

MEMORANDUM

September 9, 2008

TO: The Honorable Chair, and Members of The School Board of Miami-Dade County, Florida

FROM: Rudolph F. Crew, Superintendent of Schools *R.F.C.*

SUBJECT: WITHDRAWAL OF AGENDA ITEM E-200, PROPOSED REPEAL TO SCHOOL BOARD RULE: INITIAL READING 6Gx13- 4D-1.081, TAX SHELTERED INVESTMENT PLAN – POLICY AND PROPOSED PROMULGATION OF NEW SCHOOL BOARD RULE: INITIAL READING 6Gx13- 4D-1.1-3, SUPPLEMENTAL RETIREMENT INVESTMENT PROGRAMS, BOARD MEETING OF SEPTEMBER 11, 2008

Please be aware that Agenda Item E-200 is being withdrawn from being presented at the School Board meeting of September 10, 2008 pending further legal review. It will be placed on the agenda for the Board meeting of October 15, 2008.

If you require additional information, please contact Ms. Carolyn Spaht, Associate Superintendent, Human Resources, Evaluation, and Technology at (305) 995-2938.

RFC:jav
M312

cc: Superintendent's Cabinet
Mr. Scott B. Clark

August 27, 2008

Carolyn Spaht, Associate Superintendent
Human Resources, Evaluation and Technology

**SUBJECT: PROPOSED REPEAL TO SCHOOL BOARD RULE:
 INITIAL READING 6Gx13- 4D-1.081, TAX
 SHELTERED INVESTMENT PLAN – POLICY**

**PROPOSED PROMULGATION OF NEW SCHOOL
BOARD RULE: INITIAL READING 6Gx13- 4D-
1.103, SUPPLEMENTAL RETIREMENT
INVESTMENT PROGRAMS**

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

**LINK TO DISTRICT
STRATEGIC PLAN: GENERAL OPERATIONS**

This item is submitted for consideration by the Board to repeal School Board Rule 6Gx13- 4D-1.081, Tax Sheltered Investment Plan – Policy, and the document, Tax Sheltered Investment Plan Rules and Guidelines, which is incorporated by reference and part of this rule, and to promulgate new School Board Rule 6Gx13- 4D-1.103, Supplemental Retirement Investment Programs. The proposed new Board Rule is necessary in order to accomplish four strategic goals which include:

1. **Compliance of the District's Tax Sheltered Annuity Investment Program IRC §403(b), with new Federal Regulations which become effective January 1, 2009**

These regulations require institutions to create and approve an official plan document for The School Board of Miami-Dade County, Florida as the plan sponsor of the District's Tax Sheltered Annuity Investment Program IRC §403(b), hereafter referred to as "TSA Investment Program". The new Federal regulations require this plan document to incorporate specific information regarding the investment options offered by the District for its employees and requires the Board to assume responsibility for plan compliance with Internal Revenue Service (IRS) regulations such as starts, stops, increases, decreases, distributions and loans.

**E-200
Item Withdrawn
(9/9/08)**

2. **Investment Options for District Employees which include financially sound companies offering investment choices with the lowest fee structures available in the marketplace**

In anticipation of Florida School Districts having to comply with the new Federal Regulations for IRC §403(b) programs, the Independent Benefits Council (IBC), consisting of representatives from the Florida Educational Association (FEA); Florida Association of School Administrators (FASA); Florida School Boards Association (FSBA); and the Florida Association of District School Superintendents (FADSS), issued a Request For Proposals (RFP) to select an Employee Benefits Administrator to assist them in creating a statewide "Model Plan". Following the issuance of a Request For Information (RFI) by Gallagher Benefits, the IBC's selected benefits administrator, the IBC interviewed and selected five companies to offer investment programs in three investment platforms. This Model Plan has been created for districts to use as their basis for selection of investment companies, having undergone intensive scrutiny and due diligence to identify them as "best in class" for their investment offerings.

Staff is recommending that the Model Plan be introduced as the base for the District's plan offerings, including the provision that any new providers added to the District's plan offerings in the future be incorporated as part of the Model Plan, as recommended by the IBC. Additionally, staff is recommending that existing District providers with at least 5% of the employee base enrolled in the District's plan as of September 1, 2008 be "grandfathered" into the District's program, provided that providers agree to provisions incorporated into the Model Plan which include, but are not limited to fees paid to the District to offset administrative expenses, and fee structures by investment type charged to employees.

3. **Efficiency and Source of Revenue for districts who select the Model Plan as their platform for companies offering IRC § 403(b) Plans**

The new Federal guidelines require that effective January 1, 2009, Miami-Dade Schools as a component of the Adopted Plan Document, to monitor a host of transactions including starts, stops, increases, decreases, distributions and loans. These transactions were previously handled directly between district employees and the companies providing the investments, except for payroll changes. With over 3600 transactions occurring during calendar year 2007 and over 3000 having been processed so far in calendar year 2008, this additional responsibility to monitor transactions to assure IRC compliance will result in a significant increase in the workload for the administration of this program. Adopting the IBC Model Plan with a few additions of currently offered companies will provide efficiency to the District with the limited staff currently in place.

Additionally, a component of the Model Plan provides for revenue to districts (currently \$12/employee/year) to offset District administrative costs. The current Board Rule which was implemented 10 years ago provides a revenue source of \$5/employee/year to offset administrative expenses. Staff is recommending the Board continue to collect the existing \$5/employee/year, in addition to the amount negotiated by the IBC to be paid by Model Plan providers, as well as those providers which are recommended to be "grandfathered" into the District's plan. Currently, over 60 of the 67 School Districts in the State of Florida utilize Third Party Administrators to assist districts in the administration of their IRC §403(b) plans. These funds may be used in the future to fund the cost of third party administrative services, including using such administrator as a common remitter for all employee funds, should the Board seek such services.

4. Document in Board Rule the existence of the other two Board approved supplemental retirement plan programs currently in existence which include the District's IRC §457 and §401(k) plans

- a. The District's IRC §457 Plan was originally established in 1999 as the Miami-Dade County School Board's Money Purchase Plan, in the form of the International City Management Association Retirement Corporation (ICMA) Governmental Money Purchase Plan and Trust. This plan was established for eligible Board members, pursuant to the guidelines established for the elected State and County Officers' Class (ESCOC) under the Florida Retirement System (FRS). As a result of the changes made by The Economic Growth and Tax Relief Reconciliation Act (EGTRRA) of 2001, as well as The Job Creation and Worker Assistance Act (JCWAA) of 2002, employees became eligible to defer additional income through the IRC §457 in addition to deferring income through the IRC § 403(b) and 401(k) plans. The Board adopted this plan for employees at the Board meeting of June 19, 2002. The plan administrator is the International City Management Association Retirement Corporation (ICMA).
- b. The District's IRC §401(k) plan, known as the VISTA 401(k) Plan, became effective January 1, 1985, was amended in 1986, and was amended and restated effective January 1, 1994. Effective in 1986, governmental entities no longer had the ability to establish IRC§ 401(k) plans; however, being that the plan had been established prior to the law change, the VISTA 401(k) Plan was "grandfathered in".

The Plan Sponsors for the VISTA 401(k) Plan include Miami-Dade County Public Schools, Monroe County Public Schools, Charlotte County Public Schools and Pasco County Pubic Schools. The Plan Administrator is Vista Management Company.

Attached are the Notices of Intended Action, the proposed repeal of the School Board Rule and document, and the proposed new School Board Rule.

Authorization of the Board is requested for the Superintendent to initiate rulemaking proceedings in accordance with the Administrative Procedure Act for the repeal of School Board Rule 6Gx13- 4D-1.081, Tax Sheltered Investment Plan – Policy, and the document, Tax Sheltered Investment Plan Rules and Guidelines, which is incorporated by reference and made part of this rule, and to promulgate new School Board Rule 6Gx13- 4D-1.103, Supplemental Retirement Investment Programs.

RECOMMENDED:

That The School Board of Miami-Dade County, Florida authorize the Superintendent to initiate rulemaking proceedings in accordance with the Administrative Procedure Act to:

1. repeal School Board Rule 6Gx13- 4D-1.081, Tax Sheltered Investment Plan – Policy, and the document, Tax Sheltered Investment Plan Rules and Guidelines, which is incorporated by reference and made part of this rule; and
2. promulgate new School Board Rule 6Gx13- 4D-1.103, Supplemental Retirement Investment Programs.

CS:sc