

Legally Speaking

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Contracts with the School District - Part II: Who has the Authority to Enter into Contracts for the School Board?

Jim Robinson, School Board Attorney

This is the second in the series of articles on contracts. The first article explained what a contract is, the different forms a contract can take and the elements essential to make up a contract. This article addresses who, as a matter of law and Board policy, has authority for signing contracts. Florida law makes each school board the contracting agent for the district school system. Section 1001.41(4), F.S. Thus, only the Board can sign a contract binding the School Board to monetary and other obligations with another person or entity, whether public or private. However, the School Board has in certain instances delegated signature authority to the Superintendent, the School Board Attorney or designated administrators pursuant to Board vote, State Board of Education Rule and Board policy.

Persons selling goods or services under contracts signed by employees of the Board are responsible for ensuring that the employee has been delegated signature authority by the Board. Third parties who deal with employees who act without actual authority cannot recover from the Board as anyone contracting with a public entity is deemed to know the limitations of authority. For example, where the School Board prohibits expenditures for im-

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Mission Statement

The mission of the School Board Attorney's Office is to provide the highest quality legal services to the Pinellas County School Board and district by ensuring timely and accurate legal advice and effective representation on all legal matters.

Disposal of Surplus Property

David Koperski, Assistant School Board Attorney

Because the school system is a public agency and funded by tax dollars, restrictions apply to disposal of certain property that is no longer needed. These restrictions protect the public from waste or abuse of the public funds the district receives. This article discusses the legal parameters of the district's disposal of surplus personal property (as opposed to real estate property), such as computers and desks, including to whom the property may be donated. Florida statutes dictate the procedures and conditions under which surplus property may be disposed. In addition,

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Contracts with the School District – Part II

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provements or purchases without prior Board approval, a third party may not recover the purchase price or reasonable value of goods obtained by a school principal or other administrator without signature authority. If an unauthorized contract is one that the Board could have otherwise entered into, the Board may generally ratify the contract.

School Board Policy 7.11 sets forth general practices governing school internal funds. Purchases from internal funds must be authorized in writing by the principal or director (or designee). The policy makes

clear that neither the school or center, nor the School Board, is liable for any purchases made in the name of the school or center without expressed written approval. In fact, any person who makes or approves the making of any unauthorized purchase, including signing a contract, will be personally liable for the amount of the obligation. The policy prohibits the execution of contractual obligations and promissory notes in the name of a school or any school organization.

The following are some examples of instances in which the Board has delegated signature authority to the Superintendent, the School Board Attorney and certain administrators. If there is ever any doubt about the existence of signature authority, refer to Board Policy and do not hesitate to confer with the School Board Attorney's Office.

... The School Board Attorney is authorized to incur litigation expenses of up to \$6,000 per claim, pursuant to Policy 2.08.

... Principals and the Director of Purchasing are authorized to contract for school pictures in accordance with Policy 6.17.

... The Superintendent, building princi-

pal or designee is authorized to contract with outside groups or individuals for their use of district facilities pursuant to Policy 9.24(2).

... Building principals, subject to approval by the area superintendent, have the authority to contract with outside organizations for a school group's use of non-district facilities pursuant to Policy 9.26(1) and (5).

... any person who makes or approves the making of any unauthorized purchase, including signing a contract, will be personally liable for the amount of the obligation.

... Schools and programs are authorized to purchase commemorative items in accordance with Policy 6.18. If the amount exceeds the competitive bid threshold listed in Policy 7.15(2)(a) (currently \$25,000), Board approval is required.

... Principals are authorized to make certain purchases from internal funds in accordance with Policy 7.12. and may enter into vending contracts, subject to approval as to form by the School Board Attorney, for up to five years duration.

... The Superintendent and Director of Purchasing are authorized to purchase goods and services for less than \$25,000 pursuant to Policy 7.15 and may do so pursuant to written contracts so long as they have been approved as to form by the School Board Attorney.

... Policy 7.25 authorizes the Board's third-party claims administrator to settle personal injury, property damage and workers' compensation claims up to \$25,000. The Board authorizes the Director of Risk Management and Insurance to authorize settlement of personal injury, property damage, and workers' compensation claims in excess of \$25,000



but less than \$50,000. The Board authorizes the School Board Attorney and the Superintendent to settle other claims up to \$50,000, and authorizes the claims committee to settle a claim or lawsuit for \$50,000 up to \$100,000.

... The School Board Attorney and Superintendent are authorized on a case-by-case basis to sign purchase and sale agreements with individual property owners for the purchase of properties in areas the Board desires to purchase for development of educational facilities.

The Superintendent receives direct signature authority by statute in some instances. For example, the Superintendent is authorized and directed by Section 1003.27, F.S., to enter into an interagency agreement with various child welfare agencies that, among other things, addresses how each agency will address the problem of habitual truancy. This is an agreement addressing the manner in which the Superintendent will coordinate with other agencies and officials the performance of his own statutory duties. Thus, he properly signs the agreement in his own right without the need for delegated signature authority from the School Board.

Indeed, the Superintendent is free to enter into other such agreements and memoranda of understanding in which he coordinates and implements his own constitutional and statutory

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Protection from Disclosure of Certain Confidential and Exempt Information in Personnel Files

Jim Robinson, School Board Attorney

Most documents created or received by Pinellas County Schools are open to the public under the Public Records Act. However, there are certain records, such as the addresses and telephone numbers of certain employee and family members found in the employee's personnel files, that are confidential and exempt from disclosure because of the nature of the or profession of the employee or his/her spouse or parent.

Employees will soon be receiving a memorandum by e-mail from the Department of Human Resources seeking information to determine whether they fall within one or more of the following categories so that the District can give the confidential information the protection required by the law. If an employee believes one or more categories applies to him or her, his or her spouse or parents, he or she will be asked to print out the e-mail, complete and sign the form and return it via hand delivery or pony mail to a designated representative in the Personnel Department at the Administration Building.

If the employee or designated family members are or were at some time in the past employed in any one or more of the following professions or jobs, the law requires that their addresses and telephone numbers (and

in some cases photographs) be kept confidential and exempt from disclosure in response to Public Records requests (see Section 119.071(4)(d), F.S.):

- ... Law enforcement personnel, including correctional officer or correctional probation officer
- ... Confidential informant or a confidential source for a law enforcement agency

However, there are certain records, such as the addresses and telephone numbers of certain employee and family members found in the employee's personnel files, that are confidential and exempt from disclosure because of the nature of the or profession of the employee or his/her spouse or parent.

- ... Undercover personnel of any criminal justice agency
- ... Juvenile probation officer or juvenile detention officer
- ... Human resource, labor relations, or employee relations director, assistant director, manager, or assistant manager of any local government agency or water management district whose duties including hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties
- ... Personnel of the Department of Children and Families whose

duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities

- ... Personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect
- ... Personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement
- ... Firefighter certified in compliance with section 633.35, F.S. (including 360 hours of training, passing examination, and other requirements; volunteer firefighters are not eligible unless they also have the more formal certification, including 360 hours of training and examination passage)
- ... Justice of Supreme Court, district court of appeals judge, circuit court judge, or county court judge
- ... State attorney, assistant state attorney, statewide prosecutor, or assistant statewide prosecutor
- ... Code enforcement officer ■

Changes to Jessica Lunsford Act

Laurie Dart, Staff Attorney

On May 2, 2007, the Florida Legislature passed a bill amending the Jessica Lunsford Act. As amended, the process for screening contractors and vendors for past crimes involving

“moral turpitude” is streamlined and clarified. The amendment will take effect on July 1, 2007, and a more comprehensive discussion of the changes will appear in the next edition of “Legally Speaking.” ■

Please send comments or suggestions for future articles to Melanie Davis at davisme@pcsb.org.



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Contracts

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powers and duties with local law enforcement and other officials so long as he does not usurp the contractual authority of the School Board.

For those contracts requiring Board signature, the proper form of signature block is as follows:

The School Board of Pinellas County, Florida
By: _____ Mary L. Tyus Brown, Chairperson
Attest: _____ Dr. Clayton M. Wilcox, Superintendent
Approved as to form: _____
James A. Robinson, School Board Attorney

Disposal

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Board Policy 7.22, *Disposal of Surplus Property*, provides further requirements relating to disposal of surplus district property.

Under Florida law and board policy, "surplus property" is property that is "... obsolete or the continued use of which is uneconomical or inefficient, or which serves no useful function." We can determine what property is surplus and, in our district, the policy dictates who determines what property is "surplus." Property with a value of \$750. or more upon acquisition, as well as other designated "special interest" property, is more specifically identified as "tagged property" and must be inventoried and accounted for as an asset of the Board.

According to policy, tagged property classified as surplus can be disposed of, but must be disposed of in an order of priority in which certain potential recipients have greater rights to the property than others. The order of priority is:

1. Transfer to another site or to an approved partnership program within the district.
2. Transfer to a charter school.
3. Transfer to another governmental agency. The governmental agency offering the highest bid shall receive the item.
4. Transfer to a private non-profit agency. "Private non-profit agency" is defined by statute.
5. Offer for public sale to the general public at the highest bid price. Notice of said sale shall be advertised for one day in a local newspaper of general circulation. A time will be designated for public viewing and the items will be sold either by auction or sealed bids submitted to the district's purchasing department.
6. By discarding.

Property not qualifying as "tagged" may be disposed of using other methods. Most questions relating to disposal of district property can be answered by the policy, and those that cannot should be directed to department heads and/or the Warehousing Department. ■

Where the Superintendent is authorized to sign by delegated authority on behalf of the Board, the proper form of signature block is as follows:

The School Board of Pinellas County, Florida
By: _____ Dr. Clayton M. Wilcox, Superintendent
Approved as to form: _____
James A. Robinson, School Board Attorney

For those memoranda of agreement and interagency agreements the Superintendent is authorized by statute to sign in his own right, the following signature block would suffice, although several format are regularly used and are sufficient:

Dr. Clayton M. Wilcox, Superintendent
The School District of Pinellas County, Florida