

Dr. Martin S. Karp, Board Member

SUBJECT: APPROVAL OF RESOLUTION AND AUTHORIZATION FOR SCHOOL BOARD TO PARTICIPATE AS PLAINTIFF IN FLORIDA SCHOOL BOARD ASSOCIATION'S LAWSUIT REGARDING THE CLASS SIZE AMENDMENT AND TO NEGOTIATE AND EXECUTE A RETAINER AGREEMENT

COMMITTEE: INSTRUCTIONAL EXCELLENCE AND COMMUNITY ENGAGEMENT

LINK TO STRATEGIC FRAMEWORK: FINANCIAL EFFICIENCY/STABILITY

In 2002, Florida voters amended Article IX, Section 1 of the Florida Constitution to include restrictions on class size that must be met by the beginning of the 2010 school year. The Class Size Amendment requires the state to make "adequate provision" to meet these requirements and specifically states that "payment of the costs associated with reducing class size to meet these requirements is the responsibility of the state and not of local school districts." The Florida Supreme Court affirmed the state's obligation when it reviewed the ballot initiative that ultimately led the Constitutional class-size limits. In *In Re Advisory Opinion to the Attorney General*, 816 So. 2d 580 (Fla. 2002), the Court determined that the amendment created a funding imperative on the state and specifically recognized that it is not an obligation imposed upon school districts, but rather "places the obligation to ensure compliance on the Legislature, not the local school boards."

Notwithstanding its judicially recognized constitutional mandate to fund class size limits, the Florida Legislature has consistently failed to fully fund the class-size limits and recently amended Section 1003.03, F.S., to require the Florida Department of Education (DOE) to impose severe penalties against school districts for failure to meet these requirements. These penalties, including withholding and reallocating funding from non-compliant school districts to districts that comply with the constitutional provision, are contrary to Articles III(19) and IX, Section 4(b), Florida Constitution, which prevent taxes levied by school districts from being reallocated to other school districts by an administrative agency. And, according to a model developed by the DOE, it is estimated that most school districts in the state, including Miami-Dade, will not meet the constitutional class size requirements by the beginning of the 2010 school year.

On June 16, 2010, the Florida School Boards Association (FSBA) authorized the Tallahassee law firm of Meyer, Brooks, Demma and Blohm, P.A., to file a lawsuit in Leon County Circuit Court seeking a judicial declaration that the Legislature has failed to make "adequate provision" to ensure that the class size goals could be achieved by school

districts. The lawsuit may seek a temporary injunction to prevent the DOE from imposing the statutory penalties on school districts that are non-compliant. The FSBA is requesting that school boards participate in the lawsuit and pay an initial retainer of \$1500 toward legal fees and costs. The FSBA Resolution is attached.

This Item requests authorization for the School Board to participate as a plaintiff in the proposed litigation challenging the state's failure to make adequate provision for school districts to meet the class size obligations in Article IX, Section 1(A) of the Florida Constitution and seeking injunctive relief to prevent the imposition of penalties as a result of non-compliance. Authorization is also requested to negotiate and execute a Retainer Agreement and for the payment of an initial retainer of \$1500 to join this lawsuit. Any additional fees that may be required beyond \$10,000 will require Board approval.

**ACTION PROPOSED BY
DR. MARTIN S. KARP:**

That the School Board of Miami-Dade County, Florida (1) approve the Resolution, (2) authorize its participation as a plaintiff in the proposed litigation on the Class Size Amendment, (3) authorize the Superintendent to negotiate and execute a retainer agreement, and (4) approve payment of an initial retainer of \$1500 for its participation.

RESOLUTION

By these presents, the undersigned District School Board, authorizes the Florida School Boards Association, Inc. and its contracted attorneys, Meyer, Brooks, Demma and Blohm, P.A., to include the School Board as a plaintiff in litigation challenging the constitutionality of Chapter 2010-154, Laws of Florida, which, among other things, imposes penalties upon school districts which are not in full compliance with class size requirements and provides for the redistribution of such a school district's funds to other school districts which are in compliance.

The School Board, by these presents, appropriates the sum of \$1,500.00 to be contributed toward the payment of legal fees and litigation costs associated with such challenge; such fees to be paid to "Meyer, Brooks, Demma and Blohm, P.A." (EIN 27-2320027).

APPROVED this ____ day of _____, 2010, by the District School Board at a duly convened meeting.

SCHOOL BOARD OF _____
COUNTY, FLORIDA

By: _____
Chairperson

ATTEST:

Superintendent