Rebuttal of Michael Burke
November 16, 2015

Mr. Vincent L. Caracciola, Director
Office of Professional Standards
3300 Forest Hill Boulevard, Suite A-106
West Palm Beach, FL 33406

Re: Rebuttal to Pettis Investigation -- Professional Standards Case # 15/16-065

Dear Mr. Caracciola,

I have reviewed the Final Investigative Report of Compass Routing System Development and Implementation prepared by Eugene K. Pettis, Esq., dated November 2, 2015, and find the allegations and policy violations levied against me to be completely unsubstantiated and without merit. I have served the School District of Palm Beach County for over 17 years, always fulfilling or exceeding my job responsibilities in a judicious, ethical manner. I trust your office is committed to finding the truth and offer the following rebuttal.

**Allegation:** Specifically, Mike Burke, as Chief Operating Officer ("COO") for the District is in charge of all operations in the District, including Transportation. In his position he knew or should have known the potential problems associated with advancing a new routing system on an expedited time schedule, yet he allowed this project to be implemented against the recommendations of his staff.

**Rebuttal:** As Chief Operating Officer, I supervise twelve direct reports and oversee all business operations including Accounting, Budget, Purchasing, Risk & Benefits Management, Treasury, FTE & Student Reporting, Diversity in Business Practices, Information Technology, Labor Relations, School Police, Legislative Liaison, and Support Operations. The Transportation Department is a component of the Division of Support Operations, led by Steve Bonino, Chief of Support Operations.

Given this broad scope of responsibilities that includes over 3,200 employees, I must rely on my direct reports to bring forward accurate information and concerns within their respective departments. As evidenced in the Investigative Summary and sworn statements of staff, Mr. Bonino not only failed to bring forward accurate information, but concealed the concerns of his staff and provided false reports depicting a Transportation Department that was well prepared for the start of a new school year. The Investigative Summary also reveals that Mr. Bonino created an environment where employees were unwilling to circumvent his leadership or share their concerns in staff meetings due to fear of retaliation. The Investigative Summary also demonstrates Mr. Bonino undermined the authority of the Director of Transportation by having the Routing Project, led by Donna Goldstein, report directly to him.

The School District of Palm Beach County, Florida
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I never directed Mr. Bonino to shorten the routing project timeline. Rather it was Mr. Bonino and Ms. Donna Goldstein that requested a meeting with me on March 24, 2015 to recommend a new approach to the bus tracking and routing project implementation. Bonino and Goldstein both offered our existing routes could be migrated from the legacy system to the new Compass Routing System, allowing the utilization of the bus tracking component for the 2015-16 school year. They went on to explain how this approach mitigated risks by preserving current routes for the 2015-16 school year and the optimization or redraw of routes would not occur until the following 2016-17 school year.

In the weeks and months that followed, Mr. Bonino never brought concerns regarding this project to my attention despite ample opportunity to do so through our one-on-one and COO staff meetings. To the contrary, he reported the project was going well and I recall him remarking “Donna Goldstein is a Rock Star” and the vendor is “really stepping up.” Through the Investigative Summary, it is apparent that even when Mr. Bonino was prompted by his staff to alert me to problems with the project, he chose to ignore the plea. This was evident in Ms. Lauriann Basel’s testimony below (Lauriann Basel sworn statement excerpt from page 22, line 11 to page 23, line 22):

Q. So when you made it clear that what was being done could not be successfully carried out, you feel that you were excluded from the tech meetings being held by Mike Bonino that did not include neither you, David, or Shane, but was more with his inner circle which included Angelo, Donna –
A. James Davis
Q. James Davis. There was one other name –
A. Christine Furlita? I don’t know the other.
Q. There was Diane — Diane and Sara Anderson?
A. Dawn and Sara. But Dawn and Sara are in IT and they were truly trying to help from an IT support stand.
Q. Okay.
A. But right before, I told — I told, not Mike, I told Steve. Steve, do you think we need to give a heads up to the third floor? We are running really close. Our people in the field do not know how to use the Routing System. We shouldn’t — I’m not comfort — you know, what? I said, maybe this isn’t — we shouldn’t be opening.
I was told straight eye to eye, I was told we don’t have a choice. I sat in front of Mike. I made a commitment. We don’t have a choice.
Q. Who said that?
A. Steve Bonino, to my face. After I was chas —
Q. You said, in front of Mike, Which Mike?
A. Mike Burke. That he — I am not — I swear to you that he told me. Donna and I sat in front of Mike. Okay? I know for a fact, he said — he sat. He told Mike —
In reviewing this passage of testimony, I must first clarify that Investigator Pettis was referring to Steve Bonino in the initial question. It is of some concern the investigator transposed names on multiple occasions throughout his depositions. That said, it is clear he is referring to meetings held by Steve Bonino. When Ms. Basel suggested the “third floor” be alerted to problems with the routing project, I believe it is safe to assume she was referring to the Superintendent’s suite which includes my office, as well as the Superintendent’s office. Mr. Bonino’s “we don’t have a choice” edict was self-imposed. There is always a choice and had Mr. Bonino been forthright, I could have intervened and help avoid the failed implementation.

I reject Investigator Pettis’s hypothesis attributing the “Transportation Meltdown” to undue influence by a Board Member. While Board Member Murgio certainly expressed a great deal of interest in a bus tracking application and offered various suggestions, he was not in a position to issue a directive to staff. The investigative Summary highlights Mr. Bonino’s contention that Mr. Murgio placed tremendous pressure on staff and the Former Superintendent. Board pressure does not trump the chain of command. Further, I find it hard to believe the Former Superintendent Wayne Gent would be susceptible to such pressure given his announcement in January 2015 that he would not seek contract renewal for the upcoming school year. I have always made it clear to my direct reports that only the collective School Board can approve an item and staff receives direction from the Superintendent. The protocol set for my staff directs them to bring any substantive conversations with School Board Members to my attention so that I in turn can brief the Superintendent. After reading the investigative Summary and sworn statements, it appears Mr. Murgio had multiple conversations with Donna Goldstein, including one significant phone call that included Mr. Bonino based on his testimony below (Steve Bonino sworn statement excerpt from page 25, line 18 to page 28, line 14).

Q. She went on -- and these are significant words -- “Mr. Murgio hounded, bullied, and was relentless in his demands that this be in place for the start of the school year. We, midlevel management, including myself, insisted that this was simply not possible, and we were told we had no choice. He continually called me personally and e-mailed me. It even went so far as to me having a very loud and colorful conversation with him where my frustrations got the best of me because he simply would not understand the complications of making this happen prematurely. This was witnessed by a number of staff, including upper level management.” Is that the meeting you’re saying you went to her office after the 18th?
A. Yes, sir.
Q. You were all talking, and then Mr. Murgio called?
A. Wanted to speak with both of us, that is correct.
Q. Help me out. I may know the answer, but I don’t want to assume. Why, with all the pressure you are feeling - and I have never sat in your shoes, I truly don’t have any understanding of it – why not just say, no, we are not doing this. What were you afraid of?
A. I believe that I and others did say “no” over and over again.
Q. I am not letting my staff start down that track. I told you it is not going to work. I will not put this on a four month track. It is impossible without significant consequences to the District and our constituents. I am not going to do it. Versus, I am telling you it’s not going to work, I
will try to do it. And I'm not passing judgment. I'm trying to understand so I have all the
perspective.
A. I think — I believe that if I was in my job for a longer period of time that as I look back, I
probably should have jumped up and down a little bit louder. But when we say "no" over and
over again, you hope that message is being heard.
Q. But you knew it wasn't. You knew it was not being heard. There was no doubt he was not
listening to you.
A. That is correct.
Q. So you would have hoped he would have listened to it —
A. Right.
Q. — but there was no doubt at the end of the 18th meeting — or subsequent meetings — by the
end of that meeting, he didn't leave any doubt, I heard what you said, but this is going to
happen. So in this instance, I'm trying to get a feel for the culture. That's the whole essence of
what I am asking this question for. What is the internal culture here at the District where
someone with your experience, your stature, your intelligence, don't feel comfortable pushing
back on something that you would have put money on was going to fail?
A. Because I didn't know what pressures were above me. And all I know is that we were told to
greenlight this and move this forward.
Q. I think somewhere in that conversation — and I think it is a conversation that is going to have
to happen beyond my report- there has to be a conversation on that dynamic. What jobs did
you hold before the District? How long have you been here in the District?
A. This November will be 24 years.

This passage of testimony is troubling for a number of reasons. First, Mr. Bonino never brought this event or
concerns of Board interference to my attention. However in the Investigative Summary, I am unjustly
chastised, along with the Former Superintendent, for failing to protect staff from undue Board Member
influence. I cannot address issues or concerns that are not brought to my attention. Second, Mr. Bonino
testifies he abandoned his professional judgment and acquiesced to Mr. Murgio's request because in his
words "I didn't know what pressures were above me. And all I know is that we were told to greenlight this
and move forward". Incredibly, Investigator Pettis does not pose follow up questions to try to ascertain who
allegedly told Mr. Bonino and others, as inferred by his use of "we", to "greenlight this". It seems a natural
progression of questions would have included who directed you? What did they say? When did they tell you?
How was the directive issued, verbally or in writing?

As Mr. Bonino's immediate supervisor, I can attest I did not issue such a directive. Mr. Bonino is a member of
the upper management team and a longtime District employee. He should have been able to handle
pressure from a Board Member and challenge any directive that would knowingly jeopardize the District. I
stand by my testimony that Mr. Bonino and Ms. Goldstein requested a meeting with me on March 24, 2015,
and brought forward a revised rollout plan of their own accord. Neither mentioned being under duress or
expressed misgivings about the recommendation they brought forward.
There is no evidence within the Investigative Summary or supporting documents that demonstrate I was alerted to the looming problems with the routing system implementation. Conversely, the emails and testimony prove I was excluded from these communications. In the Investigative Summary, Mr. Pettis highlights testimony from Mr. Anthony Becker, General Manager, and points out Superintendent Dr. Robert Avossa's name is noticeably absent from a list of people involved in the routing leadership team. The excerpt from Mr. Becker's testimony (Anthony Becker sworn statement excerpt from page 15, line 22 to page 16, line 23) below indicates my name, Mike Burke COO, is also absent from the list:

Q. Okay. Even though you don't recall a date specific, do you recall a month or a time of the summer in which your staff was making mention of a concern about, we don't have these routes. Is that something that happened in June? July? August?
A. Not in June. It was July.
Q. Okay.
A. July. And it got — everybody was getting very nervous for — you know, I would think it was nervous — nervous uneasiness, I guess, was within the group of not knowing what is coming out of that computer.
Q. Who were you all raising this to? You know, when your staff was raising these concerns. When are we getting the routes? When are the routes going to be ready?
A. I think it went to everybody, you know, in the leadership team from Lauriann to Shane to David to Steve Bonino to Donna to Joey — everybody involved in the — in that process.
Q. Do you recall what did you take away from that? You have got a staff back at your facilities, various facilities.
A. They are coming, they are coming.

During an August 4, 2015 Cabinet Meeting, staff members were asked to update the group on "back to school" readiness for their respective areas. Mr. Bonino gave a positive report indicating Transportation had staffed 670 bus drivers for the start of the school year, above and beyond the number of regular daily routes. No mention was made of any routing concerns. We learned a few weeks later there was a significant bus driver shortage and bus routes were plagued by systemic problems. I can produce witnesses if needed from this Cabinet meeting, as well as COO staff meetings, in which Mr. Bonino provided false reports touting the Transportation Department was well prepared for the start of the school year. On September 1, 2015, two weeks into the "Transportation Meltdown" I questioned Mr. Bonino with Ms. Shirley Knox present as to when he became aware of the routing problems. Mr. Bonino indicated he became aware of the drivers' concerns about reduced hours at the Bid Day on August 30, 2015 and did not learn of the routing problems until the start of school. A copy of notes taken from this meeting by Ms. Knox and myself are attached (See Exhibits A & B). While Mr. Bonino contended to me he was unaware of the routing problems until the start of school, his testimony below indicates he knew much earlier (Steve Bonino sworn statement excerpt from page 34, line 10 to line 21):

Q. Do you remember the month in which the resistance broke, and you all just failed. You are going to have to do what you can with the skeleton staff and try to make it happen.
A. I know that is was before the summer started. So it was somewhere near the latter part of the school year.
Q. Springtime?
A. Yeah? It was -- I am guessing, March, April, somewhere around there. And Donna was still working on the data overlays and trying to clean that up. It’s a tremendous process.

In his Investigative Summary, Mr. Pettis alleges Board Member Murgio, Superintendent Gent, myself and Mr. Bonino all failed to voice known concerns regarding the routing project to the collective School Board during an April 22, 2015 Board Discussion Item regarding transportation. Mr. Pettis levies this assertion without proving I was made aware of the concerns. The same can likely be said for Mr. Murgio and Superintendent Gent. I addressed the Board honestly based on the information available to me at the time and believed Mr. Bonino's comments to the Board in which he professed the routing project was being lead with “perfect P.M.O. methodology” and “we are committed to having the routing system in place for the new school year. The team has stepped it up.”

In hindsight, pitfalls and missed opportunities to verify the work of staff can be identified. At the time, I relied on the Chief of Support Operations to furnish accurate, honest information and sound recommendations. When the severity of the transportation problems became apparent on the first day of school, I focused my full attention on leading the recovery effort and disclosing challenges to the public in a transparent manner. It took a concerted effort by a large group of dedicated people working nights and weekends to recover from the botched routing implementation and driver shortage.

As previously shared with the Professional Standards Office and Mr. Pettis on November 3, 2015, two quotes highlighted in the original Investigative Summary (page 14) were attributed to me in error. I trust this has been corrected, but I am unable to verify without the benefit of an updated report.

Please take time to review this rebuttal and dig deeper than the 27 page Investigative Summary before rendering a decision. I’m confident a thorough review of this information will result in a dismissal of the allegations raised against me. Rebuttals to the individual allegations and policy violations are provided below:

Allegation Summary & Rebuttal

A. School Board Policies:
   1. School Board Policy 1.031(1) — Responsibilities of School District Personnel and Staff
      There is no evidence to support the allegation I violated any law, rule, policy or directive.
   2. School Board Policy 2.26(3) — Bus Scheduling, Routing, Stops and Storage
      The authority for the safe transportation of students lies with the School Board. In this policy, it specifically delegates that authority to the Superintendent and Director of Transportation.
      There is no mechanism within this policy to allow further delegation by the Superintendent.
3. School Board Policy 3.02(4)(a) – Code of Ethics – Accountability and Compliance – “To provide the best example possible; striving to demonstrate excellence, integrity, and responsibility in the workplace.”

   The Investigative Summary Report provided fails to show specific evidence of a violation of this policy.

School Board Policy 3.02(4)(b) – Code of Ethics – Accountability and Compliance – “To obey local, state, national laws, codes and regulations.”

   The Investigative Summary Report provided fails to show specific evidence of a violation of this policy.

School Board Policy 3.02(4)(f) – Code of Ethics – Accountability and Compliance – “To take responsibility and be accountable for his acts or omissions.”

   The Investigative Summary Report provided fails to show specific evidence of a violation of this policy. To the contrary, there is evidence I worked to remedy the transportation crisis.

School Board Policy 3.02(4)(h) – Code of Ethics – Accountability and Compliance – “To cooperate with others to protect and advance the District and its students.”

   The Investigative Summary Report provided fails to show specific evidence of a violation of this policy.

School Board Policy 3.02(4)(j) – Code of Ethics – Accountability and Compliance – “To be efficient and effective in the delivery of all job duties.”

   The Investigative Summary Report provided fails to show specific evidence of a violation of this policy.

4. School Board Policy 3.02(5)(i) – Code of Ethics – Professional Conduct

   The Investigative Summary Report provided fails to show specific evidence of a violation of this policy.

B. Florida Administrative Code Regulations:

1. Florida Administrative Code 6A-3.0171(4)(a) & (9)(e) – Transported students, records, reports and accounting

   These codes spell out the responsibilities of the School District. The only individual employee mentioned is the Superintendent. One employee, who is not the Superintendent, may not be held in violation of the Code due to the failings of the District as a whole.

If you should have any questions or require additional information, please do not hesitate to contact me.

Sincerely,

[Signature]

Michael J. Burke
Chief Operating Officer

c: Robert M. Avossa, Ed.D., Superintendent
1. Did you report at Cabinet on August 4, 2015, that the Transportation Department had staffed enough drivers to cover all routes and had begun to establish an additional pool of surplus drivers? Yes or No?

Yes, provided the figure of 670 (which consisted of 611 + 43 + 15) and expected to add 8 per week when school began. Mentioned data provided by Shane Searchwell.

2. When did you discover there was an issue with the Compass Routing System implementation?

Driver Bid Day

3. What did you do when you discovered there was a problem?

- Worked with Mike Burke to adjust drivers scheduled time to 7.5 hrs
- Indicated he was unaware of ESE issue, missing routes.
- Indicated these concerns were not raised at the Transportation "Pre-School Preparedness Meetings" he directed David Davis to hold.

4. Who was the primary person responsible for routing?

Lauriann Basel & Donna Goldstein
Reporting to David Davis

5. Did that person alert you to any concerns with the implementation and plan to go live for the start of school? If so, when? And what did you do in response?

No

6. On or about August 5, 2015, you provided me with a copy of the FY16 School Meals brochure. The Operations Division established protocol requires my approval before release of a district wide communication. Why did you not obtain my approval before allowing this document to be mailed to approximately 200,000 people?

Indicated he showed me a 8.5” x 11” version at the end of the school year.
Meeting with Steve Bonino  
Tuesday, September 1, 2015  
Notes – Shirley Knox

SB: Steve Bonino  
MB: Mike Burke

1. SB: Yes, based on information given to him, there were 670 drivers, (611 + 43, +15 by end of week, +8 per week until school started).

2. SB: Discovered there was an issue with Compass routing on bid day. There were Tuesday/Thursday reports specific to routing – all positive reports, provided by Lauriann and Donna.

3. SB: When he discovered there was an issue with driver time, then hours issue lead to route concern.  
   MB: What did he do when thousands of students were missing routes? Was this discussed during the pre-school preparation meetings?  
   SB: There was no indication of those issues. The pre-school prep meetings were to be held by David Davis. That was his direction to David. He (Steve) was at the meetings; no issues were brought forward, no negative language.

4. SB: Lauriann Basel and Donna Goldstein were the primary persons responsible for routing.  
   Donna on the technical side and Lauriann on the transportation side.  
   MB: Routing was overseen by who?  
   SB: David Davis

5. SB: He received no notice of any concerns about go live.

6. SB: Steve said he provided a proof of the 8 ½ x 11 brochure to Mike at the end of last school year.