr. Welker stated that for a period of approximately one and a half years, he was an assistant principal at Krop when Mr. Nunez was the principal there. He described his relationship with Ms. Swirsky-Nunez and Mr.

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Nunez as professional, but also stated that he had met them socially on a few occasions, and attended the bat mitzvah ceremony for S.N. He also stated that Ms. Swirsky-Nunez and her family lived in Broward County.

Dr. Welker stated that the normal process for enrolling a student at Krop required the filing of paperwork that must be reviewed by M-DCPS administrative personnel. He also stated that such enrollment applications are occasionally denied because of school overcrowding. Dr. Welker further stated that in October 2008, Krop was significantly overcrowded.

Dr. Welker recalled that on a morning in October 2008, Ms. Swirsky-Nunez appeared at Krop with her daughter, and stated that she was processing S.N. so that she could be a student at Krop. Dr. Welker stated that he discussed the enrollment of S.N. with Ms. Lopez, who asked him if he had authorized the enrollment. Dr. Welker stated that he responded to Ms. Lopez that he had authorized the enrollment. He also stated that contrary to normal practice, he had no communications with M-DCPS administrative personnel about the enrollment.

Dr. Welker stated that in February of 2009, he again saw Ms. Swirsky-Nunez and S.N. at Krop. He stated that Ms. Swirsky-Nunez informed him that she was re-enrolling S.N. Dr. Welker stated that although he had been unaware that S.N. had ever left Krop, he did not question Ms. Swirsky-Nunez about the need for re-enrollment.

Dr. Welker recalled having a conversation with Mr. Nunez about S.N.'s attendance at Krop, wherein Mr. Nunez stated that he was helping Dr. Welker because he pushed up the FTE at Krop. Dr. Welker stated that Mr. Nunez was referring to the fact that his daughter's enrollment at Krop raised its attendance level by one student. Dr. Welker also admitted that he signed a Krop student attendance form that changed an entry for S.N. from unexcused to present for FTE purposes.

4. *Statement of Larry Davidson*

Mr. Davidson stated that he knew Ms. Swirsky-Nunez and Mr. Nunez, and recalled attending the bat mitzvah ceremony for S.N. He also stated that Ms. Swirsky-Nunez and her family lived in Broward County.

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Mr. Davidson stated that S.N. was a student of his at Krop for a two-day period in February 2009. He recalled asking his secretary if she knew why S.N. had transferred into Krop at that time, but his secretary did not know the answer. Mr. Davidson stated that he did not discuss S.N. with any other Krop employees, including any ESE specialists. Mr. Davidson acknowledged that he signed three IEP forms for S.N. at the request of Ms. Rubinowitz, but that he did not participate in any way in an evaluation of S.N.

5. *Statement of Richard Rosen*

Dr. Rosen stated that he has known Ms. Swirsky-Nunez since they worked together at Nautilus Middle School approximately 20-25 years ago. He also stated that Ms. Swirsky-Nunez has been his supervisor for the last eight years. Dr. Rosen recalled that on October 15, 2008, he met with Ms. Swirsky-Nunez in her office, at her request. He stated that Ms. Swirsky-Nunez produced an IEP form for S.N. and asked him to sign it, which he did.

Dr. Rosen stated that he recalled seeing Ms. Parker in the office, and stayed there for a period of no more than five to ten minutes, during which he recalled joking with Ms. Swirsky-Nunez. Dr. Rosen did not recall, however, reviewing any psychological materials relating to S.N. He also stated that he did not recall reviewing the IEP for S.N. Dr. Rosen admitted that he received no formal notice of an IEP for S.N., and that the meeting was not an IEP.⁴ Dr. Rosen also stated that he thought it was inappropriate that Ms. Swirsky-Nunez asked him to sign the IEP for S.N.

The next two summaries are of witnesses interviewed by OIG Special Agents. These interviews were not conducted under oath.

6. *Interview of Kim Rubin*

Dr. Rubin is the principal at Highland Oaks. Dr. Rubin stated that although her name appears on a Notification of Meeting form that was part of the ESE documents for J.N., she was unaware that her name was on the form. Dr. Rubin also stated that she did not attend, or have any

⁴ In a sworn interview conducted earlier by OIG Special Agents, Dr. Rosen stated that he knew that this was not the proper procedure, that what he did was highly unusual, and that it was the only IEP that he has ever signed without attending a meeting or at least conferring via a phone conference.

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knowledge of the meeting referenced on the form. In fact, Dr. Rubin stated that she was on vacation when the meeting was conducted, and she provided a copy of her calendar indicating that she was on vacation.

OIG Special Agents showed Dr. Rubin a printout from an ISIS record that indicated that J.N. was enrolled at Highland Oaks for one day, August 20, 2007. Dr. Rubin explained that Ms. Swirsky-Nunez called her and asked if J.N. could be tested for gifted at Highland Oaks, as the testing could be conducted more quickly there. Dr. Rubin also stated that Ms. Swirsky-Nunez asked that J.N. be assigned a student number. Dr. Rubin stated that she agreed to Ms. Swirsky-Nunez' requests, and then instructed the Highland Oaks registrar to enroll J.N. for the first day of the upcoming school year, and then withdraw him the same day. Dr. Rubin acknowledged that because the enrollment was for the purpose of obtaining a student ID Number, formal school registration paperwork was not completed, and a home address verification was not performed.

Dr. Rubin stated that she had established a prior working relationship with Ms. Swirsky-Nunez when they both were assigned to Nautilus Middle School. She also stated that Mr. Nunez also worked at Nautilus during the same time period. Dr. Rubin stated that she agreed to the enrollment of J.N. at Highland Oaks due partly to her friendship with Ms. Swirsky-Nunez and her husband, and partly because of her concerns for the positions of power they held at M-DCPS. She also admitted that, to her knowledge, no evaluation of J.N. was ever performed at Highland Oaks.

7. *Interview of Michele Weiner*

Ms. Weiner stated that she knew Ms. Swirsky-Nunez and Mr. Nunez, but did not consider them to be friends of hers on a social basis. She acknowledged that her name appeared on a number of forms that were part of the ESE evaluation for J.N. Ms. Weiner stated, however, that she did not participate in a formal meeting regarding J.N.'s ESE evaluation. Ms. Weiner stated that she was in the Region II Office during the summer of 2007 when Ms. Swirsky-Nunez approached her and asked her to sign the ESE evaluation documentation. Ms. Weiner admitted that she signed the documents without participating in any meetings or reviewing any information or materials concerning J.N. Ms. Weiner further stated that signing without attending the meeting occurs sometimes.

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Additional Determinations Regarding Mr. Nunez

During the course of the OIG investigation, Mr. Nunez declined to participate in an interview with OIG Special Agents or provide a sworn statement.

However, at the outset of receiving the complaint, Mr. Nunez was questioned about the allegations by Deputy Superintendent Woodson on June 9 and June 10, 2009. On June 9, Deputy Superintendent Woodson discussed the allegations with Mr. Nunez, who generally denied any knowledge of the allegations. On June 10, 2009, Mr. Nunez made further statements to Deputy Superintendent Woodson, including denying any knowledge about the McKay Scholarship and that his wife had completed the application. He also indicated that “he and his wife had been separated at the time the student was enrolled in M-DCPS” and that “mother and daughter were living in Miami-Dade County during the time indicated in the email [complaint].”⁵ Mr. Nunez also provided an American Heritage tuition receipt in support of that claim.

Contrary to Mr. Nunez’ statements, the investigation determined that Mr. Nunez was well aware that his daughter had been enrolled at Krop. First, as discussed above, Dr. Welker stated under oath that he and Mr. Nunez discussed S.N.’s enrollment at Krop. Second, M-DCPS Administrative Director Charlene Burks informed OIG Special Agents that Mr. Nunez asked her to change S.N.’s attendance at Krop from unexcused to present because she had been on a field trip during those dates. Ms. Burks told Mr. Nunez that he would have to contact his daughter’s school directly to change the attendance record. As Dr. Welker also testified, an attendance correction form was subsequently completed at Krop.⁶

RESPONSES TO THE DRAFT REPORT & OIG COMMENTS

This report, as a draft, was provided to Mr. Nunez, Ms. Parker, Ms. Rubinowitz, Dr. Welker, Mr. Davidson, Dr. Rosen, Dr. Rubin, and Ms. Weiner for their discretionary written responses. The OIG received responses from Mr. Nunez’ attorney, Dr. Welker, Mr. Davidson, Ms. Weiner, and Ms. Parker’s attorney. They are attached and incorporated herein as Appendix A through E, respectively. We appreciate receiving the responses.

⁵ Deputy Superintendent Woodson memorialized his recollection of these conversations in a memorandum dated July 29, 2009, which he provided to OIG Special Agents.

⁶ The form was dated February 17, 2009.

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1. Response of Mr. Nunez' Attorney

In his response, Mr. Nunez' attorney challenged the jurisdiction and authority of the OIG to conduct its investigation. Mr. Nunez also alleged that the OIG investigation violated School Board rules because, he claimed, it was based on an anonymous complaint. Mr. Nunez' attorney also questioned the veracity of the contents of the draft report, particularly the representation that Mr. Nunez declined to be interviewed or give a sworn statement. Finally, the response challenges one of the report's conclusions relating to Mr. Nunez—that he made a false statement to his superior, Deputy Superintendent Woodson. Mr. Nunez' response includes excerpts from a recent deposition of Deputy Superintendent Woodson, which are provided to illustrate that Woodson believed Mr. Nunez' when he stated he knew nothing about his daughter being enrolled at Krop.

The attorney for Mr. Nunez misunderstands the scope and application of the ILA. The OIG, as clearly mandated by the terms of the ILA and the School Board Rule giving rise to it, is required to act as an independent investigative body. Thus, OIG investigations are not constrained by the particular limitations cited by Mr. Nunez' attorney.⁷ We also note that although a different attorney, also acting on behalf of Mr. Nunez, offered to make him available for an interview at the outset of the investigation, he declined to do so later, after the time for an interview and a sworn statement had become ripe. Lastly, with regard to Mr. Nunez' false statements, it is irrelevant whether Deputy Superintendent Woodson believed Mr. Nunez or not. Evidence that Mr. Nunez knew that his daughter had been enrolled at Krop is supported through the testimony of others.

2. Response of Dr. Welker

In his response, Dr. Welker stated that he had not been provided an opportunity to review and amend the information he had provided during the investigation. Dr. Welker also conjectured that the information he did provide was taken out of context, thus causing any conclusions reached in the draft report based on that information to be inaccurate.

Dr. Welker did not request a copy of his statement (see discussion, below, of the response filed on behalf of Ms. Parker), which was made under oath. Nor did Dr. Welker avail himself of the opportunity, in submitting a response to the draft version of this report, to amend any information he

⁷ For example, the ILA, at Section 3(i), commands that the OIG will have the power to investigate any citizen's complaint, even if that citizen wishes to remain anonymous.

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earlier provided either to Special Agents of the OIG, or the SAO's prosecuting attorneys.

3. Response of Mr. Davidson

In his response, Mr. Davidson stated that on his part, "there was no complicity to defraud as implied in the report." Mr. Davidson also stated that he relied on the integrity of his colleagues in the IEP process. Finally, Mr. Davidson stated that he might be asked to attend an IEP meeting, but might not actually be called into the meeting. In that event, Mr. Davidson stated, he would still sign the IEP documentation.

4. Response of Ms. Weiner

In her response, Ms. Wiener admitted that "[s]he did sign the IEP as the general education teacher although she was not present at the meeting" concerning J.N. Ms. Weiner stated that the signing of an IEP by a teacher who is not the student's actual teacher is a common occurrence over the summer when the actual teacher is not available. Ms. Weiner also stated, however, that she did not recall signing two other documents that purportedly bore her signature.

5. Response of Ms. Parker's Attorney

In her response, Ms. Parker's attorney stated that "[t]here was absolutely no misconduct and no intent to defraud anyone on [Ms. Parker's] part." Ms. Parker's attorney also alleged that the draft version of this report contained "factually inaccurate and/or misleading information," although she declined to identify any such information. Finally, Ms. Parker's attorney complained that she did not have enough time or information to prepare a full response to the draft report.

The ILA provides, at Section 6(a), that an individual "shall have 10 working days to submit a written explanation or rebuttal of the findings before the report is finalized." As Ms. Parker's attorney concedes, the OIG extended the time to respond on behalf of her client and made documents available for inspection, although Florida law does not convey any right of extension of time for the purpose of submitting a written response to a draft report issued by the OIG. To the extent that Ms. Parker's attorney claims that she was denied the right to look at certain documents—namely, those contained in the cumulative files for S.N. and J.N.—those materials are confidential and exempted from public records disclosure by Florida Statute § 1002.22(3)(d).

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CONCLUSIONS

The OIG investigation determined that M-DCPS employees facilitated Ms. Swirsky-Nunez' scheme to defraud by allowing Ms. Swirsky-Nunez to use a false address when enrolling S.N. at Krop; accommodating Ms. Swirsky-Nunez by reducing a normally lengthy process to a number of days; failing to ensure compliance with program requirements; and signing, and soliciting the signing, of documents which falsely represented that M-DCPS personnel had participated in the process.

This report is being provided to the M-DCPS administration and the School Board for whatever action is deemed appropriate.

**Miami-Dade County Public Schools
Office of the Inspector General**

APPENDIX A

Response submitted on behalf of George Nunez

IGSB09-49SB

IRIZARRI & GERSTEN

ATTORNEYS AT LAW
2929 SW 3RD AVENUE
SUITE 620
MIAMI, FLORIDA 33129

TELEPHONE: (305) 860-1227
FACSIMILE: (305) 860-0791

RAMON IRIZARRI
Member of the Florida
and New York Bars

JUDITH L. GERSTEN

August 31, 2010

Christopher R. Mazzella, Inspector General
Miami-Dade County Public Schools Office of the Inspector General
19 West Flagler Street, Suite 220
Miami, FL 33130

Re.: OIG Draft Report IG09-49SB
George Nunez

Dear Mr. Mazzella:

The undersigned represents George Nunez. In accordance with your letter of August 19, 2010, request is made that this response be attached to your report.

The report raises serious issues as to (1) the authority of the School Board Inspector General's (SBIG's) and the Miami-Dade County Office of the Inspector General's jurisdiction to conduct this investigation; (2) whether the School Board's rules and regulations were violated; (3) the methodology used and the veracity of statements contained in the report, as follows:

(1) Jurisdiction.

The responsibilities, functions, authority, and jurisdiction of the Inspector General is set forth in Section 3 of the Interlocal Agreement Between the School Board of Miami-Dade County, Florida, and Miami-Dade County, Florida (ILA). In its Draft Report IG09-49SB, page 2, the OIG asserts that it has jurisdiction to conduct the type of investigation that is the subject of this report. Section 3(b) provides: "The SBOIG shall have the authority to make investigation of School Board affairs and the power to review past, present and proposed School Board programs, accounts, records, contracts, and transactions."

This language is clear and unambiguous. The jurisdiction of the OIG, set forth in section 3, is limited by Section 4 of the ILA. Section 4, entitled Coordination Of Activities With Internal And External Agencies, specifically, Subsection 4 (c) provides: "Where the Inspector General detects corruption or fraud, he shall notify the appropriate law enforcement agency (ies)." This language is mandatory. The remainder of this subsection's language uses the discretionary words "may assist" in limiting the Inspector General's actions in an investigation. The OIG does not have authority to conduct its own investigation of alleged criminal matters or matters that are within the functions of

the Civilian Investigative Unit, Office of Professional Standards and Miami-Dade Police. Further, the Office of Professional Standards Procedure Manual, 2009-2010, page 1X-4, number 4, requires that "All complaints regarding the commission of a crime shall be reported to School Police."

(2) Commencement of an investigation based upon an anonymous complaint is a violation of School Board Rules.

In a memorandum to Chairperson, Dr. Solomon C. Stinson and Members, Miami-Dade School Board, dated June 8, 2010, Mr. Mazella thanks Superintendent Carvalho for "his referral of this matter and his ongoing cooperation in this investigation." (Composite Exhibit 1.) This investigation was commenced on the strength of an e-mail to the Superintendent's office on June 4, 2009. The OIG report does not mention or confirm the identity of the alleged author of the e-mail. The e-mail was sent by someone pretending to be "Lincoln Brower." There are only three individuals named Lincoln Brower in the United States. Conversations with two of the three individuals bearing this name have revealed that they know nothing of this matter. The third Lincoln Brower has not been found.

The School Board's Manual for Managerial Exempt Employees, page 17, paragraph C, (2) states: "No anonymous material shall be placed in an administrator's personnel file."

The Office of the Superintendent and/or the Office of the Inspector General have a duty to ascertain the identity of the complainant. No complaint can be processed unless the source has been identified. The Report of the OIG does not give any indication that the e-mail was other than anonymous. In deposition, taken on August 13, 2010, hereinafter referred to as "Woodson Deposition of 8/13/2010," Mr. Freddie Woodson testified under oath that an anonymous complaint should be thrown away. *See* Woodson Deposition of 8/13/2010, pages 17-19.) (Composite Exhibit 2.) School Board Rule 6GX13-8A-1.07, Section 11 provides that the OIG shall respect employees' . . . due process rights as prescribed by state law, Board rules, and/or applicable collective-bargaining agreements. Rather than protect Mr. Nunez's due process rights, Superintendent Carvalho relieved him of his responsibilities as Regional Superintendent and placed him on "alternate duty" assignment with no assigned duties. Mr. Nunez was instructed not to discuss this matter with anyone.

(3) Methodology of the Investigation and the Veracity of the Statements in the Draft Report.

On page 20 of the OIG Report, the author impugns Mr. Nunez by claiming that he did not cooperate. The author asserts that Mr. Nunez declined to participate in an interview with the OIG Special Agent. This is contrary to the facts and the truth. On July 9, 2009, Jeffrey Swartz, Esquire, Mr. Nunez's then attorney, offered to meet with the OIG or any staff member (Exhibit 3.) On page 1, the OIG Report states ". . . The OIG investigation determined that the defendant's husband, Mr. Nunez, made a false statement to his supervisor regarding his lack of knowledge about his daughter's enrollment status at a Miami Dade-County Public School in which she had been enrolled.

On August 13, 2010, Mr. Woodson testified about the conversation he had had with Mr. Nunez in June, 2009. (Exhibit 4.) In the deposition, the following colloquy occurred between Attorney Calzon and Mr. Woodson, regarding Mr. Nunez's veracity:

Q. "And you believed him?"

A. "Yes."

Q. "You had no reason to disbelieve him?"

A. (Indicating.)

Q: "Even sitting here today you have no reason to disbelieve him?"

A. "No, I don't."

Attached are pages 31-34, Woodson Deposition of 8/13/2010.

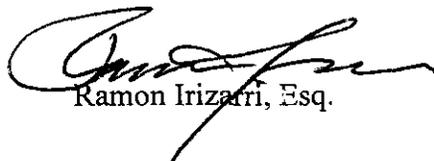
Page 17 of the OIG Report summarizes the statement of Matthew Welker. This summary is interesting in that it states detail and specificity of the morning of October, 2008, and February, 2009, concerning conversations Welker had with Ms. Lopez and Ms. Swirsky-Nunez. Welker recalls a conversation with George Nunez about FTE. The conversation with George Nunez, unlike his conversations with the others, is not specific as to date, time, and place. Welker acknowledges that he, himself, falsified the attendance form of S.N., and violated school policy concerning student enrollment.

On the other hand, Mr. Woodson unequivocally stated that he believes Mr. Nunez.

Last, the Report, which accuses George Nunez of making false statements to his superior, Deputy Superintendent Woodson, regarding his lack of knowledge of his daughter's enrollment in a Miami-Dade school, does not contain a summarized statement from Mr. Woodson of the conversation (s) with George Nunez.

Based on the foregoing, Mr. Nunez's name should be cleared, with a finding of "no probable cause."

Very truly yours,



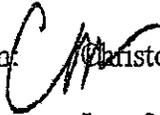
Ramon Irizarri, Esq.



Memorandum

19 West Flagler Street ♦ Suite 220 ♦ Miami, Florida 33130
Phone: (305) 375-1946 ♦ Fax: (305) 579-2656
visit our website at www.miamidadeig.org

To: The Honorable Chairperson, Dr. Solomon C. Stinson
and Members, Miami-Dade School Board

From:  Christopher Mazzella, Inspector General

Date: June 8, 2010

Re: North Regional Center Supervisor Arrested in Connection with Fraudulently Obtaining McKay Scholarship Funds, Ref. IG09-49SB

Attached is a press release relating to the arrest of Deborah Swirsky-Nunez, Instructional Supervisor of Exceptional Student Education, for the North Regional Center. Swirsky-Nunez was arrested today after an investigation by the Miami-Dade County Public Schools Office of the Inspector General (OIG) and the Miami-Dade State Attorney's Office (SAO) uncovered evidence that she had falsified documents and manipulated the system to obtain Florida Department of Education McKay Scholarships for both of her children. She has been charged with three third degree felonies.

The OIG investigation revealed that Swirsky-Nunez, through a series of misrepresentations, manipulated a process that normally takes months and reduced it to a number of days in order to have her children evaluated and qualified to receive McKay Scholarship funds. In addition to manipulating the system, Swirsky-Nunez falsified documents in furtherance of her scheme. Her fraudulent actions resulted in her receiving a McKay Scholarship in the amount of \$7,791 for the 2008-2009 school year for her son, which was used to pay her son's tuition at a prestigious private school in Broward County. Additionally, Swirsky-Nunez' scheme resulted in a McKay Scholarship award of \$11,356 on behalf of her daughter for the 2009-2010 school year, which was also intended to pay for tuition at the same Broward County private school. However, prior to disbursement of the funds for her daughter's scholarship, the School Board received a complaint alleging the fraud and Swirsky-Nunez withdrew her daughter from the scholarship program.

While the criminal investigation has resulted in an arrest, the apparent administrative violations by Swirsky-Nunez and other M-DCPS employees are the subject of a continuing probe and will be reported on by the OIG in a later report. The OIG would like to thank Superintendent Carvalho for his referral of this matter and his ongoing cooperation in this investigation.

Attachment

cc: Mr. Alberto M. Carvalho, Superintendent of Schools, M-DCPS
Mr. Walter J. Harvey, School Board Attorney
Mr. Jose Montes de Oca, Chief Auditor, M-DCPS
Mr. Edward Jordan, Inspector General, Florida Dept. of Education
Ms. Laura Harrison, Director, Scholarship Programs and Home Education
Office of Independent Education and Parental Choice, Florida Dept. of Education

Composit ER ①



ARREST OF MIAMI-DADE COUNTY PUBLIC SCHOOLS EMPLOYEE

The Office of the Inspector General for Miami-Dade County Public Schools (OIG) announces today the arrest of a Miami-Dade County Public Schools (M-DCPS) employee, Deborah Swirsky-Nunez (Swirsky-Nunez). Based on a referral from the office of the Superintendent, the OIG conducted a joint investigation with the Miami-Dade State Attorney's Office (SAO). Swirsky-Nunez, an M-DCPS employee since 1986, was charged with one count of Organized Scheme to Defraud, a third degree felony, and two counts of Grand Theft, both third degree felonies.

The OIG investigation found that Swirsky-Nunez, through false documents and misrepresentations, manipulated the M-DCPS process to obtain McKay Scholarships from the Florida Department of Education (FDOE) for both of her children in order to reduce the tuition of the private school they attended in Broward County, Florida. The John McKay Scholarship provides parents of public school students with disabilities a variety of options to ensure educational services for their children, including the opportunity to receive state funds to attend a participating private school.

Swirsky-Nunez, who was an Instructional Supervisor for Exceptional Student Education at the North Regional Center, was familiar with the McKay Scholarship process. The investigation revealed that Swirsky-Nunez used her position and friendship with various M-DCPS employees at Dr. Michael Krop Senior High School (Krop) and at regional offices to obtain the necessary evaluations and documentation for her daughter to be awarded a McKay Scholarship. The investigation uncovered that some of that documentation was false and forged. Additionally, Swirsky-Nunez used a false home address to enroll her daughter at Krop for one week in October 2008 and for another week in February 2009. Those two weeks, known as Full-Time Equivalency weeks, are when student enrollment in public schools is counted for funding purposes and for McKay scholarship eligibility. At the time of her enrollment at Krop, her daughter was a sophomore at American Heritage School, a private school in Broward County. At no time was her daughter withdrawn from American Heritage School, where she has continuously attended since 2004. Swirsky-Nunez' scheme resulted in a scholarship award for her daughter in the amount of \$11,356.

The OIG also uncovered that Swirsky-Nunez had similarly used false documentation and obtained the cooperation of M-DCPS employees in order to obtain a McKay scholarship for her son. Her son also attended the American Heritage School in Broward County. For the 2008-2009 school year, Swirsky-Nunez received \$7,791 in McKay Scholarship funds on behalf of her

son, which was then paid to the American Heritage School to partially cover his tuition. However, prior to disbursement of the funds for her daughter's scholarship, the School Board received a complaint alleging the fraud and Swirsky-Nunez withdrew her daughter from the scholarship program.

"It is sad to think that a high ranking public school administrator, an Instructional Supervisor of Exceptional Student Education, would seek to pay her private school bills by using public monies intended to benefit the disabled," commented State Attorney Katherine Fernandez Rundle. "This is not a singular error of judgment; it is an act of arrogance and greed. It is an act of perceived opportunity and it is a crime. My prosecutors, the Miami-Dade Office of the Inspector General and Miami-Dade Public Schools will all treat this matter with the utmost seriousness."

In commenting on the arrest, Inspector General Chris Mazzella said that Swirsky-Nunez abused her position of trust by perpetrating this fraud. Mazzella also emphasized that her actions were conspicuously callous as they resulted in her diverting grant money earmarked to help disabled children for her own personal gain. The OIG would like to thank Superintendent Carvalho for his referral of this matter and his ongoing cooperation in this investigation.

Copies of the arrest affidavit are available at the Office of the Inspector General at 19 West Flagler Street, Suite 220, Miami, FL, telephone number (305) 375-1946; or at the Miami-Dade County Public Schools OIG at 1500 Biscayne Blvd., Suite 234K, Miami, FL, telephone number (305) 523-0623; or at the State Attorney's Office, c/o Ed Griffith, 1350 N.W. 12 Avenue, Miami, FL, telephone number (305) 547-0535.

1 MR. DEL PIANO: I prefer -- Let's just do
2 it now. I know it is going to take some time.
3 But, I mean, if you are going to talk about
4 them and go through it and you haven't seen it
5 before, it really behooves everyone to have
6 copies of it.

7 MS. CALZON: Okay.

8 MR. DEL PIANO: Let's just get that done.
9 Tell Tony to do both of them.

10 MS. CALZON: Tony, can you make copies
11 these?

12 MR. MOSS: Sure. How many do you need?

13 MS. CALZON: Well, we need two.

14 MR. DEL PIANO: Probably two of each.

15 MR. MOSS: And one of this.

16 MS. CALZON: We are going have one more
17 but let me look at it first.

18 (Discussion off the record).

19 MS. CALZON: Well, let me ask some other
20 things while we are waiting for it, if that is
21 okay.

22 MR. DEL PIANO: Sure. Go ahead.

23 MS. CALZON: All right.

24 BY MS. CALZON:

25 Q What is the protocol when you receive a

Composite exhibit 2
106 3

1 complaint against an employee? What is the protocol
2 that The District has to handle those complaints?

3 A Well, first of all, we would contact the
4 individual and appraise them of that accusations.

5 Q Okay. The employee?

6 A The employee.

7 Q Do you ever contact the person making the
8 complaint?

9 A No, not from my position.

10 Q Okay. How do you treat anonymous
11 complaints?

12 A Anonymous complaints? I would notify the
13 employee.

14 Q Uh-huh.

15 A From my sake I throw it away after that.

16 Q Did you ever ascertain whether in fact
17 that e-mail had come from a person, a real person?

18 A No, I did not.

19 Q If it is a made-up name would that be and
20 considered an anonymous complaint?

21 A If it is made-up name and someone did know
22 that.

23 Q Okay. So if you got an e-mail from
24 Abraham Lincoln you would throw it away?

25 A That would be suspicious.

1 Q Now, in that vein, in that vein, let me
2 ask you, who is Ronald Felton?

3 A Ron Felton?

4 Q Yes.

5 A Ron Felton is former ESE assistant
6 superintendent.

7 Q Can you tell me how come he is still
8 sending out e-mails in September of '09?

9 A I don't know.

10 Q He is back from --

11 A Unless he is working somewhere.

12 Q So I think somebody keeps sending them
13 out.

14 A No.

15 Q Okay. So anonymous complaints you throw
16 in the garbage?

17 A (Nodding yes).

18 Q This name on this e-mail didn't trigger
19 that?

20 A (Shakes head in the negative).

21 Q And so it got referred to the OIG. Did
22 you speak to the OIG?

23 A Yes, I did.

24 Q How many times?

25 A Probably three four five times.

Compos. K EK 2
3 of 3



July 9, 2009

Mr. Christopher R. Mazzella, C.I.G
Inspector General for Miami-Dade County
19 West Flagler St.
Suite 220
Miami, FL 33130

BY EMAIL AND FACSIMILE TRANSMISSION

305-579-2656
Cathyos@miamidade.gov

Re: Regional Superintendent of Miami-Dade County Schools George Nunez

Dear Mr. Inspector General,

Please be advised the undersigned has been retained to represent George Nunez in regard to certain matters pending before you. Mr. Nunez was advised yesterday by Deputy Superintendent Freddie Woodson he was being placed on "alternate assignment" as a result of a "preliminary report" you or a staff member personally delivered to Alberto M. Carvalho, the Superintendent of Schools for Miami-Dade County, regarding an allegation of "fraud", for which Mr. Nunez has no knowledge, nor the substance of which has he been advised.

I have tried several times today to contact your office only to be told in the morning you were in a meeting and in the afternoon you were out of the office. Your office further advised that you did not recognize Mr. Nunez' name or have any knowledge about what matter I was inquiring.

Despite lacking any information as to the subject matter of any complaint, we find it disconcerting that a job action has been taken against my client where he has had no notification of charges against him and without seeking his participation or assistance in the determination of the validity of any allegations against him. Therefore, we hereby offer to meet on any day and at any time convenient to yourself or any staff member of your office, on or off the record, to cooperate in the investigation of my client.

To make determinations of "fraud" against someone in a position of authority such

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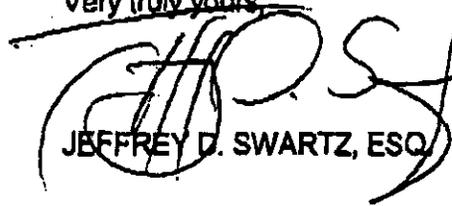
Miami 201 Alhambra Circle Suite 802 Coral Gables, FL 33134 Ph. 305.444.5228 Fax 305.446.7110	Fort Lauderdale 1000 S. Pine Island Rd. Suite 520 Plantation, FL 33324 Ph. 954.776.9966 Fax 954.771.9966	Palm Beach 230 Australian Ave. South Suite 1400 W. Palm Beach, FL 33401 Ph. 561.833.1840 Fax 561.833.8848	Port St. Lucie 1862 S.E. Port St. Lucie Blvd. Port St. Lucie, FL 34952 Ph. 772.388.4204	Sarasota 8433 Enterprise Cr. Suite 130 Bradenton, FL 34202 Ph. 941.907.0129 Fax 941.907.9739	Fort Myers 13180 N. Cleveland Ave. Suite 111 N. Fort Myers, FL 33903 Ph. 239.549.1286 Fax 239.541.3369	Orlando 465 North Kolar Rd. Suite 485 Maitland, FL 32751 Ph. 407.571.1740 Fax 407.571.2460
--	--	---	---	--	--	--

Exhibit 3

as my client's, without allowing him to defend himself or provide any information which may be exculpatory, seems very one sided and lacks the procedural and substantive due process he should be afforded. I know you believe your duty to be one of fairness, objectivity and completeness knowing that a finding of wrong doing by your office could sully someone's reputation and standing in the community. Therefore, we are reasonably sure you will accept our offer and proceed accordingly.

I look forward to a most immediate response from you or your staff to arrange a meeting to discuss this matter within the next few days.

Very truly yours,



JEFFREY D. SWARTZ, ESQ.

cc: George Nunez
Alberto M. Carvalho, Superintendent of Miami-Dade County Schools
Freddie Woodson, Deputy Superintendent of Miami-Dade County Schools

1 MR. DEL PIANO: Object to form.

2 THE WITNESS: Yes.

3 BY MS. CALZON:

4 Q You have known him a long time?

5 A Yes.

6 Q And this is some embarrassing issue to
7 discuss?

8 A Right, (nodding yes).

9 Q And even when you raised this he had
10 difficulty talking to you about it?

11 A Yes.

12 Q And what he discussed with you -- Here is
13 a copy. What he discussed with you was the fact --
14 I don't know if there are two copies there or one.
15 One, two, three.

16 MR. MOSS: You asked for one each, one
17 apiece, and one of them for you.

18 MS. CALZON: Yes.

19 BY MS. CALZON:

20 Q So what he discussed with you was the fact
21 that he was having marital difficulties, correct?

22 A Right.

23 Q And that in fact he had been separated
24 from his wife; correct?

25 A That is what he told me at that time.

Composite Exhibit 4
1 of 4

1 Q And you believed him?

2 A Yes.

3 Q You had no reason to disbelieve him?

4 A (Indicating).

5 Q Even sitting here today you have no reason
6 to disbelieve him?

7 A No, I don't.

8 Q Okay. And in fact he told you that he
9 believed his wife and his daughter had been living
10 in Dade County --

11 A Correct.

12 Q -- during those times?

13 A That is correct.

14 Q Were you aware that his children were
15 having difficulties?

16 MR. DEL PIANO: Object to form. You can
17 answer it.

18 THE WITNESS: What kind of difficulties?

19 BY MS. CALZON:

20 Q Well, let's talk about the daughter. Did
21 he share with you the psychological or psychiatric
22 issues that she was going through?

23 A No.

24 Q Did he indicate to you why he was
25 separated from his wife?

*Composite Exhibit 4
2 of 4*

1 A No.

2 Q The gist of his conversation with you was
3 he was having marital problems, he was living with
4 his boy at home and his wife was living elsewhere
5 with the daughter, correct?

6 A That is correct.

7 Q Now, you know that Mrs. Swirsky-Nunez was
8 arrested?

9 A (Nodding yes).

10 Q And you know that you have an affidavit
11 regarding her?

12 A (Nodding yes). Yes.

13 Q Is there an ongoing investigation that you
14 know -- whether you know this -- of Mr. Nunez?

15 A Not that I know of.

16 Q Have you had any further meetings with the
17 Office of the Inspector General regarding Mr. Nunez?

18 A No I have not.

19 Q Now, interestingly, I note, sir, that in
20 your Exhibit 11, which is the file on Deborah
21 Swirsky-Nunez, the only thing is a letter from me
22 with a public records request --

23 A Uh-huh.

24 Q -- and the conference for the record
25 materials that were attached to my letter; is that

Compos. for Exhibit 4

3 of 4

1 A Dead certain.

2 Q Okay. Now, what did he tell you about
3 this issue with the McKay scholarship?

4 A He knew nothing about it.

5 Q Did you believe him?

6 A Yes.

7 Q You worked with him a long time?

8 A Of course.

9 Q And a long time --

10 A I told him the accusations would have to
11 be answered, I am sure.

12 Q Uh-huh.

13 A And, if I were he, I would start put
14 something in writing together --

15 Q Uh-huh.

16 A -- which I am sure he did because that is
17 the way George is.

18 Q Now, did he explain to you what
19 difficulties he was having with his wife?

20 A At that time yes, he did. That is the
21 first time he ever shared that with me.

22 Q He is a private person?

23 A Yes.

24 Q And he is a proud man?

25 A Yes.

Composite Exhibit
4 of 4

**Miami-Dade County Public Schools
Office of the Inspector General**

APPENDIX B

Response submitted by Matthew J. Welker

IGSB09-49SB

Matthew J. Welker
19101 Mystic Pointe Drive
Apartment No. 1006
Aventura, FL 33180

August 25, 2010

Mr. Christopher R. Mazzella, Inspector General
Office of the Inspector General
19 West Flagler Street
Suite 220
Miami, FL 33130

Re: OIG Draft Report, IG09-49SB

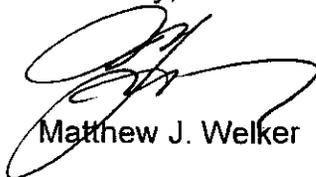
Dear Mr. Mazzella

I am in receipt of your OIG draft report (IG09-49SB) dated August 19, 2010. The letter that accompanied the report represents the first time since I met with the investigators from your office that I have been given any feedback or information regarding anything I might have said during my interview. Additionally, I was never afforded an opportunity to see a transcript of my interview nor was I afforded the opportunity to amend or clarify any of the information I provided.

In light of those facts, I respectfully submit that the statements associated with my name in the above cited report do not accurately or adequately reflect the context, content, or scope of the information I provided. Therefore, I assert that any conclusions that may be drawn from the information reported are inaccurate as well.

Furthermore, given my stated concerns regarding the information associated with my name, I respectfully request that the information be stricken from this report.

Sincerely,



Matthew J. Welker

**Miami-Dade County Public Schools
Office of the Inspector General**

APPENDIX C

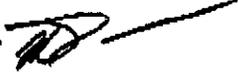
Response submitted by Lawrence S. Davidson

IGSB09-49SB

August 28, 2010

MEMORANDUM

**TO: Christopher R. Mazzella, Inspector General
Miami-Dade County Public Schools
FAX (305) 579-2656**

FROM: Lawrence S. Davidson, Teacher 

**RE: OIG Draft Report, IG09-49SB
Personal Response**

Although I am retired from the Miami-Dade County Public Schools I feel that I must respond to the above listed report. I am a forty year veteran teacher and M-DCPS Region Teacher of the Year. I served three schools in my career, the last twelve years as the Lead Teacher for the Magnet Program at Dr. Michael M. Krop Senior High School from the building construction until my retirement. I have forty years of perfect evaluations, no lost or missing equipment in property audits and no questions with regard to financial audits. Certainly on my part there was no complicity to defraud as implied in the report. I must stand on my reputation as an educator. I have had no contact with the Nunez family regarding these issues and there were no requests to expedite the process.

This report omits a very important concept - that of an assumed integrity of the professionals with whom we work.

If a student enrolled in Dr. Michael M. Krop Senior High School and his/her name appeared on my class roll I would not question the process which resulted in the enrollment. As a teacher I had no input into the enrollment or withdrawal process for non-magnet students. Students names appear on the computer generated roll book. Teachers are responsible for recording their absences (students are not marked "present;" only absences are recorded) and providing for their safety and instruction.

As a general education teacher I could be asked to attend an IEP meeting. If so a substitute would be sent to cover my class and I would attend the meeting. Unless the parent had specific general education concerns I might not be called into the meeting but the process would move forward. I would certainly sign the IEP if there were no accommodations beyond our abilities. Given the extent of the educational programs at Krop HS it would be rare to find a general education accommodation which could not be provided.

In summary I must restate that there was no complicity. We as professionals rely on the integrity of our colleagues. Otherwise education would come to a halt in a quagmire of paper work and suspicion.

**Miami-Dade County Public Schools
Office of the Inspector General**

APPENDIX D

Response submitted on behalf of Michele Weiner

IGSB09-49SB

**THIS IS IN RESPONSE TO DRAFT OIG IG09-49SB
ATTENTION: PATRA LIU**

Attached please find my written response to be attached to the OIGs Final Report.

Page 13 of 21

M-DCPS employee Michele Weiner stated that SWIRSKY-NUNEZ approached her in the Region Office sometime after June 25, 2007 and informed her that her son Jacob was going to be enrolling at Highland Oaks Elementary School in the gifted program. She asked that Mrs. Weiner sign an IEP as the General Education teacher. The date of the staffing occurred on June 25, 2007. On that date, Mrs. Weiner was out of State on her way back from an Alaskan cruise. She did sign the IEP as the general education teacher although she was not present at the meeting.

The signing of an IEP by a teacher who is not the student's actual teacher is a common occurrence over the summer, as the actual teacher is unavailable. When Mrs. Weiner was approached by SWIRSKY-NUNEZ, she believed that SWIRSKY-NUNEZ had followed the proper guidelines under school board rule given that Ms. Nunez was the ESE supervisor and had such a vast experience with the guidelines and procedures for staffings in M-DCPS. At that time, Mrs. Weiner was a Curriculum Supervisor in the Region Office and it had been at least five years since she dealt with ESE procedures and relied upon Ms. Nunez's expertise and knowledge in executing the document.

Mrs. Weiner did sign that one document. However, when meeting with OIG personnel she was provided with two other documents bearing her signature. Mrs. Weiner does not recall signing these documents and even mentioned to the person questioning her, that the document entitled SST/SDT Request For Evaluation contained her signature as an Administrator and she was not an administrator at Highland Oaks Elementary School. Had she signed as such, she would have filled the form out completely including her printed name at the bottom of the form which was not done. Additionally this form was allegedly signed on May 31, 2007 almost one month prior to SWIRSKY-NUNEZ approaching Mrs. Weiner and asking her to sign the IEP.

When Mrs. Weiner was shown these three documents, she also asked if the originals were available as she was only shown copies and she was told the originals which were supposed to be kept in the student's cumulative folder at the home school were not available. Also not available, were the rest of the documents necessary for a staffing to take place, those documents were either not in the possession of the OIG or unavailable for viewing.

Page 19 of 21

Mrs. Weiner admitted that she signed one document without participating in any meetings or reviewing any information or materials concerning J.N. Mrs. Weiner further stated that signing without attending the meeting occurs sometimes over the summer recess when school site teachers are not available and region personnel like her are available.

**Miami-Dade County Public Schools
Office of the Inspector General**

APPENDIX E

Response submitted on behalf of Lisa Parker

IGSB09-49SB

Law Offices of Karen Lowell

1683 Southwest 109th Terrace
Ft. Lauderdale, Florida 33324
Telephone: (954) 424-6190
Facsimile: (954) 424-3541

NOVEMBER 5, 2010

OFFICE OF THE INSPECTOR GENERAL
JOHN W. SCOTT, ASS'T LEGAL COUNSEL
19 West Flagler Street, Suite 220
Miami, FL 33130

Via Facsimile: (305) 579-2656
and United States Mail

Re: OIG Draft Report, IG09-49SB

Dear Mr. Scott:

This letter is a **PRELIMINARY RESPONSE** to OIG Draft Report, IG09-49SB on behalf of Lisa Parker, which you requested by November 5, 2010.

Lisa Parker is a well-respected teacher in the Miami-Dade County Public School System where she has worked for nearly twenty five (25) years. Her lifelong career has been teaching and overseeing programs to assist special education students. Mrs. Parker's record with the Miami-Dade County Public School System is impeccable. In 25 years, she has always had exemplary evaluations in her job serving the students.

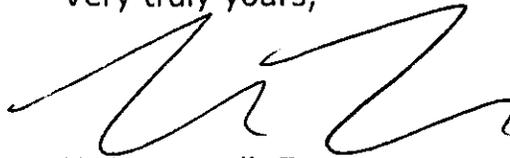
One important aspect of Lisa Parker's job as the Lead Staffing Specialist is to help special education students access their education by determining appropriate services. In the case referenced in your Draft Report, that is precisely what Lisa Parker did ... her job. There was absolutely no misconduct and no intent to defraud anyone on her part. We are concerned that the Draft Report contains factually inaccurate and/or misleading information regarding this serious matter.

This Response is *preliminary* for several reasons. In ongoing communications with the OIG office, I made multiple requests to inspect documents relating to the Draft Report beginning September 2, 2010. My request was not granted until October 19, and the first physical inspection was October 26, 2010. An additional document was produced by the OIG office on November 2, 2010, and you were kind enough not to charge us for those copies. However, to date we have not been provided all of the requested documents, including the entire IEP, psychological and matrix documents at issue in this matter, which you indicated were exempt from public disclosure.

John W. Scott, Ass't Legal Counsel
November 5, 2010
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Submission of the Draft Report at this time seems premature given the short amount of time that portions of the investigative files have become "public," and the fact that the staffing documents are not currently being produced at all. **However, submission of the Draft Report should end this matter.** If it is determined that any further inquiry will be conducted, we will again seek additional and reasonable time to obtain the requested documents, review the produced documents, and fully respond to the unwarranted accusations in the Report.

Very truly yours,

A handwritten signature in black ink, appearing to read 'KL', written in a cursive style.

Karen Lowell, Esquire

cc: Lisa Parker