

Freddie Woodson, Associate Superintendent  
School Operations

**SUBJECT: REQUEST APPROVAL OF RETROACTIVE APPLICATION OF RECENT JESSICA LUNSFORD ACT ("JLA") AMENDMENTS TO NON-INSTRUCTIONAL CONTRACTORS THAT WERE PREVIOUSLY SCREENED UNDER PRIOR LAW; AND AUTHORIZATION TO INITIATE RULEMAKING PROCEEDINGS TO AMEND SCHOOL BOARD RULE 6Gx13- 3F-1.024 TO CONFORM TO THE 2007 STATUTORY AMENDMENTS TO THE JLA**

**COMMITTEE: SCHOOL SUPPORT ACCOUNTABILITY**

**LINK TO DISTRICT STRATEGIC PLAN: ENSURE ADEQUATE AND EFFECTIVE INTERNAL CONTROLS AND OPERATIONAL EFFICIENCY**

In accordance with the recent amendments of the Jessica Lunsford Act ("JLA"), specifically the promulgation of §§ 1012.467 and 1012.468, of the Florida Statutes, this item is submitted for the Board's consideration in order to ascertain whether the District should apply these new changes to the JLA retroactively. Specifically, District administration seeks guidance as to whether those individual's whose criminal history backgrounds were reviewed under the Board's prior screening criteria, should be re-examined under the provisions of the revised JLA. The current statutory amendments do not require retroactive application, nor do they proscribe such a policy.

The JLA was passed in 2005 by the Florida Legislature and signed into law by Governor Bush. After the JLA came into effect, the District set forth a screening criteria and a process to comply with the JLA's requirements. Subsequently, and in order to avoid the unforeseen and unintended consequences in the application of the JLA's screening requirements, the Board adopted a new screening criteria at its March 14, 2007 School Board meeting. Recently, Governor Charlie Crist signed into law revisions to the JLA, which took effect July 1, 2007. These changes include, but are not limited to:

- providing definitions for terms such as "convicted," "non-instructional contractor," and "school grounds;"
- creating exemptions from screening requirements for certain "non-instructional contractors;"

**D-9**

- limiting the basis for certain non-instructional contractors to challenge the denial of access to school grounds to “mistaken identity” or that the offense does not serve to disqualify the individual under the law;
- limiting number of offenses that may be considered to disqualify certain contracted personnel (i.e., whose performance of the contract is not anticipated to result in direct contact with students, and for whom any unanticipated contact would be infrequent or incidental) to nine (9) specified offenses; and
- providing that these amendments to the JLA do not create or imply any private cause of action for a violation of these statutes, nor a new duty of care or basis for liability.

Accordingly, it is requested that the Board approve the retroactive application of the amendments to the JLA to those individuals that were screened using the Board’s prior criteria. Such re-examination would only be applied to individuals who were denied access under the Board’s prior criteria. In addition, authorization is sought for the initiation of rulemaking to amend the Board’s current policy, as codified under School Board Rule 6Gx13- 3F-1.024 (*Screening Criteria for Contracted Personnel in Accordance with the Jessica Lunsford Act*), at the August 1, 2007 School Board meeting to conform to the 2007 amendments to the JLA.

**RECOMMENDED:** That The School Board of Miami-Dade County, Florida:

1. approve the retroactive application of the 2007 legislative amendments, where applicable, to contracted personnel who were denied access under the JLA using the Board’s prior screening criteria; and
2. authorize the Superintendent to initiate rulemaking proceedings in accordance with the Administrative Procedure Act to amend School Board Rule 6Gx13- 3F-1.024, *Screening Criteria for Contracted Personnel in Accordance with the Jessica Lunsford Act*) at the August 1, 2007 Board meeting, to conform to the 2007 amendments to the JLA.

FW/lv