## Committee Members

**Present:**
- Ms. Roberta Kressel, Chair
- Dr. Priva Fischweicher
- Ms. Michelle Mason
- Mr. Frederick F. Thomburg, Esq.

**Absent:**
- Ms. Jacqueline Becerra, Esq., Vice Chair
- Justice Gerald Kogan
- Ms. Daneen Regna

## Others Present:

- School Board Chair Ms. Perla Tabares Hantman
- School Board Member Dr. Wilbert “Tee” Holloway
- School Board Member Dr. Marta Pérez
- Ms. Viviana Jordan, Administrative Assistant to Mr. Renier Diaz de la Portilla
- Ms. Erz Munsie, Administrative Assistant to Dr. Lawrence Feldman
- Ms. Ana Lara, Administrative Assistant to Ms. Perla Tabares Hantman
- Ms. Marisol E. Pérez-Picon, Administrative Assistant to Ms. Raquel Regalado
- Ms. Nicole Rapanos, Administrative Assistant to Mr. Carlos Curbelo
- Ms. Dalia Rosales, Administrative Assistant to Dr. Marta Pérez
- Mr. Walter Harvey, School Board Attorney
- Mr. Jose Montes de Oca, Chief Auditor
- Mr. Charles J. Hurley, Chief of Police
- Ms. Enid Weisman, Assistant Superintendent
- Ms. Maria T. Gonzalez, Assistant Chief Auditor
- Mr. Julio Miranda, Assistant Chief Auditor
- Dr. Ana M. Rasco, Administrative Director
- Ms. Madeleine Rodriguez, Executive Director
- Ms. Arianne Suarez, Asst. School Board Attorney
- Ms. Maria A. Curbelo, Staff Auditor
- Mr. Luis Balujo, EDP Audit Supervisor
- Ms. Ileana Martinez, School Board Clerk
- Ms. Patra Liu, Assistant Inspector General (IG)
- Mr. Felix Jimenez, Special Agent to IG
- Ms. Elsa Berrios-Montijo, Administrative Secretary
- Ms. Lucila I. Gonzalez, Administrative Secretary
- Ms. Susan Marie Kairalla, Audit Committee Member
- Mr. Michael R. Band, Attorney
- Mr. David Citron
- Mr. Adolfo Pérez, Parent
I. CALL TO ORDER

A meeting of the Ethics Advisory Committee (EAC) was held at WLRN Conference Room on Thursday, July 14, 2011. The meeting was convened at 8:35 a.m., by the Chair, Ms. Roberta Kressel.

II. INTRODUCTIONS

Introductions were made by everyone present.


Upon motion being made by Mr. Frederick F. Thornburg, Esq., and seconded by Ms. Michelle Mason, the members voted unanimously to approve the minutes of May 3, 2011, and June 2, 2011, EAC meetings.

IV. APPROVAL OF THE PROPOSED MEETING DATES FOR THE 2011-2012 SCHOOL YEAR

The committee members discussed changing the proposed meeting dates for September and November. Mr. Jose Montes de Oca stated that he would review the proposed revised dates for any scheduling conflicts and resubmit the meeting schedule to the EAC members.

V. OIG FINAL REPORT RE: PROCUREMENT VIOLATIONS COMMITTED BY THE DISTRICT FIVE OFFICE OF SCHOOL BOARD MEMBER RENIER DIAZ DE LA PORTILLA, REF: IG09-47-SB

For the record, Mr. Thornburg stated that he would recuse himself from participation in this discussion in order to avoid any appearance of impropriety because he was appointed to the Audit and Budget Advisory Committee (ABAC) by the subject of this investigation.

Ms. Patra Liu, Assistant Inspector General (OIG), gave an overview of the OIG report. Ms. Liu expressed that the OIG report was issued on June 8, 2011, as a final report. She stated that by a separate School Board rule, the Chief Auditor has the responsibility to forward OIG reports to the ABAC and the EAC for discussion purposes. Ms. Liu explained that the draft report process is required by the Interlocal Agreement between the OIG and M-DCPS and pointed out that the draft report contained several exhibits. One of the exhibits is the closeout memorandum from the State Attorney’s Office (exhibit 10 of the report). Ms. Liu mentioned that since the investigation was conducted in collaboration with State Attorney’s office, the OIG was not able to release the report until the State Attorney’s office closed the investigation. Ms. Liu welcomed questions and comments from the EAC members and other attendees regarding the draft report; however, no questions or comments were raised.
VI. PRESENTATION OF ALL INVESTIGATIVE UNITS PROCESSES IN THE DISTRICT

Ms. Kressel introduced the presentation from various investigative units within M-DCPS regarding the investigative processes being implemented by the District.

Dr. Ana Rasco, Administrative Director, Office of Professional Standards (OPS), clarified that OPS is not an investigative entity. She stated that the mission of OPS is to direct employment actions in order to maintain and promote ethical performance standards in accordance with School Board Policies, contractual stipulations, as well as state and federal statutes. She expressed that among its many responsibilities, OPS handles performance related issues; determines eligibility for initial and continued employment; serves as a resource for all M-DCPS stakeholders; and directs and monitors the implementation of the Personnel Investigative Model (PIM).

Dr. Rasco added that PIM was adopted by The School Board of Miami-Dade County, Florida on November 17, 2004, and subsequently revised in May 2010. She stated that PIM was established to ensure that District-initiated investigations are conducted with objectivity, fairness, in a timely manner, and that employees’ rights to due process are respected while at the same time, maintaining the legal integrity of the investigative process.

Dr. Rasco explained that incidents and complaints that involve acts that violate a state or federal statute, must be reported to School Police by a stakeholder or site administrator and an Incident Reporting Form must also be completed and provided a detailed synopsis of how incidents are assigned for investigation, based on the nature of the allegation. Dr. Rasco stressed that OPS places tremendous emphasis in reporting child abuse or neglect and introduced Mr. Charles Hurley, Chief of Police, Miami-Dade Schools Police Department (M-DSPD) to explain the role of his department.

Chief Hurley stated that the primary role of M-DSPD is to create and maintain a safe, secure, and orderly learning environment noting that crime and juvenile arrests have been reduced by 35%. He explained the role of the various units within the Police department.

In response to a question regarding an employee arrest record, Dr. Rasco responded that before any employee is actually employed, he/she must be fingerprinted. If there is an arrest record, the report goes to OPS for review. OPS then makes a determination based on the disposition of the arrest as to whether the person is employable. Mr. Harvey added that when there is an arrest, the Attorney’s Office reviews the case to determine whether the arrest constitutes a violation of a Board policy.

Mr. Julio Miranda, Assistant Chief Auditor, in charge of the Civilian Investigative Unit (CIU), stated that this unit investigates non-criminal allegations and introduced Ms. Maria Curbelo, Staff Auditor, who explained the investigative
process. Ms. Curbelo pointed out that for school year 2010-11, CIU closed 150 cases with only two investigators on staff.

Mr. Miranda noted that his division also conducts criminal investigations related to financial fraud and explained the process.

In response to a question regarding how to distinguish where cases should be routed, Dr. Rasco clarified that the Office of the Inspector General is not part of the PIM and cases are not routed to them.

Referring to the OIG report (Agenda Item V), School Board Member, Dr. Marta Pérez, lamented that the aforementioned OIG report was forwarded to EAC for discussion; however, no discussion took place and nothing was done.

Mr. Harvey added that PIM governs how the District handles investigations. If there is a criminal issue, it goes to Schools Police for investigation. If it is determined that there was a violation, then the department works with other law enforcement agencies to make sure that the person is arrested. If it is a non-criminal matter, it will be routed to CIU. If there are any questions, the School Board attorneys are called.

In response to School Board Member, Dr. Wilbert “Tee” Holloway’s question regarding how to address an OIG report, School Board Chair Ms. Perla Tabares Hantman responded that the Board policy states that it goes to the Chief Auditor for him to present it to the Audit Committee and/or the Ethics Advisory Committee. Ms. Hantman commented that she feels that it is somewhat redundant and that it is not obligatory to present it to both committees. She stated that after consulting with Mr. Harvey regarding the Board policy, Mr. Harvey agreed.

Ms. Hantman asked if the EAC agenda is prepared by the EAC Chair and Chief Auditor. Ms. Kressel responded in the affirmative. Ms. Hantman made everyone aware that it is not necessary to bring the OIG report to the EAC and to the AC. Ms. Hantman explained that if a report is considered ethical in nature, it should be discussed at the EAC and if the report deals with finances, it should be discussed at the AC.

Mr. Montes de Oca later clarified that he works for the EAC as a liaison and that the EAC agenda is set by the Chair of the EAC. He works with the EAC Chair and assists in the process. It is unlike the Audit Committee, where as the Chief Auditor, he actually places reports on the agenda.

Dr. Pérez recalled that the reason why the Board policy was written “and/or” was because some things are both, ethical and financial, and the language in the policy provides the flexibility to present the report to both committees for discussion.

In response to a question regarding revisiting an EAC agenda item, Mr. Harvey responded that items can be brought back to the committee; however, the item
has to be brought back following parliamentary procedures. The item should not be brought back without a motion to be reconsidered. Once the item has been acted upon by Committee, it is over. Mr. Harvey advised that if an item were to be brought back to committee, it would have to be substantially different that the original item. An item could also be brought back with unanimous consent to revisit.

Ms. Madeleine Rodriguez, Executive Director of the Office of Civil Rights Compliance (CRC) made a presentation regarding the CRC. She explained that the objective of the CRC is to ensure that employees and students work/study in an environment that is free of illegal discrimination and harassment and retaliation. The main duties of the CRC are to respond to charges of discrimination/harassment and/or retaliation filed with state or federal enforcement agencies and to conduct internal investigations into allegations of discrimination/harassment and/or retaliation filed by employees, students, parents, or applicants based on the protected categories. Complaints of civil rights violations are reported directly to the CRC office. If there is a finding of no probable cause, the case is closed and no further action is taken. When there is a finding of probable cause, a report of the investigation is forwarded to the attorneys for review and to OPS for administrative/disciplinary action.

VII. PRESENTATION OF THE DRAFT EAC ANNUAL REPORT FISCAL YEAR 2010-2011

Mr. Montes de Oca explained that the report is prepared every year and it is being presented in draft form. He requested feedback from the EAC members so that the suggestions can be incorporated in the report and be brought back in September to the Committee in its final form. Mr. Montes de Oca acknowledged the feedback from Mr. Thornburg and stated that the changes will be incorporated in the final report.

VIII. END-OF-THE-YEAR WRAP-UP

Mr. Thornburg stated that although the presentations are very informative, he would like to set up a sub-committee to discuss a plan of action and future endeavors of the EAC. It was decided that a meeting of the sub-committee would be held before the next regularly scheduled EAC meeting.

IX. NEW BUSINESS

Dr. Marta Pérez raised an issue regarding the approval of Agenda Item C-30 at the School Board’s July 13, 2011 meeting, which authorizes the School District to provide management services and lease agreements for a charter school by the Miami-Dade Foundation for Education Innovation, Inc. (MDFEI). She expressed concern that there may be a conflict of interest inherent in the item and requested that the EAC take a look at this issue. She stated that although it is legal, she requested that the EAC provide guidance on ethical issues and look into a possible conflict of interest.
Dr. Holloway responded that he was on the prevailing side of the issue and that the vote was 8-1 in favor of the item. He further stated that the way he understood it was that this would be an on-going process and that if any issues come up, the Board Members would be made aware of it and would be allowed the opportunity to investigate and have a chance to act upon it.

Mr. Harvey opined that there were no ethical issues or conflict of interest regarding this particular issue. He stated that during the last two weeks, he had examined this issue very closely. He stated that other school districts in Florida and outside of Florida, which have similar arrangements, have done this in the past and have experienced no conflicts of interest as it relates to those relationships. Mr. Harvey stated that he has advised the administration to be mindful of any potential conflict of interest and to take the necessary precautions to ensure that there is no dual function that would conflict with each other. With regards to a possible conflict of interest for individuals, each vendor is required to sign a form stating that they have no conflict of interest, themselves.

In response to the question regarding whether he provided a written opinion on this matter, Mr. Harvey stated that he did not since the School Board members requested his opinion on the spot. He added that the UTD sent a letter on the subject and he provided a written opinion to that letter, which he could provide the Committee at the next scheduled EAC meeting if so requested.

X. **OLD BUSINESS**

There was no discussion under old business.

XI. **ADJOURNMENT**

There being no further business, the meeting was adjourned at 10:43 a.m.

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