School District, portable classrooms

Number: INFORMAL

Date: March 19, 2010

Mr. Edward J. Marko
General Counsel
School Board of Broward County
600 Southeast Third Avenue, 11th Floor
Fort Lauderdale, Florida 33301

Dear Mr. Marko:

You have asked this office for assistance in determining whether the Broward County School District is bound by a statutory requirement to reduce the number of relocatables (portable classrooms) when the Legislature has not budgeted additional funds to do so. You also ask whether Florida law prohibits the use of relocatables exceeding twenty years in age even though they satisfy the standards prescribed in section 1013.20, Florida Statutes. Finally, you ask whether the district may include the capacity of such relocatables in its inventory of student stations for determining whether levels of service have been achieved for purposes of public school concurrency.

Initially, I must note that this office has no authority to direct a public agency to ignore that which the Legislature has mandated. The following general comments, however, are offered to provide assistance.

As you have noted, section 1013.21(1)(a), Florida Statutes, provides:

"It is a *goal* of the Legislature that all school districts shall provide a quality educational environment for their students such that, by July 1, 2003, student stations in relocatable facilities exceeding 20 years of age and in use by a district during the 1998-1999 fiscal year shall be removed and the number of all other relocatable student stations at over-capacity schools during that fiscal year shall be decreased by half. The Legislature finds, however, that necessary maintenance of existing facilities and public school enrollment growth impair the ability of some districts to achieve the goal of this section within 5 years. Therefore, the Legislature is increasing its commitment to school funding in this act, in part to help districts reduce the number of temporary, relocatable student stations at over-capacity schools. The Legislature intends that local school districts also increase their investment toward *meeting this goal*. Each district's *progress toward meeting this goal* shall be measured annually by comparing district facilities work programs for replacing relocatables with the state capital outlay projections for education prepared by the Office of Educational Facilities and SMART Schools Clearinghouse. District facilities work programs shall be monitored by the SMART Schools Clearinghouse to measure the commitment of local school districts toward this *goal*." (e.s.)

You state that legislative funding has not been forthcoming and the district has limited financial resources to construct permanent facilities in order to reduce the number of relocatables.[1] Use

of the term "goal" and measuring progress toward its attainment would appear to indicate an aspiration of the Legislature rather than a strict mandate. Legislative history accompanying the creation of the statute evidences an intent that relocatable classrooms over twenty years of age that were used during the 1998-1999 fiscal year must be removed from service by July 1, 2003.[2] It is unclear, however, that such a mandate would extend to relocatables reaching twenty years of age after the 1998-1999 fiscal year, as there is no specific language to that effect. Rather, section 1013.20, Florida Statutes, requires that standards be adopted by the State Board of Education for relocatables intended for long-term use as classroom space at public elementary, middle, and high schools.[3] District school boards were obligated to submit a plan for the use of existing relocatables within a five-year work program to be reviewed and approved by the commissioner of education by January 1, 2003.[4]

Section 1013.20(1), Florida Statutes, further states that relocatables failing to meet the standards after completion of the approved plan may not be used as classrooms and "shall not be reported as providing satisfactory student stations in the Florida Inventory of School Houses." An annual inspection is required for relocatables designed for classroom use or being occupied by students.[5] Thus, the various provisions of the Florida School Code discussing relocatables appear to contemplate that as long as such structures meet the standards, they may be used as classrooms and be reported in the school's inventory of student stations.

This office has been advised that the Florida Department of Education's position is that the reduction of relocatables was a goal, but not a requirement, and that relocatables exceeding twenty years of age which meet the standards set forth in section 1013.20, Florida Statutes, may continue to be used and counted in the inventory of student stations for determining whether levels of service have been achieved. This office would defer to the department's interpretation in light of its powers and duties under the Florida School Code. However, this office offers no comment on whether the use of relocatables exceeding twenty years of age satisfies contractual obligations which may have been established pursuant to an interlocal agreement between the school district and local governments within the district.

I trust that these comments will be of assistance to you.

Sincerely,

Lagran Saunders
Assistant Attorney General

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[1] Section 6, Ch. 97-384, Laws of Fla., created s. 235.187, Fla. Stat. (1997), the Classrooms First Program, allocating funds to school districts for the construction, renovation, remodel, repair, or maintenance of educational facilities, or to pay debt service on bonds issued to pay for new construction, remodeling, renovation, and major repairs. Section 12 of the act provided that a maximum of $180 million of lottery revenues transferred to the Educational Enhancement Trust fund in fiscal year 1997-1998 "and for 30 years thereafter" be reserved and used to meet the

requirements for, among other projects, distributions to school districts for the Classrooms First Program. The act further provides that the sums distributed for the program shall equal $145 million each fiscal year. Department of Education records indicate Classrooms First distributions for Broward County totaled $227,536,984 from fiscal years 1998-99 through 2006-07. http://www.fldoe.org/edfacil/oef/cfmd.asp.

[2] *See* Senate Staff Analysis and Economic Impact Statement, SB 20-E, April 29, 2002, stating:

"School districts must include a plan for using existing relocatable facilities within a district 5-year program to be reviewed by the Commissioner of Education by January 1, 2003. Relocatables that do not meet state standards at the end of the work program may no longer be used as classrooms. This does not negate the statutory requirement that relocatable classrooms over 20 years of age that were used as classrooms during the 1998-1999 fiscal year must be removed from service by July 1, 2003."

[3] "Long-term use" is defined in s.1013.20(1), Fla. Stat., as "the use of relocatables at the same educational plant for a period of 4 years or more." *See also* Rule 6A-2.0010, Fla. R. Admin. P.

[4] Section 1013.20(1), Fla. Stat., also requiring the commissioner to provide a progress report to the Speaker of the House of Representatives and the President of the Senate each January thereafter.

[5] Section 1013.20(2), Fla. Stat.