**Committee Members**

**Present:**
- Ms. Roberta Kressel, Chair
- Ms. Jacqueline Becerra, Esq., Vice Chair
- Ms. Daneen Regna
- Mr. Frederick F. Thornburg, Esq.
- Justice Gerald Kogan

**Absent:**
- Dr. Priva Fischweicher
- Ms. Michelle Mason

**Others Present:**
- School Board Member Dr. Lawrence Feldman
- Mr. Walter Harvey, School Board Attorney
- Mr. Luis M. Garcia, Deputy Assistant School Board Attorney
- Mr. Jose Montes de Oca, Chief Auditor
- Ms. Enid Weisman, Assistant Superintendent
- Ms. Maria T. Gonzalez, Asst. Chief Auditor
- Mr. Trevor Williams, Asst. Chief Auditor
- Dr. Ana M. Rasco, Administrative Director
- Ms. Madeleine Rodriguez, Executive Director
- Mr. Mario J. Beovides, Administrative Assistant to Mr. Carlos Curbelo
- Ms. Maria Delgado, Administrative Assistant to Dr. Martin Karp
- Ms. Erz Munsie, Administrative Assistant to Dr. Lawrence Feldman
- Ms. Ana Pereira, Administrative Assistant to Ms. Perla Tabares Hantman
- Ms. Marisol Pérez-Picon, Administrative Assistant to Ms. Raquel Regalado
- Ms. Dalia Rosales, Administrative Assistant to Dr. Marta Pérez
- Ms. Virginia “Ginny” Byrd, Administrative Assistant
- Mr. Luis Baluja, EDP Audit Supervisor
- Ms. Ileana Martinez, School Board Clerk
- Ms. Elsa Berrios-Montijo, Administrative Secretary
- Ms. Lucila I. Gonzalez, Administrative Secretary
- Ms. Susan Marie Kairalla, Audit Committee Member
- Mr. Adolfo Pérez, Parent
I. CALL TO ORDER

A special meeting of the Ethics Advisory Committee (EAC) was held at 1450 NE 2\textsuperscript{nd} Avenue, Conference Room 559, Miami, Florida on Thursday, June 2, 2011. The meeting was convened at 8:35 a.m., by the Chair, Ms. Roberta Kressel.

II. INTRODUCTIONS

Introductions were made by everyone present.

III. APPROVAL OF THE MINUTES OF THE APRIL 7, 2011 MEETING

Upon motion being made by Mr. Frederick F. Thornburg, Esq. and seconded by Chief Justice Gerald Kogan, the members voted unanimously to approve the minutes of April 7, 2011, EAC meeting.

IV. STATUS OF PROPOSED EAC BOARD RULE

Ms. Kressel addressed the committee and reminded the attendees that this special EAC meeting had been previously scheduled to discuss the actions taken by the School Board at its meeting on May 11, 2011, regarding the proposed EAC rule, and given these actions, discuss the future role of the EAC.

Mr. Thornburg highlighted the importance of focusing on the future of EAC and stressed that it is a fiduciary duty for the EAC members to attend scheduled meetings. He also thanked Chief Justice Gerald Kogan for representing the EAC at the School Board meeting where the proposed EAC rule was discussed and approved, as amended.

In response to the Chair’s request, Mr. Luis Garcia, Deputy School Board Attorney, recounted the discussions regarding the proposed EAC rule (Agenda Item H-4 proffered by School Board Member Dr. Marta Pérez) and the outcome of said discussion at the School Board meeting. Mr. Garcia explained that after a lengthy discussion, the Board members initially voted to reject the item, as proposed. He explained that a motion was then made by School Board Vice Chair, Dr. Lawrence Feldman, for reconsideration. Dr. Feldman made the motion to substitute the word “shall” for the word “may” under Section 7 of the proposed rule. The amendment was adopted by the Board and the proposed rule was passed, as amended. Mr. Garcia noted that this was the only change made to the proposed rule.

Mr. Garcia further explained that once the Board approves the rule as amended, it goes to the Superintendent to initiate rulemaking procedures. The rulemaking procedures takes two different processes: 1) it goes to the Board for initial
reading through an agenda item; and 2) it takes at least 28 days to bring it back for final reading. If any substantial changes are made at the final reading stage, the rule goes back for initial reading. Mr. Garcia concluded that once it goes to rulemaking and is approved by the Board, the proposed EAC rule will be codified.

Mr. Thornburg expressed disappointment with the substitution of the word “shall” with “may” but was glad that the policy had been elevated to a School Board rule and that the EAC can now initiate complaints, which he feels, is a very important element for the EAC.

In response to an expressed concern regarding the initiation of a complaint and having the School Board address it, Mr. Garcia clarified that when the EAC initiates a complaint, the School Board has an established process on how to deal with a complaint, which is submitting it to the appropriate department for proper action.

Responding to a question regarding the School Board’s concern with the word “shall” and “may”, Mr. Garcia explained that the Board and the Superintendent, through the statutory framework that has been established, have the discretion to decide what is placed on the School Board agenda. Mr. Garcia emphasized that an Advisory Committee cannot automatically forward recommendations to the Board, because this, he explained, would take away the Board’s prerogative to make a decision on what will be placed on its agenda.

Mr. Thornburg disagreed with Mr. Garcia’s comments, stating that the purpose of the “shall” versus the “may” is for the School Board to acknowledge the EAC’s recommendation and force it to take action; to vote the item either up or down.

Ms. Jacqueline Becerra, Vice Chair, spoke at length about her disappointment and discouragement regarding the discussions of the Board at its last meeting and the actions it took on the proposed EAC rule.

Ms. Susan Kairalla suggested that the EAC ask a Board member to sponsor any important issues discussed at the EAC meetings and have the Board member submit the recommendations for discussion at a School Board meeting.

Mr. Thornburg gave accolades to Dr. Feldman and Chief Justice Kogan for their role in supporting the proposed EAC rule.

Regarding establishing an Ethics Commission in M-DCPS, Mr. Walter Harvey, School Board Attorney, stated that he had researched past School Board minutes and found an item recommending the establishment of an Ethics Commission within the District. The recommendation was incorporated into the legislative packet that was presented to the Florida Legislature. However, the Legislature dismissed it. Mr. Harvey clarified that the School Board and/or the
Superintendent cannot establish an Ethics Commission on its own; and after explaining why, he said it takes legislative action to establish it.

Mr. Thornburg stated that the EAC has had many accomplishments even without any power, but that in order to build confidence and gain the public’s trust, the EAC should have powers similar to those of the Commission on Ethics established in Miami-Dade County.

Mr. Harvey indicated that having an Ethics Commission requires legislative action by state legislators and endorsement by other School Boards in the state. Mr. Harvey also indicated that M-DCPS is the only School Board in the State that has an EAC. He pointed out that in order to be successful with the Florida Legislature, it requires participation from other School Boards throughout the State, School Board Associations, and School Board Attorneys Associations.

Mr. Adolfo Pérez suggested that the EAC have the School Board bring back the recommendation to establish an Ethics Commission and publicly submit it to the State.

Mr. Harvey alerted the Committee to the fact that there are a number of expenses associated with establishing an Ethics Commission, such as: hiring a number of investigators; and hiring a number of required attorneys to serve the Ethics Commission. Mr. Harvey observed that in Tallahassee, there is a whole body of law associated with ethics issues. These are driven by statute and there are a number of opinions that have been decided pursuant to statute; there are a number of cases which have elaborate outlines that are prepared by their attorneys; there is a formalized confidential process from the time the original complaint is filed until the complaint is disposed of; and there is a great deal of staff hours dedicated to each complaint.

Dr. Feldman apologized to Mr. Luis Garcia for the manner in which he was rebuked by a member of the EAC during the discussions on the proposed EAC rule at the Board meeting. Dr. Feldman then gave an overview on the reasons for the School Board’s disapproval of the word “shall” and reminded the members of the EAC’s mission, noting that its mission is still intact. Dr. Feldman reminded everyone present that codifying the EAC rule gave the EAC strength to continue its mission and a power structure very similar to that of the Audit Committee (AC). Dr. Feldman recognized that each side used their non-sequitur to prove their point but he is recommending that the EAC trust the Board in having made the right decision.

Mr. Thornburg concurred with Dr. Feldman’s statement and also apologized on behalf of the EAC for any discontentment that may have been caused during the discussions.
Ms. Susan Kairalla recommended inviting School Board members to an Ethics debate, not to argue, on issues that are important to the School Board and the EAC.

Ms. Enid Weisman, Assistant Superintendent, gave an explanation on how she deals with the word “may” versus “shall” during negotiations of labor contracts. She then suggested that the EAC wait approximately a year to see how their recommendations are being processed by the School Board.

Ms. Daneen Regna gave an overview of the EAC’s role, scope and accomplishments.

There was some discussion amongst the EAC members regarding fundraising; educational philosophies; having an organized group to address ethical issues on FCAT; encouraging M-DCPS employees to have their children enrolled only in public schools; and providing academic programs by subject areas to students.

In response to the comments made regarding academic programs for students that are not college bound, Ms. Weisman pointed out that the District has several vocational/technical schools that provide many technical career programs to M-DCPS students. She mentioned that they are costly and due to their highly technical requirements, also require a high level of academic achievement on the part of the students. Ms. Weisman extended an invitation to the EAC members to visit the vocational/technical schools.

In response to a comment regarding the status of an issue related to a school principal investigated by the Office of the Inspector General, which was presented to the EAC sometime before, Mr. Harvey clarified that the employee had been disciplined and the School Board rule had been changed to incorporate some of the recommendations made.

Ms. Kressel thanked Ms. Regna and Mr. Kogan for their support and role on the proposed EAC rule discussions at various School Board meetings.

The EAC agreed to discuss the future of the EAC and possible ethical issues at the next scheduled EAC meeting on July 14, 2011.

V. ADJOURNMENT

There being no further business, the meeting was adjourned at 10:05 a.m.