

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE ATLANTA INDEPENDENT SCHOOL SYSTEM, ITS BOARD,
AND THE OFFICE OF THE ATTORNEY GENERAL TO ASSURE FUTURE COMPLIANCE
WITH THE OPEN RECORDS AND OPEN MEETINGS ACTS**

This ___ day of July
County of Fulton, Georgia

COME NOW the ATLANTA INDEPENDENT SCHOOL SYSTEM (“the School System”) and the ATLANTA BOARD OF EDUCATION (“the Board”), on the one part, and the OFFICE OF ATTORNEY GENERAL, on the other, and, as attested by the underlying signatures and pursuant to a resolution passed by the Board approving this Memorandum of Understanding, hereby agree as follows:

WHEREAS the ATLANTA INDEPENDENT SCHOOL SYSTEM is a school system created and operating under Georgia law and, among other things, is responsible for providing kindergarten through twelfth grade education to children within the limits of the City of Atlanta; and

WHEREAS the ATLANTA BOARD OF EDUCATION establishes and approves the policies that govern the ATLANTA INDEPENDENT SCHOOL SYSTEM; and

WHEREAS Erroll B. Davis, Jr., former Chancellor of the Board of Regents of the University System of Georgia and newly-appointed Interim Superintendent of the ATLANTA INDEPENDENT SCHOOL SYSTEM, serves as chief executive of the School System and is responsible for its day-to-day operations and implementation of the policies duly passed by the ATLANTA BOARD OF EDUCATION as well as for compliance by the subunits, divisions, schools, and employees thereof with the law; and

WHEREAS Brenda J. Muhammad currently serves as chair of the ATLANTA BOARD OF EDUCATION;

WHEREAS the ATLANTA BOARD OF EDUCATION, the ATLANTA INDEPENDENT SCHOOL SYSTEM, and the subunits, divisions, committees, and schools thereof are each an “agency” within the meaning of Georgia law, O.C.G.A. §§ 50-14-1, 50-18-1, and are subject to the requirements of Georgia’s Open Meeting Act and Georgia’s Open Records Act, O.C.G.A. § 50-14-1 *et seq.* and O.C.G.A. § 50-18-1 *et seq.*; and

WHEREAS the ATLANTA BOARD OF EDUCATION, the ATLANTA INDEPENDENT SCHOOL SYSTEM, Ms. Muhammad, Mr. Davis, and the subunits, divisions, committees, members, and schools of the Board and the School system endeavor on a forward going basis to be in full compliance with Georgia’s Open Meeting Act and Georgia’s Open Records Act; and

WHEREAS the ATTORNEY GENERAL alleges that the ATLANTA BOARD OF EDUCATION and the ATLANTA INDEPENDENT SCHOOL SYSTEM have in the past violated the Open Meetings and Open Records Acts by engaging in the following:

- 1.) Repeatedly failing to fully, completely, and timely produce records in compliance with the Open Records Act, such alleged violations of the law including, among others:
 - a. failing to produce in a timely and legally compliant manner a vendor database in response to a March 12, 2010, request for such record(s) by Heather Vogell, a reporter for The Atlanta Journal-Constitution, and in response to numerous subsequent requests for this database;
 - b. failing to produce in a timely and legally compliant manner a report in its possession prepared by Dr. Andrew Porter regarding CRCT testing violations; this report was originally sought from the School System on July 19, 2010, by

Heather Vogell and Alan Judd, reporters for The Atlanta Journal-Constitution, and several times thereafter;

- c. failing to produce in a timely and legally compliant manner copies of materials provided to the Governor's special investigators regarding CRCT testing violations in response to a December 6, 2010, request for such record(s) by Heather Vogell, a reporter for The Atlanta Journal-Constitution, and in response to subsequent requests for this database;
 - d. failing respond and produce records in a timely and legally compliant manner to Open Records Act requests of citizens regarding CRCT testing violations and/or the performance of their children in schools run and supervised by School System and the Board; and
 - e. failing to produce records to the Office of the Attorney General in response to its request for records in its letter of April 27, 2011;
- 2.) failing to conduct an open meeting in compliance with Georgia's Open Meetings Act when a quorum of the Board met at the Office of the Governor, in Atlanta, Georgia, on April 26, 2011;
- 3.) failing to make an agenda, prepare and keep summary minutes, and prepare, keep, and approve final minutes for the meeting a quorum of the Board held on April 26, 2011;
- 4.) failing to vote in open session to go into closed session for the meeting a quorum of the Board held on April 26, 2011, and, in this regard, failing to record the votes of those voting for and against going into closed session on this date, and failing to record the reason for going into closed session on meeting minutes; and

5.) failing to prepare and execute under oath and before a notary an affidavit stating the reasons why the meeting of a quorum of the Board on April 26, 2011, was closed; and

WHEREAS the ATTORNEY GENERAL has the civil and criminal authority and standing to enforce Georgia's Open Meeting Act and Georgia's Open Records Act, O.C.G.A. §§ 50-14-5, 50-18-73; and

WHEREAS the ATTORNEY GENERAL believes that the evidence is overwhelming that the above enumerated violations occurred and is prepared to exercise his civil or criminal authority to prosecute such violations; and

WHEREAS, Erroll B. Davis, Jr., has only recently assumed the position of Interim Superintendent and was not responsible for the alleged former misconduct of the School System or the Board but wishes to assure compliance with Georgia's Open Records and Open Meetings laws in the future; and

WHEREAS the parties wish to resolve all disputed claims amongst them and agree that the ATLANTA BOARD OF EDUCATION, the ATLANTA INDEPENDENT SCHOOL SYSTEM, and subunits, divisions, schools, members, and employees should henceforth fully comply with Georgia's Open Meeting Act and Georgia's Open Records Act;

NOW THEREFORE the parties agree and stipulate as follows:

1. the ATLANTA BOARD OF EDUCATION and the ATLANTA INDEPENDENT SCHOOL SYSTEM attest and pledge that henceforth they will take all necessary and proper steps to assure compliance with each and all of the requirements of Georgia's Open Meeting Act and Georgia's Open Records Act; and

2. the ATLANTA BOARD OF EDUCATION attests and pledges that it will conduct all of its meetings in open session except as permitted by Georgia law; will provide and properly adequate notices and agendas for such meetings; and will properly and timely make available proper summaries and final minutes for such meetings; and
3. the ATLANTA BOARD OF EDUCATION attests and pledges that it will conduct executive or closed sessions limited only on the matters to which the meeting is permitted to be closed, *see* O.C.G.A. §§ 50-14-2, 50-14-3, and not conduct other business in such a closed session; and
4. the ATLANTA BOARD OF EDUCATION and its chair attest and pledge that affidavits for executive session will be executed by the chair and approved by the Board with sufficient detail to know that the meeting was properly closed (rather than relying on canned assertions of exceptions) *see* O.C.G.A. § 50-14-4;
5. the ATLANTA BOARD OF EDUCATION will receive training in the basic requirements of the Open Meetings and Open Records Acts from the Office of the ATTORNEY GENERAL at a time and place to be agreed upon with the Office of the ATTORNEY GENERAL;
6. the ATLANTA INDEPENDENT SCHOOL SYSTEM agrees to submit its supervisors or other staff as agreed upon with the Office of the ATTORNEY GENERAL to training in the basic requirements of the Open Meetings and Open Records Acts at such times and places as agreed upon with the Office of the ATTORNEY GENERAL; and

7. the ATTORNEY GENERAL agrees that no prosecution will be brought by the Georgia Department of Law regarding the above alleged violations of the Open Records and Open Meetings Acts; provided, however, that the ATTORNEY GENERAL reserves and does not waive all right and authority to prosecute the above alleged violations of the Open Records and Open Meetings Acts should evidence of additional violations not alleged within this Memorandum of Understanding come to his attention within the next twelve months or the ATLANTA BOARD OF EDUCATION or the ATLANTA INDEPENDENT SCHOOL SYSTEM fail to abide by their obligations in this agreement.

SO AGREED,

This ____ day of July, 2011,

Erroll B. Davis, Jr.,
Interim Superintendent
Atlanta Independent School System

Samuel S. Olens
Attorney General

Brenda J. Muhammad
Chair
Atlanta Board Of Education