

**APPROVE SATISFACTION OF JUDGEMENT INVOLVING
TENURED TEACHER LUCILLE RUSSELL'S BACK PAY AND OTHER REMUNERATION**

THE GENERAL COUNSEL REPORTS THE FOLLOWING:

DESCRIPTION: On March 3, 2008, the Illinois Appellate Court issued a decision overturning the dismissal of tenured teacher Lucille Russell and ordering the Board of Education of the City of Chicago to reinstate her to a teaching position and to make her whole for all lost wages and benefits. The Board reinstated Lucille Russell to a teaching position at the beginning of the 2008-2009 school year and reimbursed her for all lost sick and vacation days.

After a hearing on back pay and other issues, Chancery Judge Richard J. Billik ordered the Board to pay Lucille Russell a total gross back pay award of \$317,418.55 (\$310,409.40 in back pay from December 2003, through May 14, 2008, plus an additional \$7,009.15 in back pay from May 15 to August 26, 2008), 6% per annum interest on the back pay award, \$6,179.42 for "out-of-pocket" expenditures made by Russell for medical services and COBRA payments, and \$724.78 for court costs.

On December 9, 2008, Judge Billik ordered that \$8,922.50 be deducted from the award and paid to Russell's former attorney, Michael Radzilowsky, to satisfy an Attorney's Lien and Costs that he had filed against Russell. On January 28, 2009, the Board approved this payment and it was disbursed to Radzilowsky. Thus, the total gross back pay award owed to Lucille Russell is \$308,496.05 (\$ 317,418.55 - \$ 8,922.50 = \$ 308,496.05).

The Law Department filed a Notice of Appeal with the Illinois Appellate Court on December 11, 2008, contending that Judge Billik erred in finding that Russell had made reasonable efforts to mitigate her damages, in refusing to offset her interim earnings, and in awarding her 100% of her back pay. By order dated December 24, 2008, the Illinois Appellate Court stayed \$173,047.89 of the back pay award until further order of court. Russell also filed a Notice of Appeal seeking additional damages from the Board beyond what Judge ordered.

In line with the Illinois Appellate Court order, on January 28, 2009, the Board authorized payment to Russell in the amount of \$165,558.85 plus an approximate pension contribution of \$10,000.00, as partial satisfaction of judgment. Despite repeated attempts by the Law Department after January 28, 2009, Russell refused to accept or cash any of the checks issued to her by the Board.

On October 30, 2009, the Illinois Appellate Court affirmed Judge Billik's order in its entirety. In accordance with the Illinois Appellate Court order, the Law Department recommends payment to Lucille Russell as follows:

- 1) A pensionable back pay amount of three hundred eight thousand four hundred ninety-six dollars and five cents (\$308,496.05), less legally required deductions. The Board's additional pension contribution is approximately twenty-one thousand dollars (\$21,000.00);
- 2) Pay Lucille Russell interest on the \$149,674.20 back pay award of 6% per annum from March 3, 2008, through January 28, 2009, totaling eight thousand nine hundred eighty dollars and forty-five cents (\$8,980.45). Pay Lucille Russell interest on the \$ 158,821.85 back pay award of 6% per annum from January 29, 2009, through December 16, 2009, totaling eight thousand five hundred seventy-six dollars and thirty-eight cents (\$8,576.38). The total interest payment is \$17,556.83.
- 3) Pay Lucille Russell's court costs of seven hundred twenty-four dollars and seventy-eight cents (\$724.78); and
- 4) Pay Lucille Russell for various medical bills and COBRA costs in the amount of six thousand one hundred seventy-nine dollars and forty-two cents (\$6,179.42).

Accordingly, the final Judgment Amount owed to Russell is as follows:

- a) Back pay amount of \$308,496.05, less legally required deductions;
- b) Pension contribution of approximately \$21,000.00;
- c) Interest payment of \$17,556.83;
- d) Court costs of \$724.78; and
- e) Various medical bills and COBRA costs of \$6,179.42

Total Amount: \$332,957.08, plus a pension contribution of approximately \$21,000.00

LSC REVIEW: LSC approval is not applicable to this report.

AFFIRMATIVE ACTION STATUS: Affirmative Action review is not applicable to this report.

FINANCIAL: Charge \$332,957.08 plus an approximate pension contribution of \$21,000.00 to Law Department Budget Classification Fiscal Year 2010 ..12470-210-54530-231112-000000

AUTHORIZATION: Authorize the General Counsel to execute the payment and all ancillary documents related thereto.

GENERAL CONDITIONS:

Inspector General - Each party to the agreement shall acknowledge, in accordance with 105 ILCS 5/24-13.1, the Inspector General of the Chicago Board of Education has the authority to conduct certain investigations and that the Inspector General shall have access to all information and personnel necessary to conduct those investigations.

Conflicts - The agreement shall not be legally binding on the Board if entered into in violation of the provisions of 105 ILCS 5/34-21/3 which restrict the employment of or the letting of contracts to, former Board Members during the one year period following expiration or other termination of their terms of office.

Indebtedness - The Board's Indebtedness Policy adopted July 26, 1995 (95-0726-EX3), as amended from time to time, is hereby incorporated into and made a part of the agreement.

Ethics - The Board's Ethics Code adopted June 23, 2004 (04-0623-PO4) as amended from time to time, is hereby incorporated in to and made a part of the agreement.

Contingent Liability - The agreement shall contain the clause that any expenditure beyond the current fiscal year is deemed a contingent liability, subject to appropriation in the subsequent fiscal year budget(s).

Approved,


PATRICK J. ROCKS
General Counsel

Within Appropriation:


CHRISTINA HERZOG
Acting Chief Financial Officer