

Freddie Woodson, Associate Superintendent
School Operations

SUBJECT: PROPOSED PROMULGATION OF NEW SCHOOL BOARD RULE: FINAL READING 6Gx13- 5A-1.082, STUDENT TRANSFERS: LEGISLATED SCHOOL CHOICE PROGRAMS

PROPOSED REPEAL OF SCHOOL BOARD RULE: FINAL READING 6Gx13- 5A-1.081, STUDENT TRANSFERS: SCHOOL CHOICE PROGRAMS

COMMITTEE: SCHOOL SUPPORT ACCOUNTABILITY

**LINK TO DISTRICT
STRATEGIC PLAN:**

**ENSURE SCHOOL INFRASTRUCTURE AND SCHEDULES
MEET THE NEEDS OF STUDENTS AND TEACHERS AND
ENHANCE TEACHING AND LEARNING**

The School Board of Miami-Dade County, Florida, announced on May 16, 2007, its intention to promulgate new School Board Rule 6Gx13- 5A-1.082, Student Transfers: Legislated School Choice Programs, and to repeal School Board Rule 6Gx13- 5A-1.081, Student Transfers: School Choice Programs, at its meeting on July 11, 2007, to update and align Miami-Dade County Public Schools with the state and federal laws governing the No Child Left Behind Act of 2002 (NCLB), the Opportunity Scholarship Program (OSP) and the John M. McKay Scholarships for Students with Disabilities Program (McKay) transfers. This rule was last revised in 2002 and legislation and district procedures have changed since then.

Major revisions to the rule are designed to:

- clarify the requirements for the choice transfer programs;
- present each choice transfer program by eligibility, district obligations, application process, and appeal process;
- stipulate that transportation will be provided if a school is chosen within the scholarship transfer zone if the student resides more than two miles from the selected public school;
- stipulate that a McKay Scholarship student has to have been reported during the preceding October and February FEFP surveys in a Florida public school and will be in grades K-12 to be eligible; and
- provide the Department of Education Florida School Choice online web page where the parent or guardian of an eligible student shall file intent to participate in the McKay Scholarship Program.

The Notice of Intended Action was published in the *Miami Daily Business Review* on May 21, 2007, posted in various places for public information, and mailed to various organizations representing persons affected by the new and repealed rule and to individuals requesting notification.

The time to request a hearing or protest the adoption of these rules has elapsed.

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

Attached are the Notices of Intended Action, the proposed repealed rule and the proposed new rule.

RECOMMENDED:

That The School Board of Miami-Dade County, Florida, repeal School Board Rule 6Gx13- 5A-1.081, Student Transfers: School Choice Programs, adopt the new School Board Rule 6Gx13- 5A-1.082, Student Transfers: Legislated School Choice Programs, and authorize the Superintendent to file the rules with The School Board of Miami-Dade County, Florida, to be effective July 11, 2007.

FW:mo

NOTICE OF INTENDED ACTION:

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on May 16, 2007, its intention to promulgate School Board Rule 6Gx13-5A-1.082, Student Transfers: Legislated School Choice Programs, at its meeting of July 11, 2007.

PURPOSE AND EFFECT: The new School Board Rule will help the District update its processes in alignment with the state and federal laws corresponding to the No Child Left Behind, Opportunity Scholarship Program, and the McKay Scholarship transfers.

SUMMARY: To repeal School Board Rule 6Gx13-5A.1.081, Student Transfers: School Choice Programs process and to promulgate new School Board Rule 6Gx13-5A.1.082, Student Transfers: Legislated School Choice Programs to include specific language included in NCLB, OSP and McKay state and federal laws. It presents each choice transfer program by eligibility, district obligations, application process, and appeal process.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: 1001.41(1)(2); 1001.42(23); 1001.43(10) F.S.

LAW IMPLEMENTED, INTERPRETED, OR MADE SPECIFIC:

1002.38; 1002.39; Art. IX, § 1(a), Fla. Const.; 20 U.S.C. § 6316, et. seq. (The No Child Left Behind Act of 2002)

IF REQUESTED, A HEARING WILL BE HELD DURING THE BOARD MEETING OF July 11, 2007, which begins at 1:00 p.m., in the School Board Auditorium, 1450 N.E. Second Avenue, Miami, Florida 33132. Persons 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 June 12, 2007, 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 NEW RULE is available at cost to the public for inspection and copying in the Citizen Information Center, Room 158, 1450 N.E. Second Avenue, Miami, Florida 33132.

Originator: Ms. Mary Lee Snipes
Supervisor: Mr. Freddie Woodson
Date: May 2, 2007

Attendance

STUDENT TRANSFERS: LEGISLATED SCHOOL CHOICE PROGRAMS

I. OPPORTUNITY SCHOLARSHIP PROGRAM

A. ELIGIBILITY

1. A public school student's parent or guardian may request and receive an Opportunity Scholarship Program transfer in accordance with Section 1002.38, Florida Statutes, if:
 - a. by assigned school attendance area or by special assignment, the student has spent the prior school year in attendance at a public school that has been designated as performance grade category "F," and that has had two years in a four-year period of such low performance, and the student's attendance occurred during a school year in which such designation was in effect; or
 - b. the student has been in attendance elsewhere in the public school system and has been assigned for the next school year, to a school designated as performance grade category "F" for two school years in a four-year period.
 - c. The student is entering kindergarten or first grade and has been assigned to such school for the next school year.

B. DISTRICT OBLIGATIONS

1. For each student enrolled in or assigned to a school that has been designated as performance grade category "F" for two school years in a four-year period, the school district shall:
 - a. notify in a timely manner, the parent or guardian of the students of such designation of all options available under the statute;
 - b. offer the parent or guardian an opportunity to enroll the student in a school located within the geographic transportation service zone designated to serve the student's residence school. The

designated school must have a performance grade of "C" or better;

- c. provide transportation to each student who is eligible for an Opportunity Scholarship transfer to a school within the geographic transportation service zone that serves the eligible residence school if the student resides more than two miles from the selected public school; and
 - d. provide each eligible student with an opportunity to continue attending this higher performing school until the student reaches the highest grade serviced by the school.
2. Designate an eligible school or schools based on the Florida Inventory of School Houses (FISH) capacity below 105 percent in the 2007-2008 school year; below 100 percent in the 2008-2009 school year, and below 100 percent thereafter, to accommodate the transfer requests. If no higher performing schools in the geographic transportation service zone are available, the Associate Superintendent, School Operations, will identify school(s) that are eligible to receive students.

C. APPLICATION PROCESS

1. A parent or guardian of an eligible student will receive an Opportunity Scholarship transfer application form and instructions.
2. The parent or guardian will submit a completed application form to his/her residence school within the designated time frame.
3. The parent or guardian will select from a district approved list of eligible schools.
4. District staff will verify student eligibility for the transfer.
5. District staff will advise the parent or guardian of the status of the transfer request.

D. APPEAL PROCESS

1. The parent or guardian who does not accept the alternate school offered by school staff may appeal as follows:
 - a. Appeal Level I to the Administrative Director of Attendance Services;
 - b. Appeal Level II to the Associate Superintendent, School Operations, or designee, who acts as the Superintendent of Schools' designee. The decision rendered at this level will be final and no further appeals will be permitted.

II. NO CHILD LEFT BEHIND

A. ELIGIBILITY

1. A public school student's parent or guardian may request and receive a No Child Left Behind Act transfer in accordance with 20 U.S.C. § 6316, if the student is enrolled in a public school that has been designated as failing to make adequate yearly progress, and that has had two or more consecutive years of such low performance.

B. DISTRICT OBLIGATIONS

1. For each student enrolled in or assigned to a school that has been designated as failing to make adequate yearly progress, and that has had two or more consecutive years of such low performance the school district shall:
 - a. notify before the first day of the school year following such identification, the parent or guardian of the student of such designation and provide an explanation of:
 - 1) what the designation means;
 - 2) the reasons for the designation;
 - 3) what the school and school district are doing to address those conditions;
 - 4) how parents may become involved; and
 - 5) all options available to the parent or guardian;

- b. offer parent or guardian an opportunity to enroll the student in a school that has not been identified for school improvement;
 - c. provide transportation to each student who is eligible for a No Child Left Behind Act transfer to a school within the geographic transportation service zone that serves the student's residence school if the student resides more than two miles from the selected public school; and
 - d. provide each eligible student with an opportunity to continue attending this higher performing school until the student reaches the highest grade serviced by the school.
2. Give priority to the lowest achieving children from low income families.
 3. Designate an eligible school or schools based on the Florida Inventory of School Houses (FISH) capacity below 105 percent in the 2007-2008 school year; below 100 percent in the 2008-2009 school year, and below 100 percent thereafter, to accommodate the transfer requests. If no higher performing schools in the geographic transportation service zone are available, the Associate Superintendent, School Operations, will identify school(s) that are eligible to receive students.

C. APPLICATION PROCESS

1. A parent or guardian of an eligible student will receive a No Child Left Behind transfer application form and instructions.
2. The parent or guardian will submit a completed application form to his/her residence school or mail it in to the district office within the designated time frame.
3. The parent or guardian will select from a district approved list of eligible schools.
4. District staff will verify student eligibility for the transfer.

5. District staff will advise the parent or guardian that the transfer request has been approved.

D. APPEAL PROCESS

1. The parent or guardian who does not accept the alternate school offered by school staff may appeal as follows:
 - a. Appeal Level I to the Administrative Director of Attendance Services;
 - b. Appeal Level II to the Associate Superintendent, School Operations, or designee, who acts as the Superintendent of Schools' designee. The decision rendered at this level will be final and no further appeals will be permitted.

III. MCKAY SCHOLARSHIP PROGRAM

A. ELIGIBILITY

1. A public school student's parent or guardian may request and receive a John M. McKay Scholarships for Students with Disabilities Program transfer in accordance with Section 1002.39, Florida Statutes, if:
 - a. the student has been reported the preceding October and February FEFP surveys in a Florida public school and will be in grades K-12; and
 - b. the student is a student with a disability for whom an individual educational plan (IEP) has been written.

B. DISTRICT OBLIGATIONS

1. For each student who meets the eligibility requirements of the John M. McKay Scholarships for Students with Disabilities Program, the school district shall:
 - a. notify the parent or guardian of all options available by April 1 of each year and within (10) days of the child's IEP meeting.

- b. offer the student's parent or guardian an opportunity to enroll the student in another public school that can appropriately provide the services written on the IEP with the Florida Inventory of School Houses (FISH) capacity below 105 percent in 2007-2008 school year; below 100 percent in the 2008-2009 school year, and below 100 percent thereafter, to accommodate the transfer requests. If schools cannot be identified based on these aforementioned guidelines, the Associate Superintendent, School Operations, will identify schools that are eligible to receive students.
- c. provide transportation to a public school selected by the parent or guardian within the scholarship transfer zone if the student resides more than two miles from the selected public school .
- d. provide each eligible student with an opportunity to continue attending a public school chosen by the parent or guardian until the student graduates from high school.

C. APPLICATION PROCESS

1. The parent or guardian of an eligible student shall file intent to participate on www.floridaschoolchoice.org.
2. The parent or guardian shall complete the appropriate public school choice form at the Regional Center that serves the child's home school.
3. Regional Center staff will verify student eligibility and will approve the transfer to a designated eligible school to accommodate the transfer request if the Special Education (SPED) Program at the requested school is not over capacity, as determined by the district SPED Assistant Superintendent.
4. Regional Center staff will advise the parent or guardian that the transfer has been approved or denied.
5. If the requested school has been denied, Regional Center staff will then offer alternate schools that have the appropriate SPED program.

D. APPEAL PROCESS

1. The parent or guardian who does not accept the alternate school(s) offered may appeal as follows:
 - a. Appeal Level I to the Regional Center SPED Instructional Supervisor;
 - b. Appeal Level II to the Regional Superintendent, or designated regional director;
 - c. Appeal Level III to the Associate Superintendent, School Operations, or designee, who acts as the Superintendent of Schools' designee. The decision rendered at this level will be final and no further appeals will be permitted.

Specific Authority: 1001.41(1)(2); 1001.42 (23); 1001.43 (10), F.S.
Law Implemented, Interpreted, or Made Specific: 1002.38; 1002.39; Art. IX, § 1(a), Fla.
Const.; 20 U.S.C. § 6316, et. seq. (The
No Child Left Behind Act of 2002)

History
New:

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA

NOTICE OF INTENDED ACTION:

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on May 16, 2007, its intention to repeal School Board Rule 6Gx13-5A-1.081, Student Transfers: School Choice Programs, at its meeting of July 11, 2007.

PURPOSE AND EFFECT: The proposed repeal is recommended in order to promulgate new School Board Rule 6Gx13-5A.1.082, Student Transfers: School Choice Programs, which will clarify policies and procedures related to the Student Transfers: School Choice Programs process, as it relates to the requirements of the No Child Left Behind Act of 2002, the Opportunity Scholarship Program transfers in accordance with Section 1002.38, Florida Statute and the John M. McKay Scholarships for Students with Disabilities Program transfers in accordance with Section 1002.39, Florida Statute. The new School Board Rule will help the District update its processes in alignment with the state and federal laws corresponding to the No Child Left Behind, Opportunity Scholarship Program, and the McKay Scholarship transfers.

SUMMARY: School Board Rule 6Gx13-5A.1.081 Student Transfers: School Choice Programs, will be replaced with the proposed new School Board Rule 6Gx13-5A.1.082, Student Transfers: School Choice Programs, which adds specific language included in the NCLB, OSP and McKay state and federal laws.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED:
230.22(2); 230.23(20), F.S.

LAW IMPLEMENTED, INTERPRETED, OR MADE SPECIFIC:
229.0537; 229.05371; 229.57; 230.23005(10), F.S.; 20 U.S.C. § 6316

IF REQUESTED, A HEARING WILL BE HELD DURING THE BOARD MEETING OF July 11, 2007, which begins at 1:00 p.m., in the School Board Auditorium, 1450 N.E. Second Avenue, Miami, Florida 33132. Persons 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 June 12, 2007, 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 REPEALED RULE is available at cost to the public for inspection and copying in the Citizen Information Center, Room 158, 1450 N.E. Second Avenue, Miami, Florida 33132.

Originator: Ms. Mary Lee Snipes
Supervisor: Mr. Freddie Woodson
Date: May 2, 2007

Attendance**STUDENT TRANSFERS: SCHOOL CHOICE PROGRAMS****I. ELIGIBILITY****A. OPPORTUNITY SCHOLARSHIP AND NO CHILD LEFT BEHIND**

1. A public school student's parent or guardian may request and receive an Opportunity Scholarship Program transfer in accordance with Section 229.0537, Florida Statutes, if:

a. by assigned school attendance area or by special assignment, the student has spent the prior school year in attendance at a public school that has been designated as performance grade category "F," failing to make adequate progress, and that has had two years in a four-year period of such low performance, and the student's attendance occurred during a school year in which such designation was in effect; or

b. the parent or guardian of a student who has been in attendance elsewhere in the public school system or who is entering kindergarten or first grade and has been notified that the student has been assigned for the next school year, to a school designated as performance grade category "F" for two school years in a four-year period.

2. A public school student's parent or guardian may request and receive a No Child Left Behind transfer in accordance with 20 U.S.C. § 6316 if the student is enrolled in a public school that has been designated performance grade category "F", failing to make adequate yearly progress, and that has had two consecutive years of such low performance.

B. MCKAY SCHOLARSHIP

1. A public school student's parent or guardian may request and receive a John McKay Scholarship for Students with Disabilities Program Transfer in accordance with Section 229.05371, Florida Statutes, if:

a. by assigned school attendance area or by special assignment, the student has spent the prior school year in a Florida public school in grades K-12; and

- b. the student is a student with a disability for whom an individual educational plan (IEP) has been written.

II. DISTRICT OBLIGATIONS

A. OPPORTUNITY SCHOLARSHIP AND NO CHILD LEFT BEHIND

1. For each student enrolled in or assigned to a school that has been designated as performance grade category "F" for two school years in a four-year period, or for two consecutive years, the school district shall:
 - a. notify, in a timely manner, the parent or guardian of the student of such designation and provide an explanation of: (1) the reasons for the designation; (2) what the school and school district are doing to address those conditions; (3) how parents may become involved; and (4) all options available to parents or guardians under the statute;
 - b. offer that student's parent or guardian an opportunity to enroll the student in a school, located within the opportunity scholarship transfer zone designated to serve the student's residence school, that has been designated by the state as a school performing higher than the school in which the student is currently enrolled or to which the student has been assigned, but not less than a school performance grade category "D";
 - c. provide transportation to each student who is eligible for an Opportunity Scholarship or No Child Left Behind transfer to a school within the opportunity scholarship zone that serves the residence school; and
 - d. provide each eligible student with an opportunity to continue attending this higher performing school until the student graduates from high school.

B. MCKAY SCHOLARSHIP

1. For each student who meets the eligibility requirements of the John McKay Scholarship for Students with Disabilities Program, the school district shall:
 - a. notify, in a timely manner, the parent or guardian of the student of all options available;

- b. offer the student's parent or guardian an opportunity to enroll the student in another public school located within the scholarship transfer zone designated to serve the student's residence school if determined that the services written on the IEP can be appropriately delivered;
- c. provide transportation to a public school selected by the parent or guardian within the scholarship transfer zone; and
- d. provide each eligible student with an opportunity to continue attending a public school chosen by the parent or guardian until the student graduates from high school.

III. APPLICATION PROCESS

A. OPPORTUNITY SCHOLARSHIP AND NO CHILD LEFT BEHIND

1. A parent or guardian of an eligible student will receive an Opportunity Scholarship or No Child Left Behind transfer application form and instructions.
2. The parent or guardian will submit a completed application form to his/her residence school within the designated time frame.
3. In evaluating such transfer requests, priority shall be given to the lowest achieving children from low-income families.
4. Residence school staff will verify student eligibility and will approve the transfer if the requested school is at or below 115 percent of its assigned permanent plus temporary program capacity as defined by the Attendance Boundary School Profile Form.
5. School staff will advise the parent or guardian that the transfer request has been approved.
6. If school staff advises the parent or guardian that the requested school has been denied, school staff will then offer alternate school(s) (at or below 115 percent of its permanent plus temporary capacity) within the opportunity scholarship zone that serves the residence school.
7. If no higher performing school in the opportunity scholarship zone is at or below 115 percent of its permanent plus temporary capacity, M-DCPS staff will allow a school or schools within the zone to exceed this utilization limit or designate an eligible school or

schools outside of the zone to accommodate the transfer requests.

B. MCKAY SCHOLARSHIP

1. The parent or guardian of an eligible student shall submit the completed intent form to the student's assigned school within the designated time frame.
2. School staff will verify student eligibility and will approve the transfer if the requested school(s) is at or below 115 percent of its assigned permanent plus temporary program capacity as defined by the Attendance Boundary School Profile Form; and/or the exceptional student education (ESE) program at the requested school(s) is not over capacity as determined by the region ESE office.
3. School staff will advise the parent or guardian that the transfer has been approved after it has been reviewed and signed by the Region ESE Director or designee.
4. If school staff advises the parent or guardian that the requested school has been denied, school staff will then offer alternate schools within the scholarship transfer zone that has the appropriate exceptional student education program.

IV. APPEAL PROCESS

A. OPPORTUNITY SCHOLARSHIP AND NO CHILD LEFT BEHIND

The parent or guardian who does not accept the alternate school offered by school staff may appeal to the Division of Attendance Services.

B. MCKAY SCHOLARSHIP

The parent or guardian who does not accept the alternate school offered by school staff may appeal to the Region ESE Director.

REPEAL

Specific Authority: 230.22(2); 230.23(20), F.S.

Law Implemented, Interpreted, or Made Specific:

229.0537; 229.05371; 229.57;
230.23005(10), F.S.; 20 U.S.C. §
6316.

History

New: 6-21-00

Amended: 6-19-02

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA