

Mr. Agustin J. Barrera, Board Member

SUBJECT: REQUEST AUTHORIZATION TO RETAIN THE LAW FIRM OF HOLLAND & KNIGHT, LLP, TO PURSUE ALL AVAILABLE REMEDIES TO THE LEGISLATIVE MODIFICATION OF THE DISTRICT COST DIFFERENTIAL (DCD) COMPONENT OF THE FLORIDA EDUCATION FINANCE PROGRAM (FEFP) FORMULA AND TO REQUEST ASSISTANCE FROM OTHER DISTRICTS WHICH HAVE BEEN IMPACTED

COMMITTEE: FACILITIES MANAGEMENT

The Florida Legislature passed a modification to the District Cost Differential (DCD) component of the Florida Education Finance Program (FEFP) formula resulting in a reduction in funding to high-cost districts. The modification to the DCD was based on a report prepared by the University of Florida. The new methodology uses average wages, excluding teachers, with some statistical smoothing in lieu of the market basket of goods. As authorized by agenda item A-7 at the April 13, 2004, Board meeting, staff retained the services of experts in public education finance to review the University of Florida report, and their preliminary findings are that the report is flawed and the modifications to the DCD are unjustified.

Based on this information and preliminary opinions from Holland & Knight, LLP, also retained under the authority of the above referenced Board action, it is believed that the Constitutional requirement that "Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools..." has been violated by the 2004 Florida Legislature, giving rise to realistic opportunities for the Board to seek relief.

The law firm of Holland & Knight, LLP, has identified three possible courses of action including:

- submission of a formal request to the Governor for a veto of the FEFP based on the modification to the DCD;
- pursuit of legal action in court to constitutionally challenge the change in school funding; and/or
- pursuit of possible administrative remedies related to the Florida Department of Education's role in the change in the calculation methodology of the Florida Price Level Index (FPLI).

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It is important that the district move quickly to develop an appropriate strategy to address the significant impact that the DCD modification will have on this and 26 other school districts statewide. Including Miami-Dade County Public Schools, 27 high-cost districts have been impacted by the action of the Legislature to modify the FEFP formula. Additionally, this district should reach out to those other districts, including our partners in the Tri-County Coalition, Broward and Palm Beach, requesting their assistance in this effort. Such assistance may include a sharing of the cost for legal counsel, education finance experts and the like, retaining other attorneys and/or providing staff time, expertise, or other resources to assist in the effort to overturn the unjustified modification of the DCD.

**ACTION PROPOSED BY
MR. AGUSTIN J. BARRERA:**

That The School Board of Miami-Dade County, Florida authorize the Superintendent to:

1. retain Holland & Knight, LLP, to pursue all available remedies, including litigation, to redress the legislative modification of the District Cost Differential (DCD) component of the Florida Education Finance Program (FEFP) formula;
2. establish a budget for this engagement and report it to the Board at the June 16, 2004 meeting;
3. request assistance from other districts which have been impacted; and
4. confirm the Superintendent's request to the Governor to exercise his veto authority and veto line 81 of the 2004 General Appropriations Act – Grants and Aids to Local Governments – Florida Education Finance Program.

ADDED