

School Board, rescission of contract award

Number: INFORMAL

Date: May 07, 2001

The Honorable Betty S. Holzendorf
Senator, District 2
410 Senate Office Building
Tallahassee, Florida 32399-1100

Dear Senator Holzendorf:

A question has been raised regarding the authority of the Duval County School Board to rescind its previous award of school bus transportation contracts and to initiate a new bidding process. The city attorney has advised the school board that its actions have no basis in law and are therefore null and void.

As this office previously advised Congresswoman Corrine Brown, in an informal opinion dated May 2, 2001, the actions of the school board regarding the provision of school bus transportation services must be consistent with the rules of State Board of Education and the policies and procedures established by the school board. While Rule 6A-1.012(6), Florida Administrative Code, adopted by the State Board of Education, requires competitive bids for contractual services such as school bus transportation, it recognizes that the school board has the authority to reject any or all bids and request new bids. Clearly, however, the school board must be consistent with its own rules and may not act arbitrarily or capriciously.

The determination as to whether the school board acted arbitrarily or capriciously in rescinding its previous award of school bus transportation contracts and initiating a new bidding process, or whether the initial bidding process was flawed and failed to comply with the rules of the state and local boards, presents a mixed question of law and fact that this office cannot resolve. While opinions of the Attorney General address questions involving the interpretation of state laws, this office cannot resolve issues of fact which should more appropriately be addressed to the courts.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tjw