

Ms. Perla Tabares Hantman, Board Member

SUBJECT: INITIATE RULEMAKING TO CODIFY THE PROCEDURES, PROVISIONS, ROLES AND AUTHORITY OF THE SCHOOL BOARD'S EXECUTIVE SESSION, ATTORNEY/CLIENT SESSION AND RISK MANAGEMENT SESSION

COMMITTEE: INNOVATION, EFFICIENCY AND GOVERNMENTAL RELATIONS

LINK TO DISTRICT STRATEGIC PLAN: REFORM BUSINESS PRACTICES TO ENSURE EFFICIENCY, EFFECTIVENESS AND HIGH ETHICAL STANDARDS

At the January 17, 2007 School Board meeting, I proffered agenda item B-16 directing the Superintendent to provide a report on the procedures for accessing public records and documents by various entities, members of the public and School Board Members. The time of the agenda item coincided with Florida Governor Charlie Crist's recently created Office of Open Government. This presented a unique opportunity for the School Board to familiarize itself and ultimately codify the procedures for the media, the public, other public and private entities and Board members to access public records from Miami-Dade County Public Schools.

In the same spirit, this agenda item proposes to direct the School Board Attorney to initiate rulemaking to clarify the procedures, provisions, and authority for each of the closed sessions that the School Board holds that are exempt from the requirements of the Sunshine Law. The three closed sessions are Executive Session for collective bargaining issues, Attorney/Client Session for active litigation matters and Risk Management Session dealing with tort claims. The resulting new School Board Rule would address each of these closed sessions of the School Board and would codify such points as the legal authority for calling each and under what circumstances, how these sessions are required to be called, who calls them, the responsibility for confidentiality of each of these sessions, when it begins, when it ends, the requirements for a Court Reporter to be present or minutes of the sessions to be kept, when these formal recordings of the sessions may become public documents and whether agenda items for settlements of lawsuits or claims should be brought to the School Board at an open meeting as a result of any of these sessions.

This item will provide clarity by delineating in one single Board Rule procedures involving closed sessions that the Board holds that are exempt from the Sunshine Law, thus simplifying the process for all stakeholders. There are only a couple of areas of concern to be considered, both of which can be addressed within the new Rule to be initiated:

- At the present time, some risk-management related claims, such as personal injury lawsuits, are not brought to the School Board at open meetings. The rationale is that the public disclosure of such settlements may provide any future litigants with the amount of dollars others have been awarded. This could potentially both increase the number of cases brought against the District as well as increase the amount of compensation awarded. It should be incumbent on the School Board Attorney to make specific recommendations as to which cases should or should not be publicly presented.

- At the current time, there is flexibility as to when one of these sessions may be called. It would be prudent to keep that flexibility in any ensuing Board Rule that is created so that both the School Board and the Superintendent can quickly address any emergency that may arise and be able to call such a meeting.

ACTION PROPOSED BY SCHOOL BOARD MEMBER

MS. PERLA TABARES HANTMAN:

That The School Board of Miami-Dade County, Florida, direct the School Board Attorney to initiate rulemaking at the April 22, 2009, School Board meeting to codify the policy and procedures for Executive Session, Attorney/Client Session and Risk Management Session to include for each those topics as described in the agenda item, including what is required by law and the roles of the Superintendent and the School Board Members in each of the sessions.