

Annual Report 2009-10

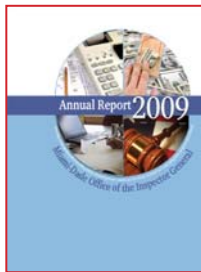
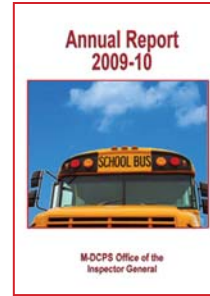


**M-DCPS Office of the
Inspector General**

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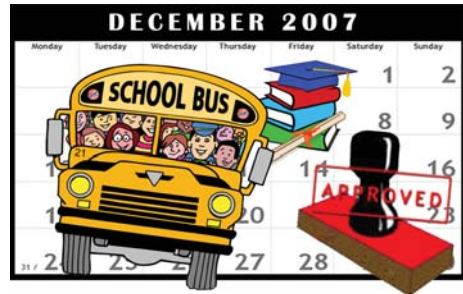
This report is the second annual report of the Miami-Dade County School Board Office of the Inspector General (SB OIG). Under the terms of the Interlocal Agreement between the School Board and County, the SB OIG is required to submit an annual report covering its activities for the preceding fiscal year. This report will provide information on SB OIG activities during its second full fiscal year, July 1, 2009 through June 30, 2010.



The recently published Miami-Dade Office of the Inspector General (OIG) 2009 Annual Report contains considerable background information about the office and its functions and will not be repeated here. The report is available at <http://www.miamidadeig.org/annualreports.htm>.

SB HISTORY & BUDGET

During the summer of 2007, former School Board Chair Agustin Barrera initiated contact with the County's OIG to determine its willingness and availability to assume the role of Inspector General for the School Board. After months of discussion and negotiations between the principal stakeholders of the County and the School Board, an Interlocal Agreement (ILA) was finalized and executed by the School Board in October 2007 and, thereafter, by Miami-Dade County in December 2007. The ILA designated the County's OIG to assume the role of Inspector General for the School Board. The ILA was modeled closely in content after the County's OIG enabling legislation. The OIG assumed operations in January 2008.



The School Board approved a budget of \$1.3 million for FY 2009-10. Expenditures amounted to only \$621,000. In other words, the SB OIG

frugally only used 50% of its authorized budget. This past June 2010, the School Board approved the FY 2010-11 budget for \$1.1 million. This current year's budget reflects a 10% reduction. As in the past, the budget is based on our staffing, operating needs, and the anticipated staffing of unfilled positions.

At the close of the FY 2009-10, work began on amending the ILA to continue the operation of the SB OIG for another three years. The amendment was passed by the School Board in July 2010 and by the Board of County Commissioners in October 2010.

OFFICE PERSONNEL & FACILITIES

The SB OIG's office is located on the second floor of the Annex Building, located at 1500 Biscayne Boulevard. After the remodeling of the office to accommodate additional investigators and equipment, the office is now better equipped to handle complaints and additional activities.

The staffing level is at seven staff members dedicated to SB OIG activities. Investigative activities are conducted by full-time and part-time investigators. The supervisor of the SB OIG is directly employed by the County's OIG and is deployed at the SB OIG on a full-time basis. All other staff exclusively assigned to the SB OIG are employees of the School District. County IG staff continues to assist the SB OIG in its investigations and audits, and those resources continue to be paid for by the School Board on a reimbursable basis.

ETHICS TRAINING AND OIG ACCREDITATION

During FY 2009-10, an OIG special agent conducted Ethics Training for a majority of the supervisors for the Miami-Dade Schools Police Department (M-DSPD). The training was well received, and will be continued for the remainder of the sworn personnel of the agency.

The Miami-Dade County Office of the Inspector General recently and prestigiously became an accredited agency with the Commission on Florida Law Enforcement Accreditation (CFA). The M-DSPD is seeking accreditation through the CFA, as well. The OIG has pledged to assist the Miami-Dade Schools Police Department to accomplish this goal. The OIG accreditation manager will work with M-DSPD personnel in revising its policies and preparing for the requirements of the accreditation process.

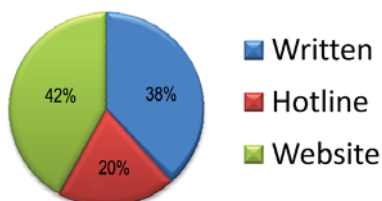


COMPLAINTS

The SB OIG is a principal clearinghouse for complaints filed by the public and by school district employees. Since its December '07 inception, we have received 279 complaints involving subject matters such as fraud, waste, and mismanagement. This past fiscal year, we received 86 complaints. Most complaints, or 42%, were made through the OIG's website; 38% were made by mail or fax; and the hotline was used to register 20% of the complaints.

Of the 86 complaints, 26% resulted in the initiation of inquiries or investigations, 5% related to an existing case or inquiry, and 26% were either resolved by administrative resources within M-DCPS or were referred to external agencies. No action was warranted on 22% of the complaints due to various reasons, such as not being within the OIG's jurisdiction or because insufficient detail was provided. The remaining 21% are being held pending additional information and/or resources.

Complaints Taken Since Inception of SB OIG Office



Disposition of 2009-10 Complaints



In accordance with Section 3(h) of the ILA, the Inspector General shall be the district's designee for purposes of receiving Whistleblower's Act disclosures under §112.3187(7) and investigating them in accordance with §112.3187-31895, Fla. Stat. Whistleblower disclosures are those disclosures that allege violations or suspected violations of law, rule or regulation that endanger health and public safety or allegations of acts of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty by persons in an agency or independent contractors. Any individual who makes such a disclosure is entitled to have their identity remain confidential during the investigation, with limited exceptions. These disclosures are to be differentiated from complaints alleging retaliation against individuals who report fraud, waste, or abuse.



Complaints can be submitted through our website's Report Fraud link at www.miamidadeig.org. They can also be faxed to our office at (305) 523-0613, or mailed to 1500 Biscayne Boulevard, Suite 234-K, Miami, FL, 33132. Our hotline number is (305) 579-2593. Complaints can also always be made by contacting our office directly at (305) 523-0623. Any person who comes to our office is welcome to report their concerns.



ACTIVITIES

IG activities for Fiscal Year 2009-10 included an audit of the Miami-Dade County Public Schools Workers' Compensation program, several investigations leading to four arrests, and the proper referral and resolution of several complaints. Summaries highlighting these activities are in the following section.

Audit of M-DCPS Workers' Compensation Program

The SB OIG conducted an audit of the Miami-Dade County Public Schools (M-DCPS) Workers' Compensation (WC) program, pursuant to our authority under the Interlocal Agreement between the County and the School Board. OIG auditors quantified \$194,503 in questioned costs resulting from (1) Gallagher Bassett's (GB) improper use of the imprest fund—i.e., M-DCPS money—to pay for disallowed fees, penalties, and interest that were GB's responsibilities; (2) GB overpayments of inpatient hospitalization charges and physical therapy charges; and (3) M-DCPS paying GB for contract deliverables that we believe never materialized. We also identified up to \$136,000 in additional potential financial benefits to M-DCPS that will require GB to "audit" all inpatient hospitalization charges since July 2007, and all physical therapy charges since October 2008, to quantify more accurately Gallagher Bassett overpayments to the service providers. Since its 1994 competitive solicitation, the School Board has exercised its prerogative to negotiate directly with GB to approve three additional contracts and one contract amendment for WC claims administration and managed care services. In discussions with the Risk Management (RM) Officer, he explained that this was a conscious decision not to re-solicit for the services of a third-party claims administrator because of the school district's internal culture to continue using the services of the incumbent provider when the district is satisfied with the provider's service and performance. We acknowledge that there may be benefits to employing the same firm repeatedly, but that there are also benefits to be gained by going to the open market, via a competitive solicitation. Because price is an important factor—and it especially should be for public entities in light of ever growing budgetary deficits—it was our recommendation that M-DCPS officials competitively seek price proposals in a new Request for Proposal (RFP) process. Consequently, in August 2009 a new RFP for WC claims administration and managed



care services and third-party liability claims administration was issued. The new competitive selection process resulted in GB winning the contract award, but at a savings to the District of \$1,198,332 over three years. The new contract also instituted performance measures and defined previously vague contract terms and aspirational goals. Additionally, at the suggestion of the OIG, a provision in the contract that would have allowed for bonus payments to the company was eliminated from the contract, thus resulting in additional savings of up to \$162,355.

Overtime and Payroll Abuse Settlement

The SB OIG began an investigation after receiving allegations that a former Miami-Dade Schools Police Department (M-DSPD) Sergeant falsely claimed to have worked a substantial number of overtime hours.

Our investigation also established that the Principal of Campbell Drive Middle School (Campbell Middle) certified that the overtime hours claimed by the Police Sergeant were accurate when, in fact, the Principal did not know whether the Sergeant actually worked



those hours. Other management deficiencies were uncovered and subsequently corrected. As a result of the investigation, the Police Sergeant entered into a settlement agreement with the Miami-Dade State Attorney's Office in September of 2009. Although the agreement did not constitute an admission of guilt to any criminal act or any other wrongdoing, it stipulated that the Sergeant resign from M-DSPD; complete 150 hours of community service within one year of the execution of the agreement; and pay M-DCPS \$7,841 for restitution and OIG investigative costs.

Three Arrests at Southside Project

The SB OIG engaged in a joint investigation with the Miami-Dade State Attorney's Office; the U.S. Attorney's Office for the Southern District of Florida; and various other federal, state, and local law enforcement agencies, relating to the Southside Elementary School



Modular Classroom Addition Project. The investigation uncovered evidence of criminal conduct in connection with the construction project, including multiple violations of federal and state law. The investigation determined that since at least February 2009,

many of the construction workers at the Southside Project site were being required to work under aliases, were being paid substandard wages, and were required to cash paychecks issued under fictitious names at a mobile check cashing company at the construction site. These workers included undocumented workers and both registered aliens and U.S. citizens. Additionally, many of the construction workers did not receive overtime wages and were not covered by workers compensation insurance. Workers who questioned the arrangement were told that if they did not work under an alias under the stated terms, they would not be allowed to work on the Southside Project. Based upon this joint investigation, in June 2010, United States Immigration and Customs Enforcement agents arrested Luis Daniel (President of Daniel Builders, Inc., in Hialeah); his wife, Marta Duque (Secretary/Director); and their son, Ariel Daniel (Treasurer/Director). The three defendants were subsequently indicted by a Federal Grand Jury and charged with wire fraud and conspiracy to commit wire fraud, and encouraging and inducing an alien to reside in the United States and conspiracy to do the same. If convicted, they each face a maximum sentence of 20 years in prison.

Scholarship Fraud Leads to Arrest

Based on a complaint received on our website, the SB OIG conducted a joint investigation with the Miami-Dade State Attorney's Office. Deborah Swirsky-Nunez, an M-DCPS employee since 1986, was criminally charged with one count of Organized Scheme to Defraud, a third degree felony, and two counts of Grand Theft, both third degree felonies. The OIG investigation found that Swirsky-Nunez, through false documents and misrepresentations, manipulated the M-DCPS process to obtain McKay Scholarships from the Florida Department of Education for both of her children in order to reduce the tuition of the private school they attended in Broward County. Swirsky-Nunez, who was an



Instructional Supervisor for Exceptional Student Education at the North Regional Center, was familiar with the McKay Scholarship process. The investigation revealed that Swirsky-Nunez used her position and friendship with various M-DCPS employees at Dr. Michael Krop Senior High School (Krop) and at regional offices to obtain the necessary evaluations and documentation for her daughter to be awarded a McKay Scholarship. The investigation uncovered that some of that documentation was false and forged. Additionally, Swirsky-Nunez used a false home address to enroll her daughter at Krop for one week in October 2008 and for another week in February 2009. Those two weeks,

known as Full-Time Equivalency weeks, are when student enrollment in public schools is counted for funding purposes and for McKay scholarship eligibility. Swirsky-Nunez' scheme resulted in a scholarship award for her daughter in the amount of \$11,356. The OIG also uncovered that Swirsky-Nunez had similarly used false documentation and obtained the cooperation of M-DCPS employees in order to obtain a McKay scholarship for her son.



Results From Earlier OIG Investigations



Last year, we reported on a number of matters that were nearing completion and on others that were ongoing for which we could not provide detailed information. Completed investigations have resulted in total savings to the District of almost \$1.8 million.

We reported an overpayment of \$23,588 that was made to an environmental assessment firm, Professional Engineering and Inspection Company, Inc. We strongly urged that all of the Geotechnical/Construction Materials Testing and Environmental Assessment Services Contracts be audited for similar overpayments. The District's auditors confirmed the overpayment, resulting in additional savings to the District. Other remedial actions have been taken by the administration to enforce policies and procedures that help prevent future waste.

As reported in 2008, an investigation revealed overpayments made to Charter on the Beach Middle school based upon inaccurate student attendance records. As a result of the OIG's review, \$1,690 in Full-Time Equivalent (FTE) funds were restituted to the District.

The investigation into the John A. Ferguson Senior High School (Ferguson SHS) retreats resulted in a Settlement Agreement between the State Attorney's Office (SAO) and Dr. Donald Hoecherl, the former principal of Ferguson SHS. The investigation uncovered Dr. Hoecherl's deliberate circumvention of School Board Rules and other internal procurement controls to improperly obtain funds to pay for school employee retreats. As discussed in the OIG final report issued on June 11, 2008, Dr. Hoecherl contracted directly with resort hotels and utilized pseudo vendors to create layered transactions in order to

conceal the true use of over \$200,000 in school district funds. He then used the funds to pay for hotel lodging at resorts, alcoholic beverages and food for the staff of Ferguson SHS, as well as their friends and family. As part of his settlement agreement with the SAO, Dr. Hoecherl does not admit to any criminal wrongdoing, but agreed to resign his employment with M-DCPS, which he did in November 2009. Dr. Hoecherl also agreed to pay restitution in the amount of \$20,272 for expenditures associated with the 2006 and 2007 retreats, as well as the costs of the OIG investigation.

Several other investigations have focused on inappropriate conduct by school district employees. For instance, we reported on a case where employees at Norland Elementary School used school district resources to run a private business. In that case, documents found by SB OIG investigators showed that the business—a cleaning company that



actually had Miami-Dade County government janitorial contracts—used the school’s fax machine number on its business letterhead, and that the business partners directed their employees to pick up their paychecks at Norland Elementary School. Our report recommended remedial actions to help curb future abuses. One employee received a ten-day suspension; another was suspended for over nine

months; and the third employee was terminated in January 2010. In addition, our investigation and report also resulted in collateral benefits to tighten procurement protocols on the Miami-Dade County side. The County’s procurement department has strengthened its internal controls to detect irregular contact information, such as dadeschools.net email addresses.

In the beginning of 2009, the SB OIG received allegations of improper supplements being paid to an athletic coach. The investigation revealed that the employee was getting a supplement that he was not entitled to

receive. The matter was referred to the Region and the Office of Compensation Administration. It was determined that \$2,946 needed to be returned to the District. Automatic deductions from his paycheck were established until the full amount is recovered.

In another case, we reported that the principal of Bent Tree Elementary School solicited and received a loan from a subordinate, and failed to repay it until legal action was taken. Because of this investigation, the OIG proposed creation and enforcement of policies and procedures to prohibit the solicitation of loans, gifts, and other items of value by supervisory personnel from subordinate employees. Current policies only prohibit conduct by an employee that could bring disfavor or disrespect upon either the employee or M-DCPS. School Board Rule 6Gx13-4A-1.213 also addresses solicitations between employees and vendors of items of value and the acceptance of gifts and other items of value—in the context of influencing an employee’s official actions, but neither addresses an authoritative relationship between a supervisor and a subordinate. In February 2010, the Ethics Advisory Committee proposed an amendment to the Gifts Rule, which at this time is still under consideration by the administration.



Another piece of legislation resulted from an investigation that was undertaken after receiving an allegation that a member of the School Board might have a conflict of interest by using a contractor, who also works on M-DCPS projects, to perform renovations on his home. The SB Member also asked us to look into the matter. As there were no policies or procedures prescribing the extent of due diligence required to identify possible conflicts of interest, we proposed an amendment clarifying SB Rule 6Gx13-4A-1.212, Conflicts of Interest, to provide basic guidelines to its employees and officials regarding the extent of due diligence required to reasonably ensure they are not violating the rule. The amendment was adopted March 17, 2010.

In February 2009, the SB OIG began an investigation after receiving information that one or more attendees of an executive session of the School Board may have leaked non-public information obtained during a meeting to the media. On January 30, 2009, the SB convened an executive session, closed to the public, to consider collective bargaining issues. The attendees were all nine SB Members, the Interim Board Attorney, the Superintendent, eight members of his staff, and a consultant to the school district. During the executive session, the Interim SB Attorney informed all present that Florida law prohibited the disclosure of any information revealed during the meeting to members of the public. WFOR-TV broadcast a story on the same day that revealed information discussed in the executive session. A WFOR-TV reporter stated that “sources” had contributed to the story. The Miami Herald posted a website article describing the contents of the discussions of the executive session. Our investigation into the leak emphasized the need to maintain transparency of SB meetings while stressing the importance of abiding by the Sunshine Law and not disclosing information acquired from executive session. Based upon the investigation, the OIG was unable to determine who leaked the specific events of the meeting as reported in the media, although our investigation did reveal that several members of the SB had conversations with the media shortly after the executive session. The OIG recommended that any attendee of a SB executive session who is asked any questions about such meetings by the news media, or any other member of the public, should simply answer with “NO COMMENT.” In short, any person who attends an executive session, regardless of whether they believe it should or should not be held in the Sunshine, should be bound not to disclose any information acquired from the executive session to the public.



To summarize, OIG activities have resulted in almost \$1.8 million in savings to the School Board, several arrests, other personnel administrative actions, and legislative reforms. The SB OIG will continue its review and evaluation of proposals, contracts and programs on such criteria as cost and quality control, time management, program and project management, performance standards, subcontracting assignments, contract compliance, and safety issues.

I hope our second annual report helps in your assessment of the progress and accomplishments made by the SB OIG in its new operations. The governing model—an Interlocal Agreement—for this groundbreaking office has provided us with flexibility and opportunities. Through the Interlocal Agreement, we are bringing to the School Board my office’s experience, hindsight, and professionalism. Providing these services through an Interlocal Agreement makes for an innovative way for the community at large to better achieve aggressive oversight in the most efficient and cost effective manner. We hope that you will continue your support of this endeavor.



Christopher R. Mazzella
Miami-Dade County Inspector General and
Inspector General for Miami-Dade County Public Schools

APPENDIX: INTERLOCAL AGREEMENT BETWEEN THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, AND MIAMI-DADE COUNTY, FLORIDA, FOR THE PROVISION OF INSPECTOR GENERAL SERVICES THROUGH THE OFFICE OF THE MIAMI-DADE COUNTY INSPECTOR GENERAL

THIS INTERLOCAL AGREEMENT (the "Interlocal Agreement" or "Agreement" or "ILA") is entered into as of the 27th day of December 2007, by and between THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, a public body corporate and politic and governing body of The School District of Miami-Dade Florida, a political subdivision of the State, existing under the laws of the State of Florida, its successors and assigns (hereinafter referred to as the "School Board"), and MIAMI-DADE COUNTY, a political subdivision of the State, its successors and assigns (hereinafter referred to as the "County"). The School Board and the County are sometimes referred to herein individually as a "Party" and collectively as the "Parties")

RECITALS

WHEREAS, Section 163.01, Florida Statutes, the "Florida Interlocal Cooperation Act of 1969," authorizes public agencies to enter into interlocal agreements for mutual benefit; and

WHEREAS, the home rule powers under Section 1001.32(2), Florida Statutes, authorizes the School Board to exercise any power except as expressly prohibited by the State Constitution or general law; and

WHEREAS, the School Board seeks to hire an Inspector General that would be responsible, on behalf of the School Board, for conducting independent audits and investigations into school district practices and operations in order to prevent and detect fraud, waste, financial mismanagement, or other abuses, and promote accountability, integrity, economy, and efficiency in government; and

WHEREAS, School Board Rule 6GX13-8A-1.08 expressly authorizes the School Board, as an alternative method to selecting and employing an Inspector General, to contract through an interlocal agreement with the County for inspector general services to fulfill the role of the Inspector General for the School Board; and

WHEREAS, the County already has an established Office of the Inspector General that has been nationally recognized for independently and effectively conducting inspector general activities; and

WHEREAS, the County and the School Board recognize that, given the knowledge, experience, and ability of the staff of the Office of the Miami-Dade County Inspector General in conducting investigations into government waste, fraud, or mismanagement, the Office of the Miami-Dade County Inspector General is in the best position to expeditiously fulfill the services of Inspector General for the School Board; and

WHEREAS, the School Board and the County have determined that it will serve the public interest to enter into this Interlocal Agreement in order to accomplish all of the foregoing goals,

NOW THEREFORE, in consideration of the terms and conditions, promises and covenants hereinafter set forth, the Parties agree as follows:

Section 1. Recitals Incorporated.

The above recitals are true and correct and incorporated herein by reference.

Section 2. Purpose.

The purpose of this Interlocal Agreement (ILA) is to arrange for the services of an Inspector General and the provision of inspector general services to the School Board by the Miami-Dade County Office of the Inspector General (County OIG).

Section 3. Responsibilities, Functions, Authority, and Jurisdiction of the Inspector General:

a. The Miami-Dade County Inspector General shall act as head of the School Board's Office of Inspector General (hereinafter "SB OIG") and serve as the Inspector General for the School Board during the term of this ILA. The organization and administration of the SB OIG shall be sufficiently independent to assure that no interference or influence external to the SB OIG adversely affects the independence and objectivity of the Inspector General. The term "Inspector General" when standing alone hereinafter shall refer to the Inspector General for the School Board whose role is being fulfilled by the County's Inspector General pursuant to the terms of this ILA.

b. The SB OIG shall have the authority to make investigations of School Board affairs and the power to review past, present and proposed School Board programs, accounts, records, contracts and transactions.

c. The SB OIG shall have the power to require reports and the production of records from the Superintendent, School Board members, School District departments and allied organizations, and District officers and employees, regarding any matter within the jurisdiction of the Inspector General.

d. The OIG shall have the power to report and/or recommend to the School Board and/or the Superintendent whether a particular project, program, contract, or transaction is or was necessary and, if deemed necessary, whether the method used for implementing the project or program is or was efficient both financially and operationally. Any review of a proposed project or program shall be performed in such a manner as to assist the School Board or Superintendent in determining whether the project or program is the most feasible solution to a particular need or problem. Monitoring of an existing project or program may include reporting whether the project is on time, within budget, and in conformity with plans, specifications and applicable law.

e. The OIG shall have the power to analyze the need for, and the reasonableness of, proposed change orders. The Inspector General shall also be authorized to conduct any reviews, audits, inspections, investigations or analyses relating to departments, offices, committees, activities, programs and agencies of the School Board.

f. The Inspector General may, on a random basis, perform audits, inspections and reviews of all School Board contracts. All prospective bidders, proposers, vendors and contractors doing business with the School Board will be informed of the authority of the SB OIG to conduct such random audits, inspections, and reviews and language to this effect, including but not limited to the authority of the SB OIG to access contractor records and the obligation of the contractor to make those records available upon request, shall be incorporated into every bid, proposal, contract and purchase order issued by the School Board after the effective date of this ILA.

g. The Inspector General shall have the power to audit, investigate, monitor, oversee, inspect, and review the operations, activities and performance and procurement process including, but not limited to, project design, establishment of bid specifications, bid submittals, activities of the contractor, its officers, agents and employees, lobbyists, School Board staff, and elected officials, in order to ensure compliance with contract specifications and detect corruption and fraud.

h. Pursuant to § 112.3187(6), Fla. Stat., the OIG shall be the designee of the District's chief executive officer for purposes of receiving Whistle-blower's Act disclosures under § 112.3187(7) and investigating in accordance with §§ 112.3187-31895, Fla. Stat.

i. Notwithstanding section (h) above, the Inspector General shall have the power to review and investigate any citizen's complaints regarding School Board projects, programs, contracts or transactions.

j. The Inspector General may exercise any of the responsibilities, functions and authorities contained in this ILA upon his or her own initiative.

k. The Inspector General shall be notified in writing prior to any meeting of a selection or negotiation committee where any matter relating to the procurement of goods or services by the School Board is to be discussed. The notice required by this section shall be given to the Inspector General as soon as possible after a meeting has been scheduled, but in no event later than twenty-four hours prior to the scheduled meeting; said notice may be provided via electronic mail. The Inspector General may, at his or her discretion, attend all duly noticed School District meetings relating to the procurement of goods or services as provided herein, and may pose questions and raise concerns consistent with the functions, authority and powers of the Inspector General. An audio tape recorder shall be utilized to record all selection and negotiation committee meetings.

l. Under § 1002.22(3), Fla. Stat., student records are highly confidential and may be disclosed only as allowed by § 1002.22(3)(d), Fla. Stat., and State Board of Education Rule 6A-1.0955, F.A.C. The Inspector General will observe these restrictions when preparing reports, as well as observing all other applicable confidentiality requirements under state and federal law.

Section 4. Coordination Of Activities With Internal And External Agencies.

a. The School Board, Superintendent, Chief Auditor, Office of Civil Rights Compliance, Civilian Investigative Unit, Office of Professional Standards and Miami-Dade Schools Police will cooperate with the Inspector General and SB OIG to achieve the goals of preventing and detecting fraud, waste, financial mismanagement, or other abuses, and promoting accountability, integrity, economy, and efficiency in government. Although the SB OIG does not, whenever possible, intend to duplicate the work of the aforementioned entities, its audits, investigations, inspections and reviews may from time to time address the same or similar issues or activities being reviewed by the aforementioned entities. In such cases, and in every case, SB OIG audits, investigations, inspections and reviews will be conducted separately and independently from the aforementioned activities, and upon conclusion, the SB OIG, where appropriate, shall refer the disposition or finalization of an audit, investigation, inspection or review to the appropriate school board entity for any additional action. The Inspector General, District Superintendent and directors of the aforementioned departments may, through subsequent mutual written agreement(s), agree upon operating procedures to ensure that the aforementioned goals are achieved.

b. The Inspector General shall not interfere with any ongoing criminal investigation of the State Attorney or the U.S. Attorney for the Southern District of Florida where the State Attorney or the U.S. Attorney for the Southern District of Florida has explicitly notified the Inspector General in writing that the Inspector General's investigation is interfering, or would interfere, with an ongoing criminal investigation.

c. Where the Inspector General detects corruption or fraud, he shall notify the appropriate law enforcement agency(ies). Subsequent to notifying the appropriate law enforcement agency, the Inspector General may assist the law enforcement agency in concluding the investigation.

d. OIG personnel will make every reasonable effort to minimize any disruption or interference with work activities being performed in the school system. Except where investigative requirements dictate otherwise, advance notice should be given

of a need for the IG or other OIG staff to access areas not routinely accessed by the Board, employees, contractors, or subcontractors of a school. Visits to school sites should be coordinated with the principal and School Police; and any access to students (e.g. interviews or requests for statements) must be consistent with the District's procedures for investigations and the rights of parents and guardians. OIG personnel, who in the course of their employment will have direct contact with students or access to school grounds while students are present, must comply with the requirements of the Jessica Lunsford Act, § 1012.465, Fla. Stat. (2007), and any amendments thereto.

Section 5. Physical Facilities and Staff of the SB OIG:

a. The School Board and District shall provide the SB OIG with appropriately located office space and sufficient physical equipment facilities together with necessary office supplies, equipment, and furnishings to enable the SB OIG to perform its functions.

b. The Inspector General may make available staff members of the County's OIG to provide administrative, legal, investigative, audit and inspectional services. The provision of these services will be reimbursed by the School Board pursuant to Section 7 of this agreement. County personnel providing services pursuant to this agreement, including the Inspector General, shall remain at all times employees of the County.

c. The District Superintendent will make available personnel, resources and accommodations to the Inspector General in order to staff the SB OIG. Funding for personnel, resources and accommodations provided by the District shall be included in the annual allocation by the School Board for the SB OIG as provided in Section 7 of this agreement. The identification, duration, and terms of detachment of District personnel pursuant to this section will be made by subsequent mutual written agreement(s) between the Inspector General and the Superintendent, which will be in conformance with the requirements of § 112.24, Fla. Stat. During the term of this ILA, the School Board hereby delegates to the Superintendent the authority to enter into said personnel detachment agreements. These individuals shall report directly to the Inspector General or his designee during the period of the detachment. District personnel detached to the SB OIG shall remain at all times employees of the School District and such detachment will in no way adversely affect the individual's employment rights and privileges, nor shall an employee's return to his or her previous position be adversely affected after a period of detachment to the SB OIG. At the conclusion of their detachment, placement and assignment of school district employees will be governed under the terms of their respective collective bargaining agreements.

d. The Inspector General shall, subject to the budgetary allocation by the School Board, have the authority to retain and coordinate the services of Independent Private Sector Inspectors General (IPSIG) or other professional services, as required, when in the Inspector General's discretion he or she concludes that such services are need to perform the duties and functions enumerated in this ILA.

e. The Inspector General shall have the power to establish personnel and operating procedures as deemed necessary for the efficient and effective administration and performance of this ILA.

Section 6. Reports and Recommendations by the OIG:

a. Notwithstanding any other provision of this ILA, whenever the Inspector General drafts a report or recommendation which contains findings as to the person or entity being reported on or who is the subject of the recommendation, the Inspector General shall provide the affected person or entity a copy of the report or recommendation and such person shall have 10 working days to submit a written explanation or rebuttal of the findings before the report or recommendation is finalized, and such timely submitted written explanation or rebuttal shall be attached to the finalized report or recommendation. The requirements of this section shall not apply when the Inspector General, in conjunction with the State Attorney, or other prosecuting authority, determines that supplying the affected person or entity with such report will jeopardize a pending criminal investigation.

b. The Inspector General shall annually prepare and submit to the School Board a written report concerning the work and activities of the SB OIG as it relates to the duties outlined in this ILA including, but not limited to, statistical information regarding the disposition of closed investigations, audits, and other reviews.

Section 7. Budgetary Allocation by the School Board.

It is agreed by the Parties that the operations and services to be provided by the SB OIG to the School Board shall be adequately funded at no cost to the County.

a. Initial Allocation. The School Board agrees that it will allocate \$75,000 (allocated from a fund that has been budgeted for purposes reasonably related to OIG services) as an initial amount of funds to the SB OIG, and place such funds in an account to be drawn by the SB OIG as needed, until an annual budget is agreed upon by the School Board and the Inspector General. The SB OIG will provide the School Board with an invoice, accounting or other report of any monies drawn from the initial \$75,000 allocation.

b. SB OIG Budget. The Inspector General will, within 90 days after the ILA becomes effective, present to the School Board, through a recommendation from the Superintendent, a proposed annual budget for the SB OIG and a method for its implementation. This proposed budget shall be inclusive of the resources to be provided by the County OIG through its professional staff and any operating expenditures made directly by the County OIG in the furtherance of or pursuant to this ILA. Additionally, the annual budget shall contain funds to accommodate the resources to be provided for the operation of the SB OIG as identified in Section 5(a) and 5(c) herein, and sufficient funds for the general operation of the SB OIG. Once the SB OIG and the School Board are in agreement, the School Board shall adequately fund the costs of the services and operations for not less than the first year of this ILA. Thereafter, annual budgets shall be proposed in accordance with the guidelines set forth in this Section.

c. Compensation for County OIG services. Compensation for direct County OIG services shall be paid by the School Board within 30 days upon presentation of an invoice from the County OIG, which shall be submitted quarterly. Copies of receipts or other appropriate supporting documentation will be presented with the invoice seeking payment. Compensation for professional services rendered by County OIG personnel shall include the individual's direct hourly salary, County payroll fringe and other benefits, and applicable County OIG office overhead.

d. Should the parties hereto be unable to agree upon a budget in the manner prescribed in this section, this ILA shall be void ab initio, and any unexpended and unencumbered funds included in the initial funding allocation provided by the School Board, shall be returned to the School Board.

Section 8. Termination of ILA.

This ILA may be terminated for any reason, including convenience, by either party by thirty (30) days' written notice to the other party.

Section 9. Term and Effective Date of ILA.

This ILA shall take effect upon final execution of the ILA by both the School Board and the County, for a term of three (3) years from the date it takes effect. This three (3) year term may be renewed for an additional term, the length of which must be determined and agreed upon by both parties to the ILA.

Section 10. Indemnification and Legal Representation of the County, OIG and OIG Staff:

The School Board agrees to indemnify and hold harmless the County and its officers, employees, agents and instrumentalities including, but not limited to, the Inspector General, any member of the County OIG, and any District personnel detached or assigned to the

SB OIG for any civil actions, complaints, claims, or lawsuits that may be served on them resulting from the performance of this ILA, subject to the provisions of § 768.28, Fla. Stat. The School Board agrees to pay the legal fees and expenses resulting from the defense of such actions in accordance with § 1012.26, Fla. Stat. Notwithstanding any provisions of State law or School Board Rules, the School Board agrees that the County and its officers, employees, agents and instrumentalities including, but not limited to, Inspector General, any members of the County OIG and any District personnel detached or assigned to the SB OIG, at their sole discretion, may use or retain the services of in-house, County, outside and/or private legal counsel of their choice, in the defense of such actions, and that such services shall be paid for by the School Board, to the extent consistent with § 768.28, Fla. Stat., as interpreted by case law and pertinent Attorney General's opinions.

Section 11. Miscellaneous.

a. Notices. All notices, requests, consents, and other communications under this ILA shall be made in writing and shall be personally delivered, mailed by First Class Mail, postage prepaid, or sent by overnight delivery service, to the parties.

Except as otherwise provided in this ILA, any Notice shall be deemed received only upon actual delivery at the address set forth above. Notices delivered after 5:00 PM (at place of delivery) or on non-business day, shall be deemed received on the next business day. If any time for giving Notice contained in this Agreement would otherwise expire on a non-business day, the Notice period shall be extended to the next succeeding business day. Saturdays, Sundays, and legal holidays recognized by the United States government shall not be regarded as business days. Counsel for the School Board and counsel for the County may deliver Notice on behalf of the School Board and the County, respectively. Any party or other person to whom Notices are to be sent or copied may notify the other parties and addressees of any change in name or address to which Notices shall be sent by providing the same on five (5) days written notice to the Parties.

b. Enforcement of Agreement. In the event that the County, including the County OIG and the Inspector General, is required to prosecute or defend any action by court proceeding or otherwise relating to this ILA, the School Board shall be responsible for the fees and costs of the County's attorneys to the extent permitted by law.

c. Entire Agreement. This instrument incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein. The Parties also acknowledge that certain operating procedures and protocols, relating to the assignment of staff and coordination of activities among certain School Board departments, will be stated and agreed to by the Inspector General and the District Superintendent through subsequent, separate written agreements, as provided for in Sections 4(a), 5(c) and 5(e).

d. Amendments. Amendments and Addenda to and waivers of the provisions contained in this Interlocal Agreement may be made only by an instrument in writing which is executed by both Parties.

e. Joint Preparation. This Interlocal Agreement has been negotiated fully between the Parties as an arm's length transaction. Both Parties participated fully in the preparation of this Interlocal Agreement and received the advice of counsel. In the case of a dispute concerning the interpretation of any provision of this Interlocal Agreement, both Parties are deemed to have drafted, chosen, and selected the language, and the doubtful language will not be interpreted or construed against any Party.

f. Assignment. This Interlocal Agreement may not be assigned, in whole or in part, by any Party without the prior written consent of the other Party.

g. No Third Party Beneficiaries. This Interlocal Agreement is solely for the benefit of the School Board and the County and no right or cause of action shall accrue upon or by reason of, to or for the benefit of any third party not a formal party to this Interlocal

Agreement. Nothing in this Interlocal Agreement expressed or implied is intended or shall be construed to confer upon any person or corporation other than the School Board and the County any right, remedy, or claim under or by reason of this Interlocal Agreement or any of the provisions or conditions of this Interlocal Agreement; and all of the provisions, representations, covenants, and conditions contained in this Interlocal Agreement shall inure to the sole benefit of and shall be binding upon the School Board and the County, and their respective representatives, successors, and assigns.

h. Severability. The invalidity or unenforceability of any one or more provisions of this Interlocal Agreement shall not affect the validity or enforceability of the remaining portions of this Interlocal Agreement or any part of this Interlocal Agreement that is not held to be invalid or unenforceable.

i. Governance and Venue. This Interlocal Agreement and the provisions contained herein shall be construed, interpreted and controlled according to the laws of the State of Florida. Venue for any dispute shall be in Miami-Dade County, Florida. Disputes arising from this agreement are subject to and must adhere to the provisions of Chapter 164 of the Florida Statutes, the "Florida Governmental Conflict Resolution Act."

j. Joint Defense. In the event that the validity of this Agreement is challenged by a third party or parties unrelated to the Parties through legal proceedings or otherwise, the Parties hereto agree to cooperate with each other in defense of this Agreement, with the School Board to bear attorneys' fees and costs associated with such defense.

k. Time of the Essence. The parties acknowledge that time is of the essence in the performance of all obligations required hereunder and all "days" referenced herein shall be deemed "business days" unless otherwise specifically set forth.

l. Authorization. The execution of this Interlocal Agreement has been duly authorized by the School Board and the County. The School Board and the County have complied with all the requirements of law in connection with the execution and delivery of this Interlocal Agreement and the performance of their respective obligations hereunder. The School Board and the County have full power and authority to comply with the terms and provisions of this instrument.

m. Headings for Convenience Only. The descriptive headings in this Interlocal Agreement are for convenience only and shall not control or affect the meaning or construction of any of the provisions of this Interlocal Agreement.

n. Counterparts. This Interlocal Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original; however, all such counterparts together shall constitute but one and the same instrument.

Signature and acknowledgment pages, if any, may be detached from the counterparts and attached to a single copy of this document to physically form one document.

***Approved by the School Board of Miami-Dade County
on October 17, 2007, Agenda Item H-2.***

***Approved by the Miami-Dade Board of County
Commissioners on December 18, 2007, R-1387-07.***

***[Amended in October 2010 to extend the agreement
to December 18, 2013.]***



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