

DR. JOSEPH P. BURKE
Superintendent of Schools



**“Student Success,
Whatever It Takes”**

February 9, 2011

Mr. Jim Scholl
City Manager
City of Key West

Dear Mr. Scholl:

I am writing to address a situation that has occurred regarding the construction of the new Horace O’Bryant School. As you have no doubt observed we are hard at work building a new school for the children of Key West.

Last weekend our Construction Manager was shut down from working on part of Saturday and Sunday. While the School District endeavors to be good neighbors in all possible instances, in this case the School District has the right to work weekends under the Florida Building Code. A copy of the relevant section is attached for your review.

I understand there has been concern raised by some. Of course we will attempt to schedule our weekend work such that the louder and heavier construction is done as late as feasible. However, we are under some extremely tight timeframes to comply with the funding requirements imposed by the Federal Government as a condition of the funding to build. Violation of this timing would cause serious financial problems. In other words, for the sake of all taxpayers, failure is not an option. Such is the nature of our need to work weekends.

In an effort to provide some input by the City, we are requesting that we be granted a variance from the Ordinances concerned. Through this process dialogue can occur that should help mitigate the issues. Further this is an appropriate course of action under the Florida Building Code as the School District is exempt. Our offer to go through the variance process is in no way a waiver of our exemption.

Additionally, we would request the City refrain from any work stoppage until the issue is fully aired through the variance consideration. We will need to work this weekend and will make every effort to mitigate this need for the surrounding neighborhood, to the extent practicable.

Sincerely,

A handwritten signature in blue ink that reads 'Joseph P. Burke'.

Dr. Joseph P. Burke
Superintendent of Schools

Cc David Fernandez

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stored and dispensed in a manner to prevent contamination. Common drinking cups are prohibited.

422.2.14.2 Hot and cold running water under pressure and at safe temperature, not to exceed 110°F (43°C) to prevent scalding, shall be provided to all restrooms, lavatories and bathing areas.

422.2.15 Sewage disposal.

422.2.15.1 All sanitary facilities shall comply with the requirements of the *Florida Building Code, Plumbing*.

422.2.15.2 For facilities with nine or more birth rooms, mop sinks or curbed areas with floor drains shall be available in convenient locations throughout the facility to facilitate cleaning and for the proper disposal of cleaning water.

422.2.16 Fire control. Each birth center shall provide fire protection through the elimination of fire hazards, the installation of necessary safeguards such as extinguishers and smoke alarms to insure rapid and effective fire control.

422.2.16.1 To safeguard all clients, the birth center shall have:

422.2.16.1.1 "No Smoking" signs prominently displayed in those areas where smoking is not permitted.

422.2.16.1.2 Fire regulations and evacuation route prominently posted.

422.2.16.2 The written fire control plan approved by the appropriate local fire authority shall contain provisions for prompt reporting of all fires, extinguishing fires, protection of personnel and guests, evacuation, and cooperation with fire-fighting authorities.

422.2.16.3 New centers' carpeting must comply with the maximum flame spread rating of 75 in accordance with ASTM E 84 test as required under Chapter 69A-3.012 Standards of the National Fire Protection Association Adopted, *Florida Administrative Code*. Those existing centers not having affirmative evidence of complying with such flame spread rating shall establish fire control measures including the prohibition of smoking in carpeted areas. Such procedures shall be approved by the authority having jurisdiction.

SECTION 423 STATE REQUIREMENTS FOR EDUCATIONAL FACILITIES

423.1 Scope: Public educational facilities. Public educational facilities shall comply with the *Florida Building Code* and the *Uniform Fire Safety Standards* as adopted by the State Fire Marshal. These are minimum standards; boards may impose more restrictive requirements. Additional requirements for public educational facilities in Florida, including public schools and public community/junior colleges, are found in these standards.

Note: Other administrative and programmatic provisions may apply. See Department of Education Rule 6-2 and Chapter 1013, Florida Statutes.

423.2 Public schools and community colleges general requirements.

423.2.1 Owner. Each school board and community college board of trustees is deemed to be the owner of facilities within its respective jurisdiction. Boards shall provide for enforcement of the *Florida Building Code* and the *Uniform Fire Safety Standards* as adopted by the State Fire Marshal, including standards for health, sanitation, and others as required by law.

423.2.2 Exemption from local requirements. All public educational and ancillary plants constructed by a school board or a community college board are exempt from all other state, county, district, municipal, or local building codes, interpretations, building permits, and assessments of fees for building permits, ordinances, road closures, and impact fees or service availability fees as provided in Section 1013.37(1)(a), Florida Statutes.

423.3 Code enforcement.

423.3.1 School boards and community college boards. Section 553.80(6), Florida Statutes provides options for plan review services and inspections by school boards and community college boards.

423.3.2 Owner review and inspection. A school board or community college board which undertakes the construction, remodeling, renovation, lease, or lease-purchase of any educational plant or ancillary facility, or day labor project, regardless of cost or fund source, shall review construction documents as required by law in Section 1013.38, Florida Statutes and Section 553.80(6), Florida Statutes and shall ensure compliance with requirements of law, rule, and the *Florida Building Code* and the *Uniform Fire Safety Standards* as adopted by the State Fire Marshal. Section 553.80(6), Florida Statutes states that district school boards and community college boards shall provide for plan review and inspections for their projects. They shall use personnel certified under Part XII of Chapter 468, Florida Statutes to perform the plan reviews and inspections or use one of the options provided in Section 1013.38, Florida Statutes. Under this arrangement, school boards and community college boards are not subject to local government permitting, plan review, and inspection fees.

423.3.3 Local government review and inspection. As an option to the owner providing plan review and inspection services, school boards and community college boards may use local government code enforcement offices who will not charge fees more than the actual labor and administrative costs for the plan review and inspections. Local government code enforcement offices shall expedite permitting. Any action by local government not in compliance with Section 553.80(6), Florida Statutes may be appealed to the Florida Building Commission, which may suspend the authority of that local government to enforce the *Florida Building Code* and the *Uniform Fire Safety Standards* as adopted by the State Fire Marshal on the facilities of school boards and community college boards.

423.3.4 Other regulatory agencies. Boards shall coordinate the planning of projects with state and regional regulatory and permitting agencies, as applicable. Other state or