

# **Report To The Mississippi Legislature**



## **A Limited Management Review of the Meridian Public School District's Central Office**

**July 8, 1997**

After reviewing complaints in six areas, PEER found no evidence that administrative pay increases at the Meridian Public School District were excessive or that the district had hired persons with emergency teaching certificates over qualified, certified teachers.

However, concerning the remaining four areas of complaint, PEER found:

- the district's decision to contract for limited management of custodial, maintenance, and grounds services resulted in increased expenses of approximately \$92,000 for the 1996-97 school year;
- four district officials working as consultants outside the district received double compensation for services performed during normal working hours;
- the hiring of the district superintendent's husband as Director of Transportation may constitute a violation of conflict of interest laws; and,
- the district's board entered executive session during four meetings to discuss personnel matters that were not exempted from requirements of the Open Meetings Act.

**The PEER Committee**

## **PEER: The Mississippi Legislature's Oversight Agency**

The Mississippi Legislature created the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER Committee) by statute in 1973. A standing joint committee, the PEER Committee is composed of five members of the House of Representatives appointed by the Speaker and five members of the Senate appointed by the Lieutenant Governor. Appointments are made for four-year terms with one Senator and one Representative appointed from each of the U. S. Congressional Districts. Committee officers are elected by the membership with officers alternating annually between the two houses. All Committee actions by statute require a majority vote of three Representatives and three Senators voting in the affirmative.

Mississippi's constitution gives the Legislature broad power to conduct examinations and investigations. PEER is authorized by law to review any public entity, including contractors supported in whole or in part by public funds, and to address any issues which may require legislative action. PEER has statutory access to all state and local records and has subpoena power to compel testimony or the production of documents.

PEER provides a variety of services to the Legislature, including program evaluations, economy and efficiency reviews, financial audits, limited scope evaluations, fiscal notes, special investigations, briefings to individual legislators, testimony, and other governmental research and assistance. The Committee identifies inefficiency or ineffectiveness or a failure to accomplish legislative objectives, and makes recommendations for redefinition, redirection, redistribution and/or restructuring of Mississippi government. As directed by and subject to the prior approval of the PEER Committee, the Committee's professional staff executes audit and evaluation projects obtaining information and developing options for consideration by the Committee. The PEER Committee releases reports to the Legislature, Governor, Lieutenant Governor, and the agency examined.

The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

**A Limited Management Review of the Meridian Public  
School District's Central Office**

**July 8, 1997**

**The PEER Committee  
Mississippi Legislature**

The Mississippi Legislature

**Joint Committee on Performance Evaluation and Expenditure Review**

PEER Committee

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July 8, 1997

Honorable Kirk Fordice, Governor  
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Honorable Tim Ford, Speaker of the House  
Members of the Mississippi State Legislature

At its meeting of July 8, 1997, the PEER Committee authorized release of the report entitled **A Limited Management Review of the Meridian Public School District's Central Office.**

A handwritten signature in cursive script, reading "Billy Bowles", written over a horizontal line.

Representative Billy Bowles, Chairman

**This report does not recommend increased  
funding or additional staff.**

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# A Limited Management Review of the Meridian Public School District's Central Office

## *Executive Summary*

**July 8, 1997**

### ***Introduction***

The PEER Committee received complaints regarding Meridian Public School District's:

- contracting with an outside provider of services;
- employees' compensation for outside consulting activities;
- hiring of individuals with emergency certificates;
- administrators' pay increases;
- hiring of the superintendent's spouse; and,
- compliance with requirements of the Open Meetings Act of 1975.

PEER reviewed Meridian Public School District's records for the period April 1992 to April 1997 to determine the validity of each complaint.

### ***Findings***

#### **Administrative Issues**

##### *Contract for Custodial, Maintenance, and Grounds Services*

**The Meridian Public School District entered into a five-year contract for over \$1 million for limited management of custodial, maintenance, and grounds services without performing an objective analysis of its need for an outside provider. The decision to contract rather than managing these functions internally resulted in increased expenses of approximately \$92,000 for the 1996-97 school year.**

In 1993, the Meridian Public School District contracted with Marriott Facilities Management to provide limited management services over the

district's custodial, maintenance, and grounds functions. In awarding the contract, the district did not perform an analysis of the district's needs in these areas nor did it prepare an estimate of the costs of performing these functions internally. The original contract was for approximately \$233,000 annually with adjustments for inflation and the contract price for the final year of the five-year agreement is approximately \$259,000.

##### *Outside Consulting Work of Employees*

**Four Meridian Public School District officials working as consultants outside the district received double compensation for services performed during normal working hours during the 1996-97 school year.**

Four district administrators performed consulting duties for the State Department of Education (SDE) or for a college or university during the 1996-97 school year. These consulting duties consisted of leading or participating in workshops, seminars, and training sessions. The administrators received payment from the sponsoring organization for performing these consulting duties but were not required by the Meridian Public School District to take personal leave or vacation days for the time spent performing these duties. The administrators were granted professional school business leave with pay. Therefore, these administrators received dual payment for services performed during normal working hours.

##### *Hiring Personnel with Emergency Certificates*

**For the 1996-97 school year, PEER found no evidence that the Meridian Public School District favored hiring persons with emergency teaching certificates over qualified, certified teachers.**

PEER received a citizen complaint alleging that the Meridian Public School District "passed over" certified teachers in favor of hiring personnel for

which the district had to acquire emergency teaching certificates. PEER reviewed the sixteen positions filled by personnel with emergency teaching certificates, the internal announcements of vacant positions, and notices to the local paper advertising vacant positions. Although two of the sixteen positions were not posted internally or advertised in the local newspaper, PEER found no evidence that the Meridian Public School District favored hiring persons with emergency teaching certificates over qualified, certified teachers.

#### *Administrators' Salary Increases*

**Although ten of forty-three Meridian Public School District administrators received salary increases in excess of \$5,000 over a two-year period, these salary levels are based on objective criteria such as education, responsibilities, and experience and are consistent with salaries of administrators in districts of similar size.**

During the 1995-96 school year, the Meridian Public School District implemented a new salary plan for administrators. The plan resulted in ten administrators receiving raises in excess of \$5,000 over a two-year period and the salaries of eight administrators were frozen because their salaries were higher than the amount per the new plan. PEER compared the salaries of Meridian administrators to the salaries of administrators in the ten districts which are closest to Meridian in average daily attendance. Even after increasing under the new compensation plan, the salaries of Meridian administrators fall in the middle or lower half of the salary ranges of districts of comparable size.

#### **Legal Issues**

##### *Possible Violation of Conflict of Interest Laws*

**The hiring of the Meridian Superintendent's husband as Director of Transportation may constitute a violation of conflict of interest laws.**

In February 1995, the Meridian Public School Board selected Dr. Jayne Sargent as Superintendent of the Meridian Public School District. In April of that year, the board hired Mr. Joe Sargent, her spouse, to serve as the district's Director of Transportation beginning July 1, 1995. Although state law does allow some situations in which school districts may hire a relative of a supervising principal

or superintendent without conflict of interest, such an employee must be a certificated employee as designated by the State Board of Education and must be in a school-based, rather than central-office-based, position.

While there is no evidence that Dr. Sargent knowingly violated state conflict of interest laws and while she went to great effort to follow an alternative method for directing recommendations regarding Mr. Sargent's employment to the Meridian School Board, these means are not recognized as legitimate under state law for the hiring of central office-based employees and may bring Dr. Sargent into conflict of interest.

##### *Possible Violation of Open Meetings Act*

**During February 1997, the Meridian Public School Board held four executive sessions to discuss the search for a new superintendent. Under the Open Meetings Act of 1975, such general discussions of personnel matters are not exempted from open meetings.**

Under the Open Meetings Act of 1975, the Legislature specified items which may be exempted from the requirements of open meetings and discussed by officials in executive sessions. Included in the exempted items are personnel matters relating to a specific person holding a specific position. The minutes of the Meridian School Board of Trustees record these four executive sessions as general in nature relating to the search for a new superintendent. Such general discussions of personnel matters are not exempted from requirements of the Open Meetings Act.

#### **Recommendations**

##### **Administrative Issues**

##### *Contract for Custodial, Maintenance, and Grounds Services*

1. Prior to expiration of the district's contract with Marriott in March 1998 and using existing resources, Meridian school officials should conduct a needs assessment to determine the cost of performing this service internally. After calculating the cost of performing these services internally and defining the needs of the district, the district should issue a request for proposals. The district should evaluate proposals by a prede-



terminated method, with full documentation of the decision process. These proposals should be compared to the costs of an internal program. From this information, school officials should fully document their decision on whether to continue contracting or to perform the service internally.

### *Outside Consulting Work of Employees*

2. Several options are available for addressing the situation of outside consulting work of district employees:

- the Legislature could pass legislation to address the situation;
- policymaking regarding this issue could continue to be left to each school district; or,
- the State Department of Education could change its policy to that of only paying for expenses.

Under either of the first two options, the following points should serve as guidelines.

- A. All occasions which require personnel to be outside of their home district to lead a training session should require approval of an immediate supervisor and the superintendent. If the request involves a superintendent, approval of the school board should be required.
- B. Individuals leading training outside of their home districts should have the option of either taking personal leave with pay or taking a type of administrative or professional leave without pay.
  - i. If individuals take personal leave with pay, they could receive payment for the training session from the sponsoring organization but days away from their district would be treated as leave days.

- ii. If individuals take a type of leave without pay, they could receive payment for the training session from the sponsoring organization but would not receive their regular salary.

- C. Individuals could also be allowed to take a type of administrative or professional leave with pay but require that any payments above materials and expenses be remitted to their home school district.

The SDE could change its policy to paying only for mileage, materials, and expenses for overnight travel. Under this option, approval to perform the training would still be granted by the districts with individuals granted leave with pay. However, this would require individuals to prepare for training sessions on their own time without receiving any payment for such services. Districts could have the option of allowing individuals to prepare for such training during normal working hours, provided the training would also be presented to personnel in the home district.

3. The Meridian Public School Board should adopt written policies and procedures to address personnel performing consultant or training activities outside of the district. The policy should specify the procedures to follow in requesting approval of such and who should approve such activities. The Meridian School Board should consider whether it wishes to continue the practice of paying individuals for days when such individuals are receiving compensation from another source for conducting the training. The following options are available:

- A. require individuals to take personal leave with pay;
- B. require individuals to take administrative leave with pay and require that any payments above materials, mileage, and expenses be remitted to the district; or,
- C. require individuals to take administrative leave without pay.

### *Hiring Personnel with Emergency Certificates*

4. Meridian Public School District officials should internally post and publicly advertise all job vacancies in order to exhaust all possibilities before applying for emergency certificates.

### **Legal Issues**

#### *Possible Violation of Conflict of Interest Laws*

5. The Ethics Commission should review the hiring of the Meridian Superintendent's spouse to determine whether it constitutes a violation of conflict of interest laws.

In the future, the Meridian School Board should consider seeking guidance from the Ethics Commission and the Attorney General prior to entering into employment ar-

rangements with a relative of a superintendent.

6. Because the Meridian Public School Board did not follow established practice for hiring non-instructional employees when extending contracts to Dr. Sargent's spouse, the State Auditor, under authority of CODE Section 7-7-211, should review the actions of the board to determine whether any actions should be brought to recover the misspent funds.

#### *Possible Violation of Open Meetings Act*

7. The Meridian Public School Board should only go into executive session to discuss personnel matters when there is a demonstrable personnel issue which fits within the scope of Section 25-41-7. The minutes should reflect the general nature of the issue.

#### **For More Information or Clarification, Contact:**

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# **A Limited Management Review of the Meridian Public School District's Central Office**

## ***Introduction***

### **Authority**

The PEER Committee authorized a review of the Meridian Public School District in accordance with MISS. CODE ANN. Section 5-3-57 (1972).

### **Scope and Purpose**

PEER received complaints regarding Meridian Public School District's:

- contracting with an outside provider of services;
- employees' compensation for outside consulting activities;
- hiring of individuals with emergency certificates;
- administrators' pay increases;
- hiring of the superintendent's spouse; and,
- compliance with requirements of the Open Meetings Act of 1975.

PEER reviewed Meridian Public School District's records for the period April 1992 to April 1997 to determine the validity of each complaint.

### **Method**

In conducting this review, PEER:

- reviewed state law regarding the administration of school districts, hiring of school employees, and requirements of the open meetings law;
- analyzed financial and other records of the Meridian Public School District;
- reviewed reports obtained from the database of the State Department of Education; and,

- interviewed Meridian Public School District personnel.

PEER also obtained data from districts of similar size for purposes of comparison. This comparison is not meant to infer that any data from Meridian or the other districts is inherently correct or incorrect with need for improvement. The purpose of the comparison was to determine whether the Meridian data reviewed was materially different or similar to data from the other districts.

PEER chose districts with an average daily attendance within one thousand students (plus or minus) of Meridian for comparison. Average daily attendance is the average number of students attending the school district. PEER used the average daily attendance of the most recently completed school year (1995-1996) to select districts for comparison.

The table below lists the school districts chosen for comparison and their respective average daily attendance in relation to Meridian.

<b>School District</b>	<b>Average Daily Attendance</b>
Lamar County	6,033
Gulfport	6,208
Biloxi	6,219
Lauderdale County	6,586
Tupelo	6,914
<b>Meridian</b>	<b>7,107</b>
Madison County	7,276
Jackson County	7,285
Pascagoula Separate	7,431
Greenville	7,984
Jones County	8,039

### **Overview**

After investigating the areas of complaint previously listed, PEER concludes:

- the district's decision to contract with an outside provider to manage the custodial, maintenance, and grounds services instead of performing these functions internally has resulted in increased expenses to the district;
- district employees working as consultants outside the district have received double compensation for services performed during normal working hours;

- in the majority of cases, the district is making reasonable efforts to recruit qualified personnel before hiring individuals requiring emergency teaching certificates;
- even after receiving pay increases under the new administrator salary plan, the salaries of the administrators of the district are consistent with the salaries of administrators of districts of similar size;
- the hiring of the superintendent's spouse may constitute a violation of the conflict of interest laws; and,
- four executive sessions of the board of trustees regarding the search for a new superintendent do not comply with the requirements of the Open Meetings Act of 1975.

PEER made recommendations addressing these issues, including recommendations for the district to conduct a needs assessment to determine whether to continue the facilities maintenance contract and establish a leave policy which would not allow double compensation of employees. PEER also recommended that the Ethics Commission review the district's hiring of the superintendent's spouse and that the State Auditor review the possibility of misspent funds in this instance.

## ***Background***

The Meridian Public School District serves the municipality of Meridian, Mississippi, and has a student enrollment of approximately 7,500 students. The district has seven elementary schools, two middle schools, two junior high schools, one high school, and one alternative school which serves students with disciplinary problems.

The Meridian Public School Board has five members nominated by the Mayor of Meridian and approved by a majority vote of the Meridian City Council. Each member of the board serves a five-year term with one member rotating off and a new member being added each year, although members may serve more than one term.

The school board appoints the Superintendent of the Meridian Public Schools and determines the term of the superintendent's contract.

## ***Findings***

### **Administrative Issues**

#### ***Contract for Custodial, Maintenance, and Grounds Services***

In early 1992, Meridian school officials met with representatives of Marriott Facilities Management to determine the feasibility of Marriott's managing the district's maintenance, custodial, and grounds functions. In the spring of 1992, representatives from Marriott conducted an on-site survey of the Meridian School District and, based on this site survey, submitted a proposal to school officials in April 1992. During the May 1992 board meeting, a representative from Marriott presented a contract proposal for full service management. The minutes reflect that the board took the proposal under consideration. The October 1992 minutes reflect that the board also received and considered a full service proposal from ServiceMaster.

Both the Marriott and ServiceMaster original full service contract proposals had an annual cost of approximately \$1.3 million. Both companies had prepared their own financial analysis showing that this amount was comparable to the amount expended by the district for these services, with each company claiming to provide some cost savings. However, the district did not perform an independent analysis to determine the accuracy of these claims.

The Meridian School Board rejected the full service format in favor of a limited service format. Under this format, custodial, maintenance, and grounds personnel would remain employees of the school district. The contractor would train and supervise custodial, maintenance, and grounds personnel and establish a preventative maintenance program. On January 7, 1993, the school board unanimously voted to contract with Marriott Facilities Management for five years at an annual cost of approximately \$233,016, with an annual inflation adjustment equal to the percentage increase of the Consumer Price Index, National Average, and a five percent cap on the adjustment. No other Mississippi public school district contracts with Marriott for custodial, maintenance, and grounds services.

**The Meridian Public School District entered into a five-year contract for over \$1 million for limited management of custodial, maintenance, and grounds services without performing an objective analysis of its need for an outside provider. The decision to contract rather than managing these functions internally resulted in increased expenses of approximately \$92,000 for the 1996-97 school year.**

- *Meridian Public School District awarded a five-year contract for custodial, maintenance, and grounds services without conducting a needs assessment, preparing a request for proposals or independent cost analysis, or documenting its decision process.*

Mississippi law places no procedural controls on personal services contracts awarded by local governing authorities such as school boards. However, prudent management theory dictates a carefully planned process in awarding such contracts, including conducting a needs assessment, issuing a request for proposals, documenting the evaluation and decisionmaking processes, and monitoring the contract's implementation. The Meridian Public School District omitted most of these steps in the process it followed for awarding the contract to Marriott.

*Needs Assessment*--When making the decision to contract for personal services, the first step a public entity should perform should be a needs assessment. The needs assessment should define the need and determine whether the need could be met through internal resources or only through external resources. If the need could be met through internal resources, the costs of meeting the need internally should be determined and documented. If the need could only be met through external resources, the reasons why a staff member could not perform the proposed services should be documented.

In defining the needs of the district, Meridian Public School District officials should have documented the areas of deficiency or concern in the system. District managers could have obtained additional information by visiting comparable school districts, reviewing how those districts administer their facilities management programs, and making comparisons to the Meridian program. School officials could have explored the possibility of having representatives from private companies make suggestions for changes or improvements which could have become part of the request for proposals and could have helped in determining the costs of handling the program internally.

*Request for Proposals*--Any public entity seeking to contract for personal services should prepare a request for proposals to serve as the vehicle for seeking qualified contractors. The request for proposals should:



- specify the requirements of the personal services contract as determined by the needs;
- specify the mandatory qualifications of the outside contractor;
- outline the evaluation process to be followed in evaluating the proposals;
- reserve the right to reject any and all proposals and to request additional information from all proposers, if necessary; and,
- specify the procedure for submitting proposals.

To attract the largest number of proposals possible and increase the competitiveness of the process, Meridian Public School District should have published notices in the local newspaper and in trade papers of the cleaning industry. Also, school officials could have sent letters to companies which provide the type of services sought and notified them of the request for proposals process. Meridian Public School District records contain no formal request for proposals and no documentation of contacts with prospective vendors other than Marriott and ServiceMaster.

*Evaluation of Proposals*--Public entities seeking to contract for personal services should evaluate all proposals according to the process set forward in the request for proposals. The evaluation process should include, but not be limited to, reviewing the contractors' responsiveness to the requirements set forth in the request for proposals and evaluating the qualifications of the contractors. The focus of the evaluation process should be to determine the best proposal, which may not necessarily be the lowest bid. District records contain no documentation of a formal evaluation process in awarding the Marriott contract.

*Decision Process*--A cost-benefit analysis should determine whether the proposals submitted would represent an effective and efficient use of public funds. If the entity could perform the proposed services internally, it should weigh the costs of contracting out against the cost of performing the services internally. If the cost of either method, internal or external, is prohibitive, the alternative should be chosen. If the cost of each alternative is approximately the same, the method allowing for the best use of public funds should be chosen. In all instances, the entity's decisionmakers should document the methodology and rationale for the decision. District records contain no documentation of a cost-benefit analysis or of any formal decisionmaking process in awarding the Marriott contract.

*Monitoring and Evaluation*--Post-contract evaluation is a means of determining how well a contractor performed assigned tasks. Although Mississippi law does not require post-contract monitoring, it is an effective means of determining if such contracts should be sought in the future and determining the performance of a contractor.

Meridian school officials do monitor and evaluate Marriott's performance of the terms of the contract. Meridian school officials meet monthly with Marriott officials to monitor the areas under contract and address problems. The monthly meetings provide a recap of maintenance activity, custodial activity (beyond daily requirements), projects in process (for example, small construction projects), training of personnel, and work orders received and completed.

Each school year, district officials survey principals to rate the performance of Marriott. Principals rate how well the company cleans and maintains the buildings and grounds and how well it manages custodial and maintenance staff. For the 1995-96 school year, Marriott's composite survey score was 3.84 out of a possible 5, with a score of 1 representing poor performance and a score of 5 representing excellent performance.

Although the procedures Meridian Public School District followed in awarding the Marriott contract are legal, the district has paid over \$1 million to Marriott without knowing the cost of performing the same tasks internally or whether the bid accepted represented the best one available.

- *For the 1996-97 school year, the district paid approximately \$92,000 more for custodial, maintenance, and grounds services through the Marriott contract than if it had performed these services internally.*

The term of the district's contract with Marriott was five years, commencing on March 15, 1993, and continuing until March 14, 1998. From January 1993 through April 1997, Meridian Public School District has paid Marriott approximately \$1 million.

To determine the financial impact of the Marriott contract on the district's expenses for custodial and maintenance functions, PEER obtained financial information concerning 1995-96 custodial and maintenance expenses from the districts previously identified as comparable to Meridian in average daily attendance. Costs considered included salaries and benefits, outside services used in the custodial and maintenance functions (outside plumbers, electricians, repair services), and custodial and maintenance supplies. PEER used these costs to calculate a cost per square foot for custodial, maintenance, and grounds services at each of the districts. (It should be noted that custodial and maintenance costs are impacted by factors such as the number of custodial and maintenance

personnel on staff, the hourly wage of such staff, the age of each district's buildings, and other factors such as the type of floor surfaces [tile, wood, or carpet] in each district.)

The cost of custodial and maintenance per square foot at the comparable districts ranged from \$1.46 to \$3.46 per square foot for 1995-96, with an average among the districts of \$2.32. Meridian's cost per square foot was \$2.08. Although Meridian's cost per square foot is below the average, the opportunity exists to reduce costs of the custodial, maintenance, and grounds functions and save the district money.

The cost of the March 1997 to March 1998 contract with Marriott is \$259,217. Although a breakdown of the components of this amount is not available, PEER sought to compare the cost of the 1997-98 contract to projected costs had this function been performed internally. Exhibit 1, page 10, compares PEER's estimate of Meridian Public School District's internal costs of providing facilities management to the Marriott contract costs. The difference of approximately \$92,000 is attributable to Marriott Supporting Management (staff training and development, engineering support, custodial operational support, quality control, grounds management support, general liability insurance), Marriott's Pre-Tax Profit as quoted in the proposal and adjusted for inflation, and miscellaneous items such as costs associated with starting the Marriott office in Meridian and employee awards.

Meridian school officials should take note of this projected difference between the Marriott contract and performing at least some of these functions internally. For example, even allowing for a generous training budget for custodial, maintenance, and grounds, personnel, the district could reduce costs by conducting its own staff training. Marriott reports that it has provided the district's maintenance staff with 54 training sessions totaling 943 staff hours of in service training and the custodial staff has received 72 sessions of in service training totaling 1345 staff hours. If district officials offered comparable training as part of an internally managed program, the approximately \$92,000 difference between the programs would be reduced on a scale proportionate to the amount and cost of training provided.

PEER does not question Marriott's performance in fulfilling the contract. Some areas of the facilities management program have improved under Marriott's management. For example, Marriott has instituted a preventative maintenance program for the district. However, the district could have accomplished these improvements internally through a well organized program managed by qualified personnel with the proper background, experience, and training.

**Exhibit 1**

**Comparison of Estimated Internal Costs of Meridian Public School District's  
Facilities Management Program with Marriott Contract**

Estimated salaries and benefits for a Facilities Manager and an Assistant Facilities Manager: (1)	\$ 98,747.49
Janitorial supplies (2) (3)	44,815.88
Computer equipment (4) (3)	10,529.27
New custodial equipment (5)	5,574.45
Office expenses (3)	4,727.88
Custodial equipment maintenance (3)	<u>2,781.11</u>
Total	\$167,176.08 =====
Marriott contract	\$259,217.00
Difference	\$ 92,040.92

(1) Cost is based on an estimate provided by Meridian Public School officials. The amounts are comparable to similar positions in other districts that are approximately the size of the Meridian district.

(2) Janitorial supplies are purchased by Marriott.

(3) This amount is based on an amount cited in the revised Marriott proposal and adjusted for inflation since 1993.

(4) Equipment relates to the preventative maintenance program and is amortized over the term of the contract.

(5) The cost of new custodial equipment purchased by Marriott is amortized over the term of the contract.

SOURCE: PEER analysis of Meridian Public School District records.

### *Outside Consulting Work of Employees*

**Four Meridian Public School District officials working as consultants outside the district received double compensation for services performed during normal working hours during the 1996-97 school year.**

The State Department of Education (SDE) requests administrators from around the state to conduct workshops, lead training sessions, and participate in other SDE-sponsored activities. In return for this participation, the SDE pays the individuals for materials and preparation time for these events. SDE also reimburses individuals for mileage and, if overnight travel is required, for lodging and meal expenses.

Four administrators from Meridian have performed training activities at the request of the SDE since July 1, 1996. The training sessions of one administrator occurred only on Saturdays and another administrator's training sessions were after normal working hours. However, the other two administrators performed activities at the request of the SDE during normal working hours. All of these administrators received payment from both SDE and the Meridian Public School District. Because the latter two performed consulting activities during hours they would have normally worked for the district and because the time was not charged to personal leave or vacation time, they were doubly compensated for these hours.

Three other administrators also served as consultants for training not sponsored by the SDE--two for training sessions sponsored by a university or college and one as an independent consultant. The district granted the first two of these administrators professional school business leave with pay, and the third administrator took personal leave with pay. Because district employees on professional school business leave are considered to be away on school business, the time does not count as vacation time or personal leave and these two administrators were doubly compensated.

Mississippi law does not address what type of leave would be appropriate when performing this type of activity. Each school district formulates policy regarding what type of leave must be taken by individuals who contract to work outside the district. The Meridian Public School District has policies regarding outside employment but does not have a formal written policy directly addressing employees performing training or consultant activities outside of the district. One policy regarding non-school employment is directed toward teachers and does not mention any other type of employee. A second policy addresses outside employment in the following manner:

*Outside employment that would interfere with proper discharge of professional responsibility or that is not in keeping with the dignity of the profession is discouraged.*

Individuals performing this type of work for SDE sign contracts which read in part:

*The contractor certifies that there is no conflict of interest and that the appropriate leave will be taken to perform the work outlined in the contract.*

As noted above, the Meridian Public School District grants employees performing consultant services professional school business leave with pay, subject to approval by the employee's immediate supervisor and the superintendent. To determine the policy of other districts regarding this type of activity, PEER surveyed the ten districts closest to Meridian in average daily attendance. One of these districts allows employees to take some form of professional or school business leave with pay. Under this policy, the employee is considered to be away on school business and the time does not count as vacation time. Another district allows employees to take personal or administrative leave with pay and allows the superintendent to take school business leave, although any honorarium received by the superintendent would have to be remitted to the district. Four districts require the use of personal leave, compensatory time, or vacation days. Three districts reported no personnel performing consulting duties for SDE and those districts have no policy on the practice. (One of the comparison districts did not respond to PEER's inquiry.)

In the Meridian Public School District, as well as in other districts allowing individuals to take some type of professional leave with pay (which is not charged against the individual's personal leave or vacation time) when serving as a consultant during regular working hours, individuals may receive dual payment for one day's work. Since these individuals are already being paid by the requesting organization, districts could use the funds they would pay these employees for their day's work to help pay for other expenses of the district.

Although districts whose employees serve as consultants benefit because these personnel stay informed on educational trends, it would not be unreasonable to expect administrators at this professional level to be knowledgeable in their areas anyway and stay current on trends. Also, these districts lose the benefit of these employees' expertise when they are absent from their regular positions to engage in consulting activities.

### *Hiring Personnel with Emergency Certificates*

**For the 1996-97 school year, PEER found no evidence that the Meridian Public School District favored hiring persons with emergency teaching certificates over qualified, certified teachers.**

A citizen complaint alleged that instead of hiring qualified teachers for available positions, the Meridian Public School District hires individuals for whom the district must acquire emergency certificates. Such emergency teaching certificates are issued by the State Department of Education to help alleviate emergency situations in school districts with a shortage of teachers holding a particular endorsement needed by the district.

Local school districts must submit a formal statement to the State Board of Education that an emergency situation exists and request the issuance of an emergency certificate. A candidate for an emergency certificate must have certification in another teaching area or meet a majority of the requirements for certification in the requested area. SDE issues emergency certificates only at the A, or bachelor's degree, level. Currently, an emergency certificate is valid for one year and can be renewed for two additional one-year periods provided the candidate successfully completes annually a minimum of six semester hours of course work in a prescribed course of study approved by the college or university the candidate is attending. Beginning July 1, 1997, emergency certificates will be issued for a three-year period and will not be renewable. During the three-year period, persons with emergency certificates must complete all requirements as prescribed by the teacher certification office of the SDE in order to receive an A level certificate.

PEER staff obtained from the SDE the number of emergency certificates requested as of September 20, 1996, by the ten districts comparable to Meridian in average daily attendance. As of that date, Meridian had requested seven emergency certificates. The number of emergency certificates requested by the ten comparable districts as of that date ranged from 4 to 28 for an average of 7.6 emergency certificates per district. If the district requesting 28 emergency certificates is omitted, the next highest number was 9 and the average becomes 5.3 emergency certificates per district. Nothing in this data suggests the number of emergency certificates requested by the Meridian School District is unusually high.

By March 1997, Meridian Public School District had requested nine additional emergency certificates, for a total of sixteen emergency certificates issued to teachers in the district out of a total of 479 classroom teachers. Of the sixteen emergency certificates issued, nine were in special education and one emergency certificate each in computer, talented and gifted program, art, carpentry, science, elementary education and library.

PEER reviewed the district's files for internal posting of vacancy announcements and advertisements in the local newspaper to determine the efforts of district officials in seeking qualified, certified applicants before applying for emergency certificates. (See Exhibit 2, page 15.) Nine of the sixteen positions which were filled by persons holding emergency certificates did not appear on an internal posting of vacancies, although the district's official policy is to announce position openings to currently employed personnel. Of these nine positions, seven were advertised in the local newspaper. The remaining two positions did not appear in any advertisement. One of these positions had been filled by the same person with an emergency certificate during the 1995-1996 school year and who had been employed by the district in prior years in various positions. The second position was filled with a person who had fulfilled student teaching requirements at the district and had an application on file.

PEER also investigated two specific instances alleged to be examples of "passing over" qualified, certified persons in favor of individuals requiring emergency certificates. In one case, the allegation was that a teacher's aide with a teaching certificate was denied a teaching slot which had become open at mid-year and the position was given to a substitute teacher for the remainder of the school year. A review of the teacher's aide's file revealed the aide was not certified as a teacher. In the second allegation, two persons certified as teachers applied for positions teaching English in a junior high. It was alleged these individuals were not hired in favor of two persons requiring emergency certificates. A review of the teaching certificates of the English teachers at the junior high in question revealed each English teacher was certified in English. Neither held an emergency certificate.

A review of the district's files shows that not all positions filled by a person requiring an emergency certificate had been posted internally or were advertised. Because the district did not post or advertise all vacancies every time, it is possible that qualified applicants were not made aware of vacant positions. However, the files do not indicate that qualified persons known to the district were overlooked in favor of persons requiring emergency certificates.

### *Administrators' Salary Increases*

**Although ten of forty-three Meridian Public School District administrators received salary increases in excess of \$5,000 over a two-year period, these salary levels are based on objective criteria such as education, responsibilities, and experience and are consistent with salaries of administrators in districts of similar size.**

During the 1994-95 school year, the Meridian School Board contracted with Mississippi State University to evaluate the district's compensation plan for administrators and make recommendations for a new plan. As



<b>Exhibit 2</b>		
<b>1996-97 Meridian Public School District Positions Filled by Personnel with Emergency Certificates</b>		
<b>Area of Emergency Certificate</b>	<b>Date of Advertisement</b>	<b>Date of Posting</b>
Mild / Moderate Handicap	June 1996	Not posted
Mild / Moderate Handicap	June 1996	Not posted
Educational Hand.	June 1996	Not posted
Educational Hand.	June 1996	Not posted
Computer Applications	Not Advertised (*)	Not posted
Talented and Gifted	July 1996	July 1996
Art	Not Advertised (**)	Not posted
Carpentry	August 1996	Not posted
Educational Hand.	August 1996	Not posted
Science	Not Advertised (***)	May 1996
Mild / Moderate Handicap	November 1996	November 1996
Mild / Moderate Handicap	November 1996	November 1996
Elementary	6/1/1996 †	Not posted
Mild / Moderate Handicap	December 1996	November 1996
Mild / Moderate Handicap	December 1996	November 1996
Librarian	June, July, Nov. 1996	July 1996
(*) This position was advertised in the Meridian Star in January 1995. This person received an emergency certificate for the 95 - 96 school year. This person also received an emergency certificate for the 96 -97 school year.		
(**) This person had student teaching in the district and had an art background. This person has an application on file dated July 11, 1996 and was offered employment on August 20, 1996.		
(***) This person had an application on file dated July 18, 1996 and was offered employment August 21, 1996.		
† This person's application was dated June 12, 1996.		
SOURCE: PEER analysis of district records.		

part of the study, the university compared salaries of administrators in Meridian to those in five other districts in the state. The study found Meridian Public School District's salaries to be below average in most cases.

The compensation plan proposed by Mississippi State University recommended a base salary of \$23,000, which was derived from an analysis of the salary schedule for teachers. This amount corresponds to rounding up to the next thousand the beginning teacher salary (\$22,900) of a person with no experience and an AAAA (the doctoral level of teacher certification) certificate level. This base may be increased by eight factors: (1) length of annual contract; (2) complexity of job (for example, whether a person is an assistant principal or a principal); (3) number of employees supervised; (4) district-wide responsibility such as is found with an assistant superintendent; (5) experience as a Meridian administrator; (6) number of students supervised; (7) highest level of education; (8) prior teaching or administrative experience outside of the Meridian district. Each of these factors are multiplied by the base salary to determine increases in the base.

The district implemented the new salary plan in the 1995-96 school year. Under the new plan, the district froze the salaries of eight administrators because their salaries were higher than the amounts recommended by the new plan. Under the new plan, twenty-six administrators received salary increases, with ten administrators receiving increases over \$5,000 over a two-year period. Nine administrators either were changing administrative positions or were administrators new to the district.

During the 1995-96 school year, administrator raises were limited to no more than \$4,000 for that year. For the 1996-97 school year, the district removed this cap and five administrators received raises in excess of \$4,000. The largest raise was approximately \$11,000 to the Executive Director of Student Services. These large raises represented a one-time realignment of salaries. Unless the base for administrators is changed by an increase in teacher salaries, most administrators will receive annual raises of \$230 which is attributable to another year of experience.

PEER compared the salaries of Meridian administrators to the salaries of administrators in the ten districts which are closest to Meridian in average daily attendance. Positions chosen for comparison have clearly defined responsibilities and the majority of districts have personnel in each position. When districts have multiple employees in a job category, such as principal, the highest salary of an employee in that category was chosen for comparison purposes. Although the salaries of school officials are a matter of public record, PEER sought to protect the privacy of school officials in the comparable districts. Accordingly, instead of using the names of the districts in the comparison, PEER numbered the districts 1 through 10 in Exhibit 3, page 17. (Numbers assigned to the districts on this exhibit do not necessarily represent the same district in each job category.) Even after

**Exhibit 3**

**Comparison of Administrative Salaries in Meridian School District to those of  
Other Mississippi School Districts of Comparable Size,  
1996-97 School Year**

<b>Superintendent</b>		<b>Asst. Superintendent</b>		<b>Director, Voc. Programs</b>		<b>Principal</b>		<b>Asst. Principal</b>	
	<b>Salary</b>		<b>Salary</b>		<b>Salary</b>		<b>Salary</b>		<b>Salary</b>
District 1	\$100,000	District 1	\$70,304	District 1	\$58,524	District 1	\$70,304	District 1	\$53,761
District 2	99,500	District 2	69,736	District 2	57,870	District 2	69,369	District 2	53,000
District 3	95,000	District 3	67,006	District 3	54,031	District 3	62,341	District 3	52,764
District 4	92,000	District 4	65,367	District 4	50,893	District 4	58,821	District 4	50,762
District 5	88,400	District 5	59,793	District 5	50,000	District 5	55,236	District 5	48,056
<b>Meridian</b>	<b>86,350</b>	District 6	59,750	District 6	49,680	District 6	55,000	District 6	48,027
District 6	70,143	<b>Meridian</b>	<b>58,000</b>	District 7	49,454	District 7	53,085	District 7	46,500
District 7	67,800	District 7	56,420	District 8	48,000	<b>Meridian</b>	<b>52,060</b>	District 8	44,800
District 8	61,350	District 8	53,250	District 9	46,484	District 8	52,000	District 9	44,000
District 9	59,020	District 9	52,000	<b>Meridian</b>	<b>46,299</b>	District 9	50,680	<b>Meridian</b>	<b>43,432</b>
District 10	55,500	District 10	0	District 10	43,263	District 10	48,456	District 10	42,725
<b>School Business Officer</b>		<b>Director, Transportation</b>		<b>Director, Food Services</b>		<b>Special Ed. Supervisor</b>		<b>Suprv Title 1/ Dir. Fed. Prog</b>	
	<b>Salary</b>		<b>Salary</b>		<b>Salary</b>		<b>Salary</b>		<b>Salary</b>
District 1	\$66,252	District 1	\$50,893	District 1	\$57,013	District 1	\$54,813	District 1	\$57,625
District 2	63,940	District 2	43,920	District 2	49,693	District 2	54,577	District 2	56,010
District 3	63,443	District 3	43,172	District 3	46,415	District 3	50,893	District 3	53,435
District 4	57,636	District 4	41,749	District 4	45,341	District 4	50,137	District 4	51,000
District 5	57,000	District 5	40,613	District 5	43,899	District 5	49,454	District 5	50,893
<b>Meridian</b>	<b>55,665</b>	<b>Meridian</b>	<b>40,020</b>	District 6	43,680	District 6	48,063	District 6	49,454
District 6	50,893	District 6	39,257	District 7	39,120	District 7	46,140	District 7	49,452
District 7	49,454	District 7	34,312	<b>Meridian</b>	<b>37,800</b>	District 8	45,000	<b>Meridian</b>	<b>48,420</b>
District 8	44,063	District 8	33,957	District 8	33,957	District 9	44,135	District 8	47,300
District 9	43,850	District 9	24,330	District 9	32,124	District 10	43,915	District 9	44,050
District 10	26,520	District 10	0	District 10	29,595	<b>Meridian</b>	<b>41,520</b>	District 10	0
SOURCE: State Department of Education database.									
NOTE: For comparative purposes, PEER chose ten Mississippi school districts with an average daily attendance similar to that of the Meridian School District (+ or - 1,000 students).									
*District has no administrator serving in a position with this SDE coding.									

salary increases under the new compensation plan, the salaries of Meridian administrators fall in the middle or lower half of the salary ranges of districts of comparable size. Thus the salaries of the Meridian administrators do not appear to be unreasonably high in comparison to districts of similar size (based on average daily attendance) in Mississippi.

Because the Executive Director of Student Services received such a large salary increase, PEER also chose this position for comparison (after including the salary increase). Several districts did not have an individual classified in this particular position. However, of the four districts which did have an individual so classified, two districts paid a higher salary than does Meridian and two paid a lower salary. (See following table.)

#### **Director of Student Assessment**

	Salary
District 1	\$54,593
District 2	53,219
<b>Meridian</b>	<b>52,980</b>
District 3	49,454
District 4	45,956

MISS. CODE ANN. Section 37-61-9 imposes limitations on budgeted expenditures for salaries and fringe benefits paid for central administration costs from all sources of revenue for Support Services in General Administration, Business, and Central (services such as data processing and planning). Such expenditures are limited to no more than \$150,000 plus four percent of the expenditures of the district. According to the SDE, for 1995-96 the ceiling for Meridian's administrative expenses was \$1,475,390, with actual expenditures of \$892,417. Based on the 1996-97 budget obtained from Meridian, the ceiling for administrative expenses is \$1,516,095, with budgeted expenditures of \$939,034. Even after administrators received the salary increases, the district's administrative expenses are well within guidelines imposed by state law.

#### **Legal Issues**

##### *Possible Violation of Conflict of Interest Laws*

**The hiring of the Meridian Superintendent's husband as Director of Transportation may constitute a violation of conflict of interest laws.**

On February 7, 1995, the Meridian Public School Board selected Dr. Jayne Sargent as Superintendent of the Meridian Public School District. In

April of that year, the board hired Mr. Joe Sargent, her spouse, to serve as the district's Director of Transportation beginning July 1, 1995.

MISS. CODE ANN. Section 25-4-105(1) states:

*(1) No public servant shall use his official position to obtain pecuniary benefit for himself other than that compensation provided for by law, or to obtain pecuniary benefit for any relative or any business with which he is associated.*

For purposes of this provision, and other provisions in Chapter 4 of Title 25, a public servant includes officers, employees of government, and any other person who receives a salary from government. Clearly, the superintendent is a public servant. The term "pecuniary benefit" includes money, property, commercial interests, or anything else the primary significance of which is economic gain. A relative includes spouses, children, and parents. (For the definitions of these terms, see CODE Section 25-4-103.)

State law does allow some situations in which school districts may hire relatives of a supervising principal or superintendent without conflict of interest. If the following conditions exist, the practice appears to be permissible under state law (see CODE Section 37-9-17):

- the employee in question is required to be a certificated employee as designated by the State Board of Education;
- the employee in question will be a school-based, rather than central office-based, employee;
- the employee in question is recommended to the hiring authority for employment by someone other than the relative; and,
- the employee in question would be supervised by someone other than the relative.

Following are discussions of each of these conditions and their relevance to Meridian Public School District's hiring of the Superintendent's spouse as Director of Transportation.

*Requirement to be a Certificated Employee*--MISS. CODE ANN. Section 37-9-17 provides the method by which school districts are to select employees. The section makes clear the process principals must follow in recommending certificated and non-instructional personnel for annual election to employment by the hiring authority. This section states, in part:

*On or before April 1 of each year, the principal of each school or such other person designated or authorized by the school*

board, shall recommend to the superintendent of the school district or such other person designated or authorized by the school board, the certificated employees or noninstructional employees to be employed for the school involved except those certificated employees or noninstructional employees who have been previously employed and who have a contract valid for the ensuing scholastic year.

.....

***The school board of any school district shall be authorized to designate a personnel supervisor or another principal employed by the school district to accept the recommendations of principals or their designees for certificated employees and to transmit approved recommendations to the board. [1989 amendatory language is in bold type]***

The language in the 1989 amendment which authorized substitutes for principals and superintendents in making recommendations to their superiors applies to certificated personnel only.

Interpretation of this amendment being directed toward certificated employees is supported by a 1991 Attorney General's opinion to the attorney for the Benton County School Board. The opinion states:

*In response to situations involving conflict of interest, the 1989 Mississippi Legislature amended Section 37-9-17 to provide for the school to designate a personnel supervisor or another principal employed by the district to recommend **certificated employees** for a principal, and to accept the recommendations of principals and transmit the approved recommendations to the board. [emphasis added]*

The Attorney General's opinion specifies certificated employees for special treatment. Non-instructional employees are not included in the exception. CODE Section 37-9-1 defines certificated and non-instructional employees as follows:

*The term 'certificated employee' shall mean any other employee of a public school district required to hold a valid certificate by the Commission on Teacher and Administrator Education, Certification and Development. The term 'non-instructional employee' shall include all employees of school districts other than superintendents, principals and certificated employees.*

Although the Meridian Public School District's job requirements for Director of Transportation specify that the individual filling the position must hold AA certification with endorsements in educational

administration and supervision, the requirements of the Commission on Teacher and Administrator Education, Certification and Development would take precedence. The commission does not require a certificate for this position or its equivalent; therefore, a transportation director would be considered a non-instructional employee.

*Requirement to be a School-Based Employee*--Section 37-9-17, including the 1989 amendment, applies to school district employees who are assigned to schools and not those assigned to the district office. This section makes clear the process principals must follow in recommending certificated and non-instructional personnel for annual election to employment by the board. The section states that the principals direct their recommendations to the superintendent or his designee, for employees "to be employed for the school involved." These recommendations are then passed on to the board for consideration. This section does not speak to any type of employee other than those recommended by principals or their designees for employment at their schools. Consequently, the 1989 amendments which allow for oversight and recommendations by non-relatives would not be applicable to a district office transportation manager.

The Attorney General's Office has addressed the scope of this section in several opinions (see July 1991 opinion to Charles Jackson Superintendent, Wilkinson County Schools; April 1987 opinion to Calvin Williams, Claiborne County Board of Education; May 1986 opinion to Sharion Richardson and February 1986 opinion to David Straughter). These opinions make clear that the purpose of this section is to provide the means by which principals direct their recommendations for certificated and non-instructional personnel to school superintendents.

Because job responsibilities of the Meridian Public School District's Director of Transportation involve all schools in the district, the individual filling this position would be considered a central office employee, rather than a school-based employee.

*Recommendation to the Hiring Authority for Employment by Someone other than the Relative*--The legal authority for school districts to employ non-school-based, non-instructional employees is found in CODE Section 37-9-3:

*Within the limits of the available funds, the superintendent of schools or administrative superintendent of a school district shall recommend to the school board thereof all non-instructional employees to be employed and may prescribe the duties thereof.*

This section requires that non-instructional employees be hired by the board upon recommendation of the superintendent. (Mississippi no longer has

“administrative superintendents.” The position of administrative superintendent was repealed from and after January 1, 1992. See Section 37-6-3 and Editor’s Note 37-9-16. Section 37-6-3 provides that the superintendent of each school district performs the duties of administrative superintendent.)

Although letters to the Meridian Public School Board imply that an assistant superintendent of the district would make recommendations to the board on the date that the board approved Mr. Sargent’s initial hiring and renewal (see provisions of Section 37-9-17), minutes of these board meetings do not record such recommendations. Even if an assistant superintendent had made the recommendations, Section 37-9-3 establishes no provision for persons other than the superintendent to make recommendations to the board for non-certificated, non-instructional personnel. Regardless, because the Director of Transportation is a non-certificated, central office-based position as noted above, Mr. Sargent’s hiring and renewal would not be exempt from conflict of interest laws.

*Supervision by Someone other than the Relative*--Section 37-9-17 allows the school board to designate another district employee to supervise and make recommendations to the board regarding certificated school employees. Thus a **certificated** employee could have a supervisor other than the superintendent ultimately responsible to the board for that employee.

At the Meridian Public School District, Mr. Joe Sargent reports to Executive Director of Student Services who reports directly to Dr. Jayne Sargent. Thus, even though Dr. Sargent is not Mr. Sargent’s immediate supervisor, he is not a certificated employee as discussed above and his employment would not be allowable under Section 37-9-17.

*Conclusion*--In light of applicable Ethics Opinions, Attorney General’s opinions, and cases construing Sections 25-4-105(1) and 37-9-17, the hiring of the Meridian Superintendent’s husband as Director of Transportation may constitute a violation of conflict of interest laws for the following reasons:

- *Dr. Sargent has control over the supervisory personnel who make recommendations regarding her spouse.*

While there is no evidence that Dr. Sargent knowingly violated state conflict of interest laws and went to great effort to follow an alternative method for directing recommendations regarding Mr. Sargent’s employment to the Meridian School Board, these means are not recognized as legitimate under Section 37-9-17, or any other provision of law, and would bring Ms. Sargent into conflict of interest based on the theory announced in Ethics Opinion 93-206 E. This opinion stated that supervisors who supervise their relative’s supervisor are using their office for the



benefit of relatives in violation of Section 25-4-105(1) whenever the subordinate relative receives compensation from funds over which the supervisor relative has ultimate control.

- *Failure to take action against the employee whose employment was not sanctioned by law would constitute use of office for pecuniary benefit of a relative.*

As noted above, a school board has no authority to hire a non-instructional employee without first receiving a recommendation from the superintendent. Under Section 37-9-14(2)(y), the superintendent may hire and dismiss non-instructional personnel as provided by law. While there are other procedures for hiring such personnel, the only legal restriction is found in Section 37-9-59, which bars superintendents from failing to renew contracts of non-instructional personnel for the reason that their children attend schools other than those of the district. Otherwise such employees are at-will personnel. An Attorney General's opinion dated December 17, 1987, notes that non-certificated employees are at-will personnel with no property rights in their employment. The continued sufferance of an at-will employee who was not hired in accordance with law, and continued approval of such employee's payroll warrant (see Section 37-9-14[3] and [4] on the issuance of warrants by a superintendent), could constitute use of office as prohibited by Section 25-4-105(1).

#### *Possible Violation of Open Meetings Act*

**During February 1997, the Meridian Public School Board held four executivesessionstodiscussthesearchforanewsuperintendent. Under the Open Meetings Act of 1975, such general discussions of personnel matters are not exempted from open meetings.**

The Legislature enacted the Open Meetings Act in 1975 for the purpose of ensuring that the making of public policy and business is conducted in the open. In CODE Section 25-41-7, the Legislature specified items which may be exempted from the requirements of open meetings and discussed by officials in executive sessions. Included in the exempted items are:

- transaction of business and discussion of personnel matters relating to the job performance, character, professional competence, or physical or mental health of a person holding a specific position; and,
- transaction of business and discussions regarding employment or job performance of a person in a specific position or termination of an employee holding a specific position.

The Mississippi Supreme Court decision of *Hinds County Board of Supervisors v. Common Cause of Mississippi*, 551 So 2d. 107 (Miss. 1989) establishes clear guidelines for deciding when to go into executive session. This case declares that the state's policy in regard to open meetings is that generally, meetings should be open so the public can observe and be informed of public bodies' consideration of policy issues.

PEER reviewed the minutes of the regular and special meetings of the Meridian Public School District Board from March 1996 through February 1997. During this period the board routinely used proper procedures to enter executive sessions for the discussion of personnel and student disciplinary matters. However, on four occasions during February 1997, the school board went into executive session to discuss the search for a new superintendent. Nothing in the minutes reflects the need for discussing these matters in executive session.

Exemptions from the Open Meetings Act listed above allow executive sessions to discuss matters concerning a specific person currently employed, discussions about a specific person being considered for employment in a specific position, or termination of an employee in a specific position. The exemptions do not extend to general discussions regarding filling a position.

The Meridian Public School District is not in full compliance with the requirements of the Open Meetings Act. Using executive sessions to discuss in general terms the search for a new superintendent deprives the public of full access to school board meetings as granted under the Open Meetings Act.

## ***Recommendations***

### **Administrative Issues**

#### ***Contract for Custodial, Maintenance, and Grounds Services***

1. Prior to expiration of the district's contract with Marriott in March 1998 and using existing resources, Meridian school officials should conduct a needs assessment to determine the cost of performing this service internally. After calculating the cost of performing these services internally and defining the needs of the district, the district should issue a request for proposals. The district should evaluate proposals by a predetermined method, with full documentation of the decision process. These proposals should be compared to the costs of an internal program. From this information, school officials should fully document their decision on whether to continue contracting or to perform the service internally.

#### ***Outside Consulting Work of Employees***

2. Several options are available for addressing the situation of outside consulting work of district employees:
  - the Legislature could pass legislation to address the situation;
  - policymaking regarding this issue could continue to be left to each school district; or,
  - the State Department of Education could change its policy to that of only paying for expenses.

Under either of the first two options, the following points should serve as guidelines.

- A. All occasions which require personnel to be outside of their home district to lead a training session should require approval of an immediate supervisor and the superintendent. If the request involves a superintendent, approval of the school board should be required.
- B. Individuals leading training outside of their home districts should have the option of either taking personal leave with pay or taking a type of administrative or professional leave without pay.

- i. If individuals take personal leave with pay, they could receive payment for the training session from the sponsoring organization, but days away from their district would be treated as leave days.
  - ii. If individuals take a type of leave without pay, they could receive payment for the training session from the sponsoring organization but would not receive their regular salary.
- C. Individuals could also be allowed to take a type of administrative or professional leave with pay but require that any payments above materials and expenses be remitted to their home school district.

The SDE could change its policy to paying only for mileage, materials, and expenses for overnight travel. Under this option, approval to perform the training would still be granted by the districts with individuals granted leave with pay. However, this would require individuals to prepare for training sessions on their own time without receiving any payment for such services. Districts could have the option of allowing individuals to prepare for such training during normal working hours, provided the training would also be presented to personnel in the home district.

- 3. The Meridian Public School Board should adopt written policies and procedures to address personnel performing consultant or training activities outside of the district. The policy should specify the procedures to follow in requesting approval of such and who should approve such activities. The Meridian School Board should consider whether it wishes to continue the practice of paying individuals for days when such individuals are receiving compensation from another source for conducting the training. The following options are available:
  - A. require individuals to take personal leave with pay;
  - B. require individuals to take administrative leave with pay and require that any payments above materials, mileage, and expenses be remitted to the district; or,
  - C. require individuals to take administrative leave without pay.

#### *Hiring Personnel with Emergency Certificates*

- 4. Meridian Public School District officials should internally post and publicly advertise all job vacancies in order to exhaust all possibilities before applying for emergency certificates.

## **Legal Issues**

### *Possible Violation of Conflict of Interest Laws*

5. The Ethics Commission should review the hiring of the Meridian Superintendent's spouse to determine whether it constitutes a violation of conflict of interest laws.

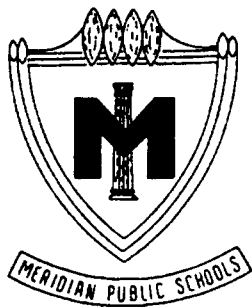
In the future, the Meridian School Board should consider seeking guidance from the Ethics Commission and the Attorney General prior to entering into employment arrangements with a superintendent's relative.

6. Because the Meridian Public School Board did not follow established practice for hiring non-instructional employees when extending contracts to Dr. Sargent's spouse, the State Auditor, under authority of CODE Section 7-7-211, should review the actions of the board to determine whether any actions should be brought to recover the misspent funds.

### *Possible Violation of Open Meetings Act*

7. The Meridian Public School Board should only go into executive session to discuss personnel matters when there is a demonstrable personnel issue which fits within the scope of Section 25-41-7 and the minutes reflect the general nature of the issue.

# Meridian Public School District



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Jayne Sargent, Ed. D.  
Superintendent



June 30, 1997

Max K. Arinder, Ph.D.  
Executive Director  
Joint Committee on Performance  
Evaluation and Expenditures Review  
Post Office Box 1204  
Jackson, Mississippi 39215-1204

**RE: RESPONSE TO THE LIMITED MANAGEMENT REVIEW OF THE  
MERIDIAN PUBLIC SCHOOL DISTRICT'S CENTRAL OFFICE**

Dear Dr. Arinder:

Please accept this letter as the Meridian Public School District response to Limited Management Review of the Meridian Public School District's Central Office. There were 6 complaints (believed to have been made by current or former employees of the Meridian Public School District) which the limited management review dealt with. The District will respond to four of the complaints in view of the fact that the remaining two complaints were found in favor of the District.

**Contract For Custodial, Maintenance and Grounds Services:**

As time has passed, the daily cleaning and maintenance of our buildings has passed the use of soap and water to clean the floors and the use of fans for ventilation. We now must abide by numerous federal regulations. Marriott has brought the Meridian Public School District into the 21<sup>st</sup> Century in the area of custodial, maintenance, and grounds services.

The school district respectfully differs with the finding that "The Meridian Public School District entered into a five-year contract for over \$1 million for limited management or custodial, maintenance, and grounds services without performing an objective analysis of its need for an outside provider. The decision to contract rather than managing these functions internally resulted in increased expenses of approximately \$92,000.00 for the 1996-1997 school year."

On the contrary during the year 1993 the school administration examined its operations and became aware of the need to improve the quality of its custodial services, its maintenance services and its grounds services. The school administration reviewed its' in place staff and reached the conclusion that it did not then have personnel in its employment that possessed the training and the experience needed to bring about the needed improvement in its custodial services, its maintenance services and its grounds services.

The school administration found that the State of Mississippi does not offer a service to school districts to train management and supervisory personnel for its custodial service employees, its maintenance service employees and its grounds service employees.

The school administration reached a management decision that it did not have in house capability to provide the training and the experience needed to produce qualified management and supervisory personnel for its custodial service employees, its maintenance service employees and its grounds service employees.

The school administration reached a management decision that the school district owned buildings and equipment in those buildings which contained many different kinds of material, products and machinery; that there was a need for the school district to care for, to maintain and to preserve its buildings and equipment; that there were many products and items that were available on the market to aid in caring for, maintaining and preserving its buildings and equipment; and, that the school district did not have in house capability to evaluate these many products and items and select the better products.

Based upon the school administration prior management decisions stated above the school administration reached a further management decision that it should retain its custodial employees, retain its maintenance service employees and retain its grounds service employees; and, that the school district should seek to contract with an outside vendor that possessed the needed training, expertise and experience to manage and supervise the school district custodial, maintenance and grounds employees as well as to evaluate the many products available to aid the district in caring for, maintaining and preserving its buildings and equipment.

Therefore, the school district represents to the committee that as outlined above it did perform an objective analysis of its need for an outside provider before seeking such an outside provider.

The school administration sought the services of an outside provider. The school administration successfully negotiated a management contract with Marriott Corporation with world wide holdings which it manages.

The school district respectfully differs with the Committee finding that "the decision to contract rather than managing these functions internally resulted in increased expenses of approximately \$92,000.00 for the 1996-1997 school year."

On the contrary the school administration represents to the Committee that the \$92,000.00 is attributable to additional support services provided to the school district in the following areas:

- Staff
- Engineering Support
- Custodial Operational Support
- Quality Control
- Grounds Management Support
- Preventative Maintenance System and Support
- Federal Regulations Update/Review

Since most of these benefits fall in the intangible realm of district business management, it is difficult to place a dollar figure on any individual service. Certainly the improvement that we have seen in our Custodial/Management program has been worth the dollars spent on this contract. The area of Preventative Maintenance System/Support has already saved our district many dollars in repair and revitalization costs.

We take pride in the Committee's finding that our district is spending only \$2.08 per square foot for plant maintenance and custodial services while the average district surveyed was spending \$2.32 per square foot. We feel that we are moving close to the point of maximum efficiency in our Custodial/Maintenance program. We believe that the Marriott contract has been profitable for the district.

As more Mississippi Public School Districts begin to move more into the arena of contracting with outside support and service vendors, the state should strive to provide more up-front guidance on the processes and measures that the districts will be expected to use in securing the services of these vendors and contractors. There is virtually no guidance in this area at the present time.

#### Outside Consulting Work Of Employees

The four employees who provided outside consulting services during the year under review were absent from the district the following number of days:

- Employee 1- Four Days
- Employee 2- Three Days
- Employee 3- Three Days
- Employee 4- Two Days

The Meridian Public School District has traditionally granted professional leave to employees, including teachers and administrators, for time spent conducting seminars, workshops, and training sessions. Any payment made directly to the employees by the sponsoring organization of the seminars, workshops, or training sessions has been considered payment for the employee's preparation time only. Such payments tend to be nominal and often



are meant to serve as reimbursement for seminar supplies and materials.

Our staff that participates in conducting seminars, workshops and training sessions bring back to our school district valuable information that helps our district.

#### Possible Violation Of Conflict Of Interest Laws

While the State Department of Education does not require the Director of Transportation to hold a teaching certificate, the Meridian Public School District policy has required that the Director of Transportation hold a teaching certificate. This policy was in place before I was employed as Superintendent by the district.

The District felt it was following the law in view that the law does allow a Superintendent's spouse to be a teacher in the same district. There was no attempt by the District to intentionally disregard the state law in the hiring of Mr. Sargent. Mr. Sargent as Transportation Director provided valuable services to the District which the District would have had to pay another individual to perform.

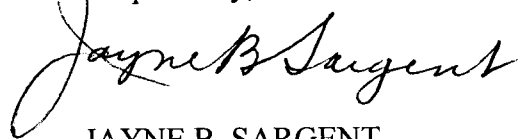
#### Possible Violation Of Open Meetings Act

The Board of Trustees can only speak through its minutes. While the Board Minutes referred to may reflect the general discussions of "search for new superintendent", the Board was actually reviewing resume's and discussing applicants. In hiring a Superintendent, most candidates do not want their current employers to know they are looking for new employment. It is difficult to protect the applicant while also trying to meet the Open Meetings Act of 1975. The District does not feel there has been a violation of the Open Meetings Act of 1975, and the Board of Trustees will continue its effort to abide by the Open Meetings Act of 1975.

With regard to the Committee recommendation, you are aware that this is my last day of employment with the Meridian Public School District. I will pass along to my successor the Committee's recommendations and suggest that your recommendations be studied carefully by the school administration and considered by the Board of Trustees for implementation.

I thank you for your careful, thoughtful and considerate review of these matters.

Respectfully,

A handwritten signature in cursive script that reads "Jayne B. Sargent". The signature is written in dark ink and is positioned above the printed name and title.

JAYNE B. SARGENT  
Superintendent

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## PEER Staff

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### Director

Max Arinder, Executive Director  
Ava Welborn

### Administration and Support Division

Steve Miller, General Counsel and  
Controller

Shirley Anderson  
Thelisa Chapman  
Louwill Davis  
Sam Dawkins  
Ann Hutcherson  
Larry Landrum  
Mary McNeill  
Pam Sutton

### Evaluation Division

James Barber, Division Manager  
Kathleen Sullivan, Division Manager

Michael Boyd  
Ted Booth  
Katherine Stark Frith  
Barbara Hamilton  
Dale Hetrick  
Kelly Lockhart  
Joyce McCants  
David Pray  
John Ringer  
La Shonda Stewart  
Linda Triplett  
Larry Whiting

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