November 6, 2001

Roger C. Cuevas, Superintendent
Miami-Dade County School Board
1450 N. E. Second Avenue
Room 912
Miami, Florida 33132-1308

Re: MIAMI-DADE COUNTY SCHOOL BOARD vs. ANDREA L. DEMPSEY,
     DOAH Case No. 00-4445

Dear Mr. Cuevas:

     Please find a new page 17 to replace the same page in the
Recommended Order that you recently received. The new page will
correct a typographical error that occurred in the sixth line of
paragraph 34.

                              Sincerely,

                              S

                              _____
                              ROBERT E. MEALE
                              Administrative Law Judge

REM/jal

Enclosures

cc: Honorable Charlie Crist, Commissioner of Education
     James A. Robinson, General Counsel
     Richard Baron, Esquire
     Roberto J. Diaz
     Luis M. Garcia, Esquire

B. Employees on or off duty will not influence students to use illegal or abuse legal drugs.

C. An employee convicted, adjudicated guilty, or who has entered a plea of guilty for an criminal drug statute violation occurring in the workplace shall notify [Petitioner] within 48 hours after final judgment.

34. Paragraphs A and C are limited to acts and conditions that take place while an employee is on Petitioner's property or on duty. Paragraph B is limited to acts of the employee directed toward students. The evidence does not suggest that Respondent violated any of these provisions of the Rule. Petitioner failed to prove that the incidents involving Respondent sleeping while in charge of students appear not to have been due to her cocaine or heroin intoxication; it is at least as likely that the sleeping resulted from fatigue following the use of one or both of these drugs the preceding night. The distinction between intoxicating levels of these drugs and nonintoxicating trace amounts is explicitly dismissed by the Rule's treatment of alcohol, as to which employees must be "free of measurable . . . concentrations."

35. After the policy statements on illegal drugs and alcohol and prescription drugs, the Rule sets forth the policy statement on employee drug screening. Although this part of the Rule fails to provide explicitly that a positive drug screen is