

Office of Superintendent of Schools  
Board Meeting of June 14, 2006

June 8, 2006

Rudolph F. Crew, Superintendent of Schools

**SUBJECT: ANNUAL REPORT OF THE ETHICS ADVISORY COMMITTEE**

**COMMITTEE: INNOVATION, EFFICIENCY & GOVERNMENTAL RELATIONS**

The Ethics Advisory Committee was formed by School Board Policy in March 2002 and is hereby submitting its annual report to the School Board. This report will be presented by its Chair, Frederick F. Thornburg, Esq.

**RECOMMENDED:** That The School Board of Miami-Dade County, Florida, receive the Annual Report of the Ethics Advisory Committee.

RFC/AMV:em

**REVISED**

**A-6**

## **ANNUAL REPORT OF THE ETHICS ADVISORY COMMITTEE**

This report is a brief digest of the endeavors of the Ethics Advisory Committee (EAC) since its founding by the School Board in March of 2002. Henceforth, the EAC will provide the School Board with an annual report of its work.

By way of background, the EAC was formed by School Board Policy adopted in March of 2002 in response to a deterioration of public trust and confidence in the Miami-Dade County Public Schools (M-DCPS) system for a variety of reasons. The State had appointed an oversight committee and frozen much needed construction dollars until there was significant financial and ethical improvement in the M-DCPS.

The Ethics Advisory Committee is composed of seven (7) independent, volunteer, voting members who are appointed for staggered terms of four years. The relevant experience, qualifications, and dedication of the members on the EAC are indeed as impressive as they are apposite to the mission of the EAC,

- Mr. Frederick F. Thornburg, Esq., EAC Chair since March 2004 and former Vice Chair, was appointed to the EAC in March 2002 by the Dade County Council PTA/PTSA. He is a former partner in the multi-state law firm of Barnes and Thornburg and served on the board of directors and as President of Wackenhut International, Inc. He is retired but continues to serve on a number of Boards and has taught ethics in both law and MBA schools.

**A-6**

- Dr. Susan Mullane, Vice Chair, and a former EAC Chair was appointed by the Dean of School of Education, University of Miami and has served as an assistant professor at the University of Miami and has specialty in the discipline of ethics.
- Dr. Susan Angulo, appointed by the President of St. Thomas University, is a professor and currently serves as the Assistant Vice-President for Academic Affairs.
- Honorable Judge Seymour Gelber, was appointed to the EAC by the Chief Judge of the Eleventh Judicial Circuit of Florida. Judge Gelber served as the Mayor of Miami Beach, and currently serves on Miami-Dade Ethics Commission, and continues to periodically serve as a judge in the state judicial system.
- Mr. James Howe, was appointed by the Executive Committee of the Greater Miami Chamber of Commerce. Mr. Howe is the Executive Director of the National Conference for Community and Justice of Greater Miami and serves on several boards including the Youth Ethics Initiative, Inc. board.
- Ms. Jane W. Moscovitz, Esq., appointed by the Chief Judge of the Eleventh Judicial Circuit of Florida is a member of the law firm of Moscovitz & Moscovitz, P.A. and a former Assistant U. S. Attorney.
- Ms. Daneen Regna, appointed by the Director of Center for Labor Studies at FIU, is a former teacher and now serves as the President of the UTD retired teacher's Chapter.

The EAC has as liaisons to assist it, Mr. Allen Vann, Chief Auditor and Mr. Jose F. Montes-de-Oca, Assistant Chief Auditor. All members of the EAC are extremely

grateful to them for their very meaningful contributions and assistance and it would be remiss to not also note the terrific support of Ms. Elsie Montijo, Administrative Secretary. Additionally, the EAC wants to extend a multitude of thanks to those Board Members who frequently attend the EAC meetings for their support and dedication to improving our school system and all the School Board members for the trust they have placed in its endeavors.

The School Board charge to the EAC is to promote the public trust and confidence in the school system by among other things, educating the public, candidates for election to the board, members of the board and employees of M-DCPS as to the required standards of conduct, and recommending School Board Rules and changes to the various rules and regulations which set forth the school system governing standards of ethical conduct.

In its comparatively brief existence, the EAC has undertaken numerous diverse activities, they include:

- **Testified before the Grand Jury** – On behalf of the EAC, the Chair testified before the grand jury in respect to a number of issues and grand jury inquiries.
- **Established Board Rule Code of Ethics and Certificate of Compliance** – In 2004, the EAC drafted and the School Board unanimously passed a Code of Ethics and accompanying Certificate of Compliance for M-DCPS employees. The District administration has committed to have these certificates executed by June 2006; however due to prolonged delays by differences of opinion as to the

propriety of the Certificate of Compliance enforceability, its completion remains in limbo.

Ms. Maria Vidal, Human Resources Officer, reported at the March 10, 2006 EAC meeting that 25,688 employees have received ethics training and 14,549 employees remain to be trained. She also noted that planned on-line training sessions for April or May 2006 have already taken place.

- **Conducted Candidate Forum** - In accordance with one of its missions as established by the School Board, the EAC, in collaboration with the Miami-Dade County Commission on Ethics and Public Trust, co-hosted a series of Ethics fora for Miami-Dade County School Board candidates prior to the November 2004 elections. Additionally, the EAC co-sponsored a debate amongst School Board run off candidates and was instrumental in having the debates televised and broadcasted by WLRN television and radio stations. The EAC was also credited as a partner in The Miami Herald sponsored WLRN School Board candidates' fora.
- **Set Rules for EAC Member's Participation in Political Campaigns** - The question of whether it was ethical for EAC members to participate in political campaigns was extensively debated. As a result, the EAC proposed a rule which the School Board unanimously passed, that barred EAC members from participating or contributing to school board candidates' campaigns because of obvious potential conflicts of interest. The rule was amended, however, to allow EAC members to participate and contribute to candidates running for any other political office. The School Board voted unanimously to amend the Rule as heretofore noted.

- **Established an EAC Website** – An informational EAC website has been up and running since November 2004. The site includes resumes of the EAC members, listing of scheduled EAC meetings, agendas, minutes, and relevant School Board ethical rules.

From its inception the EAC has been very involved with several diverse ethical matters and issues affecting M-DCPS and has addressed the following topics:

- **Nepotism** - The EAC recommended that M-DCPS adopt a policy of zero tolerance in regards to nepotism. This recommendation was unanimously adopted by the School Board.

The purpose and effect of the revised Board Rule is to provide additional requirements in regards to prohibiting administrative supervisors from employing or directly supervising relatives at the same work location, the requirements to disclose the names of relatives working at the work site by the supervisor and the employee, and the consequences for failure to disclose. At the behest of the EAC, the district administration reported the status of the nepotism cases. According to this report, of the 106 cases originally reported, only 22 cases still remain open. During 2005-06, it is anticipated 3 employees will shortly be placed at different locations. Thus, there has been a marked and enviable improvement in this area of ethical and public concern.

- **Rules Governing Lobbyists** - The EAC was actively involved in promoting and drafting the School Board Rule governing lobbying and attendant required disclosures.
- **Anti Double-Dipping Rule** – An EAC recommendation was made to the School

Board, that School Board employees, when elected to public office, should take leave without pay when acting in the elected official capacity. The genesis of this recommendation was to avoid giving the impression of impropriety, by having the employee being paid by the School Board while serving in their elected capacity. The School Board adopted the EAC's recommended rule with an even more stringent requirement for its implementation.

- **The Office of the Inspector General (OIG)** – The topic of the OIG was discussed for several months and at least three workshops were conducted by the School Board to determine the direction it wanted to take with this issue. It was ultimately decided that the OIG was to report to the Audit Committee. The EAC was the first entity to endorse the maintenance and continuation of the OIG with properly funded and fully staffed office. The unanimous consensus of the EAC as published in a letter to the School Board was that an appearance of ethical impropriety could be created by having the OIG report to the Audit Committee whose members are appointed by the School Board and the Superintendent. This reporting chain raises the unwanted and obvious question of the OIG's independence. The Inspector General from the Florida Department of Education, Mr. John Franco, strongly suggested having the OIG report to the EAC. The State Attorney's Office also vigorously supported keeping the OIG's office totally independent.
- **Administrative Appointments** – The EAC was requested to address concerns and opine on the issue of the propriety of direct employee appointments by the Superintendent. The EAC made a request to Board Attorney Mr. Johnny Brown who provided a legal opinion that in accordance with Section IV.C. of School

Board Rule 6Gx13-4A-1.16, the Superintendent is authorized to make direct appointments when it is deemed to be in the best interest of the school system. Also, at the request of a School Board member the EAC opined by letter dated May 10, 2005 that administrative appointments constituted an administrative not an ethical issue and pointed out that the Superintendent has the legal authority to make such appointments under the aegis of state law.

- **Whistle-Blower Proposal** – The EAC addressed this issue and was advised by the School Board Attorney’s Office that these provisions are being incorporated into the rule governing the Office of the Inspector General. In this connection, the EAC proposed a number of revisions to the Whistle-Blower proposal.
- **EAC Issued Opinion and Other Relevant Letters** – The following letters are attached:

} Revised

Date	Topic
October 5, 2004	(1) Proposal to Amend the Nepotism Rule; and (2) Exempting Selected School Board Employees from the Application of the Nepotism Rule
April 28, 2005	The Ethical Propriety of the June 29, 2004 Election of the Audit Committee Chair Under School Board Rule 6Gx13-2C-1.142
May 10, 2005	(1) The Ethical Propriety of the Superintendent of Schools to Make Direct Appointments to Positions and to Bypass the Formal Management Selection Protocol Including the Advertising and Interview Process; and (2) The Possible Repercussions that Could Result from the Employment Practice of Direct Appointments
May 17, 2005	Office of the Inspector General
October 10, 2005	Office of the Inspector General
November 18, 2005	Ethics Advisory Committee Composition
May 11, 2006	Revisit Campaign Reform Proposal
May 11, 2006	School Board Workshop Re: Code of Ethics and Certificate of Compliance



- **EAC/School Board Workshop on EAC's Roles and Issues** – This workshop, was scheduled to report on major endeavors and accomplishments of the EAC, to reaffirm its role and fiduciary duties, and to provide a forum where concerns could be voiced. It was attended by several School Board members and several issues were discussed such as an ongoing rumor that the EAC was going to be eliminated and the extent of the EAC's authority. School Board members present reaffirmed their support for the EAC and the workshop was viewed as a success.
- **The EAC Chair appointed to the Selection Committee for the Inspector General** - At its September 7, 2005 meeting the School Board established a committee for the selection of the Inspector General, among whose members is the Chair of the EAC.

In addition, the EAC has acted in concert with other entities or used reports to further educate the public, as follows:

- **Grand Jury** – The Final Report of the Miami-Dade County Grand Jury, Fall A.D. 2002 was filed on August 7, 2003. The Grand Jury arrived at some of the same conclusions, independently, as the EAC had. On Wednesday, October 1, 2003, a Workshop was conducted for the School Board to address and discuss the contents of the Grand Jury Report. State Attorney Katherine Fernandez Rundle appeared before the School Board and provided background information

regarding the report. It should be noted that Mr. Frederick F. Thornburg testified on behalf of the EAC in front of the Grand Jury.

- **Cable Tap** – Cable-Tap can be used for ethics programming and making the mission and the work of the EAC known to the community. It was also suggested that the EAC should explore with Cable-Tap and possibly WLRN utilizing these media resources to expand its reach to the community. The EAC approved participation in the proposed Cable-Tap programs.
- **Youth Ethics Initiative, Inc. (YEI)** – This entity's primary mission is to provide training on ethics and promote ethics in the schools' curriculum. YEI has a diverse Board of Directors dedicated to working with the school system to help imbed ethics in education and is strongly endorsed and financially supported by the Children's Trust. The Superintendent has also actively supported the YEI's efforts and its Annual Students Ethics Conferences in Miami-Dade and Broward counties. This year nearly 500 students participated in the annual conferences and attendant ethic workshops. The YEI asked the EAC for its endorsement and support of the YEI mission. The EAC voted to recommend this program and to endorse the YEI's endeavors. Mr. Howe recused himself from voting on the YEI request for EAC endorsement. It should be noted that one School Board member expressed the view that it is unethical to serve on the EAC and be on the board of an organization that was seeking School Board support and possible funding. After thorough discussion, the members of the EAC unanimously agreed there was no ethical impropriety, since Mr. Howe fully disclosed his YEI board involvement and recused himself from voting on the YEI request for EAC endorsement. Many months after the vote of endorsing the YEI, the Chair

accepted an appointment to the YEI's Board of Directors because of his philosophical belief in the importance of incorporating ethics as a discipline in the educational curriculum.

- **Miami-Dade County Ethics Coalition** – Mr. Thornburg and Ms. Regna have been active volunteer members of the Coalition as EAC representatives.
- **Miami-Dade County Commission on Ethics and Public Trust** - The EAC has continuously interfaced with Mr. Robert Meyers, its Executive Director, who frequently attends EAC meetings and has worked with the EAC and WLRN to sponsor the debates of School Board candidates in the runoff election. As noted above, EAC member Judge Gelber also serves on the Miami-Dade Commission on Ethics.

#### **Projects:**

- **Establishment of the Outsider Code of Ethics and Certificate of Compliance**  
A proposed Outsider Code of Ethics and Certificate has been drafted and will be soon submitted to the School Board for action. Its purposes is to provide ethical guidance to those individuals and entities who engage in business with M-DCPS.
- **Establishment of an EAC Executive Director** – Due to the scope of the EAC mission as defined by the School Board, and the voluntary nature of the EAC, it is respectfully suggested that M-DCPS establish a position of EAC Executive Director. The following are the envisioned roles and responsibilities of an ethics office:
  - Training Staff
  - Advising/Opining on Potential Conflicts

- Maintaining and Implementing the Employee and Outsider Codes of Ethics and Certificates of Compliance
- Developing Policies and Procedures
- Operating Help/Tips Line
- Developing/Maintaining Ethics Website
- Serving as Liaison to Other Government Ethics Commissions.

To conserve expenses and equally important to bring M-DCPS background experience to the Executive Director position, the EAC suggests such an Executive Director post could be filled on a part-time basis by a current school system employee familiar with the functions and the mission of the EAC, the OIG and Audit Committee with requisite independence.

In conclusion, the EAC wishes to acknowledge with gratitude the support it has received from the Office of Management & Compliance Audits (Mr. Allen Vann, CPA, Chief Auditor, Mr. Jose F. Montes de Oca, CPA, Assistant Chief Auditor, Ms. Elsie Montijo, Recording Secretary) and the School Board Attorney's Office (Mr. Luis Garcia, Esq.). The EAC also harbors great gratitude for the historical support which the School Board members have afforded to it.



# Miami-Dade County Public Schools

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## **Superintendent of Schools**

Rudolph F. Crew, Ed.D.

## **Ethics Advisory Committee**

Mr. Frederick F. Thornburg, Chair

Dr. Susan Mullane, Vice Chair

Dr. Susan Angulo

Judge Seymour Gelber

Mr. Frank Irizarry, Jr.

Ms. Jane W. Moscovitz

Ms. Daneen Regna

## **Miami-Dade County School Board**

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Agustin J. Barrera

Frank J. Bolaños

Frank J. Cobo

Perla Tabares Hantman

Betsy H. Kaplan

Dr. Marta Pérez

Dr. Solomon C. Stinson

October 5, 2004

Re: Ethics Advisory Committee Recommendations Regarding:

- (1) Proposal to Amend the Nepotism Rule; and
- (2) Exempting Selected School Board Employees from the Application of the Nepotism Rule

Dear School Board Members:

With respect to the two above referenced, pending Nepotism Rule issues, please know that the Ethics Advisory Committee's (EAC) recommendations to the School Board are as follows:

### **Recommendation 1**

Save for one EAC member who recused himself on the issue, the EAC unanimously recommends that the Nepotism Rule (Rule) as previously adopted by the School Board **not** be amended.

### **Recommendation 2**

Further and by majority vote (5-1, with one member recusing himself), the EAC respectfully recommends that: (1) school system employees who were rightfully in their positions of employment at the time of the enactment of the Rule be entitled to retain their positions notwithstanding the adoption of the Rule (grandfathered employees); and (2) the Superintendent refrain from exercising his broad discretionary powers and lawful authority in such a manner that would cause any grandfathered employee to be reassigned solely as a result of the Rule.

By way of background to the divergence of opinion on Recommendation 2, it is germane to note that the majority view favoring the grandfathering of selected employees from the ambit of the Rule was bottomed on a number of well-reasoned considerations including: (1) a desire to be fair to such employees; (2) a concern over the propriety of the retroactive (*ex post facto*) application of the Rule; (3) the expressed opposition of certain North Beach Elementary School parents; and (4) a fear that the Rule's application might be potentially disruptive to the educational process at the North Beach Elementary School.

The vote against Recommendation 2, cast by the undersigned, was also predicated on several reasons including: (1) a deep concern that exempting certain employees from the application of the Rule would clearly contravene the spirit of the Grand Jury's findings and recommendations on nepotism; (2) the fear that grandfathering employees from the application of the Rule would only serve to perpetuate and condone, albeit on a more limited basis, the practice of nepotism within the school system, thereby exposing the school district to the universally acknowledged potential demoralizing harms attendant to nepotism; (3) the knowledge that the grandfathering of employees would fly in the face of the plain meaning of the governing provisions of the Rule and would also smack of unequal, disparate treatment amongst employees ( *i.e.*, a certain select group of employees could continue to be supervised by relatives while others would be prohibited from doing so under the Rule); and (4) permitting grandfathering would

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ignore the publicly espoused position of many parents who strongly advocate a zero tolerance nepotism policy similar to that adopted by other school systems, academic institutions and businesses (e.g., The City of Chicago Board of Education outrightly prohibits nepotism except in the very limited situation when supervisory or teaching vacancies occur during the school term; in such instances, employees are permitted to supervise a relative but only for the duration of that school year. No other nepotism is tolerated).

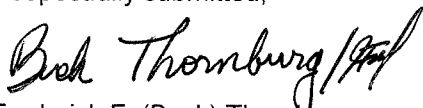
Most importantly and for the foregoing reasons, concern is harbored that grandfathering would telegraph the wrong message to the public and therefore constitute a step backward for the EAC in its endeavor to fulfill one of the paramount missions assigned to it by the School Board, namely, the mission of helping restore public confidence and trust in the school system.

With regard to Recommendation 2 and under the aegis of controlling state law which vests the Superintendent with broad discretionary authority over personnel matters, it is relevant to recall that the School Board appropriately decided at its August meeting to refer the nepotism/grandfathering issue to Dr. Crew for his resolution. In this connection, it is understood there are more than 100 employees, 7 or 8 being teachers, who allegedly hold employment positions that violate the Rule.

In closing and on behalf of the EAC, we thank the members of the School Board for your understanding and courtesy in honoring the request at our July 30 EAC meeting to have the Board delay its decision on the proposed amendment to the Rule until its October meeting. The delay request was prompted by the fact that we only had a minimum quorum at our July 30 meeting due to unexpected medical and business travel conflicts. It was my view that the issues raised by the proposal to amend the Rule and the grandfathering question were of such significance and import that they deserved to be addressed and considered by all members of the EAC.

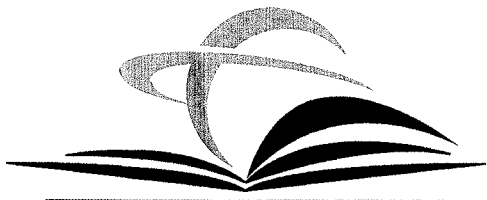
As a result of the Board's willingness to acquiesce in the requested delay, all members of the EAC were afforded an opportunity at our September 10, 2004 meeting to opine on and participate in the formulation of the above two digested recommendations. Again, a multitude of thanks to the Board members for your continuing help and support.

Respectfully submitted,



Frederick F. (Buck) Thornburg  
Chair, Ethics Advisory Committee

cc: Dr. Rudolph F. Crew, Superintendent of Schools  
Ethics Advisory Committee Members  
Mr. Johnny Brown, Esq., School Board Attorney  
Mr. Herbert Cousins, Jr., Inspector General  
Mr. Allen Vann, CPA, Chief Auditor  
Mr. Jose F. Montes de Oca, CPA, Assistant Chief Auditor  
September 10 EAC Meeting Attendees



# Miami-Dade County Public Schools

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Evelyn Langlieb Greer

Perla Tabares Hantman

Dr. Martin Karp

Ana Rivas Logan

Dr. Marta Pérez

Dr. Solomon C. Stinson

April 28, 2005

Re: Advisory Opinion 2005-1  
Issue - The Ethical Propriety of the June 29, 2004 Election  
of the Audit Committee Chair Under School Board Rule 6Gx13-2C-1.142

Dear School Board Members:

This Advisory Opinion concerning the above captioned issue is rendered pursuant to the provisions of Section 6(b) of the Commission on Ethics Policy, as adopted by a School Board Resolution, having an effective date of November 1, 2001.

Pursuant to a request submitted by School Board member Ms. Perla Tabares Hantman, the Ethics Advisory Committee (EAC) addressed at its October 22, 2004 meeting, the issue of propriety of the June 20, 2004 election of the Chair of the Audit Committee under the governing provisions of School Board rule 6Gx13- 2C-1.142.

In conjunction with its deliberations on the matter, the EAC carefully reviewed and considered the extremely comprehensive September 10, 2004 background, investigative report of the Inspector General (IG) on the issue. It should be noted that the IG investigative report was requested by the EAC and that a copy of the report is available for inspection in the offices of both the IG and the Office of Management and Compliance Audits. Further, the IG report is made a part of and incorporated into this Advisory Opinion by reference thereto.

Amongst the documents and materials included in the IG report are well-reasoned but conflicting legal opinions rendered by the School Board Attorney on October 17, 2003 and by an outside independent counsel as attached to a July 7, 2004 memorandum from School Board Member Ms. Perla Tabares Hantman. The EAC reviewed and weighed the conflicting positions espoused by the two legal opinions. The EAC also reviewed the opposite and controlling provisions of School Board Rule 6Gx13-2C-1.142 which reads in material part:

“The Audit Committee shall elect a Chair and Vice Chair each fiscal year from its ten Community members. The Chair and Vice Chair shall be elected annually for no more than two consecutive years for either office. Nothing contained in this provision prohibits a member from holding office of Chair or Vice Chair more than once during his or her tenure on the Audit Committee.”

**Ethics Advisory Committee**

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The subject School Board Rule was adopted and became effective August 30, 2003.

After considering all of the salient documents and materials contained in the IG report and after due discussion, the EAC unanimously agreed and concluded that the June 29, 2004 election of Dr. Henry (Hank) W. Mack as Chair of the Audit Committee was improper ethically since the election contravened the spirit of and violated the clear and plain meaning of the governing provisions of School Board Rule 6Gx13-2C-1.142.

Notwithstanding this EAC holding and advisory opinion, the decision should in no way detract from Dr. Mack's very substantial, meaningful and valuable contributions to the Miami-Dade County Public Schools during the past twenty-five (25) years. The community should be grateful both to and for Dr. Mack and his volunteer endeavors, contributions and leadership on the Audit Committee.

Finally and by way of background explanation to the delay in rendering this Advisory Opinion, it should be noted that because Dr. Mack resigned his position as Chair of the Audit Committee on October 25, 2004 due to health reasons, one day after the EAC's October 22, 2004 decision was published in the Watchdog Report, the EAC deemed the issue of the propriety of the election of Dr. Mack to be moot. As a result, it saw no driving reason to make the decision of the EAC formal by issuing an Advisory Opinion letter. However, and at the behest of some School Board Members who desired to bring formal closure to this issue, this letter is submitted on behalf of the EAC.

Respectfully submitted,



Frederick F. (Buck) Thornburg  
Chair, Ethics Advisory Committee

cc: Dr. Rudolph F. Crew, Superintendent of Schools  
Ethics Advisory Committee Members  
Mr. Johnny Brown, Esq., School Board Attorney  
Mr. Herbert Cousins, Jr., Inspector General  
Mr. Allen M. Vann, CPA, Chief Auditor  
Mr. Jose F. Montes de Oca, CPA, Assistant Chief Auditor





# Miami-Dade County Public Schools

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**Superintendent of Schools**  
Rudolph F. Crew, Ed.D.

**Ethics Advisory Committee**

Mr. Frederick F. Thornburg, Esq., Chair  
Dr. Susan Mullane, Vice Chair  
Dr. Susan Angulo  
Judge Seymour Gelber  
Mr. James E. Howe, Jr.  
Ms. Jane W. Moscovitz, Attorney at Law  
Ms. Daneen Regna

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Pera Tabares Hantman  
Dr. Martin Karp  
Ana Rivas Logan  
Dr. Marta Pérez  
Dr. Solomon C. Stinson

May 10, 2005

Re: Advisory Opinion 2005-2

- Issues
- (1) The Ethical Propriety of a Superintendent of Schools to Make Direct Appointments to Positions and to Bypass the Formal Management Selection Protocol Including the Advertising and Interview Process; and
  - (2) The Possible Repercussions that Could Result from the Employment Practice of Direct Appointments.

Dear School Board Members:

This Advisory Opinion concerning the above captioned issues is rendered under the aegis of the provisions of Section 6(b) of the Commission on Ethics Policy, as adopted by a School Board Resolution, having an effective date of November 1, 2001.

Pursuant to a request submitted by School Board member Dr. Marta Perez, the Ethics Advisory Committee (EAC) addressed at its February 11, 2005 meeting the above two digested issues.

Prior to the February EAC meeting and in anticipation of its consideration and disposition of Issue 1, the EAC requested the School Board Attorney, Mr. Johnny Brown, to opine on the question of whether the Superintendent of Schools' direct appointments are supported by and permitted under applicable state statutes and apposite School Board Rules.

In response to the EAC's requests, the School Board Attorney issued a memorandum, dated January 28, 2005, entitled "Powers and Duties of School Superintendent Regarding Public School Personnel" and a memorandum, dated February 9, 2005, titled "Request for Legal Opinion." Copies of the foregoing, described School Board memoranda are available for review in the office of both the School Board Attorney and the Office of Management and Compliance Audits. Further, the two cited School Board Attorney memoranda are made a part of and incorporated into this Advisory Opinion by reference thereto.

The School Board Attorney's February 9, 2005, legal opinion unequivocally concludes that the Superintendent's direct appointments accompanied by the approval of the School Board are authorized by the relevant state statutes and the School Board Rules cited in his January 28, 2005 memorandum.

**Ethics Advisory Committee**

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He noted that School Board Rule 6Gx13- 4A-1.16 IV. C. specifically permits the Superintendent to make direct appointments for amongst other reasons " \* \* \*when the Superintendent of Schools deems it in the best interest of the school system."

After considering the School Board Attorney's legal opinion and reviewing the salient Florida statutes and School Board Rules cited in the School Board Attorney's memoranda, the EAC unanimously agreed and concluded that the direct appointments by Superintendent Dr. Rudolph F. Crew were neither illegal or unethical. Rather, it is apparent and beyond a shadow of a doubt that such appointments fell within the ambit of the Superintendent's authority under the governing provisions of Florida law and the School Board Rules. To conclude otherwise would be tantamount to ignoring and effectively negating the plain meaning and clear import of the cited state law and School Board Rules. Hence, the EAC reached the decision that the matter of the direct appointments was an administrative rather than an ethical issue.

The EAC declines the invitation to address Issue 2, the "possible repercussions" that could result from the practice of the Superintendent making direct appointments, as being beyond the scope of the EAC's mission and jurisdiction.

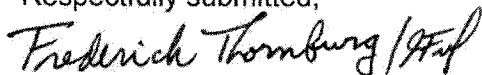
The very essence of Issue 2 invokes questions of managerial philosophy (e.g., the right and prudence of permitting the new Superintendent to hire his own senior management team viz a viz the possible adverse impact of not adhering to formal hiring procedures, including the advertising and interviewing process), and is not ethical in nature. Further and bottomed on its finding on Issue 1 that there is no ethical impropriety arising out of the Superintendent's exercise of his vested right to make direct appointments, it is well-beyond the sphere of the EAC's charge and mission to weigh and opine upon managerial repercussions, if any, attendant to the exercise of legally authorized, ethically acceptable conduct of making direct appointments.

Besides exceeding the scope of the EAC's mission, it would be officious and accordingly wrong for the EAC to endeavor to measure, to gage and pass upon, from a managerial perspective, any possible implications, ramifications and repercussions of legally authorized and ethically acceptable conduct attendant to Superintendent's direct appointments.

In summary and for the foregoing reasons, the EAC is unanimous in its conclusion on Issue 1 that the Superintendent's direct appointments did not constitute unethical conduct and expresses no opinion on Issue 2 since the question of evaluating possible repercussions is a managerial and not an ethical matter.

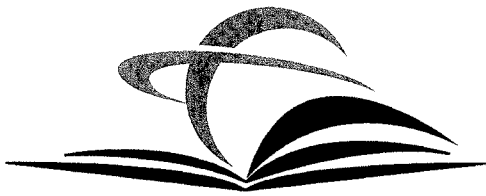
The Advisory Opinion is submitted on behalf of the EAC.

Respectfully submitted,



Frederick F. (Buck) Thornburg  
Chair, Ethics Advisory Committee

cc: Dr. Rudolph F. Crew, Superintendent of Schools  
Ethics Advisory Committee Members  
Mr. Johnny Brown, Esq., School Board Attorney  
Mr. Herbert Cousins, Jr., Inspector General  
Mr. Allen M. Vann, CPA, Chief Auditor  
Mr. Jose F. Montes de Oca, CPA, Assistant Chief Auditor  
February 11, 2005 EAC Meeting Attendees



# Miami-Dade County Public Schools

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**Superintendent of Schools**

Rudolph F. Crew, Ed.D.

**Ethics Advisory Committee**

Mr. Frederick F. Thornburg, Esq., Chair

Dr. Susan Mullane, Vice Chair

Dr. Susan Angulo

Judge Seymour Gelber

Mr. James E. Howe, Jr.

Ms. Jane W. Moscovitz, Attorney at Law

Ms. Daneen Regna

**Miami-Dade County School Board**

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Evelyn Langlieb Greer

Perla Tabares Hantman

Dr. Martin Karp

Ana Rivas Logan

Dr. Marta Pérez

Dr. Solomon C. Stinson

May 17, 2005

Re: Office of the Inspector General

Dear School Board Members:

At its Friday, May 13, 2005 regular monthly meeting, the Ethics Advisory Committee adopted unanimously the following recommendation to be submitted to the School Board:

"It is the strong and unanimous recommendation of the Ethics Advisory Committee that the Office of the Inspector General be established as a permanent and independent office and that this office be appropriately and fully staffed and funded. Taking this step is fundamental and essential to building and maintaining confidence in the School Board and the Miami-Dade County Public Schools."

This recommendation is submitted on behalf of the EAC.

Respectfully submitted,

Frederick F. (Buck) Thornburg  
Chair, Ethics Advisory Committee

cc: Dr. Rudolph F. Crew, Superintendent of Schools  
Ethics Advisory Committee Members  
Mr. Johnny Brown, Esq., School Board Attorney  
Mr. Herbert Cousins, Jr., Inspector General  
Mr. Allen M. Vann, CPA, Chief Auditor  
Mr. Jose F. Montes de Oca, CPA, Assistant Chief Auditor  
May 13, 2005 EAC Meeting Attendees

**Ethics Advisory Committee**

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## **Miami-Dade County School Board**

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*Dr. Martin Karp*

*Ana Rivas Logan*

*Dr. Marta Pérez*

*Dr. Solomon C. Stinson*

October 10, 2005

Re: Office of the Inspector General

Dear School Board Members:

Consistent with the mission assigned by the School Board to the Ethics Advisory Committee (EAC) to help rebuild and maintain public confidence and trust in the School Board and the Miami-Dade County Public Schools, the EAC reaffirms its unanimously adopted May 13, 2005 recommendation in regard to the Office of the Inspector General (OIG). The recommendation was communicated to the School Board by letter dated May 17, 2005 and provides in material part as follows:

"It is the strong and unanimous recommendation of the Ethics Advisory Committee that the Office of the Inspector General be established as a permanent and independent office and that this office be appropriately and fully funded. Taking this step is fundamental and essential to building and maintaining confidence in the School Board and the Miami-Dade County Public Schools."

At the outset of this letter, the EAC wishes to advise the School Board that it is not in any way taking a position on the issue of whether or not the former Inspector General's contract should have been renewed. It would clearly be outside the scope of EAC jurisdiction to opine on that issue and would be officious to do so. That determination was one solely for the School Board and the Superintendent to decide. The purpose of this communiqué is solely to address the importance the EAC attaches to continuing an appropriately funded, strong OIG.

Since the School Board decision on August 17 not to renew the contracts of the former Inspector General and the OIG investigators, the OIG has been relegated to limbo, and as a consequence, the school system's watchdog has been effectively rendered to the status of a toothless canine. As we are certain the School Board is keenly aware, the public reaction has ranged from negative and dismay to outright shock and disbelief. As a proximate result of the OIG issue combined with the plethora of the newspaper articles and editorials as well as other recent problems such as the uncovering of the MOTET scandal with its attendant, substantial fallout, public confidence has plummeted to a new nadir during the last two months.

With respect to the ongoing, threshold issues of assuring necessary autonomy for the OIG and at the same time also requiring OIG accountability, the EAC is of the firm view that these two objectives are not inherently in conflict and can be effectively and successfully bifurcated and satisfied. In this regard, public concern would undoubtedly be compounded if it focused on the fact that it has been reported a representative of the State Attorney's Office expressly advised the School Board that due to autonomy consideration it would not involve itself with an investigation that was overseen by the school system's audit committee.

Apparently, one option being considered by the School Board in order to satisfy the goal of accountability is to have the OIG report to the audit committee. Further and from an autonomy standpoint, an OIG reporting line to the audit committee was also deemed to be unsatisfactory and objectionable to the Inspector General of the Florida Department of Education (DOEIG). In this connection, however, the state Inspector General did opine that the school system's Inspector General " \* \* \* could report locally for operational purposes, however, not (to) an audit committee, but in Miami-Dade's case, (to) its ethics committee."

## **Ethics Advisory Committee**

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In this regard, the EAC wishes to quickly note that it is not suggesting or in any way seeking the assignment of the responsibility of assuring OIG accountability by overseeing and evaluating the OIG operational performance. However, and if that is the decision of the School Board, the EAC, as a truly independently appointed, outside School Board committee, would take on such duties with staff support. Such an assignment may better enable Board Member Greer's well-taken suggestion to the effect that the School Board reforge the past operating/reporting relationship with the DOEIG office. The assignment of accountability to the EAC might also obviate the objection of both the State Attorney's Office and the DOEIG to the oversight investigative involvement of the audit committee.

In respect to the foregoing observations concerning OIG independence, autonomy and accountability and OIG reporting lines, please see *The Miami Herald* August 1 and 23, 2005 Editorials entitled "Schools' Watchdog Needs Autonomy" and "*Do-over for Schools' Inspector General - Make IG's Office Independent and Accountable*", and the August 17 and September 2, 2005 letters from the Florida Department of Education Inspector General, John M. Franco, to School Board Chair Frank J. Bolaños.

Concerning the issue of evaluating and assessing the performance of the OIG for purposes of deciding on staffing and funding, substantial attention was logically devoted at prior School Board and Committee meetings to the nature, results and number of cases being addressed by the OIG. In appraising OIG performance, it is important to remember and to recognize there is frequently varying but lengthy lag times between the commencement of the investigation of a case and its culmination. Not atypically, the proper and thorough conduct of an investigation to serve as the predicate for a proper disposition or prosecution can be months or years. Thus, a fair measure and appraisal of OIG performance cannot be predicated on a short interval, especially, where as here, the OIG is relatively new and embryonic.

An equally important, positive factor not addressed at the public meetings but which militates heavily for adequately funding an OIG is the invaluable, inherent deterrence impact that necessarily accompanies and results from the establishment of a strong, autonomous OIG.

Addressing the issue of OIG funding and in supplement to the highly informative and instructive August 29, 2005 Memorandum of Chair Frank J. Bolaños entitled "Survey/Benchmarking Data for OIG/Accountability Functions" and the accompanying Survey of Top Ten School Districts, Florida Universities and Local Counties- IG/Auditor Benchmarking Data distributed at an August 31 School Board Workshop, a review of the FY 2005-2006 proposed budgets for Miami-Dade County shows the following proposed annualized allocations: Inspector General (\$3,887,000), Audit and Administrative Support Services (\$5,237,000) and Commission on Ethics(\$1,938,000). The total of these sums vastly exceed the total amounts expended by the school system in corresponding areas of service, Audits (\$3,596,000), Ethics Advisory Committee (\$0) and OIG (currently reduced to a negligible number, prior to September the current annual OIG budget was approximately \$955,000).

Further, the ratio of the foregoing proposed County FY sums to the County's proposed operating budget appears to reveal the school system is comparatively devoting a substantially lesser percentage of its budget to audits, OIG and EAC functions. Query and in terms of building public confidence, earning the trust of the taxpayer and protecting the assets and integrity of the school system shouldn't more of the budget be dedicated to these functions including adequately funding the OIG?

For the foregoing reasons and consistent with the specific findings and the spirit of the Final Report of the Miami-Dade Grand Jury, Fall Term, 2004, filed on July 18, 2005, and with the EAC's unanimous recommendations, as digested in our May 17, 2005 letter to you, the EAC respectfully urges the School Board to take immediate action to: (1) remove the OIG issue from its current limbo status; (2) assure that when measured under the gauge and spotlight of public perception the OIG is viewed as a truly independent, wholly autonomous watchdog which is appropriately funded and staffed; and (3) assure that the OIG is not put on too short a leash which would unduly restrict the ambit of its investigative powers and authority and thereby prevent it from guarding effectively the integrity of our public school system. To do less would be tantamount to converting and relegating the recently received, very prestigious Magna Award to a token of *de minimis* import and significance.

The EAC attaches paramount importance to and wholly concurs with the Grand Jury's well-reasoned and factually supported recommendations that the OIG funding be increased from previous levels to allow for proper staffing that is commensurate with the needs of the fourth largest school district with a present budget of approximately \$5.6 billion. Currently, the percentage of the school system budget dedicated to audits, ethics and the OIG functions is only .08%. An embarrassingly small sum that the School Board may wish to consider increasing substantially in order to rebuild public confidence, to abide by the Grand Jury's recommendations, to protect the taxpayers' investment in the educational system and to help assure the integrity of the school system.

This letter is respectfully submitted on behalf of the EAC.

Respectfully,



Frederick F. (Buck) Thornburg  
Chair, Ethics Advisory Committee

cc: Dr. Rudolph F. Crew, Superintendent of Schools  
Ms. Katherine Fernandez Rundle, Esq., State Attorney  
Mr. Joseph Centorino, Esq., Chief Assistant State Attorney  
Mr. Don L. Horn, Esq., Chief Assistant State Attorney  
Ethics Advisory Committee Members  
Ms. Julieann Rico Allison, School Board Attorney  
Mr. John M. Franco, Inspector General, Florida Department of Education  
Mr. Allen M. Vann, CPA, Chief Auditor  
Mr. Jose F. Montes de Oca, CPA, Assistant Chief Auditor  
September 9, 2005 EAC Meeting Attendees

**VIA E-MAIL AND U. S. MAIL**



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*Dr. Solomon C. Stinson*

November 18, 2005

Re: Ethics Advisory Committee Composition

Dear School Board Members:

The purpose of this communiqué is to clarify and rectify any erroneous impressions or misunderstandings that may be harbored in regard to the independent composition and make up of the Ethics Advisory Committee (EAC) as a result of a remark made at the School Board meeting held October 19, 2005.

During the course of discussions relating to the Office of the Inspector General, at the October 19, 2005 School Board meeting, it was mistakenly and publicly observed that the EAC is not truly independent because its members are appointed by members of the School Board. To the contrary and unlike members of other School Board committees, EAC members are not appointed by the School Board. The Chief Auditor, Mr. Allen Vann briefly explained this fact at the meeting. Rather and pursuant to the Ethics Advisory Committee Policy (Policy) adopted by the School Board and in an endeavor to ensure EAC independence, EAC members are appointed in accordance with the following School Board Policy directive:

- (1) The Chief Judge of the Eleventh Judicial Circuit of Florida shall be requested to appoint one (1) former federal judge, or former United States magistrate or former court judge;
- (2) The Chief Judge of the Eleventh Judicial Circuit of Florida shall be requested to appoint one (1) former U.S. Attorney or Assistant U.S. Attorney, former State Attorney or Assistant State Attorney;
- (3) The dean of the school of education of the University of Miami, St. Thomas University, Barry University, or Florida International University shall on a rotating basis be requested to appoint one (1) faculty member;
- (4) The presidents of the University of Miami, St. Thomas University and Florida International University shall on a rotating basis be requested to appoint one (1) faculty member;
- (5) The Dade County Council PTA/PTSA shall be requested to appoint one (1) parent;
- (6) The chairperson of the Greater Miami Chamber of Commerce shall be requested to appoint one (1) person from the business community; and
- (7) The director of the Center for Labor Studies at Florida International University shall be requested to appoint one (1) retired public school employee.

**Ethics Advisory Committee**

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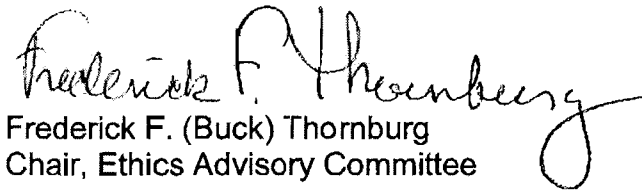
Ethics Advisory Committee Composition

November 18, 2005

In closing, the EAC wishes to reiterate to the School Board our firm commitment to carrying out to the best of our ability the missions and tasks assigned to it by the School Board in the Policy, including assisting the School Board " \* \* \* restore public confidence in our schools", issuing advisory opinions as provided for in the Policy and serving " \* \* \* as the guardian of the public trust by educating the public, candidates for the elections to the Board, members of the Board and employees of the Miami-Dade County Public Schools as to the required standards of ethical conduct and interpreting and applying those standards of conduct".

This letter is respectfully submitted on behalf of the EAC.

Respectfully,



Frederick F. (Buck) Thornburg  
Chair, Ethics Advisory Committee

cc: Dr. Rudolph F. Crew, Superintendent of Schools  
Ethics Advisory Committee Members  
Ms. JulieAnn Rico Allison, School Board Attorney  
Mr. Luis Garcia, Senior Assistant Board Attorney  
Mr. Allen M. Vann, CPA, Chief Auditor  
Mr. Jose F. Montes de Oca, CPA, Assistant Chief Auditor  
November 9, 2005 EAC Meeting Attendees

VIA E-MAIL AND U. S. MAIL





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May 11, 2006

Re: Revisit Campaign Reform Proposal

Dear Honorable Chair and Members of the School Board:

At the April 21, 2006 meeting of the Ethics Advisory Committee (EAC) it was voted unanimously to respectfully recommend and urge the members of the Miami-Dade County School Board to revisit the issue of introducing and passing a School Board Rule addressing Campaign Reform similar in content and spirit to that of the initially proposed, well-reasoned Rule proffered by School Board Member Evelyn Langlieb Greer, Esq.

This suggestion is consistent with the mission and responsibilities assigned to the EAC by the School Board. Namely and for obvious ethical reasons, the passage of such a rule would further enhance and augment public confidence and trust in the school system.

This recommendation is respectfully submitted on behalf of the EAC.

Sincerely yours,

Frederick F. Thornburg, Chair

Ethics Advisory Committee

cc: Dr. Rudolph F. Crew  
Ethics Advisory Committee Members  
Ms. JulieAnn Rico Allison, Esq.  
Mr. Luis M. Garcia, Esq.  
Ms. Carolyn Spaht  
Mr. Allen M. Vann  
Mr. Jose F. Montes-de-Oca



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May 11, 2006

Re: School Board Workshop

Dear Honorable Chair and Members of the School Board:

After lengthy discussion at the April 21, 2006 meeting of the Ethics Advisory Committee (EAC), it was voted unanimously to request the School Board to convene at its earliest convenience a workshop with the members of the EAC to address and resolve a multitude of issues and concerns harbored by the EAC.

Amongst these issues and concerns is the matter of the "limbo" status of the implementation of the Code of Ethics and the accompanying Certificate of Compliance as unanimously passed by the School Board on October 20, 2004. While the Code of Ethics and Certificate of Compliance remain as a School Board Rule, they have effectively been rendered insignificant since the School Board has not favorably adopted an EAC non-substantive proposal submitted by the Office of Human Resources to reconcile a *de minimus* variance in the reporting chain of disclosed violations of the Code. As a result, the Office of Human Resources is stymied in its efforts to have the Certificates executed by employees. As a consequence the Code has been rendered for all practical purposes "toothless" and of little import.

In addition to other issues, we would like to discuss with the School Board at the proposed workshop a soon to be submitted for consideration and adoption as a School Board Rule, a Code of Ethics for Non-Employees and an accompanying Certificate of Compliance. The intent of this proposed Code is to establish ethical guidelines and requirements for engaging in business with the M-DCPS. The EAC has been working on this proposed Code and Certificate since the fall of 2005. The EAC believes that the potential significance of the adoption of such a Code will redound to the benefit of the school system and the taxpayers.

The importance of this proposal is manifest and will set a "top down" philosophy that the School Board has "zero tolerance" for any unethical conduct in business dealings with the School Board.

School Board Workshop

May 11, 2006

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Per the mission of the EAC as assigned to it by the School Board, the adoption of such a Code and Certificate for Non-Employees will further enhance and augment public confidence and trust in the school system. If this request for a workshop is granted and in addition to the foregoing matters, there are other important issues and workshop items that can be incorporated into the agenda.

This request is respectfully submitted on behalf of the EAC.

Sincerely yours,

A handwritten signature in cursive script that reads "Frederick F. Thornburg". The signature is written in black ink and includes a stylized flourish at the end.

Frederick F. Thornburg, Chair  
Ethics Advisory Committee

cc: Dr. Rudolph F. Crew  
Ethics Advisory Committee Members  
Ms. JulieAnn Rico Allison, Esq.  
Mr. Luis M. Garcia, Esq.  
Ms. Carolyn Spaht  
Ms. Mariaelena Vidal  
Mr. Allen M. Vann  
Mr. Jose F. Montes-de-Oca