

Dr. Marta Pérez, Member

SUBJECT: REQUEST THAT THE SCHOOL BOARD OF MIAMI-DADE COUNTY, AMEND PROPOSED RULE 6Gx13-8C-1.21-SCHOOL BOARD-METHODS OF OPERATION--LOBBYISTS

COMMITTEE: BUSINESS AND FINANCIAL SERVICES

The proposed rule is being considered in order to (as stated in Section 1) "preserve and maintain the integrity of the government decision making process by creating public disclosure of expenditures, fees and activities of persons who engage in efforts to influence the actions of the School Board and its employees."

The real party in interest, who seeks to influence the action, is not the lobbyist, but the person or entity that hires the lobbyist. Under the proposed text of the rule, the Board would be creating a system where the Board must rely on the integrity and accuracy of the lobbyist to disclose the terms of compensation.

There are legitimate privacy issues with respect to the State Constitution, as well as, in the case of attorneys, in respect to rules of confidentiality that govern their practice. Lawyers, for example, are regulated and governed by the Florida Supreme Court through the Florida Bar. They are compelled to take an oath, as part of their licensing requirements, which mandates them to preserve confidentiality on all client information.

Placing the burden on lobbyists, some of whom are lawyers, creates a conflict between their ethical confidentiality requirements and the disclosure requirements of this rule, which may lead to unnecessary litigation. For example, Miami Beach is being challenged in court for taking this type of approach.

In contrast, the County is taking a different approach in an ordinance sponsored by Commissioner Sorenson. Instead of requiring the lobbyist to disclose the information, the burden, in that proposed ordinance, is on the principal to disclose the terms of compensation of any lobbyist it employs.

The following amendment takes that approach.

On page 3, III, titled "Reporting Requirement":

Strike paragraph 2 and 3 and insert: Commencing July 1, 2003 and on July 1st of every year thereafter, each principal who retains a lobbyist to represent the principal on a matter before the School Board, shall disclose the terms and amount of compensation paid to every such lobbyist retained or employed by the principal.

The principal shall have a continuing duty to supply accurate information and amend said disclosure when so needed.

On page 4, VI, titled “Penalties”, add the following paragraph:

The School Board may warn, reprimand, or censure any principal who willfully fails to comply with the reporting requirements of this rule or may bar the principal from doing business with or appearing before the School Board for a period of time, provided, however, that said period of time may not exceed a period of two years, and no sanction shall be imposed until the principal, allegedly in violation, has had reasonable notice and an opportunity to be heard before the School Board’s Ethics Advisory Committee. In addition thereto, any contract entered into between the School Board and a principal who willfully fails to comply with the reporting requirement of this rule is voidable at the election of the School Board. The Ethics Advisory Committee will make a recommendation to the School Board as to appropriate penalties for failure to comply with the reporting requirements of this rule.

**ACTION PROPOSED BY
DR. MARTA PEREZ:**

That The School Board of Miami-Dade County, Florida, amend proposed rule 6Gx13-8C-1.21-School Board-Methods of Operation-Lobbyists.