



**TOM GALLAGHER**  
CHIEF FINANCIAL OFFICER  
STATE FIRE MARSHAL  
STATE OF FLORIDA

In re the Matter of

Hillsborough County School District,  
Glen A. Lathers, Manager,  
Petitioner.

Case No.: 79483-04-FM

Petition for Declaratory Statement  
to the Florida Department of  
Financial Services

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DECLARATORY STATEMENT

THIS CAUSE came on for consideration upon the Petition for Declaratory Statement received on December 2, 2004, by the Department of Financial Services, hereinafter referred to as the Department, from the Hillsborough County School District, Glen A. Lathers, Manager, hereinafter referred to as Petitioner. Upon consideration thereof, and being duly advised, the Chief Financial Officer as State Fire Marshal, finds as follows:

1. The Chief Financial Officer as State Fire Marshal, has jurisdiction over the subject matter and the parties to this matter.
2. This Declaratory Statement is premised upon the assertions of fact set forth in the Petition for Declaratory Statement. Any modification to those assertions of fact could alter the conclusions set forth in this Declaratory Statement. None of the

assertions of fact are admitted by the Department as being true and Petitioner's question is being answered purely as a hypothetical one. If any of the facts asserted by the Petitioner are untrue or materially incomplete the conclusions of this Declaratory Statement could be significantly different.

3. If the Petition for Declaratory Statement contains various legal assertions, conclusions, and arguments, those assertions, conclusions, and arguments are not adopted by the Department and are not used as legal premises or authority for the conclusions of this Declaratory Statement. Legal assertions, conclusions, and arguments are considered only to illustrate the manner in which Petitioner may be an affected person entitled to have the Department issue this Declaratory Statement.

#### BACKGROUND and FACTS ASSERTED

4. Petitioner asserts that it is engaged in, or considering, major remodeling or renovation of school buildings requiring installation of emergency rescue openings/secondary egress in rooms with an occupant load of 5 or fewer but containing more than 250 square feet, to be used for special programs involving hearing impaired persons, speech therapy, etc.

#### QUESTION

5. Petitioner's question is, "is it the intent of Section 69A-58.008(5)(f)2., Florida Administrative Code, to require emergency rescue openings/secondary egress

for a student occupied area with an occupant load of 5 or fewer and a square footage greater than 250 square feet?”

#### DISCUSSION

6. The answer is found in Section 69A-58.008(5)(f)2., Florida Administrative Code, which states:

(5)...

(f) Emergency Rescue Openings (Secondary Means of Egress).

**2. For buildings designed after October 18, 1994, the emergency rescue opening shall be provided in rooms over 250 square feet used for classroom or other educational purposes or normally subject to student occupancy of 6 or more. (Emphasis supplied).**

7. The first clause, before the underlined and bolded “or” above, means that FOR ANY room over 250 square feet which is to be used for classroom or other educational purposes, regardless of the number of students occupying or intended to occupy the room, the emergency rescue opening shall be provided.

8. The language after the underlined and bolded “or” in the quoted material above, means that the emergency rescue opening MUST ALSO be provided in ALL rooms normally subject to student occupancy of 6 or more, regardless of the number of square feet.

#### DECLARATORY STATEMENT

ACCORDINGLY, the question is answered as follows:

9. Question: Is it the intent of Section 69A-58.008(5)(f)2., Florida Administrative Code, to require emergency rescue openings/secondary egress for a student occupied area with an occupant load of 5 or fewer and a square footage greater than 250 square feet?

Response: Yes.

#### NOTICE OF RIGHTS

Any party to these proceedings adversely affected by this Declaratory Statement is entitled to seek review of this Declaratory Statement pursuant to Rule 9.110, Florida Rules of Appellate Procedure, because pursuant to Section 120.565, Florida Statutes, a Declaratory Statement constitutes final agency action and is therefore subject to judicial review pursuant to Section 120.68, Florida Statutes. Review proceedings must be instituted by filing a petition or notice of appeal with the General Counsel, acting as the agency clerk, at 612 Larson Building, Tallahassee, Florida, and a copy of the same with

the appropriate district court of appeal, within thirty days of rendition of this Declaratory Statement.

ENTERED at Tallahassee, Leon County, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2005.

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Karen Chandler  
Deputy Chief Financial Officer

Copies furnished to:

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