



THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

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Office of the General Counsel
Barbara J. Myrick, General Counsel
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DRAFT

The School Board of
Broward County, Florida

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Superintendent of Schools

February 28, 2020

Ashley Moody, Attorney General
Department of Legal Affairs
The Capitol PL01
Tallahassee, Florida 32399-1050

**RE: *Request for Attorney General Opinion
Chief Auditor Reporting Administratively to Superintendent of Schools***

Dear Attorney General Moody:

This request for an Attorney General Opinion is submitted at the request of a majority of the members of The School Board of Broward County, Florida (“Broward School Board”). The Broward School Board approved this request for opinion during its regular meeting held on March 3, 2020.

Question of Law

The Broward School Board requests an opinion upon whether a Florida district school board may provide in the school district’s organizational reporting structure for the Chief Auditor to report administratively to the Superintendent of Schools while the Chief Auditor remains accountable to the district school board and the district school board’s appointed Audit Committee.

In accordance with the procedures for requesting an Attorney General Opinion, a copy of the prior written legal opinion upon this issue that was previously issued to the Broward School Board by the undersigned counsel has been provided along with this request.

Description of Facts and Circumstances

The Broward School Board has employed an internal auditor (“Chief Auditor”) since at least 1977 and has annually approved the school district’s organizational chart which specifies that the Superintendent of Schools will serve as the Broward School Board’s designee to whom the Chief Auditor will report.

In addition, School Board Policy 1002.1 – Office of the Chief Auditor [copy attached] was adopted by the Broward School Board using its rule-making authority under Section 120.54, Florida Statutes, and was most recently amended in 2010. In pertinent part, that policy states that the Chief Auditor “shall report administratively to the Superintendent [of Schools] and shall be accountable to The School Board... and [to its appointed] ... Audit Committee.” School Board Policy 1002.1 further provides that “[a]ll the [audit] reports completed by the OCA [Office of the Chief Auditor] and external firms must be presented to ... [the Audit] Committee for their review and transmission to The School Board of Broward County.”

Memorandum of Law

For a period of ten years and prior to a 2018 legislative revision, Section 1001.42(12)(1), Florida Statutes, stated as follows:

1001.42 Powers and duties of district school board. —The district school board, acting as a board, shall exercise all powers and perform all duties listed below:

* * *

(12) FINANCE. —Take steps to assure students adequate educational facilities through the financial procedure authorized in chapters 1010 and 1011 and as prescribed below:

* * *

(1) *Internal auditor.* —**May employ an internal auditor** to perform ongoing financial verification of the financial records of the school district. **The internal auditor shall report directly to the district school board or its designee.**

After enactment of Chapter 2019-15, Laws of Florida, which became effective on July 1, 2019, Section 1001.42(12)(1), Florida Statutes, was revised to state as follows:

1001.42 Powers and duties of district school board. —The district school board, acting as a board, shall exercise all powers and perform all duties listed below:

* * *

(12) FINANCE. —Take steps to assure students adequate educational facilities through the financial procedure authorized in chapters 1010 and 1011 and as prescribed below:

* * *

The district school board, acting as a board, shall exercise all powers and perform all duties listed below:

* * *

(l) Internal auditor. – May, or in the case of a school district receiving annual federal, state, and local funds in excess of \$500 million, **shall employ an internal auditor.** The scope of the internal auditor shall not be restricted and shall include every functional and program area of the school system.

1. The internal auditor shall perform ongoing financial verification of the financial records of the school district, a comprehensive risk assessment of all areas of the school system every 5 years, and other audits and reviews as the district school board directs for determining:

a. The adequacy of internal controls designed to prevent and detect fraud, waste, and abuse as defined in s. 11.45(1).

b. Compliance with applicable laws, rules, contracts, grant agreements, district school board-approved policies, and best practices.

c. The efficiency of operations.

d. The reliability of financial records and reports.

e. The safeguarding of assets.

f. Financial solvency.

g. Projected revenues and expenditures.

h. The rate of change in the general fund balance.

2. **The internal auditor shall** prepare audit reports of his or her findings and **report directly to the district school board or its designee.**

3. Any person responsible for furnishing or producing any book, record, paper, document, data, or sufficient information necessary to conduct a proper audit or examination which the internal auditor is by law authorized to perform is subject to the provisions of s. 11.47(3) and (4).

[Emphasis added].

Nothing in the 2018 revision of Section 1001.42(12)(l), Florida Statutes, requires an alteration of the Broward School Board’s reporting structure for the Chief Auditor. Under the revised Section 1001.42(12)(l)2, Florida Statutes, “the internal auditor shall prepare audit reports of his or her findings and report directly to the district school board or its designee.” Nothing in the revised law eliminates the statute’s long-standing grant of authority for a district school board to have its internal auditor report to the district school board’s designee nor does the revised law place any limitation upon whom the district school board may identify as its designee. Although approved 9 years ago, the provisions within School Board Policy 1002.1 are aligned and compliant with the revised requirements of Section 1001.42(12)(l), Florida Statutes.

The only significant effect of the revised law is that since it receives annual federal, state and local funds in excess of \$500 million, the Broward School Board is now required to employ

an internal auditor whereas such employment had been discretionary under the prior version of the law. However, that factor does not alter the district school board's discretion to select a designee to whom its internal auditor will report.

In light of the express authority granted to district school boards under Section 1001.42(12)(1)2, Florida Statutes, it is this Office's opinion that a district school board may identify the Superintendent of Schools as its designee to whom an employed internal auditor shall report.

If additional information would be helpful concerning this request, please contact the undersigned at your convenience.

Sincerely,

Barbara J. Myrick
General Counsel

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Enclosures

c: Donna P. Korn, Chair
All School Board Members
Robert W. Runcie, Superintendent of Schools
Joris Jabouin, Chief Auditor
Jeffrey Moquin, Chief of Staff
Matthew H. Mears, General Counsel – Florida Department of Education

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