



# The School Board of Miami-Dade County, Florida

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*District Director*  
*School Choice and Parental Options*



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**Opportunity Scholarship Program Implementation Plan 2009  
Contact Personnel by Area of Responsibility**

<b>AREA OF RESPONSIBILITY</b>	<b>CONTACT PERSON &amp; TITLE</b>	<b>LOCATION</b>	<b>TELEPHONE NUMBER</b>
District/School Operations	Mr. Freddie Woodson Deputy Superintendent	1450 NE Second Avenue Room 923 Miami, Florida 33132	305.995.4242
Regional Centers	North Regional Center Dr. Marcos M. Moran Regional Center Superintendent	733 East 57 Street Hialeah, FL 33013	305.687.6565
	North Central Regional Center Dr. Essie S. Pace Regional Center Superintendent	1080 La Baron Drive Miami Springs, FL 33166	305.883.0403
	South Central Regional Center Mr. George A. Núñez Regional Center Superintendent	2201 SW Fourth Street Miami, FL 33135	305.642.7555
	South Regional Center Ms. Janet Hupp Regional Center Superintendent	9040 SW 79 Avenue Miami, FL 33156	305.595.7022
Advanced Academic Programs	Mrs. Beatriz Zarraluqui Administrative Director	1500 Biscayne Blvd. Room 235 Miami, FL 33132	305.995.1939
Alternative Education	Ms. Martha Montaner Administrative Director	1450 NE Second Avenue Room 760 Miami, FL 33132	305.995.1270
Assessment, Research and Data Analysis	Ms. Gisela Feild Administrative Director	1500 Biscayne Blvd. Room 225 Miami, FL 33132	305.995.2943
Attendance Services	Ms. Charlene Burks Administrative Director	489 East Drive Miami Springs, FL 33166	305.883.5323
Bilingual Education and World Languages	Dr. Joanne Urrutia Administrative Director	1500 Biscayne Blvd. Room 324 Miami, FL 33132	305.995.1945
Budget Management	Ms. Eugenia Sanchez Executive Director	1450 NE Second Avenue Room 460 Miami, FL 33132	305.995.1226
Curriculum and Instruction	Ms. Milagros R. Fornell Associate Superintendent	1450 NE Second Avenue Room 931 Miami, Florida 33132	305.995.1451
Information Technology Services	Ms. Deborah Karcher Executive Officer	13135 SW 26 Street Miami, Florida 33175	305.995.3600
Human Resources, Recruiting and Performance Management	Ms. Vera A. Hirsh Assistant Superintendent	1500 Biscayne Blvd. Room 241 Miami, FL 33132	305.995.7008

**Opportunity Scholarship Program Implementation Plan 2009  
Contact Personnel by Area of Responsibility**

Public Relations	Mr. John Schuster Chief Communications Officer	1450 NE Second Avenue Room 250 Miami, FL 33132	305.995.4638
School Operations	Ms. Enid Weisman Assistant Superintendent	1450 NE Second Avenue Room 271 Miami, FL 33132	305.995.7260
Schools of Choice	Ms. Caryl Grant District Director	1500 Biscayne Blvd. Room 237 Miami, FL 33132	305 995.1922
School Choice & Parental Options – NCLB/OSP	Ms. Lois Lee District Director	1500 Biscayne Blvd. Room 336 Miami, FL 33132	305.995.7291
School Choice & Parental Options – Charter Schools Operations	Ms. Tiffanie Pauline Executive Director	1200 NW Sixth Avenue Miami, Florida 33136	305.438.2220
Special Education and Psychological Services	Mr. Will Gordillo Administrative Director	1500 Biscayne Blvd. Room 407 Miami, FL 33132	305.995.2027
Transportation	Mr. Jerry Klein Administrative Director	15401 SW 117 Avenue Miami, FL 33177	305.234.3365

## INTRODUCTION

On June 21, 1999, the *A+ Education Plan to Improve Public Schools*, commonly referred to as the *A+ Plan*, was signed into law. The *A+ Plan* provides additional funding and delineates expectations designed to transform all of Florida's public schools into centers of excellence. This comprehensive plan addresses three major components:

1. improving schools and accountability measures;
2. raising standards and improving teacher training programs; and
3. improving school safety and reducing truancy.

In accordance with the terms of the *A+ Plan*, students enrolled in or assigned to a school designated as grade category "F" (Level I) for any two years in a four-year period are eligible to participate in the Opportunity Scholarship Program. The student's attendance must have occurred during the school year in which such designation was in effect; or the student has been in attendance elsewhere in the public school system and has been assigned to such school for the next school year; or the student is entering kindergarten or first grade for the first time and has been notified that the student has been assigned to such school for the next school year (see Appendix A).

In order to fulfill the intent of Section 1002.38, F.S., Opportunity Scholarship Program, the district has developed an implementation plan to address the procedural aspects of the legislation. The implementation plan addresses:

- eligibility criteria;
- public school options;
- parental awareness;
- educational programs; and
- transportation.

Tasks/assignments required to carry out the district's Opportunity Scholarship Program Implementation Plan are delineated in Appendix B.

Currently, there are 30 Miami-Dade County public schools and five charter schools that have received a grade of "F" (Level I) in the past four years. Although every effort is underway to eliminate or mitigate the number of schools designated as grade category "F" (Level I) in 2009, it is nonetheless possible that some of the district's schools will again receive the same designation, thereby resulting in Opportunity Scholarship Program eligibility for selected students.

**I. OVERVIEW OF OPPORTUNITY SCHOLARSHIP PROGRAM TRANSFERS**

Students have the inherent right to be afforded equal access to quality educational experiences, regardless of socioeconomic and cultural backgrounds. Therefore, as part of the district's plan, three geographic zones have been established. The map delineating the Opportunity Scholarship Program choice zones is included as Appendix C. In the development of the three zones, the following factors were taken into consideration:

- proximity of grade category “C” (Level III) or better performing public schools to potentially eligible grade category “F” (Level I) school boundaries;
- length of student transportation times;
- sufficient numbers of alternate public school choices with available space;
- feeder pattern integrity; and
- diverse demographics.

For purposes of the Opportunity Scholarship Program Implementation Plan, schools within each zone will participate in the transfer process based on their assigned grade and their capacity. That is, students from designated grade category “F” (Level I) schools in each zone will be provided the opportunity to transfer to grade category “C” (Level III) or better performing public schools within their zone that have space available.

A. Opportunity Scholarship Program Transfers and Choice Zones are:

- North Choice Zone
- Central Choice Zone
- South Choice Zone

The following table reflects the socioeconomic student demographic distribution by Opportunity Scholarship Program Choice Zone:

	<b>North Choice Zone</b>	<b>Central Choice Zone</b>	<b>South Choice Zone</b>
Free/Reduced Lunch	68.8 %	68.3 %	55.7 %



B. The following table reflects the senior high school feeder patterns included in each zone:

<b>Senior High School Feeder Patterns by Opportunity Scholarship Program Choice Zone</b>		
<b>North Choice Zone (Regional Center)</b>	<b>Central Choice Zone (Regional Center)</b>	<b>South Choice Zone (Regional Center)</b>
American (N) Barbara Goleman (N) Dr. Michael M. Krop (N) Hialeah (NC) Hialeah Gardens (NC) Hialeah-Miami Lakes (N) Miami Beach (N) Miami Carol City (N) Miami Norland (N) Miami Springs (NC) North Miami (NC) North Miami Beach (N) Westland Hialeah (NC)	Booker T. Washington (SC) Coral Gables (SC) G. Holmes Braddock (SC) Miami Central (NC) Miami Coral Park (SC) Miami Edison (NC) Miami Jackson (NC) Miami Northwestern (NC) Miami Senior (SC) Ronald W. Reagan (NC) South Miami (SC) Southwest Miami (SC)	Felix Varela (S) Homestead (S) John A. Ferguson (SC) Miami Killian (S) Miami Palmetto (S) Miami Southridge (S) Miami Sunset (S) South Dade (S)

C. Parents of eligible students may exercise one of the following options under the Opportunity Scholarship Program by Friday, July 17, 2009:

1. retain their child in their assigned school;
2. transfer their child to a grade category "C" (Level III) or better performing public school that has available space (Opportunity Scholarship Program transfer); or
3. enroll their child in a grade category "C" (Level III) or better performing public school that has available space in an adjacent school district.

D. The following are student eligibility considerations for Opportunity Scholarship Program Participation:

1. Students have been in attendance at the grade category "F" (Level I) school 91 days during the school year in which such designation was effectuated.
2. Students have been in attendance elsewhere in the public school system and have been assigned to such a school for the next school year.
3. Students will be entering Kindergarten or first grade for the first time and have been assigned to such a school for the next school year.

The following examples address various potential eligibility scenarios during any year in which such designation is effectuated:

- fifth (or sixth) grade student who has attended a grade category “F” (Level I) elementary school may choose a middle school that is a grade category “C” (Level III) or better; and
- an eighth grade student who has attended a grade category “F” (Level I) middle school may choose a senior high school that is a grade category “C” (Level III) or better.

For purposes of continuity of educational choice, the Opportunity Scholarship shall remain in force until the student:

- a. returns to his/her home public school; or
- b. completes the highest attainable grade at the public school of choice:
  - grade 5 or 6 in an elementary school;
  - grade 8 in a K-8 center or middle school;
  - grade 12 in a senior high school.

However, at any time upon reasonable notice to the Florida Department of Education and the school district, the student's parent may remove the student from the current school and place the student in the home public school.

**E. Opportunity Scholarship Program Implementation Plan Timeline:**

The following timeline depicts the main activities that will occur during the implementation of the Opportunity Scholarship Program plan for the 2009-2010 school year:

DATE	ACTIVITY
June	Notify Parents of Eligible Students
June – July	Application and Appeal Process
July	Special Education and Gifted Placements
July	Student Transportation Services
July – August	Personnel/Budget Adjustments
July – September	Bilingual Education and World Languages staff adjustments

**II. PUBLIC AWARENESS AND INFORMATION CAMPAIGN**

In order to comply with the district’s responsibility to inform parents regarding the Opportunity Scholarship Program, the following strategies were selected for implementation:

1. direct mailing parent notification (see Appendices D & E);
2. press release to news media; and
3. information to be placed on M-DCPS' website.

All information will be provided in English, Spanish and Haitian-Creole where appropriate. Additionally, interpretation/translation services, for languages other than Spanish and Haitian-Creole, will be provided as needed and based on availability by Bilingual Education and World Languages.

### III. APPLICATION AND APPEAL PROCESS FOR OPPORTUNITY SCHOLARSHIP PROGRAM TRANSFERS

#### A. Application Process

An *Opportunity Scholarship Program Transfer Application* form and instructions will be provided to the parent of an eligible student by the student's home school. If interested in obtaining an Opportunity Scholarship Program transfer, the parent should complete the application form, making a public school selection from the list of schools provided (updated lists provided by Attendance Services) and submit it to the student's residence school between the time the eligibility notification is provided and Friday, July 17, 2009 (see Appendix F). The residence school staff will determine if the student is enrolled in special education (SPED) courses. If a student is identified as learning disabled, speech impaired, or language impaired the established Opportunity Scholarship Program transfer process for regular education students will be followed. Appropriate steps will be taken to change the school location on these students' Individual Education Plan (IEP) form. For students with disabilities other than LD, the *Opportunity Scholarship Program Transfer Application* will be directed to the Advocacy Director at the Regional Center for the student's residence school.

The following steps outline the application and appeal process for the Opportunity Scholarship Program transfers:

1. parent obtains and submits the application to the student's home school,
2. school staff determines if the student is not enrolled in a special education program; and
3. school staff determines if the requested school is on the list of available schools. If that is the case, school staff shall
  - a. date stamp and initial application;
  - b. give a copy to parent; and
  - c. fax the completed applications **daily** to Specialized Programs. If the school does not receive any transfers on a particular day, the principal should fax a note to Specialized Programs with such a statement.

4. Once student eligibility is verified, Specialized Programs' staff will fax the approved applications to Attendance Services. Attendance Services' staff will:
  - a. input transfer into the Automated Transfer System (ATS) of ISIS;
  - b. input student into Future Entry with Address screen in ISIS; and
  - c. notify the schools of transfer approvals.
  
5. Schools will notify parents that transfer request has been approved within five days.

In the event that the requested school is not on the list of available schools, the school principal shall offer alternate school(s) to the parent. If the parent accepts an alternate school, the school staff shall follow the above delineated procedures.

#### **B. Appeal Process**

If parent does not accept an alternate school and requests to appeal, the school staff shall fax the completed application to Specialized Programs, indicating the parent desires an appeal. Once student eligibility is verified, Specialized Programs' staff will send the transfer application to staff at Attendance Services which will attempt to resolve the transfer issue.

1. If the transfer is accepted, Attendance Services staff shall approve the transfer in ATS and input student into Future Entry with Address screen in ISIS. Parent will then be advised of approval.
2. If the transfer is denied and parent wishes to appeal at the next level, Attendance Services staff shall advise parent of process to appeal to the Associate Superintendent, School Operations.

#### **C. New students, reassignments, siblings**

1. Students who move into or who are reassigned to a designated grade category "F" (Level I) school's attendance boundary after the application and appeal processing period for Opportunity Scholarship Program transfers and whose parents are interested in obtaining such a transfer, will be considered on a case-by-case basis.
2. Every effort will be made to accommodate eligible siblings in the same school.

### **IV. SPECIAL EDUCATION**

Special Education (SPED) programs are offered at all public schools. A SPED student may transfer to another public school on the district's choice list as long as the services written on the Individual Educational Plan (IEP) can be delivered at the receiving school. The residence school staff will determine if the student is

enrolled in special education (SPED) courses. For students with disabilities other than specific learning disabilities (SLD), and speech or language impaired, the *Opportunity Scholarship Program Transfer Application* will be directed to the Advocacy Director at the Regional Center for the student's residence school. If the school requested by the parent cannot deliver the services on the IEP, a Regional Center-level IEP meeting will be scheduled to determine an appropriate school placement for the student or alternate school options will be provided to the parent.

#### **V. GIFTED EDUCATIONAL PLACEMENT**

If a child is identified as a gifted student, the established Opportunity Scholarship Program transfer process for regular education students will be followed through the identification of the approved receiving school. At this point, the receiving school shall review the student's Educational Plan (EP) and schedule an EP Interim Review if changes need to be made to the student's EP.

#### **VI. ALTERNATIVE EDUCATION PLACEMENT**

If a student has been assigned administratively to an alternative school site, that student is not eligible for an Opportunity Scholarship Program (OSP) transfer. That includes the following placement types (as they appear in the student case management system): administrative assignment, administrative assignment in lieu of expulsion, work back in lieu of expulsion, expul-max by law, sixteen years of age and over, and expul-max by law under sixteen years of age.

If a student receives an OSP transfer and is subsequently assigned administratively to an alternative school site, the OSP transfer is forfeited and he/she must return to his/her residence school at the conclusion of the assignment. That includes all the aforementioned placement types. Once the student completes the alternative school assignment and returns to the residence school, he/she may apply for an OSP transfer during the next enrollment period, if the school is an eligible OSP sending school.

#### **VII. BILINGUAL EDUCATION AND WORLD LANGUAGES**

Bilingual Education and World Languages programs are offered in all public schools. Once schools have accurate enrollment information, teacher allocations will be adjusted as needed.

#### **VIII. STUDENT TRANSPORTATION SERVICES**

A. The District will provide transportation services to eligible Opportunity Scholarship Program transfer participants. In order to receive transportation, students must:

1. reside more than two miles from their selected school. Such distances are measured pursuant to State Board of Education Rule 6A- 3.001, Basic Principles for Transportation of Students; and
  2. select a public school within their assigned choice zone.
- B. The following procedures will be in effect for eligible Opportunity Scholarship Program transfer participants:
1. Students will be coded with transfer code "N" if they have selected a public school outside of their assigned choice zone or coded with transfer code, "V" if they have selected a public school within their assigned choice zone.
  2. Transportation schedule and information will be sent to parents on pre-school year post cards, along with other pertinent school data.
  3. The telephone information staff will be on duty throughout the opening of the school year to answer questions and resolve transportation scheduling problems.
- C. Parents of students who are geographically isolated, have special needs, or who may be the only student attending a higher performing school from a grade category "F" (Level I) school, may be offered parental reimbursement in lieu of school bus services. Procedures for such transportation arrangements will include:
1. communication with parents to determine interest in the parental reimbursement plan;
  2. compensation for parents at a rate of \$.585/mile for 180 school days; and
  3. remuneration twice a year as stipulated by contractual agreement between the Department of Transportation and parents.

## **IX. PERSONNEL/BUDGET ADJUSTMENTS**

- A. Initial staff allocations to schools are based on estimated Full-Time Equivalents (FTE) and are calculated in the Computer Assisted School Allocation System (CASAS). Initial FTE estimates are prepared by the Office of Budget Management and subsequently revised by Regional Centers for grade level changes, Attendance Boundary Committee recommendations, opening of new schools, etc. The Regional Center may shift FTE from school to school as additional information becomes available about a particular school's membership, but may not exceed the designated Regional Center FTE caps. The following is a list of activities that will assist in providing schools with a CASAS that reflects the best estimate of FTE membership for staffing prior to the opening of the regular school term:

DATE	ACTIVITY
March, 2009	<i>Preliminary CASAS</i> based on current staffing formulas and projected 2009-2010 FTE is available for printing by principals.
April - May, 2009	Budget/Personnel Staffing Conferences with principals.
Second Saturday of June	Information Technology Services distributes <i>Future School Regional Center Transfer Report</i> to Regional Centers.
June, 2009	<i>Tentative CASAS</i> for 2009-2010 based upon tentative allocation formulas outlined in the <i>2009-2010 K – 12 School Allocation Plan</i> approved by the Board is available for printing.
July, 2009	Budget/Personnel Staffing Conferences with principals.
August, 2009	Board adopts tentative 2009-2010 millage levy and annual budget as well as the <i>2009-2010 K – 12 School Allocation Plan</i> .

- B. As soon as FTE has been redistributed as a result of Opportunity Scholarship Program transfers, staff from Human Resources will work with Regional Center Staff to reassign personnel surplus as a result of these transfers. Surplus procedures described in Article XII, Section 6 of the UTD contract will be implemented (see Appendix G). Final CASAS will be based on actual FTE membership as of September, 2009. Pre-Final Budget/Personnel Staffing Conferences will be conducted September - October, 2009.

**X. ASSESSMENT AND TESTING**

- A. Opportunity Scholarship Program Transfer Students:

The public school the student chooses to attend will be responsible for administering state assessments to that student. Results will be forwarded to the school for distribution to the parents. The student’s test scores will be used in the computation of that school’s grade category designation.

- B. Assessment and Data Analysis’ responsibilities will include the:

1. development of a method to monitor and maintain a list of all schools and their yearly progressive status; and
2. review of Florida Comprehensive Assessment Test (FCAT) results annually to identify schools that have been designated as grade category “F” (Level I) for a second year in a four-year period.

# Appendices



## APPENDIX A

### The 2008 Florida Statutes

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#### Title XLVIII

#### K-20 EDUCATION CODE

#### Chapter 1002

#### STUDENT AND PARENTAL RIGHTS AND EDUCATIONAL CHOICES

##### **1002.38 Opportunity Scholarship Program.--**

1) FINDINGS AND INTENT.--The purpose of this section is to provide enhanced opportunity for students in this state to gain the knowledge and skills necessary for postsecondary education, a career education, or the world of work. The Legislature recognizes that the voters of the State of Florida, in the November 1998 general election, amended s. 1, Art. IX of the Florida Constitution so as to make education a paramount duty of the state. The Legislature finds that the State Constitution requires the state to provide a uniform, safe, secure, efficient, and high-quality system which allows the opportunity to obtain a high-quality education. The Legislature further finds that a student should not be compelled, against the wishes of the student's parent, to remain in a school found by the state to be failing for 2 years in a 4-year period. The Legislature shall make available opportunity scholarships in order to give parents the opportunity for their children to attend a public school that is performing satisfactorily or to attend an eligible private school when the parent chooses to apply the equivalent of the public education funds generated by his or her child to the cost of tuition in the eligible private school as provided in paragraph (6)(a). Eligibility of a private school shall include the control and accountability requirements that, coupled with the exercise of parental choice, are reasonably necessary to secure the educational public purpose, as delineated in subsection (4).

(2) OPPORTUNITY SCHOLARSHIP ELIGIBILITY.--A public school student's parent may request and receive from the state an opportunity scholarship for the student to enroll in and attend a private school in accordance with the provisions of this section if:

(a)1. By assigned school attendance area or by special assignment, the student has spent the prior school year in attendance at a public school that has been designated pursuant to s. [1008.34](#) as performance grade category "F," failing to make adequate progress, and that has had 2 school years in a 4-year period of such low performance, and the student's attendance occurred during a school year in which such designation was in effect;

2. The student has been in attendance elsewhere in the public school system and has been assigned to such school for the next school year; or

3. The student is entering kindergarten or first grade and has been notified that the student has been assigned to such school for the next school year.

(b) The parent has obtained acceptance for admission of the student to a private school eligible for the program pursuant to subsection (4), and has notified the Department of Education and the school district of the request for an opportunity scholarship no later than July 1 of the first year in which the student intends to use the scholarship.

The provisions of this section shall not apply to a student who is enrolled in a school operating for the purpose of providing educational services to youth in Department of Juvenile Justice commitment programs. For purposes of continuity of educational choice, the opportunity scholarship shall remain in force until the student returns to a public school or, if the student chooses to attend a private school the highest grade of which is grade 8, until the student matriculates to high school and the public high school to which the student is assigned is an accredited school with a performance grade category designation of "C" or better. However, at any time upon reasonable notice to the Department of Education and the school district, the student's parent may remove the student from the private school and place the student in a public school, as provided in subparagraph (3)(a)2.

### (3) SCHOOL DISTRICT OBLIGATIONS.--

(a) A school district shall, for each student enrolled in or assigned to a school that has been designated as performance grade category "F" for 2 school years in a 4-year period:

1. Timely notify the parent of the student as soon as such designation is made of all options available pursuant to this section.

2. Offer that student's parent an opportunity to enroll the student in the public school within the district that has been designated by the state pursuant to s. [1008.34](#) as a school performing higher than that in which the student is currently enrolled or to which the student has been assigned, but not less than performance grade category "C." The parent is not required to accept this offer in lieu of requesting a state opportunity scholarship to a private school. The opportunity to continue attending the higher performing public school shall remain in force until the student graduates from high school.

(b) The parent of a student enrolled in or assigned to a school that has been designated performance grade category "F" for 2 school years in a 4-year period may choose as an alternative to enroll the student in and transport the student to a higher-performing public school that has available space in an adjacent school district, and that school district shall accept the student and report the student for purposes of the district's funding pursuant to the Florida Education Finance Program.

(c) For students in the school district who are participating in the state Opportunity Scholarship Program, the school district shall provide locations and times to take all statewide assessments required pursuant to s. [1008.22](#).

(d) Students with disabilities who are eligible to receive services from the school district under federal or state law, and who participate in this program, remain eligible to receive services from the school district as provided by federal or state law.

(e) If for any reason a qualified private school is not available for the student or if the parent chooses to request that the student be enrolled in the higher performing public school, rather than choosing to request the state opportunity scholarship, transportation costs to the higher performing public school shall be the responsibility of the school district. The district may utilize state categorical transportation funds or state-appropriated public school choice incentive funds for this purpose.

(4) PRIVATE SCHOOL ELIGIBILITY.--To be eligible to participate in the Opportunity Scholarship Program, a private school must be a Florida private school, may be sectarian or nonsectarian, and must:

(a) Demonstrate fiscal soundness by being in operation for 1 school year or provide the Department of Education with a statement by a certified public accountant confirming that the private school desiring to participate is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. In lieu of such a statement, a surety bond or letter of credit for the amount equal to the opportunity scholarship funds for any quarter may be filed with the department.

(b) Notify the Department of Education and the school district in whose service area the school is located of its intent to participate in the program under this section by May 1 of the school year preceding the school year in which it intends to participate. The notice shall specify the grade levels and services that the private school has available for the Opportunity Scholarship Program.

(c) Comply with the antidiscrimination provisions of 42 U.S.C. s. 2000d.

(d) Meet state and local health and safety laws and codes.

(e) Accept scholarship students on an entirely random and religious-neutral basis without regard to the student's past academic history; however, the private school may give preference in accepting applications to siblings of students who have already been accepted on a random and religious-neutral basis.

(f) Be subject to the instruction, curriculum, and attendance criteria adopted by an appropriate nonpublic school accrediting body and be academically accountable to the parent for meeting the educational needs of the student. The private school must furnish a school profile which includes student performance.

(g) Employ or contract with teachers who hold a baccalaureate or higher degree, or have at least 3 years of teaching experience in public or private schools, or have special skills, knowledge, or expertise that qualifies them to provide instruction in subjects taught.

(h) Comply with all state statutes relating to private schools.

(i) Accept as full tuition and fees the amount provided by the state for each student.

(j) Agree not to compel any student attending the private school on an opportunity scholarship to profess a specific ideological belief, to pray, or to worship.

(k) Adhere to the tenets of its published disciplinary procedures prior to the expulsion of any opportunity scholarship student.

(5) OBLIGATION OF PROGRAM PARTICIPATION.--

(a) Any student participating in the Opportunity Scholarship Program must remain in attendance throughout the school year, unless excused by the school for illness or other good cause, and must comply fully with the school's code of conduct.

(b) The parent of each student participating in the Opportunity Scholarship Program must comply fully with the private school's parental involvement requirements, unless excused by the school for illness or other good cause.

(c) The parent shall ensure that the student participating in the Opportunity Scholarship Program takes all statewide assessments required pursuant to s. [1008.22](#).

(d) A participant who fails to comply with this subsection shall forfeit the opportunity scholarship.

(6) OPPORTUNITY SCHOLARSHIP FUNDING AND PAYMENT.--

(a) The maximum opportunity scholarship granted for an eligible student shall be a calculated amount equivalent to the base student allocation in the Florida Education Finance Program multiplied by the appropriate cost factor for the educational program that would have been provided for the student in the district school to which he or she was assigned, multiplied by the district cost differential. In addition, the calculated amount shall include the per-student share of instructional materials funds, technology funds, and other categorical funds as provided for this purpose in the General Appropriations Act.

(b) The amount of the opportunity scholarship shall be the calculated amount or the amount of the private school's tuition and fees, whichever is less. Fees eligible shall include textbook fees, lab fees, and other fees related to instruction, including transportation.

(c) The school district shall report all students who are attending a private school under this program. The students attending private schools on opportunity scholarships shall be reported separately from those students reported for purposes of the Florida Education Finance Program.

(d) The public or private school that provides services to students with disabilities shall receive the weighted funding for such services at the appropriate funding level consistent with the provisions of s. [1011.62](#)(1)(e).

(e) For purposes of calculating the opportunity scholarship, a student will be eligible for the amount of the appropriate basic cost factor if:

1. The student currently participates in a Group I program funded at the basic cost factor and is not subsequently identified as having a disability; or

2. The student currently participates in a Group II program and the parent has chosen a private school that does not provide the additional services funded by the Group II program.

(f) Following annual notification on July 1 of the number of participants, the Department of Education shall transfer from each school district's appropriated funds the calculated amount from the Florida Education Finance Program and authorized categorical accounts to a separate account for the Opportunity Scholarship Program for quarterly disbursement to the parents of participating students.

(g) Upon proper documentation reviewed and approved by the Department of Education, the Chief Financial Officer shall make opportunity scholarship payments in four equal amounts no later than September 1, November 1, February 1, and April 1 of each academic year in which the opportunity scholarship is in force. The initial payment shall be made after Department of Education verification of admission acceptance, and subsequent payments shall be made upon verification of continued enrollment and attendance at the private school. Payment must be by individual warrant made payable to the student's parent and mailed by the Department of Education to the private school of the parent's choice, and the parent shall restrictively endorse the warrant to the private school.

(7) LIABILITY.--No liability shall arise on the part of the state based on any grant or use of an opportunity scholarship.

(8) RULES.--The State Board of Education may adopt rules pursuant to ss. [120.536](#)(1) and [120.54](#) to implement the provisions of this section. Rules shall include penalties for noncompliance with subsections (3) and (5). However, the inclusion of eligible private schools within options available to Florida public school students does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of private schools beyond those reasonably necessary to enforce requirements expressly set forth in this section.

**History.**--s. 103, ch. 2002-387; s. 1945, ch. 2003-261; s. 79, ch. 2004-357.

**PREPARED BY:** Timothy D. Osterhaus  
**PHONE:** 850-245-0442  
**SUNCOM:** 205-0442  
**OPINION NO.:** 06-02  
**STAFF CONTACT:** none

**MEMORANDUM OPINION**

**TO:** Virginia Gentles, Office of Independent Education & Parental Choice

**FROM:** Daniel Woodring  
General Counsel

**SUBJECT:** Effect of *Bush v. Holmes* Florida Supreme Court Decision on the Opportunity Scholarship Program’s Public School Attendance Option

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**QUESTION PRESENTED:** Given the Florida Supreme Court’s ruling in *Bush v. Holmes* that the granting of private school vouchers pursuant to the Opportunity Scholarship Program (“OSP”) is unconstitutional, does the option remain under the OSP for parents of children who attend failing public schools to place their children in an alternate satisfactory performing public school?

**CONCLUSION:** Yes.

**DISCUSSION:** On January 5, 2006, the Florida Supreme Court ruled the OSP, §1002.38, Florida Statutes, to contravene article IX, section 1(a) of the Florida Constitution, insofar as it allows children to receive a publicly funded education in private schools. While the Florida Supreme Court’s ruling did not explicitly address “severability” of the public versus private school OSP options, its logic and holding clearly distinguished them. *Bush v. Holmes*, slip op. SC04-2324, at 22, 35 (Fla. Sup. Ct., January 5, 2006)(“The OSP violates [article IX, section 1(a)] by devoting the state’s resources to the education of children within our state through means other than a system of free public schools . . . Only when the private school option depends upon public funding is choice limited . . . [as] necessitated by the constitutional mandate in article IX, section 1(a) . . . that does not allow the use of state monies to fund a private school education”). Accordingly , the ruling effectively strikes down the grant of vouchers for students to attend private schools, but does not invalidate the OSP’s provision for parents to move a child from a failing public school to a satisfactorily performing public school. It is a fundamental principle that where a statute contains both constitutional and unconstitutional parts, the valid part may remain effective provided the parts are severable and the valid part would have been enacted apart from the invalid part. *See Martinez v. Scanlan*, 582 So.2d 1167 (Fla. 1991); *Wright v. State*, 351 So.2d 708 (Fla.1977); *Presbyterian Homes v. Wood*, 297 So.2d 556 (Fla.1974).

## APPENDIX B

### Opportunity Scholarship Program (OSP) Implementation Timeline

Timeline	Task/Assignment	Responsible Office	Contact Person
First Week of December	Identify personnel to monitor and implement the state's OSP as needed.	<ul style="list-style-type: none"> <li>School Choice &amp; Parental Options (SCPO)</li> <li>Information Technology Services (ITS)</li> </ul>	Ms. Lee Ms. Karcher
First Week of February	Identify new issues to be addressed in the district's OSP Implementation Plan and incorporate these changes into the OSP Implementation Outline.	<ul style="list-style-type: none"> <li>SCPO</li> <li>School Board Attorney</li> </ul>	Ms. Lee Mr. Garcia
First Week of February	Provide legal interpretation of any amendments to Sec. 1002.38, F. S., Opportunity Scholarship Program.	<ul style="list-style-type: none"> <li>School Board Attorney</li> </ul>	Mr. Garcia
First Week of February	Update schools (elementary, middle, and senior high) that will be assigned to each OSP geographic zone.	<ul style="list-style-type: none"> <li>SCPO</li> <li>School Operations</li> </ul>	Ms. Lee Mr. Woodson
Mid February	Conduct an analysis of the OSP zones and make any adjustments as warranted.	<ul style="list-style-type: none"> <li>School Board Attorney</li> <li>Regional Operations</li> </ul>	Mr. Garcia Mr. Woodson
First Week of March	Seek appropriate approval of any adjustments to the OSP geographic zones.	<ul style="list-style-type: none"> <li>SCPO</li> <li>Regional Operations</li> </ul>	Ms. Lee Mr. Woodson
First Week of April	Identify contact personnel in M-DCPS to work with parents from Broward, Collier, and Monroe County school districts who may be interested in accessing a school in M-DCPS through the OSP (vice versa).	<ul style="list-style-type: none"> <li>Attendance Services</li> </ul>	Ms. Burks

Timeline	Task/Assignment	Responsible Office	Contact Person
First Week of April	Update plan to distribute OSP information to potential eligible parents and other community stakeholders: <ul style="list-style-type: none"> <li>• Prepare patent letter and postcard;</li> <li>• Prepare purchase order for printing and mailing;</li> <li>• Prepare press packet;</li> <li>• Prepare mailing data disks; and</li> <li>• Notify affected Regional Center Superintendents and Principals.</li> </ul>	<ul style="list-style-type: none"> <li>• SCPO</li> <li>• Public Information</li> <li>• ITS</li> <li>• School Operations</li> </ul>	Ms. Lee Mr. Schuster Ms. Karcher Mr. Woodson
First Week of April	Revise OSP student application/admission process in multiple languages, as needed. Include criteria for student assignment.	<ul style="list-style-type: none"> <li>• Attendance Services</li> <li>• SCPO</li> <li>• Public Information</li> </ul>	Ms. Burks Ms. Lee Mr. Schuster
First Week of April	Update generic notification in three languages (English, Spanish, Haitian-Creole) regarding the “possibility” of Opportunity Scholarships as needed.	<ul style="list-style-type: none"> <li>• SCPO</li> <li>• Public Information</li> </ul>	Ms. Lee Mr. Schuster
First Week of April	Develop new or amend existing Regional Center transfer codes for any new legislative changes as needed.	<ul style="list-style-type: none"> <li>• Attendance Services</li> <li>• ITS</li> </ul>	Ms. Burks Ms. Karcher
First Week of April	Submit Office of Information Technology Request (OITR) to implement modifications to OSP Plan that impact ITS’s areas of responsibilities as needed.	<ul style="list-style-type: none"> <li>• SCPO</li> </ul>	Ms. Lee
First Week of May	Provide OSP information for selected district, Regional Center, and school site staff that may be impacted by the OSP.	<ul style="list-style-type: none"> <li>• SCPO</li> <li>• School Operations</li> <li>• Transportation</li> </ul>	Ms. Lee Mr. Woodson Mr. Klein
First Week of May	Update and coordinate the district’s OSP Plan as needed by utilizing the various components submitted by the designated offices of responsibility.	<ul style="list-style-type: none"> <li>• SCPO</li> </ul>	Ms. Lee
First Week of May	Update plans for various alternative means of transportation as needed.	<ul style="list-style-type: none"> <li>• Transportation</li> </ul>	Mr. Klein



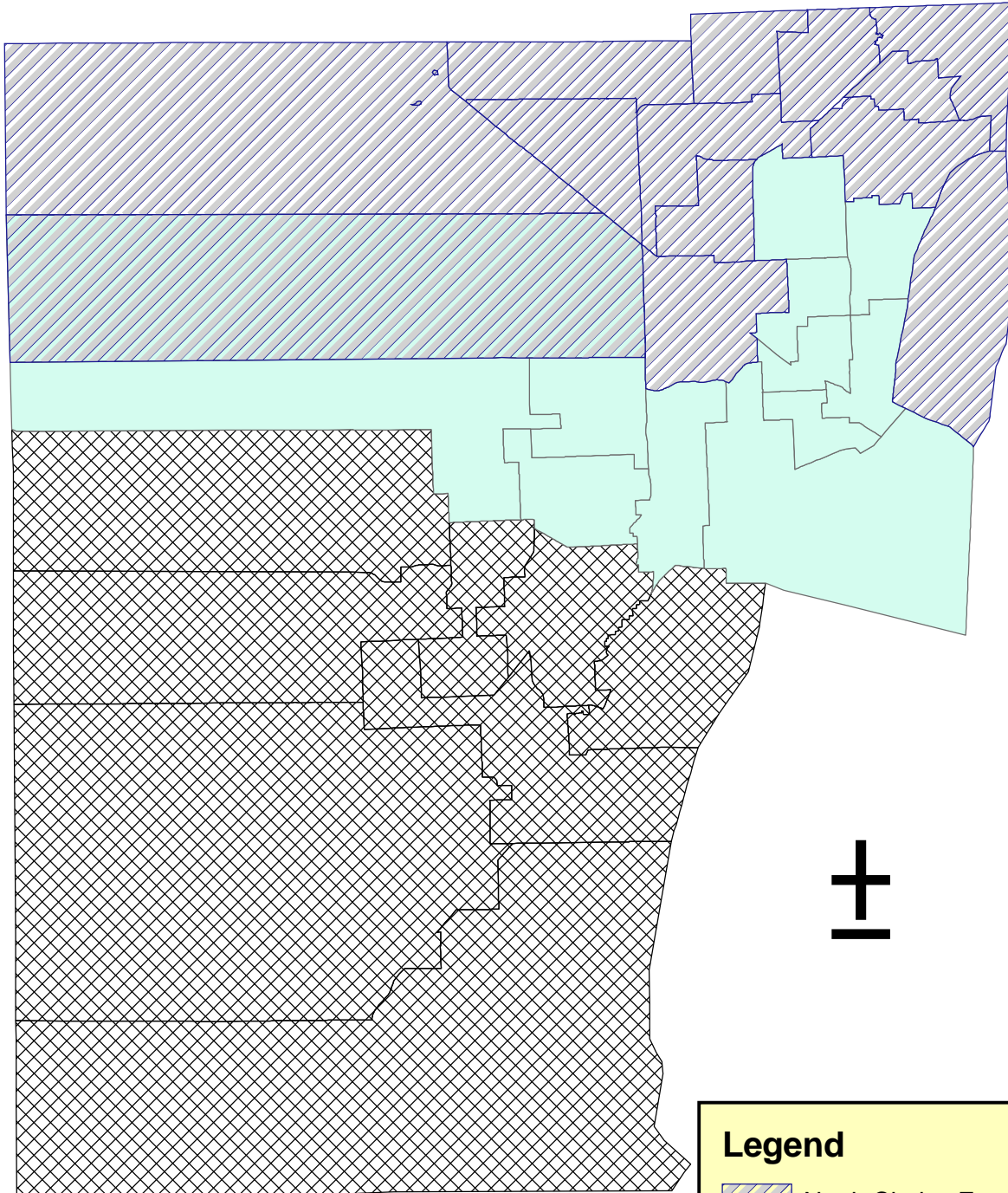
Timeline	Task/Assignment	Responsible Office	Contact Person
First Week of May	Update procedures for identifying students eligible for parental reimbursement for transportation services as needed for OSP students choosing a category "C" or better public school.	<ul style="list-style-type: none"> <li>School Operations</li> <li>Transportation</li> </ul>	Mr. Woodson Mr. Klein
First Week of May	Update procedures and forms for parental reimbursement for transportation services as needed for OSP students choosing a category "C" or better public school.	<ul style="list-style-type: none"> <li>Transportation</li> </ul>	Mr. Klein
First Week of May	Distribute generic notification in three languages (English, Spanish, Haitian-Creole) regarding the "possibility" of Opportunity Scholarships to potentially eligible OSP schools. The notification will be sent home with students currently attending those schools and given to parents of new Kindergarten students at the time of initial registration.	<ul style="list-style-type: none"> <li>SCPO</li> <li>Regional Centers</li> <li>Affected Schools</li> </ul>	Ms. Lee Regional Center Superintendents  Principals
Second Week of May	Revise information packet for parents as needed.	<ul style="list-style-type: none"> <li>SCPO</li> <li>Attendance Services</li> </ul>	Ms. Lee Ms. Burks
Second Week of May	Reproduce and distribute any required updates to the district's OSP Plan.	<ul style="list-style-type: none"> <li>SCPO</li> </ul>	Ms. Lee
Mid May	Provide training (mechanics) to selected school site and Systems User Support staff in the implementation of the Automated Student Transfer System and the ISIS procedures.	<ul style="list-style-type: none"> <li>Attendance Services</li> <li>ITS</li> </ul>	Ms. Burks  Ms. Karcher
Last Week of May	Prepare mailing diskettes, for students attending potential FF schools, including those coming from an elementary school or middle school that will feed into a potential FF school, and in a manner for a contracted outsourcing vendor to facilitate the mailing of final parent notification regarding OSP.	<ul style="list-style-type: none"> <li>ITS</li> </ul>	Ms. Karcher
Last Week of May	Review procedures for student course selection at secondary receiving schools and revise as needed.	<ul style="list-style-type: none"> <li>Student Services</li> </ul>	Ms. Montilla

Timeline	Task/Assignment	Responsible Office	Contact Person
Last Week of May	Monitor and maintain a list of all schools and their yearly progressive status by choice zone.	<ul style="list-style-type: none"> <li>Assessment and Data Analysis</li> </ul>	Ms. Feild
Last week of May	Develop and maintain list of "C" or better performing schools, by choice zone, with percentage utilization including portables.	<ul style="list-style-type: none"> <li>Attendance Services</li> <li>School Operations</li> </ul>	Ms. Burks Mr. Woodson
Mid June	Review FCAT results to identify schools that received a grade designation of "F" twice in any four-year period.	<ul style="list-style-type: none"> <li>Assessment and Data Analysis</li> </ul>	Ms. Feild
Mid June	Adjust the list of participating "F" and "C" or better performing schools by choice zones according to the school grade designation and capacity utilization for the current school year.	<ul style="list-style-type: none"> <li>SCPO</li> <li>Attendance Services</li> <li>School Operations</li> </ul>	Ms. Lee Ms. Burks Mr. Woodson
Mid June	Send the final parent notification to eligible students.	<ul style="list-style-type: none"> <li>SCPO</li> </ul>	Ms. Lee
Second Saturday in June	Receive and analyze "Futures Transfer Report" prepared by ITS.	<ul style="list-style-type: none"> <li>ITS</li> <li>School Operations</li> <li>Regional Centers</li> </ul>	Ms. Karcher Mr. Woodson Regional Center Superintendents
July 17, 2009	Application period ends	<ul style="list-style-type: none"> <li>SCPO</li> </ul>	Ms. Lee
Early July	Prepare Tentative CASAS in response to Regional Center Superintendents' request.	<ul style="list-style-type: none"> <li>Budget Management</li> </ul>	Ms. Ramos
Mid July	Post Tentative CASAS online for review by Regional Center Superintendents and other impacted personnel.	<ul style="list-style-type: none"> <li>Budget Management</li> <li>Regional Centers</li> </ul>	Ms. Ramos Regional Center Superintendents
Mid July	Notify parents who opt for parental reimbursement for transportation services of procedures for obtaining such payment.	<ul style="list-style-type: none"> <li>School Operations</li> <li>Transportation</li> </ul>	Mr. Woodson Mr. Klein
Mid July	Fax to the Regional Centers the membership estimate changes as a result of the Opportunity Scholarship Transfers.	<ul style="list-style-type: none"> <li>Budget Management</li> <li>School Operations</li> <li>Regional Centers</li> </ul>	Ms. Ramos Mr. Woodson Regional Center Superintendents
Mid July	Coordinate personnel changes resulting from the transfer of students as part of the OSP.	<ul style="list-style-type: none"> <li>Human Resources</li> <li>Regional Centers</li> </ul>	Ms. Hirsh Regional Center Superintendents
Mid July	Coordinate and report student transportation routes to parents	<ul style="list-style-type: none"> <li>Transportation</li> </ul>	Mr. Klein




Timeline	Task/Assignment	Responsible Office	Contact Person
Ongoing	Monitor the implementation of the automated tracking system of the OSP.	<ul style="list-style-type: none"> <li>• Attendance Services</li> <li>• ITS</li> </ul>	Ms. Burks Ms. Karcher
As Necessary	Modify the current Board rule regarding the district's student transfer policy (transfer students to "C" or better public schools within an assigned zone) should any new legislative language prescribe such a change.	<ul style="list-style-type: none"> <li>• Attendance Services</li> <li>• School Board Attorney</li> </ul>	Ms. Burks Mr. Garcia

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# Opportunity Scholarship Choice Zones (by senior high school feeder patterns)



## Legend

-  North Choice Zones
-  Central Choice Zone
-  South Choice Zone

## APPENDIX D

### OPPORTUNITY SCHOLARSHIP PROGRAM 2009-2010 CONNECT-ED SCRIPT

**Target audience:** Parents of students attending schools that received two or more grades of “F” in the past four years

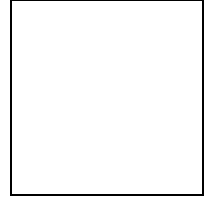
We are calling from Miami-Dade County Public Schools. Your child attends a school that has received a category grade of “F” two or more times in the past four years. Under the Opportunity Scholarship Program your child may be eligible to transfer to a higher performing public school that has space available.

To learn more about these choice options and request a transfer application,, please contact your child’s school, the corresponding regional center or call Schools of Choice at 305-995-2275 or 305-995-3060.

Do not miss out on this great opportunity! Enrollment is going on now through Friday, July 17, 2009.

## Appendix E

Miami-Dade County Public Schools  
Schools of Choice  
Opportunity Scholarship Program  
1500 Biscayne Blvd., Room 336  
Miami, FL 33132



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June 2009

**Dear Parent:**

Your child is eligible to participate in the Opportunity Scholarship Program. If you are interested in any of the school choice options available under this program and to request an application, please contact Schools of Choice at 305-995-2275 or 305-995-3060, no later than July 17, 2009.

**Estimados Padres:**

Su hijo/a es elegible para participar en el Programa de Becas de Oportunidad. Si están interesados en algunas de las opciones que ofrecen estas escuelas electivas y para obtener una aplicación, por favor, comuníquense con el departamento de Escuelas Selectivas al número 305-995-2275 o 305-995-3060, antes del 17 de julio de 2009.

**Chè Paran:**

Pitit ou a elijib pou l patisipe nan Pwogram Opòtinite pou Bous. Si w enterese nan nenpòt chwa opsyon lekòl ki disponib anba pwogram sa a, silvouplè kontakte anplwaye nan "Schools of Choice" nan 305-995-2275 o 305-995-3060, anvan 17 jiyè 2009.

Sincerely, Atentamente, Ak tout respè,

Alberto M. Carvalho  
Superintendent of Schools – Superintendente de Escuelas – Sipèntandan Lekòl yo  
Miami-Dade County Public Schools



**MIAMI-DADE COUNTY PUBLIC SCHOOLS  
OPPORTUNITY SCHOLARSHIP PROGRAM  
PUBLIC SCHOOL TRANSFER APPLICATION**

Date Received:

**ENGLISH**

STUDENT'S NAME (LAST) (FIRST) (MIDDLE)			BIRTH DATE	GRADE COMPLETED	M-DCPS ID #
STUDENT'S ADDRESS				STUDENT'S TELEPHONE NO.	
FATHER'S NAME	FATHER'S HOME TELEPHONE NO.	FATHER'S WORK TELEPHONE NO.	FATHER'S CELLULAR NO.	FATHER'S BEEPER NO.	
MOTHER'S NAME	MOTHER'S HOME TELEPHONE NO.	MOTHER'S WORK TELEPHONE NO.	MOTHER'S CELLULAR NO.	MOTHER'S BEEPER NO.	
CURRENT SCHOOL			FATHER'S EMAIL ADDRESS	MOTHER'S EMAIL ADDRESS	
FIRST CHOICE PUBLIC SCHOOL			SECOND CHOICE PUBLIC SCHOOL		

**ESPAÑOL**

NOMBRE DEL ESTUDIANTE (APELLIDO) (PRIMER NOMBRE) (SEGUNDO NOMBRE)			FECHA DE NACIMIENTO	ULTIMO GRADO TERMINADO	NO. DE IDENTIFICACION DEL M-DCPS
DIRECCION DEL ESTUDIANTE				TELEFONO DEL ESTUDIANTE	
NOMBRE DEL PADRE	TELEFONO DE LA CASA	TELEFONO DEL TRABAJO	TELEFONO CELULAR	NUMERO DEL BEEPER	
NOMBRE DE LA MADRE	TELEFONO DE LA CASA	TELEFONO DEL TRABAJO	TELEFONO CELULAR	NUMERO DEL BEEPER	
ESCUELA ACTUAL			CORREO ELECTRONICO DEL PADRE	CORREO ELECTRONICO DE LA MADRE	
PRIMERA OPCION DE ESCUELA PUBLICA			SEGUNDA OPCION DE ESCUELA PUBLICA		

**HAITIAN-CREOLE**

NON ELÈV LA (SIYATI) (PRENON) (DEZYEM NON)			DAT NESANS	ANE ELÈV LA KOPLETE	# ID M-DCPS
ADRÈS ELÈV LA				# TELEFON ELÈV LA	
NON PAPA ELÈV LA	# TELEFON LAKAY PAPA ELÈV LA	# TELEFON TRAVAY PAPA LI	# TELEFON SELILÈ LI	# TELEFON BIPÈ LI	
NON MANMAN ELÈV LA	# TELEFON MANMAN ELÈV LA	# TELEFON TRAVAY LI	# TELEFON SELILÈ LI	# TELEFON BIPÈ LI	
LEKÒL ELÈV LA ALE KOUNYE A			EMAIL ADRÈS PAPA ELÈV LA	EMAIL ADRÈS MANMAN LI	
PREMYE LEKOL PIBLIK OU CHWAZI			DEZYEM LEKOL PIBLIK OU CHWAZI		

Note: If public school request was not approved, the parent may call Attendance Services at 305 883-5323 to appeal.  
 Aviso: Si no se aprueba la solicitud de escuela pública, los padres pueden llamar y apelar a los Servicios de Asistencia al 305 883-5323.  
 Nòt: Si lekol piblik ou mande a pat apwouve, paran an kapab rele Sèvis Atandans nan 305 883-5323 pou repòte sa.

**PARENT SIGNATURE** \_\_\_\_\_ **DATE** \_\_\_\_\_

**FOR M-DCPS OFFICE USE ONLY**

APPROVED: SCHOOL #		DENIED: JUSTIFICATION			
SIGNATURE		TITLE		DATE	
DATA ENTERED INTO ISIS (DATE)		ENTERED BY (SIGNATURE)		DATA ENTERED INTO ATS (DATE)	
DATE OF APPEAL		APPEAL GRANTED JUSTIFICATION:			
APPEAL DENIED JUSTIFICATION:				DATE ENTERED INTO WEBSITE	
SIGNATURE		TITLE		DATE	



## **ARTICLE XII -- HIRING, ASSIGNING AND TRANSFERRING INSTRUCTIONAL PERSONNEL**

### **Section 1. Hiring and Assignment of Instructional Personnel**

The hiring of instructional personnel is a centralized function. The selection of teachers for a particular location (assignment) is the responsibility of the principal, from among those employees who have been cleared by instructional staffing as to eligibility to teach in the M-DCPS.

The parties recognize the organizational and educational value of a diverse, highly qualified instructional workforce. In that regard, M-DCPS and UTD endorse School Board Rule 6Gx13-4A-1.01.

### **Section 2. Teacher Certification**

- A. Certification and recertification of M-DCPS personnel are authorized by Florida Statutes, Chapter 1012 and State Board Rule 6A-4.
- B. The M-DCPS Certification Office shall provide verification that applicants are certifiable for such programs, as specified by the Contract.
- C. Nothing in this Section shall affect an employee's ability to receive a credential payment to which he/she would otherwise be entitled.
- D. It is the express intent of the Board and the Union that teachers shall be assigned in the fields for which they are certified. Principals, therefore, have the responsibility to ensure that teachers who are hired for a school assignment are appropriately certified for such assignment. Furthermore, it is the responsibility of the principal, in assigning or scheduling teachers, to ensure that appropriate certification is held by the teacher to be assigned or scheduled. Verification of certification held by a teacher or verification of certification in process shall be requested by the principal, when necessary, from the Office of Human Resources.
- E. Certification
  - 1. All teachers shall be appropriately certified. In the event that it is necessary to hire a teacher out-of-field, the principal shall obtain verification from Human Resources that no qualified applicants are available for the position and the principal shall submit an out-of-field waiver request for approval by the Regional Center and the Employment and Staffing Officer. The principal shall notify the teacher that he/she is required, in order to remain at the school, to earn a minimum of six college credits per year or a passing score on a qualifying subject area test toward certification in the appropriate field.
  - 2. Teachers who are offered employment to teach in the out-of-field areas must present to the principal evidence of successful completion of a minimum of six semester credit hours or equivalent course work or a passing score on a qualifying subject area test towards in-field certification each year.

## ARTICLE XII (cont.)

3. Failure to obtain the minimum of six college credits per year or a passing score on a qualifying subject area test toward required certification may result in termination. Extenuating circumstances may be appealed to the Employment and Staffing Officer.
- F. Out-of-field teachers needing the ESOL endorsement must complete three semester hours or 60 Master Plan Points (MPP) toward the ESOL endorsement requirements within two years of the date of initial ESOL assignment. At least three semester hours or 60 MPP toward the ESOL endorsement must be completed each calendar year, thereafter, until all requirements for the ESOL endorsement are complete.
- G. A teacher who holds a professional certificate may use college credits or inservice points completed in English for Speakers of Other Languages training in excess of six semester hours during one certificate- validity period toward renewal of the professional certificate during the subsequent validity periods.
- H. A teacher who holds a temporary certificate may use college credits or inservice points completed in English for Speakers of Other Languages training toward renewal of the teacher's first professional certificate. Such training must not have been included within the degree program, and the teacher's temporary and professional certificates must be issued for consecutive school years.
- I. Newly hired teachers who fail any section of the required general knowledge test must participate in training courses offered by the Teacher Education Center or complete coursework from an accredited college or university during the first year of employment.

### **Section 3. Appointment/Reappointment**

- A. All employees of the school system are appointed by the Board, upon the nomination of the Superintendent.
- B. Any former employee, who is subsequently reemployed by the Board without a break in service, shall have his/her resignation rescinded by the Board and shall be eligible for all benefits that would have accrued to him/her had he/she not submitted a resignation.
- C. Any teacher (except those receiving retirement pay from a State of Florida retirement program) employed by the Board after the cut-off date for receiving credit for a contract year, as provided in state law, shall be employed as a temporary instructor, except where otherwise authorized by the appropriate Regional Center Superintendent. Such temporary instructors shall receive first consideration for employment in the subsequent school year, provided they have been rated acceptable on their annual evaluation.

### **Section 4. Reemployment After Retirement**

- A. Former employees may be re-employed unless expressly prohibited by state law.
- B. Nothing in this Section constitutes a guarantee of employment.

## ARTICLE XII (cont.)

Approval for such employment will be made on an individual basis by the Employment and Staffing Officer for Human Resources (or designee). Such employees shall be rehired as an hourly teacher or as an annual contract teacher and shall receive the same pay and benefits as regular teachers for the term of their employment.

- C. Re-employed retirees who accrue sick leave days subsequent to retirement shall be paid at the daily rate they earned at the time they first became eligible for retirement.

### **Section 5. New Teacher Orientation**

Teachers new to M-DCPS shall participate in a five-day orientation which will immediately precede the first day of school for regular teachers. Such additional days shall be considered as part of the regular school year and shall be used in computing new teachers' daily rates of pay for the year. The parties agree to jointly develop, implement, and monitor this orientation program on an annual basis.

### **Section 6. Assignment of Surplus Personnel**

- A. In cases where employees are surplus at a work location, as a result of reduction in allocation, seniority shall be determined as follows:
1. Secondary teachers and middle school teachers teaching secondary subject areas -- by subject area taught (with the least contractual credit in the M-DCPS). For ESOL teachers, ESOL is the subject area taught. In those instances where teachers may be teaching more than one subject area, they shall, for the purposes of this Provision, be considered to be teaching the subject area of which they have the largest number of classes. For science and foreign language, surplus shall be by area of state certification.
  2. Surplus at the elementary school level and for middle school teachers teaching elementary grades shall be from the least senior in the Pre-K-Kindergarten, one through six program with the following exceptions:
    - a. Pre-K and Kindergarten teachers shall not be declared surplus if a school does not have a certified Pre-K or kindergarten teacher who can be reassigned to the Pre-K or kindergarten opening;
    - b. ESOL teachers, in pull-out or self-contained classes, shall not be declared surplus if a school does not have a certified/qualified ESOL teacher who can be reassigned to the ESOL opening; and,
    - c. Spanish-S, Spanish SL, and Basic Skills in the Home Language shall be considered as a single category for surplus purposes. However, Basic Skills in the Home Language shall not be declared surplus if a school does not have a linguistically-qualified teacher to deliver the program in the home language of the students.

## ARTICLE XII (cont.)

3. Teachers of gifted students shall not be declared surplus if a school does not have a certified gifted teacher who can be reassigned to the gifted opening.
  4. Exceptions to these provisions, based upon the need to provide critically-needed programs to meet the unique needs of affected students, and/or in response to emergency situations, as declared by the Superintendent, may be requested by the principal and will be reviewed by a joint M-DCPS/UTD committee. Such requests shall be made, in writing, to the Office of Human Resources.
- B. In determining seniority of an employee, all prior contracted services with the M-DCPS, regardless of work location where such service was performed, are to be credited for the purpose of determining contract status. Further, in determining seniority at a work location, if two or more employees have the same contractual status, seniority shall be determined by initial date of employment, as indicated by the date on which the Request for Personnel Action (RPA) was executed. Personnel on approved leave from a specific work location shall, for the first year of leave, have a guarantee of return to the same work location and shall be included in the roster when determining seniority. No surplus transfer shall cause a demotion. Demotion shall mean a reassignment in which the employee receives less base salary than in the assignment held previously. (This does not apply to supplements, compensation in excess of the base salary, or conversion from 11-month or 12-month employment to 10-month status.) Surplus assignment from an 11-month or 12-month position to a 10-month position may occur only after the Office of Human Resources has determined that there are no 11- or 12-month positions available in the district for which the employee is certified, and will be done in accordance with surplus provisions found in this Article.
- C. In the event that the employee is declared surplus, when the employee is absent from active duty in the school system, the employee shall be promptly notified in writing.
- D. Employees who are subject to surplus transfer shall have the right to occupy a position for which they are qualified before any new employees are assigned to the same or similar position(s).
- E. Employees declared surplus shall not be required to make application for reassignment. It shall be the obligation of the Office of Human Resources to reassign and notify all surplus employees as soon as possible. Surplus employees may make application for reassignment after being notified of surplus status. If accepted to fill a valid vacancy, said employees will be reassigned to that vacancy. Notification of such reassignment shall be expeditiously made by the Office of Human Resources.
- F. When schools are paired or grouped and grade levels are reassigned between or among schools, teachers will be reassigned within the grade levels they are presently teaching, whenever possible. If grade levels remain intact, but pupil populations only are shifted, teachers will not be reassigned. If the actions described above result in a reduction in teacher allocations for any particular school, the surplus personnel will be reassigned.

## ARTICLE XII (cont.)

Surplus personnel resulting from pairing or grouping of schools will be determined as follows:

1. The person or persons in that school with least contractual credit in the M-DCPS (not present school) will be declared surplus.
  2. In elementary schools and middle schools with elementary grades, the person or persons in 1. will be designated from the grade levels, i.e., Pre-K, kindergarten, or from grades one through six.
  3. In secondary schools and middle schools with secondary subject areas, the person or persons in 1. will be designated by subject areas.
- G. If the opening of a new school results in a reduction in teacher allocation for any particular school(s), the surplus personnel will be assigned to the new school, insofar as practical.
- H. Employees should not be reassigned, except as a result of reduction in allocation, or on a voluntary basis, or as described in Section 6(L) of this Article.
- I. In the event of a change in the grade configuration of a school, teachers of said school will be reassigned in the following manner:
1. Teachers of such schools will be notified of the change in grade configuration;
  2. First consideration will be given to those teachers who request a voluntary transfer to the receiving school;
  3. If there is an insufficient number of voluntary transfer requests, the procedures for the transfer of surplus personnel will be implemented, with the least senior teachers being surplus to the appropriate level or subject area; and
  4. Where there are more teachers from sending schools requesting voluntary transfers to a receiving school than there are openings in the receiving school, the principal will interview all such candidates from the sending schools (of students assigned to the receiving school) prior to determining which candidate(s) will be selected.
- J. When a new school is built to relieve overcrowding of a school, and/or as a replacement for an existing school, teachers will be reassigned in the following manner:
1. Teachers of said school will be notified of the openings at the new school and the opportunity to request voluntary transfer to schools/areas of their choice;
  2. First consideration will be given to those teachers who request a voluntary transfer to the receiving school;

## ARTICLE XII (cont.)

3. Where there are more teachers from sending schools requesting voluntary transfer to a school than there are openings in the school, the principal and appropriate staff will interview all such candidates from the sending schools (of students assigned to the school), prior to determining which candidate(s) will be selected; and
  4. When a surplus is to occur, the procedures for the declaring of personnel surplus will be implemented, with the least senior teachers being declared surplus in the appropriate level or subject area.
- K. Determinations of surplus personnel for employees assigned by Regional Centers to teach art, music, physical education, and exceptional student education at the elementary school level shall be governed by the following provisions:
1. The least senior person at a work location in an impacted position shall be deemed surplus;
  2. When special student education units at a work location are reduced or moved to another school, the least senior person teaching in that particular exceptionality shall be deemed surplus; and
  3. If there is a need to surplus educational specialists, placement specialists, school social workers, psychologists, or any other bargaining unit members assigned by or at the Regional Centers, the least senior person at a work location in the affected job category shall be deemed surplus.

Exceptions to these provisions, based upon the unique needs of affected students, shall be granted upon request of the principal and approval by the Regional Center Superintendent or designee. Where requested by the Union, the Regional Center Superintendent or designee shall confer with the Union Representative regarding the need for such an exception.

### L. Surplus Exemption for Curricular, Co-curricular Activity

The responsibility of the principal to maintain properly approved curricular and co-curricular activities in his/her school is acknowledged. If the declaring of surplus personnel, under the provisions of Section 6 of this Article, affects the ability of the principal to retain qualified personnel (as determined by the principal) to coach or manage these activities, he/she may request approval of the Regional Center Superintendent for certain curricular and co-curricular exemptions. Such request(s) with supporting rationale shall be in writing with a copy to the Union. Approval by the Regional Center Superintendent shall be given in writing to the requesting principal and a copy to the Union. Exemptions, pursuant to this Section, are grievable but not subject to arbitration. Curricular and co-curricular exemptions may be granted to the following positions:

## ARTICLE XII (cont.)

Business manager, athletic trainer, athletic director, department head, interdisciplinary team leader (middle school), debate coach, drama coach, yearbook sponsor, newspaper sponsor, band director, choral director, activities director, and head coaches of all high school sports teams.

Building stewards and Union designee, both instructional and non-instructional, shall be exempt from the application of surplus transfer criteria, except where an entire program is eliminated.

If the existing Union rules determining the number of stewards at each work location are changed, negotiations on this provision may be reopened by the Board.

### **Section 7. Voluntary/Hardship Transfers**

Recognizing the need to maintain both staff stability and opportunities for employees to transfer from one work location to another, the Board agrees to provide opportunities for voluntary/hardship transfers as follows:

- A. Newly-hired teachers will be eligible to submit a transfer application only if he/she has been employed at the same work location for a minimum of three school years.
- B. Transfer Applications -- Applications for transfers may be submitted, on forms furnished by the Board. Teachers on a performance improvement plan are not eligible for transfer except as provided for in Florida Statutes.
- C. Location Request -- Applicants shall have the opportunity to request up to six schools or up to two Regional Centers.
- D. Application Notification -- The Office of Human Resources will immediately forward approved transfer requests to the work locations requested by the applicant and will maintain a master file. A copy of the file will be provided to the bargaining agent.
- E. Teachers who have secured a voluntary transfer to another location will only be released after the end of the school year. All notices of transfer will be issued upon receipt of an approved transfer agreement from the Office of Human Resources. Approved applicants will receive their transfer to the new location effective July 1<sup>st</sup>. Newly approved applications for transfer must be received at least five days prior to the opening of school for the new year. Applications received after this deadline may only be processed for the current school year if a replacement has been hired before the first day of school for students. All other applications will become effective for the next school year.

Each vacancy to be filled by a transfer applicant shall be staffed temporarily for the remainder of the school year by an interim teacher or by a teacher from the District Teacher Reserve Pool (DTRP).

Each vacancy will be filled by the approved transferee after the end of the school year.

## ARTICLE XII (cont.)

Once transfers have been approved, neither the applicant nor the site administrator may rescind the assignment.

### Types of Requests

1. Hardship -- Hardship transfers will be established for those teachers who have completed at least one year of service and:
  - a. travel 20 miles or more one way, by the most direct route within Miami-Dade County limits, to the work location; or have serious medical ;and/or
  - b. have serious medical and/or other personal problems which can be substantiated by appropriate authority or acceptable written explanation.

An employee who rejects a hardship transfer to one of the locations requested will be removed from the eligible list.

2. Voluntary -- All other transfers shall be classified as voluntary and shall be given consideration for filling vacancies prior to selecting new hires.

### F. Filling Vacancies

1. Hardship transfer applicants shall be interviewed by the principal or his/her designee at the locations requested, provided the applicant is certified to fill the available vacancy.
2. Consideration for vacancies shall first be given to those employees who have submitted a request for transfer, pursuant to the other provisions of this Section, provided the applicant is qualified, eligible, and available to fill the position.
3. The principal will notify, in writing, all applicants who have been interviewed as to the disposition of the vacancy for which they were interviewed.

- G. Window Period -- During the period of May 15 through the last Friday in June, except for teachers who have been declared surplus, only transfer applicants shall be considered to fill vacancies. Exceptions will be granted to schools where no certified/qualified applicant has applied.

### H. Disapproval of Voluntary Transfer Requests

1. Voluntary transfer requests by the sending principal may only be disapproved if the teacher has overall evaluation of unacceptable or is under an official performance improvement plan of professional growth remedies in any category prescribed prior to June 1 except as provided for in Florida Statutes, Section 1012.34.
2. Reasons for disapproval of voluntary transfer requests by the receiving principal are:



## ARTICLE XII (cont.)

- a. teacher is not certified or does not have the endorsement for position(s) to be filled;
- b. teacher has overall evaluation of unacceptable or is under an official performance improvement plan of professional growth remedies in any category prescribed prior to June 1 except as provided for in Florida Statutes, Section 1012.34.

The final decision on transfers, when either the sending or receiving principal has recommended disapproval, shall be made by the Chief Personnel Officer or designee.

However, the parties agree that teachers possessing a Professional Services Contract who have ended the school year on a performance improvement plan shall have the right to request and receive consideration for transferring to another school.

### **Section 8. Involuntary Transfer**

The Superintendent or his/her designee may, when deemed in the best interest of the school system, involuntarily transfer unit members. Before an employee is involuntarily transferred, a conference shall be held with the Regional Center Superintendent or his/her designee or appropriate division head, except where such transfers are a result of a legal order. Employees who are involuntarily transferred, pursuant to this Section, will have the right to be accompanied by two representatives of the Union and shall be informed of this right. If the Union refuses to represent the employee, he/she has the right to be accompanied to the conference by a fellow employee.

### **Section 9. Project Employees**

Any person regularly employed by the Board, who is assigned to work with a project funded from sources other than the state and local tax sources, shall retain all the rights and privileges and accrue all rights and privileges as if he/she had remained in his/her original position. These persons employed specifically for the purposes of working in a project that is funded from sources other than state and local tax sources shall accrue all rights and privileges as any other person employed in the regular program but shall not be entitled to continue employment with the school system, if the program in which he/she works is discontinued. If such person is reassigned in the regular program, with no lapse of time, he/she shall be entitled to retain all the rights and privileges accrued under the program funded.



The School Board of Miami-Dade County, Florida, adheres to a policy of nondiscrimination in employment and educational programs/activities and programs/activities receiving Federal financial assistance from the Department of Education, and strives affirmatively to provide equal opportunity for all as required by:

**Title VI of the Civil Rights Act of 1964** - prohibits discrimination on the basis of race, color, religion, or national origin.

**Title VII of the Civil Rights Act of 1964**, as amended - prohibits discrimination in employment on the basis of race, color, religion, gender, or national origin.

**Title IX of the Education Amendments of 1972** - prohibits discrimination on the basis of gender.

**Age Discrimination in Employment Act of 1967 (ADEA)**, as amended - prohibits discrimination on the basis of age with respect to individuals who are at least 40.

**The Equal Pay Act of 1963**, as amended - prohibits sex discrimination in payment of wages to women and men performing substantially equal work in the same establishment.

**Section 504 of the Rehabilitation Act of 1973** - prohibits discrimination against the disabled.

**Americans with Disabilities Act of 1990 (ADA)** - prohibits discrimination against individuals with disabilities in employment, public service, public accommodations and telecommunications.

**The Family and Medical Leave Act of 1993 (FMLA)** - requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons.

**The Pregnancy Discrimination Act of 1978** - prohibits discrimination in employment on the basis of pregnancy, childbirth, or related medical conditions.

**Florida Educational Equity Act (FEEA)** - prohibits discrimination on the basis of race, gender, national origin, marital status, or handicap against a student or employee.

**Florida Civil Rights Act of 1992** - secures for all individuals within the state freedom from discrimination because of race, color, religion, sex, national origin, age, handicap, or marital status.

**School Board Rules 6Gx13- 4A-1.01, 6Gx13- 4A-1.32, and 6Gx13- 5D-1.10** - prohibit harassment and/or discrimination against a student or employee on the basis of gender, race, color, religion, ethnic or national origin, political beliefs, marital status, age, sexual orientation, social and family background, linguistic preference, pregnancy, or disability.

*Veterans are provided re-employment rights in accordance with P.L. 93-508 (Federal Law) and Section 295.07 (Florida Statutes), which stipulate categorical preferences for employment.*

## APPENDIX Z

### Take Stock in Children Mentoring and Scholarship Program

1. Take Stock in Children (TSIC) is a not-for-profit organization serving at-risk youths from low-income families with scholarships, mentors, and hope. Take Stock also provides student advocacy/case management services to monitor student academic records and progress to promote student success. Further information may be found at [www.takestockinchildren.com](http://www.takestockinchildren.com) or by calling (305) 995-7317.
  - A. What secondary principals need to do;
    1. Be knowledgeable about the program;
    2. Be aware that all TSIC mentors will have been fingerprinted, cleared and approved in the WDPV system. They will also have a TSIC ID badge.
    3. Identify a school coordinator to work with the mentors visiting students; and insure that the TSIC sign-in notebook is available in the front office.

## APPENDIX AA

### Women of Tomorrow (WOT) Mentoring Scholarship Program

- a. Senior high schools have the opportunity to refer young women to the WOT mentoring scholarship program.
- b. Principals, please advise your appropriate staff of the following:
  - Young women who are not living up to their full potential may be referred to the program no later than September 1, 2008 to ensure they receive the entire school year of WOT benefits. Further information can be found at [www.womenoftomorrow.org](http://www.womenoftomorrow.org), or by calling (305) 371-3330.
- c. Be aware that all WOT mentors will have been fingerprinted, cleared and approved in the WDPV system.