

SECTION 1 - FINDINGS

Finding A.1: TCOs and Occupancy of Unfinished Schools

Response:

The District has stopped the use of TCOs as of March 2, 2011. We will complete an in-depth analysis to include, but not be limited to, research on the use of TCOs in other similar school districts in Florida, municipal use of TCOs, business sector use of TCOs, and other source data, yet to be identified. Once the analysis and research is completed, staff will bring forth to the School Board a recommendation based on the findings as to whether or not to permanently eliminate the use of TCOs or identify specific conditions where a TCO may be used. However, existing TCOs may be extended where required to ensure issuance of the 110B and 209 forms within the project timeline. Temporary occupancy is authorized per the 2007 Florida Building Code - Section 110.3 *Temporary occupancy. The building official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The building official shall set a time period during which the temporary certificate of occupancy is valid.* In addition, where specific conditions may be identified, specific processes will be established to track, monitor, and complete the work required and establish an independent cross check process to ensure issuance of a 110B and 209 forms in the stated timeframe.

Staff discussed the issue of TCOs with various school building officials throughout the state and determined each school district issues some form of temporary occupancy. Although these TCOs are referenced differently from district to district, temporary occupancy is provided in specific situations. Although this analysis supports the continued practice of TCOs under stricter guidelines, the District determined it will no longer seek general occupancy from its Chief Building Official until a 110B is issued. The final closeout procedures developed by the Chief Building Official only provide for the issuance of a TCO for the installation of furniture, fixtures, and equipment (FF&E) and other similar circumstances. In such a circumstance when a TCO is issued, correspondence will be issued to the Board outlining the circumstances for the TCO and will be valid for forty-five days with an extension only allowable due to extenuating circumstances. Again, this does not include general occupancy for staff or students.

Actions Taken Prior to Release of the GJ Final Report:

- A new Chief Building Official was appointed by the School Board in May 2009.
- The new Chief Building Official issued TCOs in very limited situations and monitored these TCOs to ensure a 110B and OEF 209 Certificate of Final Inspection (209) were issued shortly thereafter.
- The new Chief Building Official drafted a comprehensive construction project closeout procedure detailing the process and identifying the party responsible for performing each necessary task for the issuance of a 110B and 209 form. See **Exhibit 8** for a draft copy of the procedure. This procedure will be finalized by March 25, 2011, as indicated in the first bullet under "Actions to be Taken".
- In 2008 and 2009, the Building Department worked with the Facilities and Construction Management Division and independent consultants to heighten its effort to identify all existing TCOs, corresponding items outstanding, and expedite the process of resolving the items in order to issue 110B and 209 forms

for projects currently occupied under a TCO. **Exhibit 9** reflects a short-term tracking solution to monitor the status of issuing 110B and 209 forms for construction projects. This status report reflects the progress to date and is current as of 2/25/2011.

Actions to be Taken:

- Finalize and implement the comprehensive construction project closeout procedure by March 25, 2011. The final closeout procedure will focus on moving directly to the issuance of a 110B and 209 form, and include specific criteria for allowable TCOs. Additionally, the procedure will mandate succinct reporting requirements to monitor the status of TCOs to ensure they are issued 110B and 209 forms within a designated time frame.

The new construction project closeout procedure was finalized and implemented on March 25, 2011 (Exhibit A). General occupancy shall not be permissible until the issuance of a 110B.

- The District will continue to work collaboratively with all responsible parties to issue 110B and 209 forms in an expeditious manner for projects currently occupied under a TCO. The Facilities & Construction Management Division anticipates resolving all outstanding issues at these locations, except those in litigation, by July 30, 2011. The Chief Building Official will then issue 110B and 209 forms for these projects.

In order to provide regular updates to the public, the District developed a web-based table to account for all current TCOs and is continuing to work expeditiously to resolve all outstanding TCOs (Exhibit B). The table includes information on outstanding items precluding issuance of a 110B and action plans developed by project management for the completion of all outstanding items including estimated dates of completion for each project. This information is displayed on the District's Facilities & Construction Management Department website and will be continuously updated to allow the public to monitor the progress of the remaining TCOs to issuance of a 110B and 209. The issuance dates of the 110B and 209 documentation will also be incorporated within the table. This table will remain active until all the existing TCOs have been issued 110B and 209 documentation. Recognizing the District's intention to resolve all TCOs by July 30, 2011, with exception to those in litigation, the Board will receive a status update by July 30, 2011 and quarterly thereafter.

Finding A.1.a: TCOs issued with safety issues outstanding

Response:

The District contends all life safety items were addressed prior to the issuance of a TCO or appropriate actions were taken to allow safe occupancy (e.g. a fire watch). While the District acknowledges items may remain outstanding under a TCO, these items do not preclude safe occupancy.

Actions Taken Prior to Release of the GJ Final Report:

- In May 2010, the new Chief Building Official consulted with the District's safety and fire official, a member of the Board of Rules & Appeals for Broward County, and the Fire Marshal for the Broward County Fire Rescue to review identified

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TCOs and to ensure there are no deficiencies, which would preclude occupancy at these facilities.

- Each year, the District's Safety Department is required to conduct a certified fire, safety and casualty inspection for each facility in the District. The Safety Department also conducts a follow-up inspection at each facility to gauge the progress of the corrective actions. In addition, the District conducts joint fire inspections with the fire departments in Broward County to maintain compliance with Chapter 1013, Florida Statutes. See **Exhibit 10** for a sample inspection report, along with instructions on interpreting the report, and a list of the local fire departments that participate in the District's joint fire inspection program. At no juncture during these annual inspections were any deficiencies found that would preclude occupancy. A complete list of the 2009-2010 safety and fire inspection reports can be found as agenda item E-1 on the School Board's May 18, 2010 Board Meeting e-agenda at the following web address:
<http://eagenda3.broward.k12.fl.us/cgi-bin/WebObjects/eAgenda.woa/wa/displayMeeting?meetingID=1581>
- The new Chief Building Official has drafted a comprehensive construction project closeout procedure detailing the process and identifying the party responsible for performing each necessary task for the issuance of a 110B and 209 form. See **Exhibit 8** for a draft copy of the procedure. This procedure will be finalized by March 25, 2011, as indicated in the first bullet under "Actions to be Taken".
- In 2008 and 2009, the Building Department worked with the Facilities and Construction Management Division and independent consultants to heighten its effort to identify all existing TCOs, corresponding items outstanding, and expedited the process of resolving the items in order to issue 110B and 209 forms for projects currently occupied under a TCO. **Exhibit 9** reflects a short-term tracking solution to monitor the status of issuing 110B and 209 forms for construction projects. This status report reflects the progress to date and is current as of 2/25/2011.

Actions to be Taken:

- The new Chief Building Official will again meet with the District's safety and fire official, a representative from the Board of Rules & Appeals for Broward County, and the Fire Marshal for Broward County Fire Rescue by April 1, 2011 to review any additional TCOs identified subsequent to the May 2010 meeting. This process will again serve to ensure there are no deficiencies precluding occupancy at these facilities.

The Chief Building Official and the District's safety and fire official have collaborated with the Fire Marshal for Broward County Fire Rescue and a representative from the Board of Rules & Appeals for Broward County to review the outstanding items on TCOs discovered subsequent to its original meeting in May, 2010. All of these individuals agreed the outstanding items would not preclude safe occupancy. The District will continue to employ a similar process of independent review should additional projects without 110B documentation be discovered in the future. Additionally, such projects will be added to the web-based table to allow transparent monitoring of the progress of these projects until 110B and 209 documentation are issued.

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- The District will continue to work collaboratively with all responsible parties to issue 110B and 209 forms in an expeditious manner for projects currently occupied under a TCO. The Facilities & Construction Management Division anticipates resolving all outstanding issues at these locations, except those in litigation, by July 30, 2011. The Chief Building Official will then issue 110B and 209 forms for these projects.
In order to provide regular updates to the public, the District developed a web-based table to account for all current TCOs and is continuing to work expeditiously to resolve all outstanding TCOs (Exhibit B). The table includes information on outstanding items precluding issuance of a 110B and action plans developed by project management for the completion of all outstanding items including estimated dates of completion for each project. This information is displayed on the District's Facilities & Construction Management Department website and will be continuously updated to allow the public to monitor the progress of the remaining TCOs to issuance of a 110B and 209. The issuance dates of the 110B and 209 documentation will also be incorporated within the table. This table will remain active until all the existing TCOs have been issued 110B and 209 documentation. Recognizing the District's intention to resolve all TCOs by July 30, 2011, with exception to those in litigation, the Board will receive a status update by July 30, 2011 and quarterly thereafter.
- Finalize and implement the comprehensive construction project closeout procedure by March 25, 2011. The final closeout procedure will focus on moving directly to the issuance of a 110B and 209 form, and include specific criteria for allowable TCOs. Additionally, the procedure will mandate succinct reporting requirements to monitor the status of TCOs to ensure they are issued 110B and 209 forms within a designated time frame.
The new construction project closeout procedure was finalized and implemented on March 25, 2011 (Exhibit A). General occupancy shall not be permissible until the issuance of a 110B.

Finding A.1.b. Number of projects opened with a TCO or no documents at all

Response:

The District has identified the remaining TCOs and developed a process to expeditiously resolve outstanding items and issue 110B and 209 forms for these projects.

Actions Taken Prior to Release of the GJ Final Report:

- The new Chief Building Official issued TCOs in very limited situations and monitored these TCOs to ensure that 110B and 209 forms were issued shortly thereafter.
- The new Chief Building Official drafted a comprehensive construction project closeout procedure detailing the process and identifying the party responsible for performing each necessary task for the issuance of a 110B and 209 form. See **Exhibit 8** for a draft copy of the procedure. This procedure will be finalized by March 25, 2011, as indicated in the first bullet under "Actions to be Taken".
- In 2008 and 2009, the Building Department worked with the Facilities and Construction Management Division and independent consultants to heighten its

effort to identify all existing TCOs, corresponding items outstanding, and expedited the process of resolving the items in order to issue 110B and 209 forms for projects currently occupied under a TCO. **Exhibit 9** reflects a short-term tracking solution to monitor the status of issuing 110B and 209 forms for construction projects. This status report reflects the progress to date and is current as of 2/25/2011.

Actions to be Taken:

- Finalize and implement the comprehensive construction project closeout procedure by March 25, 2011. The final closeout procedure will focus on moving directly to the issuance of a 110B and 209 form, and include specific criteria for allowable TCOs. Additionally, the procedure will mandate succinct reporting requirements to monitor the status of TCOs to ensure they are issued 110B and 209 forms within a designated time frame.

The new construction project closeout procedure was finalized and implemented on March 25, 2011 (Exhibit A). General occupancy shall not be permissible until the issuance of a 110B.

- The District will continue to work collaboratively with all responsible parties to issue 110B and 209 forms in an expeditious manner for projects currently occupied under a TCO. The District will continue to work collaboratively with all responsible parties to issue 110B and 209 forms in an expeditious manner for projects currently occupied under a TCO. The Facilities & Construction Management Division anticipates resolving all outstanding issues at these locations, except those in litigation, by July 30, 2011. The Chief Building Official will then issue 110B and 209 forms for these projects.

In order to provide regular updates to the public, the District developed a web-based table to account for all current TCOs and is continuing to work expeditiously to resolve all outstanding TCOs (Exhibit B). The table includes information on outstanding items precluding issuance of a 110B and action plans developed by project management for the completion of all outstanding items including estimated dates of completion for each project. This information is displayed on the District's Facilities & Construction Management Department website and will be continuously updated to allow the public to monitor the progress of the remaining TCOs to issuance of a 110B and 209. The issuance dates of the 110B and 209 documentation will also be incorporated within the table. This table will remain active until all the existing TCOs have been issued 110B and 209 documentation. Recognizing the District's intention to resolve all TCOs by July 30, 2011, with exception to those in litigation, the Board will receive a status update by July 30, 2011 and quarterly thereafter.

Finding A.1.c. TCOs Stay Open for Years

Response:

The District determined it will no longer seek general occupancy from its Chief Building Official until a 110B is issued. The final closeout procedures developed by the Chief Building Official only provide for the issuance of a TCO for the installation of furniture, fixtures, and equipment (FF&E) and other similar circumstances. In such a circumstance when a TCO is issued, correspondence will be issued to the Board outlining the

[circumstances for the TCO and will be valid for forty-five days with an extension only allowable due to extenuating circumstances.](#)

Actions Taken Prior to Release of the GJ Final Report:

- The new Chief Building Official drafted a comprehensive construction project closeout procedure detailing the process and identifying the party responsible for performing each necessary task for the issuance of a 110B and 209 form. See **Exhibit 8** for a draft copy of the procedure. This procedure will be finalized by March 25, 2011, as indicated in the first bullet under “Actions to be Taken”.
- In 2008 and 2009, the Building Department worked with the Facilities and Construction Management Division and independent consultants to heighten its effort to identify all existing TCOs, corresponding items outstanding, and expedited the process of resolving the items in order to issue 110B and 209 forms for projects currently occupied under a TCO. **Exhibit 9** reflects a short-term tracking solution to monitor the status of issuing 110B and 209 forms for construction projects. This status report reflects the progress to date and is current as of 2/25/2011.

Actions to be Taken:

- The District will continue to work collaboratively with all responsible parties to issue 110B and 209 forms in an expeditious manner for projects currently occupied under a TCO. The District will continue to work collaboratively with all responsible parties to issue 110B and 209 forms in an expeditious manner for projects currently occupied under a TCO. The Facilities & Construction Management Division anticipates resolving all outstanding issues at these locations, except those in litigation, by July 30, 2011. The Chief Building Official will then issue 110B and 209 forms for these projects.
[In order to provide regular updates to the public, the District developed a web-based table to account for all current TCOs and is continuing to work expeditiously to resolve all outstanding TCOs \(Exhibit B\). The table includes information on outstanding items precluding issuance of a 110B and action plans developed by project management for the completion of all outstanding items including estimated dates of completion for each project. This information is displayed on the District’s Facilities & Construction Management Department website and will be continuously updated to allow the public to monitor the progress of the remaining TCOs to issuance of a 110B and 209. The issuance dates of the 110B and 209 documentation will also be incorporated within the table. This table will remain active until all the existing TCOs have been issued 110B and 209 documentation. Recognizing the District’s intention to resolve all TCOs by July 30, 2011, with exception to those in litigation, the Board will receive a status update by July 30, 2011 and quarterly thereafter.](#)
- Finalize and implement the comprehensive construction project closeout procedure by March 25, 2011. The final closeout procedure will focus on moving directly to the issuance of a 110B and 209 form, and include specific criteria for allowable TCOs. Additionally, the procedure will mandate succinct reporting requirements to monitor the status of TCOs to ensure they are issued 110B and 209 forms within a designated time frame.

[The new construction project closeout procedure was finalized and implemented on March 25, 2011 \(Exhibit A\). General occupancy shall not be permissible until the issuance of a 110B.](#)

Finding A.1.d. Retainage

Response:

As stated in the GJ Final Report, the District's existing Policy 7005 (**Exhibit 11**) outlines the appropriate procedure for reducing a construction project's retainage below the 5% threshold.

Actions Taken Prior to Release of the GJ Final Report:

- In January 2010, the new Interim Deputy Superintendent of Facilities and Construction Management was appointed.
- As previously stated, the Interim Deputy Superintendent implemented procedural enhancements to ensure all recommendations for the reduction of retainage are in compliance with applicable laws and School Board Policy 7005. As indicated in the introduction, a matrix of additional procedural enhancements is provided within **Exhibit 7**.

Actions to Be Taken:

- The Superintendent of Schools will initiate procedural changes to Policy 1100A – Rules For the Scheduling of Meetings and Establishment and Disposition of Agendas (**Exhibit 12**) to require all recommendations to reduce retainage be processed on the Board's Open Agenda allowing for public input and promoting transparency. Retainage reduction items will no longer be approved on the Consent Agenda.
 - This policy revision will be presented to the School Board for discussion at its March 29, 2011 workshop.
 - The revisions to the policy will be presented for first reading at the April 19, 2011 School Board meeting. The policy revisions will receive final approval in accordance with applicable statutes requiring public notice prior to final reading.

[The revision to Policy 1100A was presented to the School Board at its March 8, 2011 Board Workshop. The revisions include adding language that:](#)

- [Official action by the School Board shall be taken only at regular and special School Board Meetings,](#)
- [Except for added speakers, all items added to an agenda for good cause are to be placed on the Open Agenda,](#)
- [All items with a financial impact are to be placed on the Open Agenda,](#)
- [Items for reduction of retainage and receipt of audits are to be placed on the Open Agenda](#)

[The revised policy was presented for first reading and approved at the March 21, 2011 School Board Meeting \(Exhibit C\). This policy is scheduled to return to the Board for its final reading on May 3, 2011 in accordance with applicable statutes requiring 28-day public notice prior to policy adoption.](#)

- Additionally, a standard form will be developed to clearly document the approval of the reduction in retainage by the Deputy Superintendent of Facilities

& Construction Management. The new form will be developed in concert with the revision to Policy 1100A and will be implemented upon approval of the policy at final reading.

- This policy revision will be presented to the School Board for discussion at its March 29, 2011 workshop.
- The revisions to the policy will be presented for first reading at the April 19, 2011 School Board meeting. The policy revisions will receive final approval in accordance with applicable statutes requiring public notice prior to final reading.

Staff developed a new exhibit (Exhibit D) to be included as a component of all retainage reduction School Board Agenda items. The new exhibit outlines all pertinent information regarding the balance of work to be completed on the project, its estimated value of construction, and demonstrates there is adequate retainage to complete the outstanding work. The exhibit also affirms the project has been issued a 110B form by the Building Department and the retainage reduction recommendation complies with applicable statutes and Board Policy 7005. The exhibit also states, "By the Superintendent or Deputy Superintendent signing the Agenda Request Form, he/she is attesting to the Substantial Completion and the Certificate of Occupancy or Form 110B being fully executed."

Finding A.2.a. Lack of Accountability

Actions Taken Prior to Release of the GJ Final Report:

- A new Chief Building Official was appointed by the School Board in May 2009.
- The District stopped utilizing consultant services to perform any building inspections at the onset of the current fiscal year. Outside consulting services will not be utilized to conduct inspections until criteria are incorporated into the department's annual budget process based on documented inspection workload.
- District inspectors have conducted re-inspections of the inspections previously performed by the consultant's unlicensed inspectors. The District's Chief Building Official issued a formal report outlining the re-inspection process and included a matrix documenting the completion of the re-inspections. This information was presented to the District's independent Audit Committee on October 22, 2009.
- The consultant reimbursed the District for the costs associated with conducting all of the re-inspections.

Actions to be Taken:

- The District does not intend to utilize consultant inspection services in the near future, given the limited volume of funded construction projects contained in the District's 5-Year District Educational Facility Program. Outside consulting services will not be utilized to conduct inspections until criteria are incorporated into the department's annual budget process based on documented inspection workload for the upcoming year.
- The Chief Building Official will develop enhanced controls to ensure all consultants meet the statutory and contractual qualifications to perform all

purchased services. This will be completed and incorporated within the newly developed procedure manual by May 27, 2011 (see response to Finding A.2.d.). Although this issue was identified through the District's internal audit function, management recognizes this process serves as a back-up control mechanism.

Finding A.2.b. Lack of Disciplinary Authority

Response:

The majority of the positions within the Facilities & Construction Management Division are covered by a collective bargaining agreement (Chapter 447, Florida Statutes). The District applies progressive disciplinary procedures when responding to issues of employee performance, which have been negotiated with the union. When adverse employment actions are recommended, the Human Resources Division ensures these procedures have been adhered to in compliance with applicable bargaining unit contracts prior to recommending a formal employment action to the School Board.

Actions Taken Prior to Release of the GJ Final Report:

- Approximately 60 days after the appointment of the Interim Deputy Superintendent, Human Resources Division representatives met to discuss potential issues related to the implementation of contractual provisions. The Human Resources Division has been supporting the Interim Deputy Superintendent and supervisors within the Division by providing training on the evaluation process, proper documentation and discipline of employees, and with the development of support plans for employees who are not meeting the standards of their position. Continuous support has been provided to assist supervisors with employee issues and concerns to ensure the District has substantial documentation and followed appropriate policies and contractual requirements to sustain any challenges to employee actions.

Actions to be Taken:

- All the managers in the Building Department and the Facilities & Construction Management Division will be trained and/or re-trained on the District's performance evaluation tool and procedures by the Human Resources Division by March 25, 2011.

[The Human Resources Division conducted this training on March 23, 2011. Exhibit E is the agenda and training materials. Topics of discussion include Collective Bargaining Agreement, progressive discipline, and employee evaluation tools and procedures.](#)

- The District will review the staffing formula, established as a recommendation from the 1997 Grand Jury Report (page 73), and incorporate the product of such review into the 2011-2012 organizational chart and organizational chart process beginning in April 2011.

[The staffing formula utilized to increase the number of project manager positions based on increases to the construction program has been eliminated for the 2011-2012 school year. These positions will now be finite and not subject to change once the Board approves the District's Organizational Chart.](#)

Finding A.2.c. Infighting

Response:

The Grand Jury Report outlines the reassignment and subsequent termination of a Senior Supervisor of Inspectors in 2005 as a significant component to this finding. The information pertaining to this matter is not accurately reported in the GJ Report and leads to inappropriate conclusions. The GJ Report suggests this Senior Supervisor filed a suit following her termination for "blowing the whistle on numerous suspect practices at the Facilities Division", and "after years of litigation she received a settlement from the District which was widely publicized." In actuality, this inspector filed a lawsuit against the District in 2001, alleging violations of the Whistleblower Act and the Florida Civil Rights Act. In 2004, the jury returned a verdict in favor of the School Board, and a judgment was entered against the plaintiff for the District's attorney fees and costs.

Following the termination of this individual in 2005, she challenged her termination through the administrative appeal process outlined within the Collective Bargaining Agreement. The recommended order (Exhibit F) entered by the Administrative Law Judge (ALJ) documents there was sufficient evidence "to establish that she engaged in numerous acts of insubordination that, taken in the aggregate, rose to the level of gross insubordination." The recommended order further stated this individual's "conduct in the workplace and as a Senior Supervisor of Building Inspectors was totally unacceptable for an extended period of time." Ultimately, the ALJ recommended reinstatement of the employee solely based on the fact the acts of misconduct and insubordination occurred outside the 20-day window for disciplinary action prescribed by School Board policy. The ALJ stated ...but for this conclusion, [Senior Supervisor of Building Inspectors] ongoing misconduct and insubordination would more than justify termination of her employment with the School Board." The "settlement" was a necessity only because this individual was a participant in Florida's Deferred Retirement Option Program (DROP) and was therefore ineligible for reinstatement.

Actions Taken Prior to Release of the GJ Final Report:

- In January 2007, the District revised and expanded its policy regarding Building Codes and Plan Approval (copy of Policy 7001 attached as **Exhibit 13**). The revised policy outlines a formal appeals process to resolve disputes between the Building Department and other interested parties.
- The Interim Deputy Superintendent worked with the Chief Building Official to reinforce a culture of collaboration between the two departments.

Actions to be Taken:

- Management will conduct a joint staff meeting with the Building Department and the Facilities & Construction Management Division to emphasize the need to work more cooperatively for the benefit of the District. This meeting will be completed by March 11, 2011.

A joint meeting between Building Department inspectors and the Facilities & Construction Management project managers was conducted on March 10, 2011. This meeting was facilitated by the Chief Operations Officer, Chief Building Official, and the project management supervisory staff. Topics of discussion included; the directive to suspend TCOs, the appeals process incorporated

within Policy 7001, and the need to have a more collaborative and professional relationship between the two departments. The formal appeals process, intended to serve as a formal conflict resolution process, was also emphasized. The majority of disagreements between inspectors and project managers should be able to be resolved amicably between the inspector and project manager with the assistance of management and the Chief Building Official, if necessary. The agenda for this meeting is included in Exhibit G.

The Human Resources Department will conduct follow-up team building training to the building inspectors and project managers. This training will be delivered in a structured format and provide opportunities for participants to identify and address concerns.

Finding A.2.d. Lack of Training and Standardization for Inspectors

Response:

The new Chief Building Official is developing a comprehensive employee procedure manual.

Actions Taken Prior to Release of the GJ Final Report:

- To date, department procedures have been developed and implemented for the following processes: See **Exhibit 14** for copies of these procedures.
 - Inspection Requests
 - Mandatory Inspections-Buildings
 - Mandatory Inspections-Plumbing/Gas
 - Mandatory Inspections-Mechanical
 - Mandatory Inspections- Electrical
 - Mandatory Inspections-Fire Protection and Sprinkler
 - Minimum Plan Submittal Criteria
 - Shop Drawings and Product Approvals
- The new Chief Building Official drafted a comprehensive construction project closeout procedure detailing the process and identifying the party responsible for performing each necessary task for the issuance of a 110B and 209 form. See **Exhibit 8** for a draft copy of the procedure. This procedure will be finalized by March 25, 2011, as indicated in the first bullet under “Actions to be Taken”.
- Weekly staff meetings are conducted with all inspectors. Routinely, inspection issues are discussed in an effort to promote adherence to District procedures and uniform application of such procedures among inspectors.

Actions to be Taken:

- Finalize and implement the comprehensive construction project closeout procedure by March 25, 2011. The final closeout procedure will focus on moving directly to the issuance of a 110B and 209 form, and include specific criteria for allowable TCOs. Additionally, the procedure will mandate succinct reporting requirements to monitor the status of TCOs to ensure they are issued 110B and 209 forms within a designated time frame.

The new construction project closeout procedure was finalized and implemented on March 25, 2011 (Exhibit A). General occupancy shall not be permissible until the issuance of a 110B.

- The new Chief Building Official will complete procedures for all outstanding department processes by May 27, 2011, and incorporate all standard operating procedures into a comprehensive department manual.
[The Chief Building Official developed a table of contents to accompany the new comprehensive department manual. This table identifies all the additional procedures, which will be developed to supplement those that have been developed to date. Exhibit H is a copy of the procedural manual as it currently exists with the table of contents, outlining the additional procedures to be developed by May 27, 2011. Additionally, an employment manual will be incorporated into this comprehensive department manual. It will serve to outline various issues pertinent to employment within the District.](#)
- Upon completion of the comprehensive department manual, all Building Department staff will receive training on the procedures contained within the manual and will execute a letter acknowledging the manual. This training will be completed prior to June 15, 2011.

Finding A.2.e. Use of Untrained Inspectors

Response:

As stated in the GJ Final Report, the process by which employees were transferred to the Building Department was mandated by the collective bargaining agreement. During this process, the Building Department worked extensively with the Human Resources Division to ensure these employees met the minimum qualifications of the building code inspector job description and demonstrated the combined experience in the field of construction to qualify for a provisional inspector license from the Department of Business and Professional Regulation (DBPR), in accordance with the eligibility requirements of Section 468.609, Florida Statutes.

[Exhibit I includes supporting documentation to further outline the process utilized in conjunction with the "bumping" of employees within the Building Department. It also provides verification that all of these employees have received their provisional inspectors license from the DBPR.](#)

Actions Taken Prior to Release of the GJ Final Report:

- In July 2010, the "new" employees were advised of their job responsibilities and received orientation on the Building Department's inspection process. This was accomplished by observing and conducting inspections with experienced inspectors over a three to four-week period.
- Following application to the DBPR for their Provisional Certificate, these employees began performing limited inspections under the direct supervision of a certified building code administrator, in accordance to Section 468.609, Florida Statutes.
- As of the date of this correspondence, all of the individuals have secured a provisional building inspector license from DBPR.

Actions to be Taken:

- These individuals will be included in the training of all inspectors on the newly developed procedures manual when completed in May 2011. This training will be completed prior to June 15, 2011.

- The Chief Building Official is currently working with the Human Resources Division and Employee Relations to develop individual building inspector job descriptions for each discipline (e.g. structural/fire/plumbing). Additionally, management is seeking to modify the minimum qualifications of these job descriptions to ensure the applicant poses a current inspector license from the DBPR at the time of application.

Finding A.2.f. Inadequate Record Keeping

Response:

The GJ Report's attempt to equate the findings from the recent FEMA audit as an illustration of the District's shortcomings with OEF record keeping is not an accurate comparison. The GJ Report focuses on statements within the audit report questioning the District's inability to provide complete documentation during the audit process to substantiate approximately \$15 million in Public Assistance Grant Funds received by the District. In order to appropriately consider the impact of the audit report, additional information regarding the FEMA claim process and the District's claim is warranted.

Following Hurricane Wilma, the District submitted 350 small project worksheet claims and 161 large project worksheet claims for Public Assistance Grant Funds. It is important to note that all of the project worksheets and resulting scopes of work for damage repairs were developed directly by FEMA field staff, not always with the full assistance of District personnel. In association with these claims, \$59 million in grant funding was obligated by FEMA for Broward Schools. The District was then able to access this funding through the State of Florida in two distinct manners; automatic small project reimbursement and periodic large project reimbursement.

FEMA funding is released immediately for small projects, or those projects with total costs below the large dollar threshold, which was \$57,500 for Hurricane Wilma. For the 350 small projects associated with Hurricane Wilma, the District received approximately \$6 million in reimbursement. The reimbursement process for all small claims typically does not take into account the actual final costs associated with the projects. In the event actual repair costs are below the original project estimate, applicants are not required to reimburse any overage. Conversely, if the actual repair costs exceed the original project estimate, applicants are not provided any additional public assistance funding to account for the additional expense. The small claim process serves to streamline the document intensive closeout process and reduce the administrative burden associated with the large claim process. The only opportunity for the District to seek additional financial assistance for any small claim would be to appeal to FEMA for a net cost overrun for all of its 350 small claims. This netting process, or full financial audit, would result in additional funding for those claims where the documentation supports such overage, and disallow previous funding for those claims where actual expenses fell below the original project worksheet estimates. In essence, the small claims would "net out", with the final impact determined after the netting process. The District will need to analyze the final costs associated with all 350

small claims, and determine if the net benefit warrants the additional costs associated with the administrative burden of the netting process.

With regard to the 32 project worksheet claims reviewed within the audit, seventeen were small claims. The audit report took exception to \$192,767 associated with these seventeen claims. In each instance, the amount questioned was related to the amount spent and claimed to the auditors that was in excess of the original amount of funding obligated and paid to the District. This is not indicative of the District's inability to substantiate its claim or support the funds received for these small projects. As previously stated, the District will need to analyze the net impact of all of its 350 small claims at the conclusion of the claim process to determine whether it is advantageous to appeal to FEMA to have all 350 small claims undergo the netting process or full financial audit.

The second manner with which the District was able to receive obligated funding from the State of Florida was to request reimbursement through the submission of paid invoices and in-progress work order expenses associated with its large projects. Again, large projects were those claims where the estimate of damage exceeded \$57,500. To date, the District received approximately \$38 million in reimbursements for its 161 large projects from Hurricane Wilma (total reimbursement to date for all response and recovery activities related to Hurricane Wilma projects is \$44 million). There were 15 large projects included within the scope of the audit, and the majority of the claim amounts questioned within the audit report were relative to these large claims.

Each large project is subject to a full financial audit of all associated costs during the final inspection and closeout process. This is a process that is initiated by the District when all documents supporting a project are ready and available for audit and review. When the final inspection takes place, additional source documentation is required to substantiate the final claim amount including, but not limited to: copies of payroll reports, employee time cards, purchase orders, work orders, vendor contracts, insurance documentation, invoices, and canceled checks. *The most important factor overlooked by the GJ Report regarding this audit is that it was conducted PRIOR to the District submitting a Request for Final Inspection to the State and completing the closeout process for any of the large claims included within the scope of the audit.* Accordingly, the District is still in the process of collecting and organizing the additional source documentation required to support the invoices and awarded funding. Although the District was able to supply a substantial amount of the additional source documentation for the large projects at the time of the audit, the entire amount awarded is questioned if 100% of the documentation is not available during the audit process. The recommendations contained within the audit report itself indicate the in-progress nature of the District's claim. Specifically, the recommendation which speaks to disallowing \$14,672,709 of project funding also states, "The questioned costs could be reduced if the School Board can provide adequate source documentation to the State/FEMA closeout team to support eligible activities funded under the projects." It is premature to suggest any costs are unreasonable, unsupported, unnecessary, or excessive until the closeout process is completed for these 15 large projects. The District submitted all 15 of these

large projects to the state and FEMA for closeout by January 28, 2011, and continues to wait for these organizations to proceed with the closeout process.

Actions Taken Prior to Release of the GJ Final Report:

- The new Chief Building Official has implemented short-term tracking spreadsheets and databases to monitor documentation relative to the closeout of all construction projects.

Actions to be Taken:

- The District is in the process of developing a comprehensive and integrated information systems solution for the Building Department. This solution will minimally include modules for tracking licenses of staff, contractors, and consultants; permitting and inspection comments; certificates of occupancy and other closeout related forms and documentation. This solution will also provide ad-hoc reporting capabilities.

- It is anticipated the permitting, inspection, and closeout status components of the system will be developed and implemented by June 2011.

Finding B.1.a. The Consultant

Response:

The GJ Report indicates the consultant agreement was approved on the Consent Agenda and is suggestive that placing this Agenda item on the Consent Agenda allowed it to garner approval without any debate or public input. This is not accurate and demonstrates a misunderstanding of the Consent Agenda, which is repeated within several findings within the GJ Report. The Board Agenda item to hire this consultant did not pass on the Consent Agenda. It was pulled by a Board Member for discussion. Exhibit J is the Board Minutes from the February 20, 2007 School Board Meeting and summarizes the discussion regarding the issue prior to a vote approving the item. Board Members and the general public have the ability to “pull” any Agenda Item on the Consent Agenda, as in the case with this consultant agreement, for discussion prior to the Board’s voting on the item. In such instances, the item receives all of the attention that an item on the Open Agenda would receive. The only distinction of the Open Agenda is that each item requires an individual vote by the Board prior to approval of items. Routinely, items are approved by the Board on its Open Agenda, which receive no discussion prior to the vote. The Consent Agenda does not serve to circumvent discussion on an item; it is merely intended to make the Board Meeting more efficient by grouping items where Board Members and the public do not have questions or comments and approve them under a single vote. Any concerns regarding the Board’s Consent Agenda should be resolved by the changes to Policy 1100A. The changes in this policy require all items with a financial impact to be placed on the Open Agenda. These changes were approved at first reading at the Board’s March 21, 2011 meeting. This policy is scheduled to return to the Board for its final reading on May 3, 2011, in accordance with applicable statutes requiring 28-day public notice prior to final reading.

Actions Taken Prior to Release of the GJ Final Report:

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- By November 2010, the School Board removed itself from **all** committees involving the procurement of goods or services for the District. This includes the Superintendent's Insurance Committee, Financial Advisory Committee, and the Qualification Selection Evaluation Committee (design professional and contractor selection committee). Currently, Board Members do not participate in the evaluation or selection process for any goods or services procured by the District.
- In April 2010, the School Board approved revisions to its Purchasing Policy 3320. See **Exhibit 15** for a summary of the revisions to the policy. Included within the revisions was the requirement for Board approval for any purchases above the \$50,000 state mandate for competitive solicitations, where the solicitations are exempt or have been waived. Additionally, a code of ethics was incorporated within the policy for personnel authorized to purchase.
- In May 2010, the School Board received ethics training from the Executive Director and General Counsel, Florida Commission on Ethics (**Exhibit 3**).
- Newly elected Board Members received a presentation on ethics law at the Florida School Boards Association conference conducted in December 2010 (**Exhibit 4**).
- The District purchased on-line ethics training developed by the Florida State University in conjunction with the Commission on Ethics and the Attorney General of Florida (**Exhibit 5**). Human Resource Development staff is currently working with the vendor to break the twelve-hour training into several modules. Once completed, all Board Members and District directors will be required to complete the training.
- The District empowered an Ethics Committee to develop recommendations for a comprehensive ethics policy.
- The School Board conducted several workshops to discuss the recommendations presented by the Ethics Committee. Feedback has been incorporated into a draft Ethics Code for School Board Members (**Exhibit 16**).

Actions to be Taken:

- The draft Ethics Code for School Board Members will be discussed at the March 8, 2011 Board workshop.
[The draft policy was presented and thoroughly discussed at the March 8, 2011 Board Workshop.](#)
- Feedback from the March 8, 2011 workshop will be considered and the Ethics Code for School Board Members will be placed on the March 21, 2011 Board meeting agenda for first reading. The Ethics Code will receive final approval in accordance with applicable statutes requiring public notice prior to final reading.
[The newly developed Ethics Code for School Board Members was approved as amended at its first reading at the March 21, 2011 School Board Meeting. The amendments incorporated at its first reading added further accountability to this policy. This policy is scheduled to return to the Board for its final reading on May 3, 2011, in accordance with applicable statutes requiring 28-day public notice prior to policy adoption. A copy of the executed Agenda Request Form, amendments approved at first reading, and the Ethics Policy are incorporated in Exhibit K.](#)

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- The District will invite the Executive Director and General Counsel of the Florida Commission on Ethics to present a second ethics training to the School Board at its April 14, 2011 retreat. At this retreat, the Executive Director of the Florida School Boards Association will also present training on school board governance.
- Section 286.011, Florida Statutes, requires official business must be conducted in a public meeting. An annual training program will be developed for School Board Members to be held each year as part of the opening of the school year in July. The training will include pertinent topics regarding board governance, public records, Sunshine Law requirements, and ethics. This training will be developed by May 31, 2011, in order to deliver the first training in July 2011. A review of this statute and School Board Policy 1005 will be incorporated within this annual training.

Finding B.1.b. Beachside Montessori

Response:

All school construction is required to be identified within the District's Educational Facilities Plan. This plan is updated annually and receives formal Board approval. Additionally, issues relating to boundaries and student enrollment projections are also reviewed at School Board Workshops. The construction of this facility was identified within the District's Educational Facilities Plan and at the onset of the determination to build this facility future enrollment projections for this boundary supported its construction.

Actions Taken Prior to Release of the GJ Final Report:

- In May 2010, the School Board received ethics training from the Executive Director and General Counsel, Florida Commission on Ethics (**Exhibit 3**).
- Newly elected Board Members received a presentation on ethics law at the Florida School Boards Association conference conducted in December 2010 (**Exhibit 4**).
- The District purchased on-line ethics training developed by the Florida State University in conjunction with the Commission on Ethics and the Attorney General of Florida (**Exhibit 5**). Human Resource Development staff is currently working with the vendor to break the twelve-hour training into several modules. Once completed, all Board members and District directors will be required to complete the training.
- The District established an Ethics Committee to develop recommendations for a comprehensive ethics policy.
- The School Board conducted several workshops to discuss the recommendations presented by the Ethics Committee. Feedback has been incorporated into a draft Ethics Code for School Board Members (**Exhibit 16**).

Actions to be Taken:

- The draft Ethics Code for School Board Members will be discussed at the March 8, 2011 Board workshop.
The draft policy was presented and thoroughly discussed at the March 8, 2011 Board Workshop.
- Feedback from the March 8, 2011 workshop will be considered and the Ethics Code for School Board Members will be placed on the March 21, 2011 Board

meeting for first reading. The Ethics Code will receive final approval in accordance with applicable statutes requiring public notice prior to final reading. The newly developed Ethics Code for School Board Members was approved as amended at its first reading at the March 21, 2011 School Board Meeting. The amendments incorporated at its first reading added further accountability to this policy. This policy is scheduled to return to the Board for its final reading on May 3, 2011, in accordance with applicable statutes requiring 28-day public notice prior to policy adoption. A copy of the executed Agenda Request Form, amendments approved at first reading, and the Ethics Policy are incorporated in Exhibit K.

- The District will invite the Executive Director and General Counsel of the Florida Commission on Ethics to present a second ethics training to the School Board at its April 14, 2011 retreat. At this retreat, the Executive Director of the Florida School Board Association will also present training on school board governance.
- Effective immediately, all business involving the District's plant survey will be presented and discussed at Board Workshops and require formal Board approval at a School Board Meeting to further ensure transparency and build public trust.

Finding B.1.c. Construction Manager at Risk, QSEC, and Campaign Contributions Response:

A hard bid is a good delivery method initially, but it has to have a quality set of plans upfront in order to prevent/mitigate unplanned change orders. Design Build is a good method if the project has a short timeline. It is not a pure hard bid, but it is similar. CM at Risk would be a recommended delivery method for a very complex multi-phase project that involves phased construction with demolition. The nature/circumstances of a given project should determine the best method of project delivery.

Actions to be Taken:

- ~~The District will expand its contractor screening process to avoid contracting with companies that have a poor performance history. However, legal concerns regarding the contractors' right to do business with the District will need to be addressed.~~

The District is considering feedback as part of its contractor's selection process. Our General Counsel will work to ensure all legal issues regarding the contractors' right to do business with the District are appropriately addressed.

By November 2010, the School Board removed itself from all committees involving the procurement of goods or services for the District. This includes the Superintendent's Insurance Committee, Financial Advisory Committee, and the Qualification Selection Evaluation Committee (QSEC) (design professional and contractor selection committee). Currently, Board Members do not participate in the evaluation or selection process for any goods or services procured by the District.

Finding B.2.a. Failure to report gifts

Response:

[School Board Member requirements for reporting gifts are outlined in state statutes and incorporated into the new Ethics Code for School Board Members.](#)

Actions to be Taken:

- The District established an Ethics Committee to develop recommendations for a comprehensive ethics policy. The School Board conducted several workshops to discuss the recommendations presented by the Ethics Committee. Feedback has been incorporated into a draft Ethics Code for School Board Members, which will be discussed at the March 8, 2011 Board workshop. The draft code includes specific information discussing the receipt of gifts, in accordance with applicable Florida Statutes. Feedback from the March 8, 2011 workshop will be considered and the Ethics Code for School Board Members will be placed on the March 21, 2011 Board meeting agenda for first reading. The Ethics Code will receive final approval in accordance with applicable statutes requiring public notice prior to final reading.

[The newly developed Ethics Code for School Board Members was approved as amended at its first reading at the March 21, 2011 School Board Meeting. The amendments incorporated at its first reading added further accountability to this policy. This policy is scheduled to return to the Board for its final reading on May 3, 2011, in accordance with applicable statutes requiring 28-day public notice prior to policy adoption. A copy of the executed Agenda Request Form, amendments approved at first reading, and the Ethics Policy are incorporated in Exhibit K.](#)

- The District has a current policy that discourages gifts from students and/or parents to employees. The District completed a public forum to receive feedback regarding a major revision to this policy on February 18, 2011. **Exhibit 17** is the new policy that will be presented to the School Board at the March 8, 2011 workshop. Management will make any applicable modifications to the draft policy based on the discussion at the workshop. The modified policy will be placed on the next regularly scheduled School Board meeting agenda on March 21, 2011 for first reading. The policy revisions will receive final approval in accordance with applicable statutes requiring public notice prior to final reading. [The District's revised gift policy for employees was presented for first reading and approved at the March 21, 2011 School Board Meeting. Exhibit L is a copy of the executed Agenda Request Form and approved policy. This policy is scheduled to return to the Board for its final reading on May 3, 2011, in accordance with applicable statutes requiring 28-day public notice prior to policy adoption.](#)

Finding B.2.b. Breaches of confidentiality

Response:

The District has a Privacy Officer within the Risk Management Department. This individual is primarily responsible for ensuring the District protects the personal health information of employees in accordance with HIPAA regulations.

Actions to be Taken:

- The Privacy Officer will augment existing privacy training to include information regarding confidentiality of all employee information. This will be completed by April 1, 2011. Training will be specifically provided to the department involved with the reported breach immediately following its development.
The District's Privacy Officer developed a training program regarding confidentiality (Exhibit M). This training was presented to staff of the Special Investigative Unit on March 22, 2011 and the Security Clearance Center on March 24, 2011. The Privacy Officer will also present this training to additional departments that routinely process employee information.
- This information will also be incorporated within the District's employee orientation process to review policies mandated for annual training. This will begin with the 2011-2012 school year orientation.
All employees, including substitute teachers will receive training regarding privacy matters. This new confidentiality training will be provided in an annual orientation.

Finding B.2.c. Silencing Critics by Threats

Response:

The District has existing mechanisms for employees to report these type of incidences in order for appropriate follow-up and action as needed.

Actions Taken Prior to Release of the GJ Final Report:

- The District approved an anti-bullying policy in 2008. Policy 5.9 (**Exhibit 18**) prohibits the bullying of any student or employee. The policy definition of bullying includes threatening, intimidating and cyber bullying actions. The policy also provides for staff training and a formal process for reporting acts of bullying. Specifically, the policy states, "District faculty or staff who suspects adult-on-adult bullying is strongly encouraged to report any concerns." Additionally, any individual who has credible information that an act of bullying has taken place can file a report, whether a victim or witness.

Actions to be Taken:

- The Superintendent will issue a District-wide communication outlining the process to report acts of bullying and encourage all staff to report such acts whether a victim or a witness. This communication will be issued by March 7, 2011.
The Superintendent issued this communication on March 7, 2011 (Exhibit N). The communication outlined the District's anti-bullying policy, particularly its components on reporting. The District-wide communication also incorporated information on the District's nondiscrimination policy and outlined the expectation for individuals to file a complaint with the District's Equal Educational Opportunities Department.

The District is also looking at certain models in providing opportunities for our employees and non-employees to provide suggestions and recommendations to the district for review and action to be logged and tracked.

Finding B.2.d. Voting Conflicts

Response:

Florida Statute 112.3143 contains the requirements for School Board Members regarding voting conflicts.

Actions to be Taken:

- An annual comprehensive training program will be developed for School Board Members to be held each year as part of the opening of the school year in July. The training will include pertinent topics regarding board governance, public records, Sunshine Law requirements, anti-bullying, and ethics. This training will be developed by May 31, 2011, in order to deliver the first training in July 2011.
- The contents of Section 112.3143, Florida Statutes will be incorporated within this annual training program.

Finding B.2.e. Self Serving

Response:

School Board Policy 1401 (**Exhibit 19**), Naming/Renaming of School Board - Owned Facilities, Section I.e. extends naming privileges for a section of a facility to a person living or dead.

Actions to be Taken:

- This policy will be presented at the April 26, 2011 School Board workshop to ~~determine the need for revisions~~ initiate the policy revision process in order to address concerns that were outlined within this finding regarding naming District facilities for current Board Members.

Finding B.2.f. Stalling the Plant Survey

Response:

Each time the plant survey was extended the Board received support from the Broward County Urban Planning and Redevelopment Department and approval from the Department of Education.

Actions Taken Prior to Release of the GJ Final Report:

- In the spring of 2009, the District updated its State Educational Facilities Plant Survey for the years 2009-2014. The plant survey was Board approved at its July 21, 2009 School Board meeting. Detailed information, including the Plant Survey report can be obtained from the District's e-agenda at the following web address: <http://eagenda3.broward.k12.fl.us/cgi-bin/WebObjects/eAgenda.woa/wa/displayMeeting?meetingID=1508> The Plant Survey is agenda item J-22, approved at the School Board's July 21, 2009 School Board Meeting.

Actions To Be Taken:

- The District will continue to update the plant survey as required by the Department of Education.
- Effective immediately, all business involving the District's plant survey will be presented and discussed at Board Workshops and require formal Board approval at a School Board Meeting to further ensure transparency and build public trust. The Acting Deputy Superintendent of Facilities & Construction Management issued a written communication on March 18, 2011 (**Exhibit O**) directing the Director of Growth Management to schedule all proposed plant survey amendments and requests for spot surveys on Board Workshop agendas.

Finding B.3 Single Member Districting

Response:

Section 1001.363, Florida Statutes, states, "Each member of the district school board shall serve as the representative of the entire district, rather than as the representative of the district school board member residence area."

Actions Taken Prior to Release of the GJ Final Report:

- In December 2008, the School Board approved Policy 1005 (**Exhibit 20**) regarding School Board responsibilities and authority. Rule #4 of the policy specifically emphasizes that Board Members shall represent the entire District, in accordance with F.S. 1001.363.

Actions To Be Taken:

- The District will immediately incorporate Section 1001.363, Florida Statutes, and School Board Policy 1005 within the District Resource Manual for New School Board Members.
- An annual training program will be developed for School Board Members to be held each year as part of the opening of the school year in July. The training will include pertinent topics regarding board governance, public records, Sunshine Law requirements, and ethics. This training will be developed by May 31, 2011, in order to deliver the first training in July 2011. The training will incorporate Section 1001.363, Florida Statutes, School Board Policy 1005, the District's ethics code, and other pertinent governance issues.
- Section 1001.363, Florida Statutes, and School Board Policy 1005 will be incorporated as part of emerging administrative training by April 8, 2011.
- Section 1001.363, Florida Statutes, and School Board Policy 1005 will be incorporated within the annual training for administration prior to the opening of the school year. This will begin with the opening of the 2011-2012 school year.

SECTION 2 – RECOMMENDATIONS

Recommendations to the Broward County School Board

1. Read the Broward County Grand Jury's "Interim Report of the 2002 Fall Term Grand Jury on School Board Construction".
 - The Superintendent is currently working to develop a detailed action plan to implement appropriate policy and procedural changes to address the findings and recommendations within the Grand Jury's final report. This action plan will include provisions to review each of the findings and recommendations from the 2002 Grand Jury report and address any outstanding items from the previous report. This action plan is expected to be completed by April 11, 2011.
Staff revisited the 31 recommendations contained within the Interim Report of the 2002 Grand Jury Report. In 2004, the District communicated it completed or complied with 22 of the recommendations. Exhibit P is a matrix documenting the current status of the outstanding recommendations. The District also intends to have an initial six month period and then quarterly reviews of its response efforts to the current GJ Report, as well as the 2002 Grand Jury Report, incorporated within the formal annual audit plan of the District's Office of the Chief Auditor. This audit plan is determined and approved at a Board meeting each year, and subject to public comment.
2. Refuse campaign contributions from contractors, vendors and others doing business with the Board.
 - Solicitation of campaign contributions is incorporated in the proposed Ethics Code for School Board Members. School Board Members will discuss campaign contributions (from entities doing business with The School Board) when the proposed policy is presented at the March 8, 2011 School Board Workshop.
The newly developed Ethics Code for School Board Members was approved as amended at its first reading at the March 21, 2011 School Board Meeting. The amendments incorporated at its first reading added further accountability to this policy. One of the amendments specifically related to campaign contribution fundraising. The amendment states, "School Board Members shall not accept campaign contributions for their own campaigns or the campaigns of other candidates for political office from a person or an entity, its principals, or their lobbyists during the period in which said person or entity is attempting to sell goods or services to The School Board. This period of limitation upon the acceptance of campaign contributions shall be the "cone of silence" period for any solicitation for a competitive procurement as described in School Board Policy 3320, Part II, Section HH." This policy is scheduled to return to the Board for its final reading on May 3, 2011 in accordance with applicable statutes requiring 28-day public notice prior to policy adoption. A copy of the executed

[Agenda Request Form, amendments approved at first reading, and the Ethics Policy are incorporated in Exhibit K.](#)

3. Require mandatory ethics training and testing by an outside agency.

Actions Taken Prior to Release of GJ Final Report:

- In May 2010, the School Board received ethics training from the Executive Director and General Counsel, Florida Commission on Ethics (**Exhibit 3**).
- Newly elected Board Members received a presentation on ethics law at the Florida School Boards Association conference conducted in December 2010 (**Exhibit 4**).
- The District has purchased on-line ethics training developed by the Florida State University in conjunction with the Commission on Ethics and the Attorney General of Florida (**Exhibit 5**). Human Resource Development staff is currently working with the vendor to break the twelve-hour training into several modules. Once completed, all Board Members and District directors will be required to complete the training.
- The District established an Ethics Committee to develop recommendations for a comprehensive ethics policy.
- The School Board conducted several workshops to discuss the recommendations presented by the Ethics Committee. Feedback has been incorporated into a draft Ethics Code for School Board Members.

Actions to be Taken:

- The draft Ethics Code for School Board Members will be discussed at the March 8, 2011 Board workshop.
[The draft policy was presented and thoroughly discussed at the March 8, 2011 Board Workshop.](#)
- Feedback from the March 8, 2011 workshop will be considered and the Ethics Code for School Board Members will be placed on the March 21, 2011 Board meeting agenda for first reading. The Ethics Code will receive final approval in accordance with applicable statutes requiring public notice prior to final reading.
[The newly developed Ethics Code for School Board Members was approved as amended at its first reading at the March 21, 2011 School Board Meeting. The amendments incorporated at its first reading added further accountability to this policy. This policy is scheduled to return to the Board for its final reading on May 3, 2011, in accordance with applicable statutes requiring 28-day public notice prior to policy adoption. A copy of the executed Agenda Request Form, amendments approved at first reading, and the Ethics Policy are incorporated in Exhibit K.](#)
- The District will invite the Executive Director and General Counsel of the Florida Commission on Ethics to present a second ethics training to the School Board at its April 14, 2011 retreat. At this retreat, the Executive Director of the Florida School Boards Association will also present training on school board governance.
[The District will retain the services of an independent audit firm, specializing in ethics testing, to perform comprehensive ethics testing of the District and its policies and procedures on an ongoing basis. These testing services will be](#)

coordinated through the District's Office of the Chief Auditor; and the initial testing will be conducted no later than the conclusion of the 2011-2012 school year. Subsequently, this ethics testing will minimally be conducted every three years or as requested by the Superintendent or the School Board Chair.

4. All late additions to the Board's agenda must be discussed at a public meeting.
 - Policy 1100A outlines the rules for the scheduling of meetings and establishment and disposition of agendas. To ensure added agenda items cannot be approved on the School Board's Consent Agenda, the Superintendent will initiate the necessary revision to this policy to require all added agenda items be included on the Board's Open Agenda to encourage public input and promote transparency. This policy will be presented to the School Board for discussion at its March 29, 2011 workshop. The revisions to the policy will be presented for first reading at the April 19, 2011 School Board meeting. The policy revisions will receive final approval in accordance with applicable statutes requiring public notice prior to final reading.

The revision to Policy 1100A was presented to the School Board at its March 8, 2011 Board Workshop. The revisions include adding language that:

- Official action by the School Board shall be taken only at regular and special School Board Meetings,
- Except for added speakers, all items added to an agenda for good cause are to be placed on the Open Agenda,
- All items with a financial impact are to be placed on the Open Agenda,
- Items for reduction of retainage and receipt of audits are to be placed on the Open Agenda

The revised policy was presented for first reading and approved at the March 21, 2011 School Board Meeting (Exhibit C). This policy is scheduled to return to the Board for its final reading on May 3, 2011 in accordance with applicable statutes requiring 28-day public notice prior to policy adoption.

5. Add more detail to agenda items or provide a link to where more information concerning the item can be found.
 - The School Board's e-agenda provides links to all of the supporting documentation contained within an ARF. The School Board's e-agenda is located at the following web address:
<http://eagenda3.broward.k12.fl.us/cgi-bin/WebObjects/eAgenda.woa/wa/displayCalendar>
The School Board's Agenda Request Form (ARF) includes summary information pertaining to the recommended Board action and a background section to explain the item and its history. The Superintendent of Schools will reiterate to the Executive Leadership Team the requirement to include adequate supporting documentation as a component of all ARFs.
The Superintendent discussed this issue with his Executive Leadership Team (ELT) and directed all staff to provide complete explanation with the recommendation along with adequate supporting documentation to justify the

recommendation and demonstrate compliance with applicable statutes and Board polices.

The District has already taken strides to provide additional and more comprehensive supporting documentation to justify the recommended action contained within the agenda item. This can be evidenced by the enhancement to the agenda items recommending the reduction in retainage.

6. Reduce the threshold on spending items on the consent agenda.

- Policy 1100A outlines the rules for the scheduling of meetings and establishment and disposition of agendas. Currently, Rule #7 dictates all facility items above \$1 million and all other items above \$500,000 are to be placed on the Open Agenda. This does not include agenda items with a positive financial impact to the District. This policy will be presented to the School Board for discussion at its March 29, 2011 workshop. The revisions to the policy will be presented for first reading at the April 19, 2011 School Board meeting. The policy revisions will receive final approval in accordance with applicable statutes requiring public notice prior to final reading.

The revision to Policy 1100A was presented to the School Board at its March 8, 2011 Board Workshop. The revisions include adding language that:

- Official action by the School Board shall be taken only at regular and special School Board Meetings
- Except for added speakers, all items added to an agenda for good cause are to be placed on the Open Agenda,
- All items with a financial impact are to be placed on the Open Agenda,
- Items for reduction of retainage and receipt of audits are to be placed on the Open Agenda

The revised policy was presented for first reading and approved at the March 21, 2011 School Board Meeting (Exhibit C). This policy is scheduled to return to the Board for its final reading on May 3, 2011 in accordance with applicable statutes requiring 28-day public notice prior to policy adoption.

7. Remove retainage reductions from the consent agenda.

- The Superintendent will initiate revisions to Policy 1100A – Rules For the Scheduling of Meetings and establishment and Disposition of Agendas to require all recommendations to reduce retainage be processed on the School Board’s Open Agenda encouraging public input and promoting transparency. Retainage reduction items will no longer be approved on the Consent Agenda. The proposed revisions will be presented to the School Board for discussion at its March 29, 2011 workshop. The revisions to the policy will be presented for first reading at the April 19, 2011 School Board meeting. The policy revisions will receive final approval in accordance with applicable statutes requiring public notice prior to final reading.

The revision to Policy 1100A was presented to the School Board at its March 8, 2011 Board Workshop. The revisions include adding language that:

- Official action by the School Board shall be taken only at regular and special School Board Meetings,
- Except for added speakers, all items added to an agenda for good cause are to be placed on the Open Agenda,
- All items with a financial impact are to be placed on the Open Agenda,
- Items for reduction of retainage and receipt of audits are to be placed on the Open Agenda

The revised policy was presented for first reading and approved at the March 21, 2011 School Board Meeting (Exhibit C). This policy is scheduled to return to the Board for its final reading on May 3, 2011 in accordance with applicable statutes requiring 28-day public notice prior to policy adoption. Additionally, staff has developed a new exhibit (Exhibit D) to be included as a component of all retainage reduction School Board Agenda items. The new exhibit outlines all pertinent information regarding the remaining work to be completed on the project, its estimated value of construction, and demonstrates there is adequate retainage to complete the outstanding work. The exhibit also documents the project has been issued a 110B form by the Building Department, and contains language affirming the retainage reduction recommendation complies with applicable statutes and Board Policy 7005. The exhibit is executed under signature of the Deputy Superintendent of Facilities & Construction Management.

8. Require documentation listed in Policy 7005 to accompany request for retainage reduction.

- A standard written form will be developed to clearly document the approval of the reduction in retainage by the Deputy Superintendent of Facilities & Construction Management, which will be submitted as part of the ARF. Included on this form will be statements assuring the necessary criteria for reducing the retainage have been met and will be signed by the Deputy Superintendent or Superintendent, per Policy 7005. The new form will be developed in concert with the revisions to Policy 1100A. It is anticipated the revisions to this policy will be presented for first reading at the April 19, 2011 School Board meeting. The form will be implemented when the policy is approved at final reading.

The revision to Policy 1100A was presented to the School Board at its March 8, 2011 Board Workshop. The revisions include adding language that:

- Official action by the School Board shall be taken only at regular and special School Board Meetings,
- Except for added speakers, all items added to an agenda for good cause are to be placed on the Open Agenda,
- All items with a financial impact are to be placed on the Open Agenda,
- Items for reduction of retainage and receipt of audits are to be placed on the Open Agenda

The revised policy was presented for first reading and approved at the March 21, 2011 School Board Meeting (Exhibit C). This policy is scheduled to return to the Board for its final reading on May 3, 2011 in accordance with applicable statutes requiring 28-day public notice prior to policy adoption. Additionally, staff has developed a new exhibit (Exhibit D) to be included as a component of all retainage reduction School Board Agenda items. The new exhibit outlines all pertinent information regarding the remaining work to be completed on the project, its estimated value of construction, and demonstrates there is adequate retainage to complete the outstanding work. The exhibit also documents the project has been issued a 110B form by the Building Department, and contains language affirming the retainage reduction recommendation complies with applicable statutes and Board Policy 7005. The exhibit is executed under signature of the Deputy Superintendent of Facilities & Construction Management.

9. Require recommendation of the Superintendent or the Deputy Superintendent for reduction in retainage be in writing and under their signature.

- A standard written form will be developed to clearly document the approval of the reduction in retainage by the Deputy Superintendent of Facilities & Construction Management, which will be submitted as part of the ARF. Included on this form will be statements assuring the necessary criteria for reducing the retainage have been met and will be signed by the Deputy Superintendent or Superintendent, per Policy 7005. The new form will be developed in concert with the revisions to Policy 1100A. It is anticipated the revisions to this policy will be presented for first reading at the April 19, 2011 School Board meeting. The form will be implemented when the policy is approved at final reading.

The revision to Policy 1100A was presented to the School Board at its March 8, 2011 Board Workshop. The revisions include adding language that:

- Official action by the School Board shall be taken only at regular and special School Board Meetings.
- Except for added speakers, all items added to an agenda for good cause are to be placed on the Open Agenda.
- All items with a financial impact are to be placed on the Open Agenda.
- Items for reduction of retainage and receipt of audits are to be placed on the Open Agenda

The revised policy was presented for first reading and approved at the March 21, 2011 School Board Meeting (Exhibit C). This policy is scheduled to return to the Board for its final reading on May 3, 2011 in accordance with applicable statutes requiring 28-day public notice prior to policy adoption. Additionally, staff has developed a new exhibit (Exhibit D) to be included as a component of all retainage reduction School Board Agenda items. The new exhibit outlines all pertinent information regarding the remaining work to be completed on the project, its estimated value of construction, and demonstrates there is adequate retainage to complete the outstanding work. The exhibit also documents the

project has been issued a 110B form by the Building Department, and contains language affirming the retainage reduction recommendation complies with applicable statutes and Board Policy 7005. The exhibit is executed under signature of the Deputy Superintendent of Facilities & Construction Management.

10. End the influence of the Board over the Building Department by turning over inspections to local building departments.

- Given the size of the District's capital program, it is more cost effective to perform this function in-house. The District's Building Department also serves to provide quality assurance by performing plan review and ensuring construction projects not only comply with building code requirements, but that they also conform to the District's design specifications and contract requirements. The GJ Final Report recommends standardization for inspection procedures. Turning over the District's inspections to thirty-one (31) local building departments and their independent inspection processes may serve to negatively impact standardization.

The School Board will review the structure of the Facilities & Construction Management Division and the Building Department and the proposal to turn over district inspection to local building departments.

The Superintendent will bring forth a discussion item to the Board to review the structure of the Facilities & Construction Management Division and the Departments, and the proposal to turn over district inspection to local building departments. This will be done in response to the Grand Jury Report and to regain the trust of the community.

- An annual training program will be developed for School Board Members to be held each year as part of the opening of the school year in July. The training will include pertinent topics regarding board governance, public records, Sunshine Law requirements, and ethics. This training will be developed by May 31, 2011, in order to deliver the first training in July 2011. A review of School Board Policy 1005 and the appropriate role of School Board Members in daily operations will be incorporated within this annual training.

11. Reduce the number of school board members to 5.

- Miami-Dade and Broward counties have nine school board members, while the other 65 districts have either 5 or 7 school board members. Section 4 of the Florida Constitution provides that a school board be composed of five or more members chosen by vote of the electors in a nonpartisan election for appropriately staggered terms of four years (**Exhibit 21**). As stated in this Grand Jury report (page 45 of 51) ["The move to single member districts and the increase to nine members was the result of a referendum mandated by a special, short lived legislative act (passed in 1997, it was repealed in 2000)." and **Exhibit 22**], a referendum must be conducted to change the number of School Board

Members. The School Board will address this topic at a workshop on the District's recommended actions to the Grand Jury Report, no later than April 29, 2011.

12. Place before the voters the issue of electing the Superintendent.

- Section 1001.461 (2) and (3), Florida Statutes, governs the procedure for taking an appointive office (District School Superintendent) back to an elected office (District School Superintendent). The School Board will address this topic at a workshop on the District's recommended actions to the Grand Jury Report, no later than April 29, 2011.

13. Create independent office of Inspector General to monitor the Board and District.

- Broward County Government recently adopted an ordinance, which was later approved by the voters as a charter amendment, to create an Inspector General's Office. The General Counsel's Office for the School Board has been in communication with the County Attorney's office to discuss the feasibility for this Inspector General to provide the same oversight to the District. The District will continue discussions with the County Attorney's Office to explore this alternative.

[The District has also developed the Broward County Public Schools Professional Ethics website \(www.broward.k12.fl.us/ethics\). The purpose of this website is to provide School Board Members and District employees a single point of reference for ethics related issues and concerns. Included in this site are frequently asked questions, a direct link to the Florida Commission Ethics Website, a PowerPoint for "Sunshine Amendment and Code of Ethics for Public Officers and Employees", instructions for filing an anonymous complaint directly with the Commission, copies of District ethics-related policies, and the State Commission Ethics Hotline. The PowerPoint was included in a presentation to School Board Members on May 11, 2010 by Mr. Phillip Claypool, Executive Director and General Counsel for the Florida Commission on Ethics.](http://www.broward.k12.fl.us/ethics)

14. Go back to hard bids from prequalified contractors. Prohibit bids from builders with outstanding issues.

- A hard bid is a good delivery method initially, but it has to have a quality set of plans upfront in order to prevent/mitigate unplanned change orders. Design Build is a good method if the project has a short timeline. It is not a pure hard bid, but it is similar. CM at Risk would be a recommended delivery method for a very complex multi-phase project that involves phased construction with demolition. The nature/circumstances of a given project should determine the best method of project delivery. The District ~~will expand~~ has expanded its contractor screening process to avoid contracting with companies that have a poor performance history. However, legal concerns regarding the contractors'

right to do business with the District will need to be addressed. Outstanding issues are part of the project execution and closeout process and must be considered on a case-by-case basis, independently of the project being considered.

The District is considering feedback as part of its contractor's selection process. Our General Counsel will work to ensure all legal issues regarding the contractors' right to do business with the District are appropriately addressed.

The Facilities & Construction Management Division is in the process of revising all of its construction contracts. To date, the contracts for Open-Ended Services, and Hard-Bid, and Design-Build construction delivery methods have been amended to make them more owner-oriented and aligned with current standards and practices. These contracts were the first to be revised as they will be the most utilized based on the District's current construction program. There will be an initial report within six months with quarterly reports to follow.

15. Remove all involvement by Board members in the selection of contractors, vendors, or financial institutions.

- **This recommendation was fully implemented prior to the release of the GJ Final Report.** By November 2010, the School Board removed itself from all committees involving the procurement of goods or services for the District. This includes the Superintendent's Insurance Committee, Financial Advisory Committee, and the Qualification Selection Evaluation Committee (design professional and contractor selection committee). Currently, Board Members do not participate in the evaluation or selection process for any goods or services procured by the District.

16. No official business conducted between school board members and staff, nor should Board members attempt to influence staff regarding official business. All business should be done with Superintendent or manager of department, or personally at public school board meeting.

- Section 286.011, Florida Statutes, requires official business must be conducted in a public meeting. An annual training program will be developed for School Board Members to be held each year as part of the opening of the school year in July. The training will include pertinent topics regarding board governance, public records, Sunshine Law requirements, and ethics. This training will be developed by May 31, 2011, in order to deliver the first training in July 2011.
- A review of this statute, School Board Policy 1005, and the appropriate role of School Board Members in daily operations will be incorporated within this annual training.

The newly developed Ethics Code for School Board Members was approved as amended at its first reading at the March 21, 2011 School Board Meeting. The amendments incorporated at its first reading added further accountability to this policy. This policy is scheduled to return to the Board for its final reading on

May 3, 2011, in accordance with applicable statutes requiring 28-day public notice prior to policy adoption. A copy of the executed Agenda Request Form, amendments approved at first reading, and the Ethics Policy are incorporated in Exhibit K.

- Additionally, the District's new Ethics Code for School Board Members requires, "Each School Board Member shall annually attend or participate in a minimum of four hours of continuing education training on the topics of the Florida Sunshine Law, Florida Open Public Records Act, and Ethical Standards contained in part III of Chapter 112, Florida Statutes (The Code of Ethics for Public Officers and Employees), and under this policy."

17. All bids should be opened in public, with Auditor there to certify bids met minimums.

- The District agrees with the Grand Jury's observation that an audit presence during the bid process would be an improved internal control over the current process. We do not agree that this should include attending all bid and award processes, as ensuring compliance with procurement policies and procedures, and terms and conditions of construction related contracts is the responsibility of management. Currently, the Facility Audit Department consists of two employees and is not adequately staffed to provide the services recommended by the Grand Jury; however, an auditor will immediately begin to attend construction bid openings on a random basis to review and document management's enforcement of compliance with the bid and award process. If, and when, any discrepancies are identified in the bid and award process, the auditor will prepare a written report with findings and recommendations detailing any compliance deficiencies for the Superintendent of Schools, Audit Committee, and School Board. The Management and Facilities' Audit Department has observed deficiencies in the bid and award process in the past, and has provided detailed findings and recommendations as recently as April, 2010 in the Kitchen/Cafeteria Audit. A training program will be provided to District staff regarding their proper implementation of the bidding and award process in accordance with applicable state law and rules, policies and bid documents.

The District's existing practices require all procurement bid openings be conducted as a public meeting. The date of the public bid opening is included within the procurement bid documents.

18. No decisions, formal or informal, should be made other than a regularly scheduled Board meeting

- An annual training program will be developed for School Board Members to be held each year as part of the opening of the school year in July. The training will include pertinent topics regarding board governance, public records, Sunshine Law requirements, and ethics. This training will be developed by May 31, 2011, in order to deliver the first training in July 2011. Similar training already exists to

orient newly elected School Board Members within 30 days of the School Board's November Organizational Meeting. **Exhibit 23** is the Table of Contents from the New School Board Member District Resource Manual.

The revision to Policy 1100A was presented to the School Board at its March 8, 2011 Board Workshop. The revisions include adding language that:

- Official action by the School Board shall be taken only at regular and special School Board Meetings.
- Except for added speakers, all items added to an agenda for good cause are to be placed on the Open Agenda.
- All items with a financial impact are to be placed on the Open Agenda.
- Items for reduction of retainage and receipt of audits are to be placed on the Open Agenda

The revised policy was presented for first reading and approved at the March 21, 2011 School Board Meeting (Exhibit C). This policy is scheduled to return to the Board for its final reading on May 3, 2011 in accordance with applicable statutes requiring 28-day public notice prior to policy adoption.

19. No discussions should be had other than at Board meetings or workshops as per Sunshine Law requirements

- An annual training program will be developed for School Board Members to be held each year as part of the opening of the school year in July. The training will include pertinent topics regarding board governance, public records, Sunshine Law requirements, and ethics. This training will be developed by May 31, 2011, in order to deliver the first training in July 2011. Similar training already exists to orient newly elected School Board Members within 30 days of the School Board's November Organizational Meeting. **Exhibit 23** is the Table of Contents from the New School Board Member District Resource Manual.

20. Prohibit gifts of any value to any Board member or District employee from anyone doing business with the District or lobbying the Board

- The District established an Ethics Committee to develop recommendations for a comprehensive ethics policy. The School Board conducted several workshops to discuss the recommendations presented by the Ethics Committee. Feedback has been incorporated into a draft Ethics Code for School Board Members, which will be discussed at the March 8, 2011 Board workshop. The draft code includes specific information discussing the receipt of gifts, in accordance with applicable Florida Statutes. Feedback from the March 8, 2011 workshop will be considered and the Ethics Code for School Board Members will be placed on the March 21, 2011 Board meeting for first reading. The Ethics Code will receive final approval in accordance with applicable statutes requiring public notice prior to final reading.

The newly developed Ethics Code for School Board Members was approved as amended at its first reading at the March 21, 2011 School Board Meeting. The amendments incorporated at its first reading added further accountability to this

policy. This policy is scheduled to return to the Board for its final reading on May 3, 2011 in accordance with applicable statutes requiring 28-day public notice prior to policy adoption. A copy of the executed Agenda Request Form, amendments approved at first reading, and the Ethics Policy are incorporated in Exhibit K.

- The District has a current policy that discourages gifts from students and/or parents to employees. The District completed a public forum to receive feedback regarding a major revision to this policy on February 18, 2011. The new policy is being presented to the School Board at their March 8, 2011 workshop. Management will make any applicable modifications to the draft policy based on the discussion at the workshop. The modified policy will be placed on the next regularly scheduled School Board meeting agenda on March 21, 2011 for first reading. The policy revisions will receive final approval in accordance with applicable statutes requiring public notice prior to final reading.
The District's revised gift policy for employees was presented for first reading and approved at the March 21, 2011 School Board Meeting. Exhibit L is a copy of the executed Agenda Request Form and approved policy. This policy is scheduled to return to the Board for its final reading on May 3, 2011 in accordance with applicable statutes requiring 28-day public notice prior to policy adoption.