

Business Operations
Joe Arriola, Chief Business Officer

**SUBJECT: PROPOSED AMENDMENT OF SCHOOL BOARD RULE: FINAL
READING 6Gx13- 2C-1.083, EDUCATIONAL FACILITIES PLANNING,
SITE SELECTION AND ACQUISITION, AND CONSTRUCTION**

The School Board of Miami-Dade County, Florida, announced on March 13, 2002, its intention to amend School Board Rule 6Gx13- 2C-1.083, Educational Facilities Planning, Site Selection and Acquisition, and Construction, at the meeting of April 17, 2002, to accomplish the following:

1. Update the membership of the Technical Review (TR) Committee to comport with the recent organizational re-structuring;
2. As recommended by the State appointed Land Acquisition and Facilities Advisory Board, require a written review by a professional appraiser of all appraisals commissioned by the School District to ensure that a consistent and professional level of oversight is exercised;
3. Allow change orders of less than \$50,000 to be approved administratively, as long as there is funding in project contingency, and subject to confirmation by the TR Committee at the next available meeting.

The Notice of Intended Action was published in the *Miami Daily Business Review* on March 18, 2002, posted in various places for public information and mailed to various organizations representing persons affected by the amended rule and to individuals requesting notification.

The time to request a hearing or protest the adoption of this rule has elapsed.

In accordance with the provisions of the Administrative Procedure Act, the amended rule is presented to The School Board of Miami-Dade County, Florida, for adoption and authorization to file the rule in the official records of The School Board of Miami-Dade County, Florida.

Attached are the Notice of Intended Action and the amended rule. Changes from the current rule are indicated by underscoring words to be added and ~~striking through~~ words to be deleted.

RECOMMENDED:

That The School Board of Miami-Dade County, Florida, adopt amended School Board Rule 6Gx13- 2C-1.083, Educational Facilities Planning, Site Selection and Acquisition, and Construction, and authorize the Superintendent to file the rule with The School Board of Miami-Dade County, Florida, to be effective April 17, 2002.

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NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on March 13, 2002, its intention to amend Board Rule 6Gx13- 2C-1.083, Educational Facilities Planning, Site Selection and Acquisition, and Construction, at its meeting of April 17, 2002.

PURPOSE AND EFFECT: The purpose of the proposed amendments is to update the membership of the Technical Review (TR) Committee, to comport with the recent reorganization, to reflect the recommendations from the State-appointed Land Acquisition and Facilities Advisory Board, and to add administrative approval and subsequent confirmation by the TR Committee on construction change orders less than \$50,000.

SUMMARY: The intent of the rule is to facilitate the integration of facility planning, site selection and construction activities into a seamless process under the umbrella of a broad-based citizen committee and an in-house technical review committee, and to ensure that thorough due diligence is undertaken by the District as part of its site selection and acquisition efforts.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: F.S. 230.22(2); 230.23(22)

LAW IMPLEMENTED, INTERPRETED, OR MADE SPECIFIC: 73.015; 112.3143; 235.05; 235.054(1)(a)(b); 235.054(6); 235.15; 235.18; 235.185(2)(3); 235.19; 235.193; 253.025(6)(b), 286.011, F.S.

IF REQUESTED, A HEARING WILL BE HELD DURING THE BOARD MEETING OF April 17, 2002, which begins at 1:00 p.m., in the School Board Auditorium, 1450 N.E. Second Avenue, Miami, Florida 33132. Person requesting such a hearing or who wish to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative as provided by Section 120.541(1), F.S., must do so in writing by April 8, 2002, to the Superintendent of Schools, Room 912, at the same address.

ANY PERSON WHO DECIDES TO APPEAL THE DECISION made by The School Board of Miami-Dade County, Florida, with respect to this action will need to ensure the preparation of a verbatim record of the proceedings, including the testimony and evidence upon which the appeal is to be based (Section 286.0105, Florida Statutes)

A COPY OF THE PROPOSED AMENDED RULE is available for inspection and copying at cost by the public in the Citizen Information Center, Room 158, 1450 N.E. Second Avenue, Miami, Florida 33132

Originator: Mr. Joe Arriola
Supervisor: Mr. Merrett R. Stierheim
Date: February 25, 2002

Administrative Operations**EDUCATIONAL FACILITIES PLANNING, SITE SELECTION AND ACQUISITION, AND CONSTRUCTION**

- I. Intent --The intent of the School Board is:
 - A. To establish a broad-based, external educational facilities committee, to be called School Site Planning and Construction (SSPC) Committee, to advise the School Board on the implementation of the District's adopted five-year work program, and to make independent recommendations to the School Board and the Superintendent of Schools, which promote internal accountability and facilitate efficient and effective delivery of public educational facilities throughout Miami-Dade County.
 - B. To establish an internal, interdisciplinary staff committee, to be called Technical Review (TR) Committee to provide staff coordination, accountability and oversight of the formulation and implementation of the District's adopted five-year work program.
 - C. To establish policies, procedures and assign responsibilities for the planning, site selection and acquisition and construction of educational facilities that will provide for public educational plant needs throughout Miami-Dade County in accordance with School Board policy and State law as set forth in Chapter 235, Florida Statutes (F.S.).
 - D. To ensure that all priority educational facility projects are included in the District's adopted five-year work program as provided in Section 235.185(3), F.S. and that any changes to the adopted five-year work program are supported by identified needs and priorities and approved by the School Board.
 - E. To integrate the District's planning, site selection and acquisition and construction functions so that educational facilities are available on a timely and cost-effective basis in accordance with the District's adopted five-year work program.
 - F. To establish policies and procedures for land acquisition in accordance with Chapter 235, Florida Statutes.

- G. To establish effective procedures for obtaining appraisals pursuant to Section 235.054, Florida Statutes, and for reviewing said appraisals in instances where there are divergent estimates of market value on the same property.
- H. To establish procedures and assign responsibilities to provide full information to the School Board on all recommended land purchases including the estimated cost of any work that must be performed on an unimproved site to make it usable for the desired purpose, appraisals of market value obtained in connection with the proposed acquisition, and any other material information.

II. School Site Planning and Construction Committee

- A. Establishment -- The School Board shall establish as a standing, external committee, an educational facilities committee, to be called the School Site Planning and Construction (SSPC) Committee, which shall include parents, business community representatives, construction and real estate professionals and other community stakeholders, and which shall serve in an advisory capacity and report directly to the School Board.
- B. Purpose -- The purpose of the SSPC Committee shall be as follows:
 - 1. To advise the School Board on the formulation, priorities and implementation of the District's adopted five-year work program for educational plants and other related matters;
 - 2. To make recommendations to the School Board on site acquisitions, including alternatives, if any; and,
 - 3. To make independent recommendations to the School Board and to the Superintendent of Schools which promote internal accountability and facilitate more efficient and effective delivery by the District of public educational facilities throughout Miami-Dade County.
- C. Responsibilities -- The responsibilities of the SSPC Committee shall be as follows:

1. Provide input, priorities and monitor the formulation, amendment and implementation of the District's five-year work program and other long-range plans as prescribed by Section 235.185, F.S.;
2. Provide input and monitor the District's educational plant survey as prescribed by Section 235.15, F.S.;
3. Provide input, monitor and make recommendations including priorities, to the School Board on the District's annual capital outlay budget, as prescribed by Section 235.18, F.S.;
4. Provide input, monitor and make recommendations to the School Board on the District's site facilities planning, site selection and acquisition, and construction programs and alternatives, to ensure they are cost-effective and timely;
5. Review and transmit reports to the School Board, which provide recommendation(s) on site acquisitions, and contain all relevant site analysis and supporting documentation for the School Board's review and final action;
6. Review quarterly and forward to the School Board, status reports on site selection and acquisition activities;
7. Evaluate annually and provide to the School Board a year-end report on the progress of site acquisition activities and facility planning and construction programs, and where appropriate provide recommendations for improved accountability, efficiency and cost-effectiveness;
8. To review and make recommendations regarding the award or rejection of construction bids which exceed the project budget by 5% or more and by at least \$250,000;
9. Provide such other advice or input as may become necessary to ensure compliance with applicable state statutes and the adopted five-year work program, and respond in writing to requests from the School Board or the Superintendent of Schools.

D. Membership -- The SSPC Committee shall be composed of the following voting members:

A business community representative appointed by the Board of Trustees of the Greater Miami Chamber of Commerce;

The president of the Dade County PTA/PTSA, or designee;

The chair of the Bi-Racial, Tri-Ethnic Advisory Committee or designee;

The chair of the Attendance Boundary Committee, or designee;

A real estate appraiser appointed by the Florida Real Estate Appraisal Board;

A real estate expert appointed on alternate years by the Realtor Association of Greater Miami and the Beaches, Commercial Section, and by the Realtor Association of Miami-Dade County;

A registered surveyor, architect or engineer appointed by the Chair of the School Board.

E. Operation --The SSPC Committee shall operate as follows:

1. Term of appointments and special conditions: The term for each appointee shall be one year. Prior to the expiration of each appointment, the respective appointing entity shall be requested to make an appointment or reappointment;
2. Quorum and Committee Chair: A quorum shall consist of a majority of the membership. The SSPC Committee shall elect a Chair and Vice-Chair every year;
3. Meetings: Meetings shall be held regularly on a monthly basis, unless there is no business to be conducted. Meetings shall be conducted as prescribed in Section 286.011, F.S., and shall be advertised at least five working days prior to the regularly scheduled meeting date. A notice of the

meeting shall be posted at the Citizen Information Center. The meetings shall be recorded and summary minutes distributed with the subsequent meeting's agenda packet;

4. Staff Support: The District Director, Governmental Affairs and Land Use Policy and Acquisition, and the Director, Site Acquisition and Leasing, shall provide primary staff support to the SSPC Committee, including preparation of agenda packets and meeting minutes, analytical reports and supporting documentation. The Office of the School Board Attorney shall provide legal support to the SSPC Committee. The SSPC Committee may from time to time, as required, request support from other District personnel;
5. Code of Ethics: The SSPC Committee is an advisory body to the School Board. As such, as provided by F.S. 112.313(1), the members of the SSPC Committee are subject to the provisions of the Code of Ethics for Public Officers and Employees, set forth in Chapter 112, Part III of the Florida Statutes.
6. Lobbyists: Any and all lobbyists, as defined in School Board Rule 6Gx13- 8C-1.21, present at an SSPC Committee meeting, who wish to speak on an item being considered by the SSPC Committee, shall first execute and file the required form with the School Board Clerk's Office. A copy of the executed form shall be made part of the official record for the SSPC Committee meeting at which the lobbyists are present, and shall be attached to the minutes of the meeting.
7. Lobbying: In the event that a SSPC Committee member is contacted directly by a lobbyist in connection with any matter that may foreseeably come before the Committee for action, the Committee member shall orally disclose such contact at the meeting in which the matter is up for consideration, and file a memorandum of voting conflict, if applicable, as may be required by in the State Code of Ethics for Public Officers and Employees.

III. Technical Review Committee

- A. Establishment -- The School Board shall establish the Technical Review (TR) Committee, which shall be comprised of District staff members and which shall serve in an advisory capacity and report directly to the Superintendent of Schools.
- B. Purpose -- The purpose of the TR Committee shall be to provide staff coordination, accountability and oversight of the formulation and implementation of the District's adopted five-year work program.
- C. Responsibilities -- The responsibilities of the TR Committee shall be as follows:
1. To formulate and recommend to the Superintendent of Schools and to the SSPC Committee a tentative District facilities five-year work program, as provided in Section 235.185(2), F.S.;
 2. To review and provide oversight of the annual capital outlay budget report, to include: expenditures, encumbrances and balances by fund, and a mid-year budget evaluation of project status of all funded and unfunded projects, against the approved budget and the undistributed capital contingency, for possible recommendation for Board action to amend the budget and five-year work program;
 3. To review the District's educational plant survey prepared and submitted by Facilities Planning and Construction, as prescribed in Section 235.15, F.S., and transmit same to the SSPC Committee for review and a recommendation to the School Board;
 4. To review staff reports which provide analyses and make recommendations on proposed site acquisitions, and make recommendations on said acquisitions, including negotiation parameters, to the SSPC Committee. Information transmitted to the TR Committee to aid in the establishment of negotiation parameters, including but not limited to property appraisal information, shall be protected from public disclosure, in accordance with Section 235.054(1)(a), F.S. For purposes of establishing negotiation parameters, the TR Committee shall be supported by staff as well as an outside, independent appraising

expert, who shall provide advice to the TR Committee on negotiation parameters, based on his/her review of the appraisal information and any other relevant materials submitted to the TR Committee by staff, as part of the site analysis;

5. To transmit quarterly, update reports on site selection and acquisition activities to the SSPC Committee;
 6. To submit annually to the SSPC Committee a progress report on the District's facilities planning and construction programs;
 7. To expeditiously review and recommend to the Superintendent of Schools and the SSPC Committee on any construction change orders, which exceed the total appropriation for the particular project;
 8. To expeditiously review and recommend to the Superintendent of Schools and to the School Board on construction change orders if funds are available in project contingency, except that change orders of less than \$50,000 may be approved administratively by the Superintendent or his designee and subsequently confirmed by the TR Committee;
 9. To review and recommend to the Superintendent of Schools the award or rejection of construction bids, which exceed the project budget by 5%;
 10. To review and recommend to the Superintendent of Schools, based upon recommended awards of construction bids, amendments to the affected project budget. Project budgets should be reduced when construction awards are less than the amount budgeted or increased when the construction award is more than the amount budgeted. The source or destination of such budget amendments should be undistributed contingency in each affected fund;
 11. To review administrative procedures and perform other functions as assigned by the Superintendent of Schools.
- D. Membership -- The TR Committee shall be comprised of the following voting members, or their designees:

Chief Business Officer;

Chief Facilities Officer – Construction, Chair;

~~Deputy Superintendent, Management and Accountability;~~

Chief Financial Officer;

Chief Facilities Officer - Maintenance;

~~Deputy Associate Superintendent of School Operations.~~

- E. Operation -- A quorum of the TR Committee shall consist of a majority. Meetings shall be held as called by the Chair. Minutes shall be kept of all meetings and upon approval by the TR Committee a copy shall be distributed to the Superintendent of Schools and to the School Board.

IV. Site Selection

- A. Use of District's Adopted Five-Year Work Program -- Only those sites for projects included within the District's adopted five-year, ten-year and twenty-year work program shall be investigated and evaluated for potential purchase by the School Board.
- B. Criteria -- Criteria for evaluating and selecting sites for locating educational facilities shall include or address the following elements:
1. Size and shape of site;
 2. Expansion capacity of site;
 3. Whether the site is adequate to relieve overcrowding in existing schools;
 4. Whether there are pending or approved charter school applications which would impact the proposed educational facility or the site search;
 5. Whether the site is reserved in a recorded subdivision, or set aside for donation or purchase by the School Board as a result of Developmental Impact Committee (DIC) or Development of Regional Impact

(DRI) approvals;

6. Location of site in relation to both the intended service area, as well as major traffic arteries and accessibility to school buses and private vehicles for student drop-off and pickup;
7. Location of site as it relates to the goals of the bi-racial and tri-ethnic distribution of students;
8. Location of site and potential impact on the attendance boundaries of surrounding schools;
9. Occupancy of the site, specifically whether any residents will require relocation;
10. Location of site in relation to existing or planned public recreation sites, which might make possible the joint use of facilities;
11. Whether there are any existing or anticipated land uses in the area, which could adversely affect the site due to traffic generation, noise, odor, safety or other factors;
12. Whether there are any major street improvements or expressways planned in the vicinity, which could affect the site or the intended service area;
13. Whether there are adequate traffic control devices and sufficient road capacity for the intended use of the site;
14. Whether site access requires crossing a canal, railroad, major street or other physical barrier or hazard;
15. Whether there are any archeological or historical designations or any biological, zoning or environmental problems (e.g., incinerators, active or inactive dump sites, toxic soil, underground storage tanks) on the property that could adversely impact the timely use of the property for the intended purpose;
16. The extent of site development work that must be done on an unimproved site in order to make it usable

for the intended purpose;

17. The condition of title to the site or any known title defects;
18. The compatibility or incompatibility of present and projected uses of adjacent properties with the intended use.

C. Site Selection Procedures -- The Chief Facilities Officer - Construction (CFO) or his/her designee shall ensure that thorough site selection procedures are followed, including the following seven-step due process, as described below:

1. Identifying, through the appropriate school district regions, the general search boundaries for the proposed educational facility, any relevant educational, recreational, and community requirements that may be applicable, minimum required site size, and the educational facilities to be relieved;
2. Preparing an inventory of all known available sites that meet the search parameters, including School Board-owned sites, properties designated for donation to the School Board, properties set aside by developers or property owners for purchase, as approved by the School Board, and properties owned by public entities which may be available under cooperative partnerships;
3. Initiating contact with the owners of the subject sites to request authorization for access, and conducting full research on the characteristics of the sites, to include all the eighteen (18) site selection criteria enumerated in IV. B., herein;
4. Presenting the full record on the findings for each site to the TR Committee for review and comment. The TR Committee shall then provide its recommendations to the CFO - Construction for further development or modification of the list of potential sites and analysis prior to the transmittal of the full record to the SSPC Committee for its consideration;

5. Conducting additional due diligence as directed by the TR Committee, and presenting the complete full record for all the sites to the SSPC Committee. The full record shall include written cost estimates of anticipated site improvements needed to bring the site into full use for the intended purpose. The SSPC Committee shall receive and review the full record of potential sites to address the needs of the District's adopted five-year work program and either provide comment or direction to the CFO – Construction for further development or modification of the list of potential sites and analysis, or select from said list up to three (3) sites suitable for the intended facility or project, and recommend same to the School Board for negotiation;
6. Pursuant to direction from the SSPC Committee, preparing and submitting to the Committee additional information on the subject sites for final review and a recommendation to the School Board for negotiation with the owners of said sites, or preparing and submitting to the School Board the SSPC Committee's recommended sites for negotiation;
7. Conducting negotiations for purchase, as approved by the School Board.

V. Site Acquisition

A. Criteria for Acquisition of Sites for School Facilities

1. Overall suitability of a site for the intended purpose;
2. Total estimated costs to place a site in use for the intended purpose, including acquisition cost and cost of necessary site improvements; and
3. The reasonableness of the total cost to acquire and place a site into use, as compared to other sites or options.

B. Criteria for Determining "Reasonableness" of Costs of Site Acquisition and Improvements

1. The foundation, or starting point, for determining what is a reasonable price for the School Board to pay for

the acquisition of land is an appraisal(s) of market value of sites as provided in Section 235.054(1)(b), F.S.;

2. Adjustment downward or upward of the appraised market value of a site based upon the following:
 - a. Total costs, other than the cost of acquisition, to place the site in use;
 - b. Availability of alternative, suitable sites for the project;
 - c. Both the general real estate market conditions and the specific real estate market conditions in the geographic area of the project; and
 - d. Any other identified factors which may impact the reasonableness of site acquisition costs, including but not limited to the total estimated costs of the eminent domain process to acquire the site as provided by Sections 73.091 and 73.092, F.S., and for the District's costs for attorneys' fees and other expenses of the eminent domain.

C. Appraisal Procurement and Review Process -- The CFO – Construction or his/her designee shall ensure the following is provided:

1. Initiating, overseeing and documenting the procurement of professional appraisals of market value of the sites determined by the School Site Planning and Construction Committee to be suitable for projects in the District's adopted five-year work program or long-range plan, as required by Section 235.054(1)(b), F.S.;
- ~~2. Receiving and reviewing each such appraisal of market value to assure it meets applicable appraisal requirements and prior to acceptance, seek necessary corrections or revisions;~~
- 2.3. Requesting in writing a formal professional review appraisal from an appraiser selected in accordance

with Section 253.025(6)(b), F.S, if ~~the variance between two appraisals of the market value of a single piece of property exceeds twenty (20%) percent.~~ The reviewing appraiser's certification of the recommended or approved value of the property shall be set forth in a signed statement which identifies the specific appraisal reports reviewed and explains the basis for such recommendation or approval.

- D. Comparative Analysis of Site Acquisition Cost and Site Improvement Costs -- The CFO - Construction or his/her designee shall ensure the following is provided;
1. Preparing and forwarding to the TR Committee a comparative analysis for each suitable site which shall include all approved appraisals and review appraisals, if any, approved cost estimates of necessary site improvements, and any other material information received during the site investigation process;
 2. Scheduling and chairing meetings of the TR Committee where the comparative analysis of all suitable sites for each project shall be reviewed for completeness, accuracy and compliance both with state law and School Board policy and procedures, and a ranking of each site and recommendation for site acquisition in order of preference;
 3. Forwarding to the SSPC Committee the comparative site analysis and recommendation for site acquisition as formulated by the TR Committee, including negotiation parameters for each site. Information transmitted to the SSPC Committee on negotiation parameters, including but not limited to property appraisal information, shall be protected from public disclosure, in accordance with Section 235.054(1)(a), F.S.;
 4. Maintaining a complete, indexed record of all information developed by the School District staff or its outside consultants in connection with site selection, analysis, real estate appraisals, site improvement cost estimates and any other material information which impacts or supports the recommendation for site acquisition; and

5. Scheduling and providing staff support to the SSPC Committee meeting where the site selection options and recommendations shall be reviewed, enhanced, modified or approved by that Committee.
- E. Negotiations and Authorization for the Voluntary Purchase and Sale of Sites -- The CFO - Construction or his/her designee shall ensure the following is provided:
1. Preparing for presentation to the School Board an item with full information requesting authority to negotiate for the voluntary purchase and sale of up to three (3) sites, in the order and as ranked by the SSPC Committee, suitable for the projects included within the District's adopted five-year work program or long-range plan within the price parameters established by the TR Committee, based upon the criteria for "reasonableness" of cost of site acquisition and improvements established herein;
 2. Conducting negotiations within the authorization granted by the School Board for the voluntary purchase and sale of sites suitable for projects included within the District's adopted five-year work program or long-range plan and maintaining a written record of all such negotiations;
 3. Reporting to the SSPC Committee the results of such negotiations for further input as may be needed;
 4. Preparing for presentation to the School Board an item recommending execution of an agreement for the voluntary purchase and sale of a suitable site for a project included within the District's adopted five-year work program or long-range plan;
 5. Ensuring that where the agreed to purchase price exceeds the averaged appraised value, and the School Board finds that the agreed price is reasonable under the criteria established herein, said purchase is approved by an extraordinary vote. Extraordinary vote, for purposes of this section, means a majority vote plus one additional vote of the members of the School Board present at the meeting where such action is taken.

F. Acquisition by Eminent Domain

1. In the event that negotiations for voluntary sale of a site for a reasonable price are unsuccessful, then the SSPC Committee shall formulate and forward to the School Board an item recommending the commencement of eminent domain proceedings as authorized by Section 235.05, F.S.
2. The item recommending the commencement of eminent domain proceedings shall include the full record of the site selection and investigation process;
3. Upon School Board approval, eminent domain proceedings shall be initiated as provided for in Section 73.015, F.S.

Specific Authority: 230.22(2); 230.23(22) F.S.

Law Implemented, Interpreted, or Made Specific: 73.015; 112.3143; 235.05; 235.054(1)(a)(b); 235.054(6); 235.15; 235.18; 235.185(2)(3); 235.19; 235.193; 253.025(6)(b), 286.011, F.S.

History THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA
New: 12-12-01