

Mr. Renier Diaz de la Portilla, Board Member

**SUBJECT:                   INSUBORDINATION     OF     SUPERINTENDENT  
                                  RUDOLPH CREW**

**COMMITTEE:               SCHOOL SUPPORT AND ACCOUNTABILITY**

**LINK TO DISTRICT  
STRATEGIC PLAN:        IMPROVE TRANSPARENCY OF DECISION-  
                                  MAKING THROUGHOUT THE SCHOOL DISTRICT**

Acting School Board Attorney Luis Garcia stated in a memo to the School Board on August 1, 2008, that an act of insubordination is defined as the "willful neglect to obey an order." Furthermore, in the same memo, the School Board Attorney continued to define gross insubordination or willful neglect of duties by the following: "constant or continuing intentional refusal to obey a direct order, reasonable in nature, and given by and with proper authority." In addition, the attorney established that the orders given by the School Board must be reasonable in nature, as to a person with a reasonable mind would be able to carry out the order.

At the August 4, 2008 School Board Meeting, The School Board of Miami-Dade County, Florida was informed by the School Board Attorney's Office "that a finding of gross insubordination is so highly dependent on the facts of each given case, [that] perhaps a more pragmatic approach in these instances is to permit the alleged offender an opportunity to present evidence to rebut such allegations, before an ultimate decision is rendered."

A motion seeking emergency injunctive declaratory relief (or DEC action) would give the board a better understanding of its legal options under the law while still pursuing a negotiated settlement as the majority of the board indicated it wanted on September 8, 2008. Should a court rule in the school district's favor, the board would then have better legal standing to terminate Dr. Crew's contract for Cause. Should the Court find in Dr. Crew's favor, the board may still pursue a negotiated settlement. A DEC action would create a pro-active legal process through an evidentiary hearing to determine if there are grounds to terminate Crew for Gross Insubordination and Willful Neglect of Duty, if one is granted before a Circuit Court Judge. This board item is also intended as a broad and open-ended discussion of the administration's apparent non-compliance with state law in refusing to implement board-approved initiatives.

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**H-6**

I welcome other board members' input in the sunshine as board initiatives }  
unintentionally omitted from the body of this item may be added later. } REVISED

The following are specific board items on which only partial action or no action appears to have been taken by the superintendent.

At the School Board meeting of June 14, 2006, the superintendent was directed by The School Board of Miami-Dade County, Florida to review existing policies and procedures for the selection and acquisition of school library books and to recommend any necessary changes to the process prior to the 2006-07 school year. Please provide evidence that such a review was indeed conducted, even if no changes were deemed necessary.

October 17, 2007, the incorporation of regional and School Board Member District analysis into the yearly analysis of FCAT results as directed by the School Board. The superintendent has failed to produce the yearly analysis of the FCAT results per School Board district for the 2007-08 school year. Please provide the analysis and an explanation as to why it was not provided to the public in a timely manner.

At the School Board meeting of February 14, 2007, item H-5 directed the Superintendent to provide the best means of providing etiquette instruction and incorporating department into the report card and to include recommendations in the 2007-2008 Student Progression Plan. With the exception of a one line reference in the 2007-2008 Student Progression Plan, please provide evidence of any further development of any etiquette or department instruction program, teacher training, or curriculum development that would indicate a good-faith effort to implement such a program as requested by the board item. Please provide evidence of teacher's regular use of report card to comment on student etiquette and department.

At the School Board meeting of June 18, 2008, implementation of the four day work week as a pilot program for the 2007-2008 summer school term was approved. Please provide documentation that reasonable efforts were undertaken to implement a four day work week as a pilot program for the 2007-2008 summer school term.

At the School Board meeting of April 18, 2007, expansion of Florida Kidcare enrollment through the use of the district's marketing tools, and the reporting to the School Board of the progress of the marketing campaign to improve enrollment in Kidcare. Please apprise the board of any and all efforts undertaken to increase enrollment as per the board item, and any increases in Kidcare enrollment from 2007 to 2008.

In addition to the board items, there are other well-publicized incidents of insubordination that when viewed in their totality, could meet the legal threshold

of Gross Insubordination:

January 3, 2006: The school board filed complaint against the superintendent to provide public information as requested. The refusal of the superintendent to provide a board member and the public information constitutes willful neglect of duty and insubordination. The initial complaint was filed by Board Member Marta Perez, and the entire School Board of Miami-Dade County, Florida later joined in the complaint.

August 21, 2008: The superintendent's refusal to attend a mandatory, publicly noticed, legal committee meeting that was called into session by the Chairperson of the committee within the purview of board rule 6GX13-8C-1.23 and Florida state statutes. This is the third instance of the Superintendent refusing to attend a publicly noticed meeting called by a board member.

**ACTION PROPOSED BY  
MR. RENIER DIAZ DE LA PORTILLA:**

1) That the School Board of Miami-Dade County, FI instructs the school board attorney's office to seek emergency declaratory and injunctive relief from a court from additional remuneration owed to the Superintendent on the grounds that he has breached his contract in demonstrating Willful Neglect of Duty and Gross Insubordination. All allegations of Gross Insubordination and Willful Neglect of Duty, including the superintendent's refusal to attend a mandatory, publicly noticed, legal committee meeting that was called into session within the purview of board rule 6GX13-8C-1.23 and Florida state statutes, shall be taken into consideration.

2) That the School Board of Miami-Dade County, Florida take appropriate action based on the court's findings in an emergency Special Board Meeting to be scheduled as soon as possible after the Court's findings are released.

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