

Office of School Board Attorney  
Walter J. Harvey, Board Attorney

**SUBJECT: ANNUAL REPORT TO THE BOARD AND LAW CLERK  
REPLACEMENT**

**COMMITTEE: SCHOOL SUPPORT AND ACCOUNTABILITY**

**LINK TO STRATEGIC FRAMEWORK: FINANCIAL EFFICIENCY/STABILITY**

The School Board, at its meeting of October 14, 2009, approved an overall restructuring of the School Board Attorney's Office ("SBAO") to align to the District's present and projected long term legal needs. Since that time, the Board Attorney has presented several quarterly and annual reports summarizing and highlighting important legal developments and the overall performance of the office.

This report is being provided to keep the Board apprised of the important work completed over the past year and to update the Board on the continuing progress of projects initiated by the Board Attorney, along with an overview of significant cases and matters handled by the School Board Attorney's Office.

### **OVERVIEW**

Since the 2010-2011 fiscal year, SBAO transformed itself in both form and substance, dramatically shifting its culture to a renewed emphasis on professional development and client service.

Over the past three years, the SBAO has implemented and utilized technological upgrades, including a comprehensive document management database, for tracking and storing its requests, claims and casework and assessing the overall workload of the office. According to the data collected, the SBAO has continued to experience a substantially higher workload, to respond substantively and efficiently to administrative requests and to streamline various office duties and functions in an effort to increase work volume and effectiveness. The records show that over the last four years, the SBAO has more than doubled its caseload in many areas while significantly reducing its costs so that more School Board resources can be devoted to the District's core function of educating children.

In addition, the SBAO has reorganized its functions in a manner to support District staff's delivery of high quality education at schools. In this regard, several attorneys and professionals have been assigned to work directly with Cabinet level administrators and departments. SBAO Attorneys and staff are paired with District employees to form a

dynamic team that continues to transform the manner in which legal services are delivered in the District environment.

The SBAO will continue to provide competent and specialized legal services to assist the School Board and District staff in facing anticipated future legal challenges and carrying out their respective responsibilities.

### HIGHLIGHTS

By developing a highly competent and specialized team of legal advisors, the SBAO continues to consistently reach unprecedented records in the history of the District, among legal offices in the state and in the nation as a whole. The data clearly shows that since the School Board hired its specialized legal team, the SBAO has provided two to three times more legal services in many areas while reducing the costs of legal services to record lows. The cost savings has been several million dollars annually. In addition, the SBAO continues to work with District staff to revise and update its forms, policies and procedures. The SBAO supports the mission of the School Board and the Superintendent in their innovative approaches to delivering services and has issued important opinions and assisted in negotiating and drafting landmark agreements and policies.

### PILLARS

#### STUDENT, PARENT AND COMMUNITY ENGAGEMENT

In 2011, the SBAO revised its mission statement based on those of similar successful education law offices:

***We are a dedicated team of legal advisors and professional staff committed to serving our clients by facilitating creative, collaborative solutions. We offer high quality advice to help our clients incorporate relevant legal principles into their daily decision making and further the School Board's goals and initiatives. We counsel the Board, the Superintendent, Senior Staff and other designated employees on legal and risk management matters in a collegial, responsive manner. Our passion is service; our standard is excellence.***

The SBAO has also developed a program called "***Serve with Passion, Creativity and Excellence***" in which SBAO staff establish relationships with administrators' offices, schools, and programs to learn about their operations. In addition, the attorneys have given lectures at various schools throughout the District, including working with moot court teams in countywide and statewide competitions. The SBAO has developed a program to provide internship opportunities for high school students so that they can learn more about the legal field. Over the past three years, the SBAO's attorneys have

visited dozens of schools, administrative offices and departments and listened as the administrators explained their evolving legal needs and concerns.

The SBAO promotes professional development by facilitating learning opportunities with colleagues from other school districts around the State and the country. Over the last three years, the SBAO has also conducted and hosted several important seminars, workshops and presentations on various legal topics that reached approximately 650 public officials, attorneys, employees, parents, K-12 students, law students, school teachers, school administrators and members of the public.

The SBAO organized and hosted a professional development presentation from the General Counsel for the Florida Commission on Ethics, a presentation by an appellate court judge concerning arbitrations and several other esteemed guests have provided continuing education lectures concerning representation of school district client interests. The office also hosted a seminar by a lead tort attorney with the County Attorney's Office concerning the handling of litigated cases. The School Board Attorney presented to school law attorneys from other states on legal issues related to public records, streamlining of legal services, school law governance. The SBAO intends to continue to host and present at similar seminars and professional development presentations to develop its expertise and understanding of laws concerning K-12 Education.

On September 6-7, 2013, the SBAO hosted the Florida School Board Attorney's (FSBAA) meeting for the first time which featured former Chief Justice R. Fred Lewis and the State Director for the Bureau of Exceptional Education and Student Service Monica Verra-Tirado, Ed. D. In addition, an Assistant School Board Attorney from the SBAO made a presentation concerning the statutes, case law, and policies regarding student searches and Federal Education Records Protection Act (FERPA). This Miami seminar was the most well attended seminar by the FSBAA attorneys in the last five years and the SBAO received a number of plaudits for hosting this important meeting.

The SBAO has developed a variety of materials, videos, refresher courses and in-depth legal topics on the SBAO website at <http://attorneys.dadeschools.net/index.asp>

Since the school district's comprehensive revision of its School Board Rules was completed in record time and under budget in May of 2011, the SBAO has continued to collaborate with District staff to develop new policies and update current policies. Our School Board Policies serve as a model for other school boards in a variety of areas. Routine and yearly updates (after each Legislative session) of School Board Policies are on-going and will continue on a regular basis. In addition, the SBAO works with administrative staff and other attorneys throughout the state to provide analysis and

input concerning State Board of Education rules and legislative bills impacting public education.

**FINANCIAL EFFICIENCY AND STABILITY**

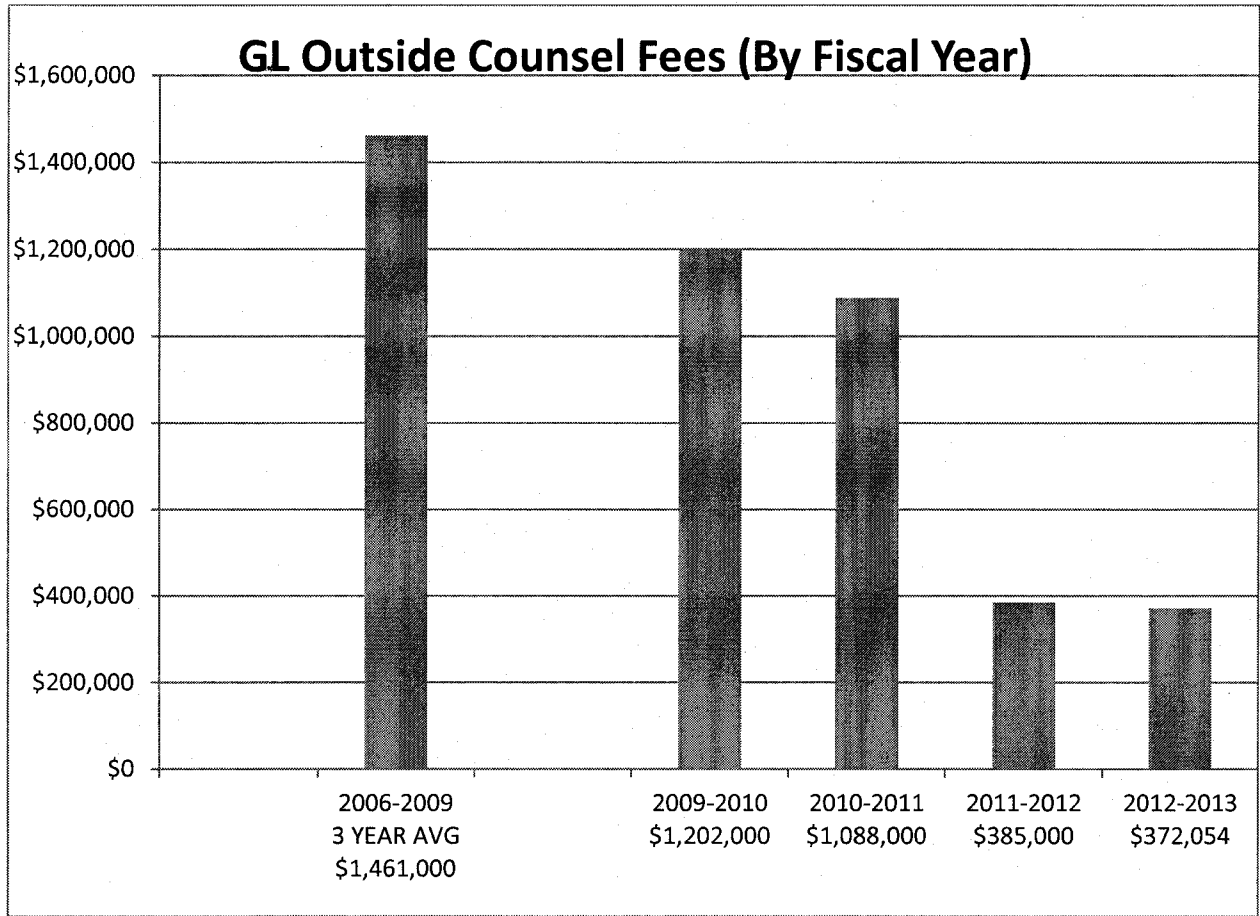
The majority of SBAO's legal practice involves advising and representing the School Board, the Superintendent and District staff in specific adversarial proceedings and matters. The following sections provide a brief summary of the numerous matters handled by the SBAO.

***Tort/General Liability:***

The SBAO has continued to expand its in-house defense of general liability claims (claims seeking monetary damages for personal injuries, errors and omissions and damage to property) therefore further reducing the Board's legal expenditures. In October 2011, the sovereign immunity limits of \$100,000.00 (per person) and \$200,000.00 (per occurrence) were increased to \$200,000 (per person) and \$300,000.00 (per occurrence), the first increase in over thirty years. This increase in limits was widely commented on and publicized by the Plaintiffs' attorneys. Anticipating additional litigation with the higher limits, the SBAO continued to streamline its processes to meet this increased demand for legal services. During FY 2012-13, 59 new general liability lawsuits were filed against the District (approximately a 47.5% increase over the five previous year average). The Board Attorney continues to work closely with the Risk Management Office and with Gallagher Bassett Services (the District's third party claims administrator) to identify and strategies for further reducing the District's overall claims exposure and legal fees. These include early pre-suit involvement by the SBAO in the investigation of high exposure negligence and assignment by dedicated SBAO staff with specialized expertise in the investigation of serious allegations. In spite of this increase in demand for legal services for general liability, the overall costs of legal services remains at historic lows.

The SBAO has also closed more litigated cases this fiscal year than in any previous year. During FY 2012-13, 55 general liability cases were finalized and closed, a ratio of almost one to one when compared to new lawsuits opened during that period. Some of the claims that were closed had been pending for nearly a decade, and most were closed on favorable terms either through judgments of dismissal, settlements or appeals.

**Outsourcing of Legal Services**



**Construction:**

Under the direction of the Board, the SBAO has worked with Facilities staff to recover funds through the assertion of claims and has closed a number of projects on terms favorable to the District. Facilities staff and the SBAO continue to collaborate to seek innovative ways of substantially reducing costs in the areas of facilities, construction and land use. For instance, the SBAO proactively filed an *amicus brief* in the case of *City of Key West vs. Florida Keys Community College*, Third District Court of Appeal Case No. 3D11-417. The appeals court issued a favorable opinion resulting in an annual \$1.5 million savings by the District for stormwater fees. After this success in obtaining a ruling from the courts clarifying that the School Board's sovereign immunity prohibited municipalities from arbitrarily and unilaterally imposing stormwater fees on school districts. During the 2013 Legislative session, a bill was introduced in the 2013 legislative session that would have required school districts to waive sovereign immunity and pay these fees. The SBAO worked with several school board attorneys throughout

Florida and counsel in the Governor's office to defeat an attempt by local governments to impose additional stormwater and inspection fees on school boards.

The SBAO also worked with Facilities staff to resolve an eminent domain matter involving a 38 acre parcel in Southwest Miami-Dade County. The land owners did not accept the original October 2007 offer and the matter was litigated, ultimately resulting in favorable Court rulings in December 2012 that led the owners to reduce their original demand by approximately \$10,000,000, and to accept the original offer made by the District in 2007.

A further example of the efforts the SBAO has taken to continue to reduce costs in the areas of facilities, construction and land use can be illustrated through a revision of construction-related contracts in conjunction with the advertisement and awarding of the 21<sup>st</sup> Century General Obligation Bond (GOB) Projects. This includes efforts of working with Facilities staff to revise a series of existing District form construction and professional service form contracts, including but not limited to the Miscellaneous CM-at-Risk agreements, Architect/Engineer agreements, Building Code Consultant agreements, and the land Surveying Services Agreements.

In addition, the overall cost of legal services in construction continues to reach historic lows. Even though the number of construction claims and bid protests remain robust, fees and costs for construction litigation have totaled approximately \$461,633.04 from July 1, 2012, to June 30, 2013 which are the lowest total on record.

FISCAL YEAR	# CASES/ CLAIMS	TOTAL EXPENDITURE PER FISCAL YEAR
2004/2005	9	\$ 3,383,189.00
2005/2006	6	3,145,609.00
2006/2007	3	3,087,140.00
2007/2008	4	2,537,426.00
2008/2009	3	2,184,488.00
2009/2010	12	929,323.00
2010/2011	8	693,698.00
2011/2012	17	561,654.23
2012/2013	3	<b>\$461,633.04</b>

*\* These 2004-2013 figures exclude figures associated with real estate and eminent domain*

## ***Transportation***

For the past few months the SBAO has been working closely with the District's Transportation Director, the Florida Department of Transportation (Sunpass) staff and the Miami-Dade Expressway Authority counsel to correct billing inconsistencies that have been plaguing the District's vehicles for years. Due to miscommunication between the billing entities (Sunpass and the Miami-Dade Expressway Authority), District vehicles had been receiving thousands of erroneous "violations", even while the vehicles were correctly registered with Sunpass. After numerous meetings and exchanges between the parties, these incorrect violations have finally stopped for registered vehicles. The SBAO and the District staff will be reviewing the (numerous) past violations and proposing a payment agreement that includes usage fees only and effectively saves the District a significant amount of penalties and fines.

## ***Personnel and Labor:***

During fiscal year 2013, while the SBAO continued to provide extensive legal advice and representation in employee disciplinary matters, there was a dramatic increase in the number of employee matters and cases handled by the SBAO. Since July 1, 2012, the three in-house personnel and employment attorneys handled forty-two (42) cases in state and federal courts and the Division of Administrative Hearings (DOAH) through trials, dismissals or settlement. The distribution among all tribunals was as follows: State and Federal (12); DOAH (22); and EEOC (6). Twenty-one of these cases have been closed, which included the completion of seventeen (17) evidentiary hearings before Administrative Law Judges of the DOAH. During the same period, SBAO provided legal advice and support to District offices through legal reviews, which were comprised as follows: 138 disciplinary cases for OPS, 35 civil rights complaints for CRC, and 31 civil investigative unit cases for CIU, for a total of 204 legal reviews.

## ***Office of Risk and Benefits Management Support:***

The SBAO works closely with the Office of Risk and Benefits Management to support its proactive efforts to reduce general liability and workers' compensation claims expenses and also provides legal assistance in the implementation of its insurance and self-insurance programs. Since 2010, the SBAO has provided legal counsel to both District staff and Gallagher Bassett Services in the management of litigated workers' compensation claims. The SBAO also cost effectively defends workers' compensation cases involving diverse legal claims in areas such as personnel, employment discrimination, and insurance subrogation.. During FY 2012-13 the SBAO also assumed the handling of all workers' compensation settlements requiring DOAH judicial approval. During FY 2012-13 the SBAO provided legal representation in 22 new workers' compensation cases, therefore avoiding the need to expend additional funds to provide these legal services. The SBAO actively monitors and works closely with outside legal

counsel on workers' compensation claims identified as having a high financial exposure. The SBAO further provides legal advice as required to the Office of Risk and Benefits Management in the formulation of policy, review of RFPs for insurance and risk management services, in the provision of legal advice at RFP selection committee meetings, and in providing assistance in contract negotiations and preparation.

**Academic/ESE:**

The Academic/ESE department is led by two of the Florida Bar's first Education Law certified attorneys. During 2012-2013, the SBAO continued to assist various departments such as the Office of Innovation and Accountability, School Operations/Adult Education, Exceptional Student Education, Psychological Services, Charter School Support, and Student Services in the development, review, and application of laws and policies to a wide variety of student issues.

The SBAO provided extensive representation and advice in matters involving the federal Individuals with Disabilities Education Act (IDEA) to resolve disputes involving students with disabilities through, first attempts at resolution, or in the alternative, an impartial due process hearing. During 2012-13, the SBAO worked with staff in handling forty four (43) administrative cases and four (4) appeals to federal district court, state circuit court and state appeals court. During 2012-2013, the SBAO also secured two (2) favorable opinions from the United States Court of Appeals for the Eleventh Circuit on special education matters. *R.D. v. Lockman*, 518 Fed. Appx. 809 (11th Cir. 2013) and *R.D. v. Miami-Dade County School Board*, 504 Fed. Appx. 864 (11th Cir. 2013). The SBAO continues to work closely with the ESE department to reduce the overall number of cases by analyzing trends, tailoring litigation and appeal strategies, and targeted training. The SBAO also continues to provide representation and advice on general student discipline matters, including prevailing in federal district court on a challenge to the district's policies concerning student discipline in *J.R., individually and on behalf of M.R. v. School Board of Miami-Dade County, et. al.*, 1:12-cv-21582 (S.D. Fla.).

The SBAO continues to assist District staff in responses to complaints filed with the United States Department of Education, Office for Civil Rights ("OCR") and the Florida Department of Education. Based on complaints filed by parents with OCR, the SBAO assisted staff in revising policies and training principals on issues of sexual harassment of students and equality in admission to school programs.

On a daily basis, the SBAO fields a high volume of calls from Principals, Assistant Principals, Region staff, and District administration on daily operational issues concerning students. For example, the attorneys in the Academics section answer an estimated 1,000+ calls and written correspondence in a calendar year on issues such as child custody matters, student records, academic accountability, extra-curricular



activities, student discipline, school assignments, student rights and special education/accommodations.

To provide for more efficient ESE case processing and to “go green,” the SBAO worked with District staff and Information Technology (IT) department to develop a Collaboration Site for information exchange between schools and the SBAO.

**Charter Schools:**

The SBAO has represented the Board in a variety of lawsuits and appeals involving charter schools. Among the important cases litigated, the SBAO was able to secure an appellate decision in *School Board v. Rise Academy Charter Schools, Inc.*, 90 So. 3d 1001 (Fla. 3d DCA 2012), reversing a 2010 State Board of Education (SBE) decision overturning the School Board’s closure of a failing charter school, arguing that the School Board’s judgment in these cases deserves great deference and cannot be overturned by the SBE without substantial competent evidence. The Department of Education indicated this ruling and its mandate will be presented at an upcoming SBE meeting. The decision has had a positive statewide impact on SBE action in similar charter school proceedings and has since assisted the District in negotiating resolution of other challenges.

The SBAO continuously contributes significant legal analysis and statewide leadership on charter school administrative rule-making and legislation by drafting and submitting comments and suggested language that benefits the School Board and protects its interest. The following illustrate the extensive assistance to District Staff for FY 2012-13 in charter application reviews, terminations, and negotiating contracts.

- a. Assisted in reviewing 57 charter applications, including preparing 5 denial Board items
- b. Assisted in negotiating 46 charter contracts, including new, renewals and amendments
- c. Provided legal advice and written opinions to the Chief Auditor
- d. Provided legal assistance for 3 investigations involving charter schools
- e. Provided legal advice and opinions regarding charter capital outlay payments and recommendations
- f. Provided almost daily legal assistance to Charter School Support and School Operations

***School Police:***

This quarter, the SBAO's designated in-house attorney continued to assist School Police in legal matters and serve as the Department's liaison. This attorney provided FDLE training for School Resource Officers dealing with advanced criminal law and procedure and post-academy orientation for newly-hired officers, as well as created video-recorded training for future use by the Department. Duty calls from SROs were directed to this attorney for assistance in school-related issues, particularly at the commencement of the new school year. In addition, School Police received legal review and advice regarding proposed contractual arrangements with other local and federal law enforcement agencies.

***District Operations:***

The SBAO continues to inform and advise District staff on changes in public education law including federal and state regulations. In addition, the SBAO held or participated in several seminars and presentations at the District and throughout the legal community and these seminars have positively impacted our ability to work with opposing attorneys and other government attorneys for the benefit the School Board. The SBAO provided liaisons between the District's administrative offices and the SBAO and has posted the presentations on its website.

For example, the SBAO has been actively providing legal services to the School Police in the drafting of its standard procedures concerning weapons screening at schools. After analyzing legal opinions from courts across the country and reviewing various screening policies from other school districts, SBAO worked with School Police to create a legal policy that limits the District's liability while improving student safety and security in the learning environment. These policies have become a model for other school Districts throughout Florida.

In addition, the SBAO recently prepared a presentation to District principals on child custody disputes. The SBAO constantly and proactively adjusts to meet the demands for legal services and to efficiently and effectively provide legal services.

### **Contracts:**

The SBAO continues to advise District staff and the Board on a variety of complex and innovative concepts. The following examples illustrate the manner in which SBAO is helping the School Board meet its strategic goals.

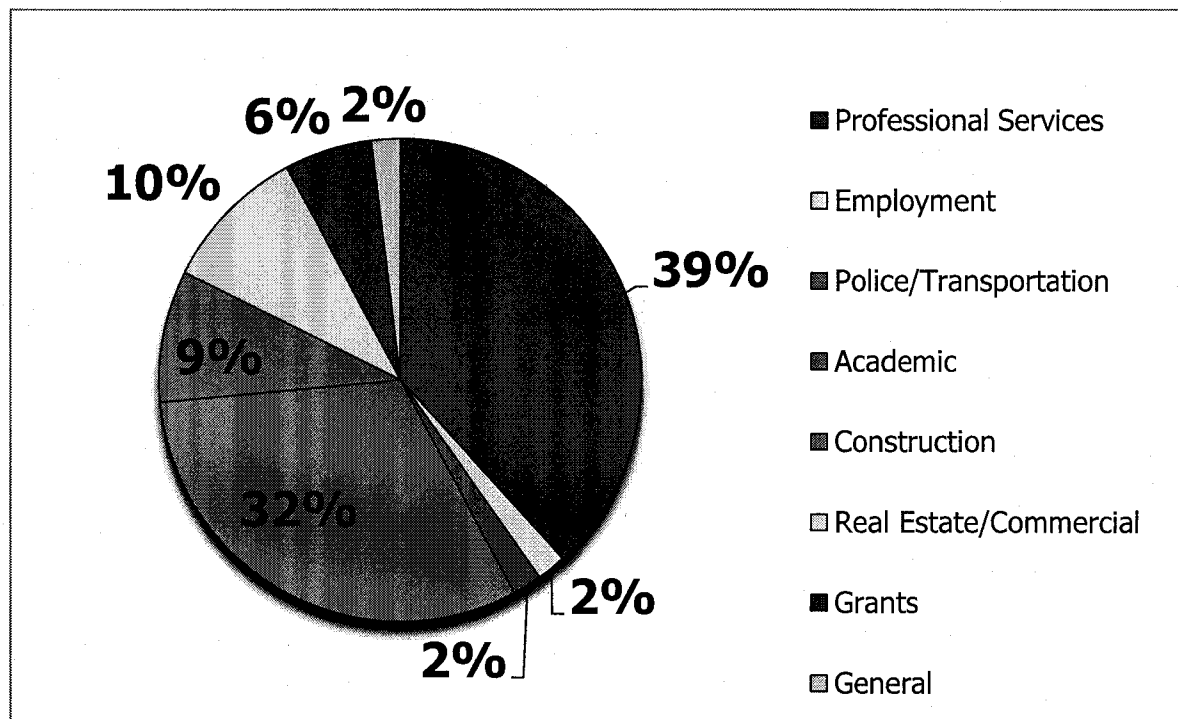
- a. The SBAO continues to assist in the negotiation of management and facilities agreements with District-managed charter schools operating in District properties.
- b. The SBAO worked extensively assisting with the negotiation of an Interlocal Agreement with the Village of Key Biscayne to provide facilities and grounds improvements for Key Biscayne K-8 and to provide a secondary school option for Key Biscayne students at MAST.
- c. The SBAO provided legal advice regarding an Interlocal Agreement with the City of Palmetto Bay to upgrade the facilities and curriculum at two schools located in that city.
- d. The SBAO provided legal advice regarding developing a District-managed charter school in the City of Doral, including multiple an unprecedented Draft Project Management Agreement, Impact Fee Agreements, Conveyances and Closing Statements.
- e. The SBAO provided legal services and advice on the School Board's Standard Charter School Contract and the new Virtual Charter Standard Contract. The SBAO is also heavily involved in the state's efforts to develop a statewide standard charter contract.
- f. The SBAO provided legal services concerning at least 50 new charter contracts and amendments, including several district managed or operated charter schools.
- g. The SBAO also advised the District regarding the Head Start Interlocal Agreement with Miami-Dade County, the Public School Concurrency Proportionate Share Mitigation Agreement, and the Professional Services Agreement with Teach for America, Inc., regarding Race to the Top Grants.

- h. The SBAO has provided extensive legal assistance to District staff regarding the 21<sup>st</sup> Century Bond Program including drafting ethics policies and forms, drafting the Small/Micro Business Enterprise and Minority and Women-Owned Business enterprise policy and certification procedures, and has attended all meetings and provided legal advice to the 21<sup>st</sup> Century Bond Advisory Committee and its members. The office attorneys have also provided extensive legal assistance to the Office of Economic Opportunity and the SBE Advisory Committee

In addition, the SBAO continues to provide legal review of all standard form contracts. The response time concerning these 646 standard contracts remains robust (average of 1.0 to 0.5 days) since 2009. A total of 1,285 contracts were drafted and reviewed this past year.

**CONTRACT 07/01/2012 thru 06/30/2013**

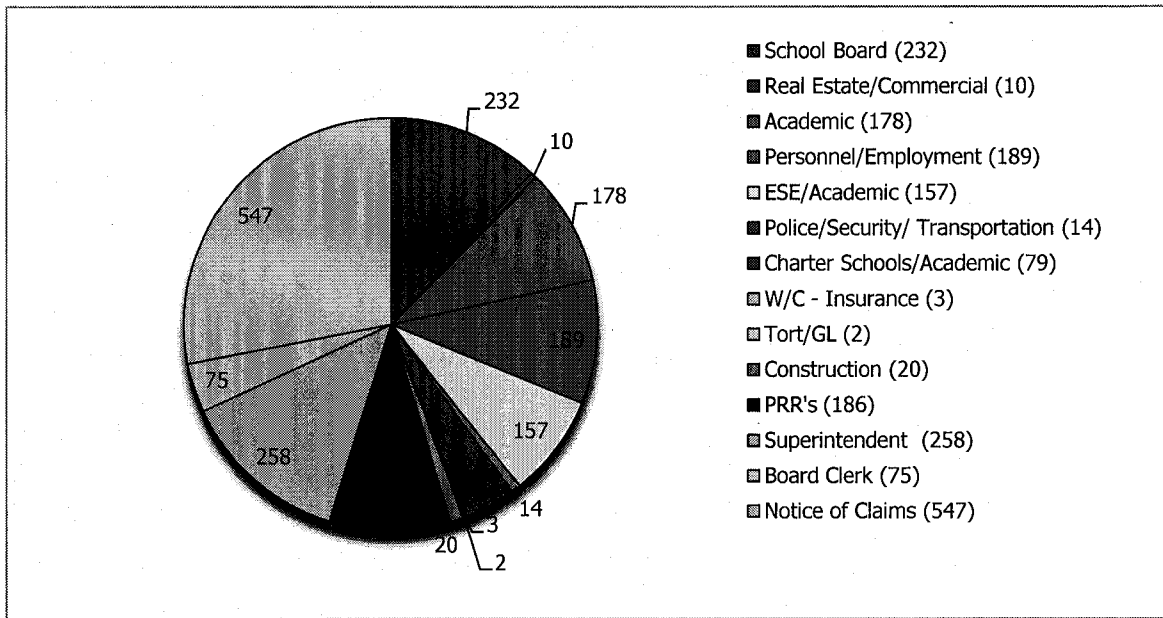
**1285 CONTRACTS**



**Referrals and Requests:**

The SBAO handled 1950 requests/referrals from the School Board, Superintendent and other Departments:

**Referrals 07/01/2012 thru 06/30/2013**  
**1950 Referrals (Breakdown)**



**Legislative Bill Analysis:**

Throughout the Legislative session, the SBAO provides continuous analysis of proposed bills and amendments. This year, the SBAO reviewed and provided comments on the legal ramifications and impact of more than 160 bills addressing a wide variety of issues that could impact the District.

## **SCHOOL/DISTRICT LEADERSHIP**

### **Support efforts to enhance scholarship and learning by investing in proactive measures**

- a. SBAO partnered with other District offices to provide workshop opportunities on a range of topics designed to equip Department Heads with tools to enhance legal advice, performance and improve workflow.
- b. SBAO drafted new templates for professional services agreements, construction agreements and architectural and engineering agreements. These new templates will improve processing time, decrease the administrative burden for administrators, and foster increased cooperation and innovation by and between the School Board and the private sector.

### **Support efforts to enhance organizational excellence by creating a culture of constant improvement**

- a. The SBAO played a major role in reducing barriers in the Board policy system by working collaboratively with executive staff to revise various School Board Policies, Manuals, Procedures, Regulations and Rules while maintaining legal compliance. Since the entire Policy Manual was rewritten, effective July 1, 2011, the SBAO has assisted staff in the review and/or drafting of approximately 97 policies, manuals and procedures and approximately 17 policies, manuals and procedures are currently being developed.
- b. SBAO significantly enhanced its ability to handle referrals and requests for legal opinions efficiently and effectively by designating its office manager and legal assistant to perform designated duties concerning agendas, records requests and quality control. Since this designation was made in July 2011, the coordinator has helped record and track legal cases, assignments and public record requests (see Section B.5. above), and spearheaded initiatives related to archiving of forms, documents, legal resource materials, emails and updating record retention procedures. Requests and referrals to the office have grown over the last year, and the office has increased its capacity to respond to those requests and referrals quickly.

### ***Awards and Recognitions:***

The School Board Attorney has become a Registered Parliamentarian (RP), the first RP to ever serve in the SBAO. In addition, two attorneys have become Florida Bar Board certified as specialists in Education Law and one attorney has become eligible for certification. Several attorneys are recognized as statewide legal experts in their practices and provided more than 60% of the lectures and materials for the recent Education Law Certification exam in the areas of. Construction of Education Facilities, Procurement, School Site Acquisition, Charter Schools, Student Rights, Student Discipline and Special Education Several professionals in the SBAO have received statewide recognitions and awards.

The Board Attorney has also received several recognitions and awards since July 2011, including the South Florida Legal Guide's Top Lawyers, the Super Lawyers and The Legacy Legal Leader Award recognition (published in a special section of the Miami Herald).

The Board Attorney was also re-appointed by Chief U.S. District Court Judge Federico Moreno to serve on the United States Magistrate Selection Panel, and the Board Attorney was appointed to a select group of attorneys to the United States District Court Steering Committee for the 2014 Bench and Bar Conference to be held in Miami Beach. In addition, other attorneys in the office received significant certifications, recognitions, distinctions and awards for their work in school law and have been invited to present at several local law schools.

The SBAO continues to participate in various community activities, including pro-bono activities at District schools, such as the student seminars on legal topics and the Black History and Hispanic History Symposiums hosted by Federal District Court for the Southern District of Florida.

The Florida School Board Attorneys Association hosted its quarterly meeting in Miami, Florida and invited the SBAO to deliver a presentation regarding student and employee searches, investigations involving schools and students, and federal student records laws. Our attorneys provided insightful information for attorneys across the state and were available to answer questions from the FSBA members in reference to both actual and hypothetical situations that school board attorneys encounter.

## **OFFICE COMPOSITION, FUTURE GOALS AND COMPENSATION**

As indicated, the District's legal work has been handled by the School Board Attorney's Office in a competent and professional manner as evidenced by the high degree of success in litigation and other matters. With the support of the School Board, the organization of the SBAO has had a dramatic impact, leading to financial savings and favorable outcomes for the District.

In order to meet the challenge of retaining experienced attorneys and support staff (paralegals) with our District, the School Board approved a revised salary schedule in April 2013. The implementation of this schedule has been cost-neutral and within the School Board Attorney's Office's budget. The attorneys remained on annual contracts with a managerial exempt benefits package.

Beginning with the restructuring of the School Board Attorney's Office in November of 2005, the average attorney's annual salary in the office was approximately \$152,000. The current average attorney's annual salary is 30% lower than the prior average salary at approximately \$110,470.00.

This Item also seeks to convert existing employee, Nathalie Remelus, from a Confidential Exempt staff employee to a Law Clerk/Assistant School Board Attorney. The proposed contract is attached. There is no budget impact. Additional supporting documents (including Ms. Remelus's resume and references) will be forwarded under separate cover.

- RECOMMENDED:** That The School Board of Miami-Dade County, Florida
- 1) accept the October 2013 Annual Report of the School Board Attorney;
  - 2) approve the attached employment contract for Ms. Nathalie Remelus to the position of Law Clerk/Assistant School Board Attorney



## EMPLOYMENT CONTRACT

This Employment Contract, made and entered into this 2<sup>ND</sup> day of OCTOBER, 2013, by and between The School Board of Miami Dade County, Florida, hereinafter referred to as the "Board," and NATHALIE REMELUS, hereinafter referred to as "Employee."

### Witnesseth

Whereas, the Board desires to enter into an agreement with the Employee and to fix the terms and conditions of employment by this Employment Contract; and

Whereas, the Employee is willing to accept employment upon the terms and conditions set forth herein;

Now, therefore, the Board and Employee, for the considerations herein specified, agree as follows

### 1.0 TERM

- 1.1 The Board hereby employs Employee, and Employee accepts employment as, **LAW CLERK/ASSISTANT SCHOOL BOARD ATTORNEY – (GENERAL LITIGATION I - 8105)**, for a term beginning (10/02/13) and ending (10/02/14) ("Original Term"), unless sooner terminated as set forth herein. The term of this Employment Contract shall be automatically extended and continue in full force and effect for additional two (2) year terms ("Extension Term") subject to the termination provisions below. For purposes of this Employment Contract, the "Term of this Agreement" shall mean the Original Term and all Extension Terms, if any.

### 2.0 DUTIES

- 2.1 Employee shall perform the duties of the job as may be assigned by the Board, Board Attorney, Superintendent, or designee.

### 3.0 COMPENSATION

- 3.1 The Board agrees to employ Employee at the annual salary in accordance with the salary schedule approved by the Board, at its meeting of OCTOBER 16, 2013, Agenda Item G-1, and pursuant to the employment approved by the Board at its meeting. Employee will continue to receive compensation at an hourly rate established at **Pay Grade 4 and under Job Code 8002**. Upon admission to the Florida Bar, the Employee will receive compensation at the established at **Pay Grade 3 and under Job Code 8105**.
- 3.2 This salary shall remain in effect throughout the Term of this Agreement. However, if managerial exempt employees receive any compensation increase at any time during the Term of this Agreement, the annual salary shall be increased at no less than the increase received by these employees.
- 3.3 Employee shall be entitled to membership in the Florida Retirement System in the Regular Employee Classification as required by Florida Retirement System Rule 60S-1.004.
- 3.4 As governed by School Board Policy 1120.01, Employee will receive term life insurance equal to two (2) times Employee's annual base salary effective January 1<sup>st</sup> each year for the Term of this Agreement, such premiums for the coverage to be paid for by the Board. Optional coverage is available to be purchased through payroll deduction for up to a maximum of five (5) times the annual base salary. Proof of insurability to the satisfaction of the insurance company may be required to be eligible for such optional coverage.

REMELUS, NATHALIE  
OCTOBER 2013

- 3.5 Employee is entitled to receive healthcare coverage. The School Board's monthly contribution for employee's individual healthcare shall be equal to that which the School Board authorized for managerial exempt personnel.
- 3.6 Employee must be licensed to practice law by the Florida Bar in order to, among other things, provide legal advice to the Board and to sign pleadings on behalf of the Board. The Board will pay the annual dues for Employee's membership in the Florida Bar during the Term of this Agreement.

**4.0 TERMINATION**

- 4.1 The Employment Contract may be terminated by the Board Attorney or Employee on thirty (30) days' prior written notice to the Board and Board Attorney or to Employee, as the case may be, it being understood that except as so provided, the said Employee's right to employment shall be at will.
- 4.2 Employee understands and agrees that by accepting employment under the terms of this Employment Contract, that there is no guarantee of continued employment, tenure, or any other expectation, reasonable or otherwise, except as set forth herein.

**5.0 MISCELLANEOUS**

- 5.1 Employee agrees to comply faithfully with the rules of the Florida Bar, all federal laws, the laws of the State of Florida, and the rules and regulations of the Board of Education of the State of Florida and of The School Board of Miami Dade County, Florida.
- 5.2 Employee agrees that this Employment Contract contains the entire agreement between the Board and Employee, and all other agreements and oral representations are incorporated herein.

**IN WITNESS WHEREOF**, the parties hereto have hereunto signed their names to this Employment Contract, at Miami-Dade County, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2013

Employee \_\_\_\_\_  
NAME: NATHALIE REMELUS

THE SCHOOL BOARD OF MIAMI DADE COUNTY, FLORIDA

By \_\_\_\_\_  
(Superintendent or Designee)

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
Walter J. Harvey,  
School Board Attorney

**SCHOOL BOARD ATTORNEY  
Annual REPORT  
(2012-2013)**



**Walter J. Harvey  
School Board Attorney**

## **Mission statement**

*We are a dedicated team of legal advisors and professional staff committed to serving our clients by facilitating creative, collaborative solutions. We offer high quality advice to help our clients incorporate relevant legal principles into their daily decision making and further the School Board's goals and initiatives. We counsel the Board, the Superintendent, Senior Staff and other designated employees on legal and risk management matters in a collegial, responsive manner. Our passion is service; our standard is excellence.*

**Program: "Serve with passion, creativity and excellence."**

# REPORTED COSTS BY LARGE LOCAL GOVERNMENTAL ENTITIES

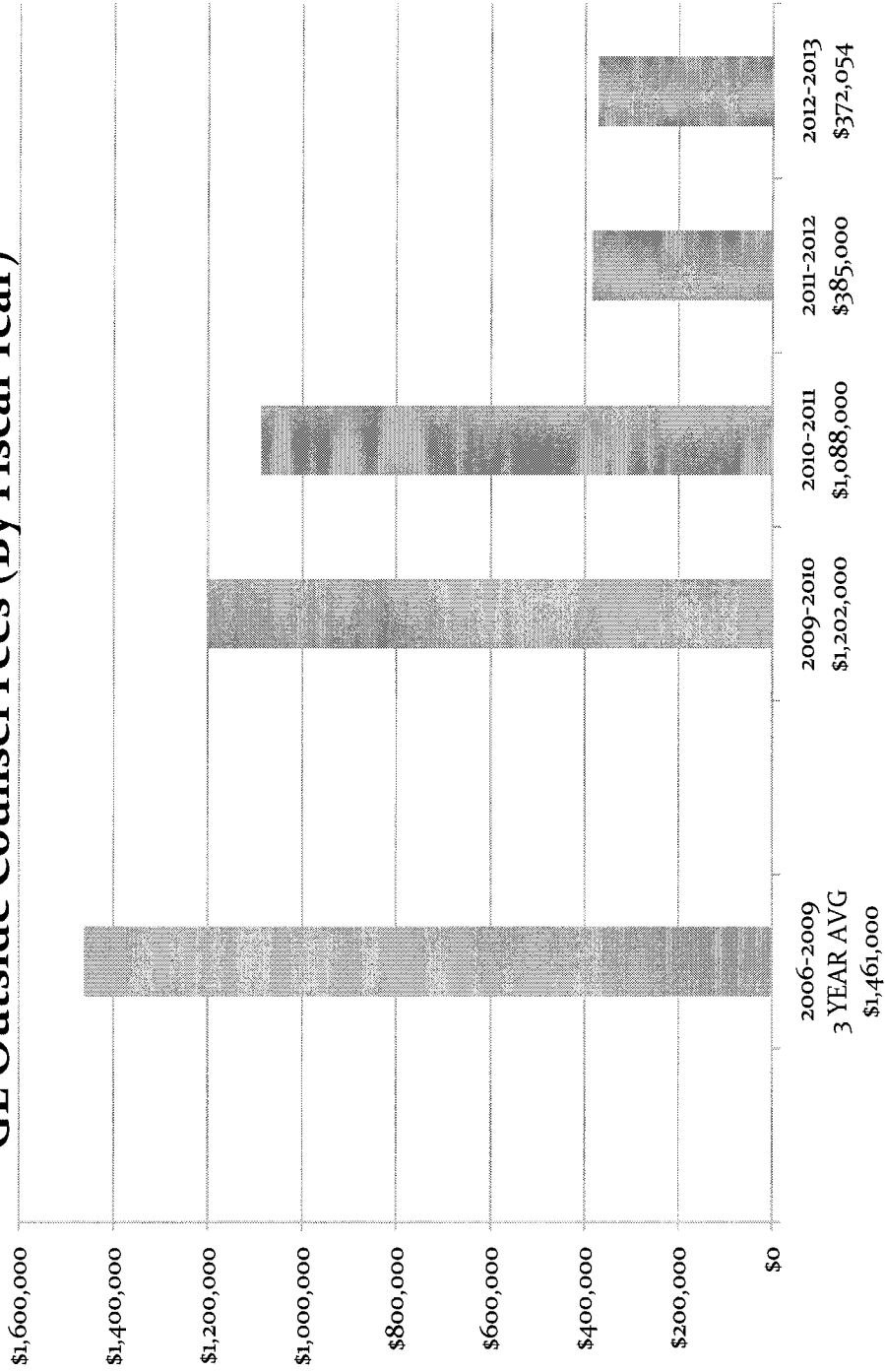
	MIAMI DADE COUNTY PUBLIC SCHOOLS					MIAMI DADE COUNTY ATTORNEY'S OFFICE				
	08/09	09/10	10/11	11/12	12/13	08/09	09/10	10/11	11/12	12/13
<b>Total Costs</b> (Personnel, Operating, & Outside Counsel [WC, Tort, & GL])	\$8.5 Million	\$7.1 Million	\$6.7 Million	\$4.8 Million	\$4.4 Million	\$25.7 Million	\$23.2 Million	\$23.5 Million	\$21.7 Million	\$21.7 Million
<b>Total Positions</b>	18	21	23	21	19	138	134	125	119	136
<b>Total Entity Budget</b>	\$5.5 Billion	\$4.8 Billion	\$4.8 Billion	\$3.9 Billion	\$3.9 Billion	\$7.5 Billion	\$7.8 Billion	\$7.6 Billion	\$6.1 Billion	\$6.0 Billion
<b>Total Entity Employees</b>	Approx. 39,000					Approx. 28,000				

[1] Actual

[2] Budget – 59.69% Total Revenue = Litigation; 60% ÷ Total Positions = # Positions

# Attorneys' Fees General Liability

GL Outside Counsel Fees (By Fiscal Year)



**\* ANNUALIZED**

**TOTAL SAVINGS:**

Strategic Framework -  
Financial Efficiency/Stability

# Construction

2004/2005	9	\$ 3,383,189.51
2005/2006	6	3,145,609.25
2006/2007	3	3,087,140.64
2007/2008	4	2,537,426.45
2008/2009	3	2,184,488.07
2009/2010	12	929,323.91
2010/2011	8	693,698.35
2011/2012	17	561,654.23
2012/2013	11	\$461,633.04

**Note:**

The Total Expenditure Per Fiscal Year includes attorney, mediation, consultants, testifying experts, testing and remediation, and out-of-pocket expenses.

Strategic Framework –  
Financial Efficiency/Stability

**TOTAL SAVINGS:**

# Personnel

School Year	SUSPENSIONS		DISMISSALS		
	Legal Reviews	Administrative Appeals	Legal Reviews	Administrative Appeals	Other Legal Reviews
<b>2009-2010</b>	47	1	44	9	21
<b>2010-2011</b>	84	6	80	13	20
<b>2011-2012</b>	71	4	50	14	40
<b>2012-2013</b>	<b>72</b>	<b>2</b>	<b>64</b>	<b>20</b>	<b>71</b>

**Just Cause Discipline upheld in approximately 86% of cases.**

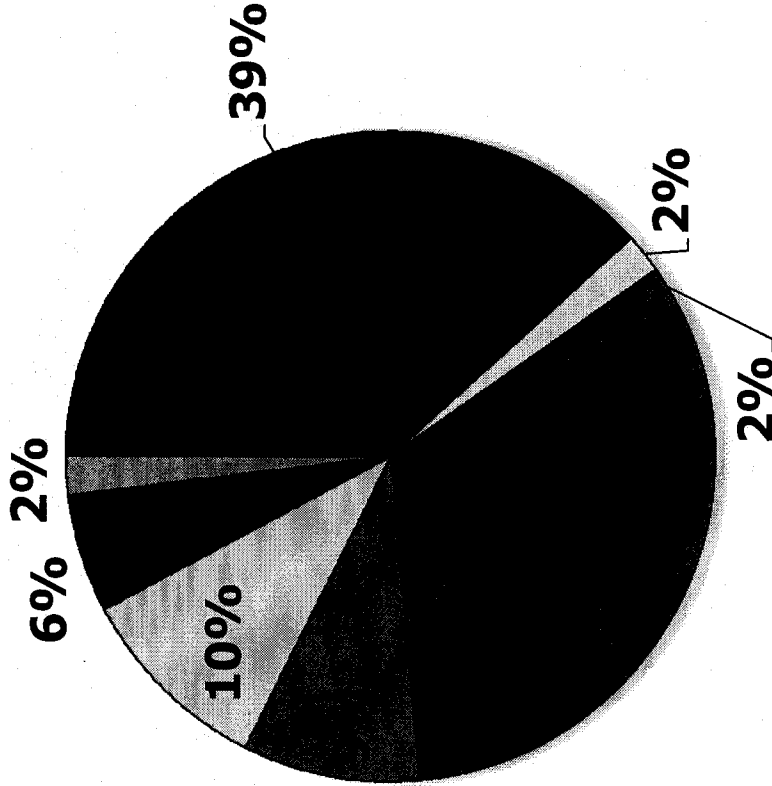
Strategic Framework -  
Financial Efficiency/Stability



# CONTRACTS

7/1/2012 - 06/30/2013

- Professional Services
- Employment
- Police/Transportation
- Academic
- Construction
- Real Estate/Commercial
- Grants
- General



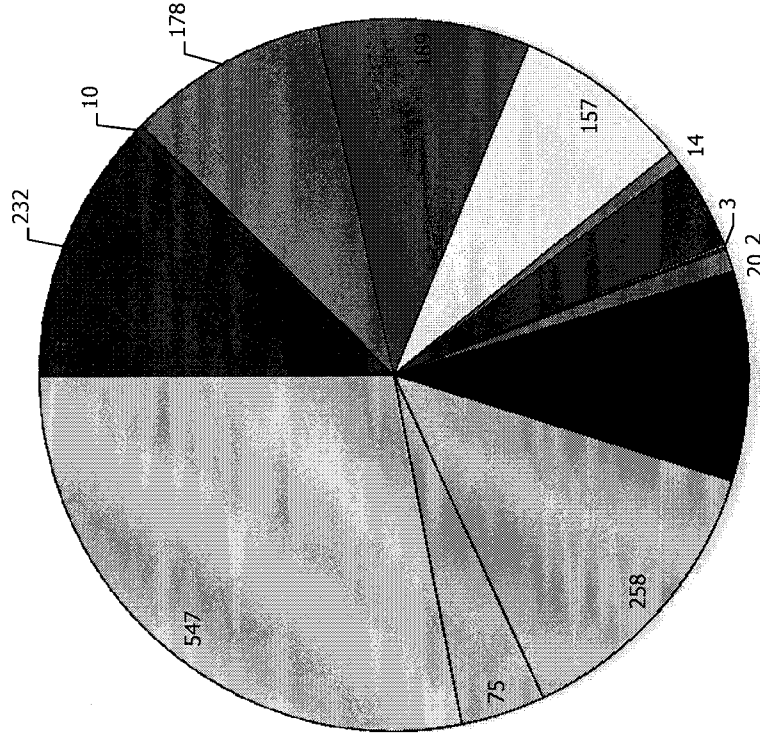
Strategic Framework -  
Financial Efficiency/Stability

TOTAL REVIEWED: 1285

# Referrals / Requests

07/01/2012- 06/30/2013

- School Board (232)
- Real Estate/Commercial (10)
- Academic (178)
- Personnel/Employment (189)
- ESE/Academic (157)
- Police/Security/ Transportation (14)
- Charter Schools/Academic (79)
- W/C - Insurance (3)
- Tort/GL (2)
- Construction (20)
- PRR's (186)
- Superintendent (258)
- Board Clerk (75)
- Notice of Claims (547)



Strategic Framework -  
Financial Efficiency/Stability

**TOTAL REVIEWED: 1950**

# Contracts

## HIGHLIGHTS

- Participated in the National Contract Management Association
- Update Form Construction, Architect and Engineers and CM at Risk Agreements
- Created Contracts Manual for District Department use
- Updated District Contract Forms
- Worked and responded to Audit Department findings
- Head Start Contract
- Title I SES Provider Contract
- Cambridge Academy Contracts
- Miami Dade College Interinstitutional Articulation Agreement (Dual Enrollment)
- Race to the Top
- Snack Program Agreements
- Project Victory Agreements
- PreK SPED Agreements
- ESE Contracts
- Air Force Junior Reserve Officer Training Corps (JROTC) Unit
- Teaching American History Grant
- National Park Service (Everglades). Teacher Ranger Teacher Program

# Contracts

## HIGHLIGHTS

- 21<sup>st</sup> Century General Obligation Bonds Projects, Policies and Form Agreements
- Federal Highway Administration Grant
- 21<sup>st</sup> Century Community Learning Center Grant Agreements
- Hosanna Foundation Community, Inc.
- City Year, Inc.
- Foundation for New Education Initiatives
- Department of Homeland Security Funding Support for the Claude Pepper Junior Reserve Officers Training Program at Maritime and Science Technology Academy (MAST Academy) Navy National defense Cadet Corp
- Interlocal Agreement with Miami-Dade County re: Head Start and Early Head Start
- Interlocal Agreement with Village of Key Biscayne re: Mast Academy
- Interlocal Agreement with Village of Palmetto Bay
- Interlocal Agreement with City of Sunny Isles
- Public School Concurrence Proportionate Share Mitigation Agreement
- Professional Services Agreement with Teach for America, Inc. re: Race to the Top Grants

# Academic/ESE/Student Issues

## HIGHLIGHTS

- Assisted staff in interpretation of changes in law concerning residency requirements for adult education programs
- Recommended policy revisions to meet requirements of United States Department of Education, Office for Civil Rights
- Trained principals on law and policies addressing sexual harassment of students
- Participated in state-wide working groups to amend FERPA's records sharing provision for the benefit of students in dependency care
- Guided revision of procedures for obtaining interpreter services in post-secondary education programs
- Worked with the IT department to develop a collaboration site for information exchange between schools and the SBAO to "go green."
- Lectured on student-centered topics for annual Florida Bar Education Law Committee Exam preparation
- Reviewed over 160 Legislative Bills impacting public education
- 43 administrative cases handled by Staff and SBAO
- 14 dismissed or denied
- 29 amicably resolved
- 5 cases in federal district and state circuit courts
- 2 favorable rulings from the U.S. Circuit Court of Appeals

# Academic/Student Issues

## HIGHLIGHTS

- Charter schools:
  - Prevailed at State Board of Education upholding 3 School Board charter school application denials; prevailed in Third DCA Appeal of Rise charter school termination (upheld School Board); provide legal analysis on legislative bills during the session.
  - The SBAO provided legal services and advice on the new Standard Form for Charter School Contract and Virtual Charter Contract.
  - The SBAO provided legal services reviewing 59 Charter applications, 46 new Charter contracts and amendments; legal assistance to Chief Auditor involving investigations.
  - Leadership role in developing statewide standard charter contract.

# PANELS/PRESENTATIONS

## DISTRICT STAFF

- FMLA Refresher Training
- Principal Training on Discipline, Code of Student Conduct, and Manifestation Determinations
- Principal Training on Child Custody Disputes
- Sunshine Law & Public Records – School Assistant Training and Manual and Ethics Advisory Committee, Attendance Boundary Committee, DEEAC, & 21<sup>st</sup> Century Bond Advisory Committee
- Contracts Updates and Form Changes
- School Police – Proper Procedure for Random Metal Detection Program
- School Police –Search and Seizure
- FSBAA Presentation concerning the statutes, case law, and policies regarding student searches and Federal Education Records Protection Act (FERPA).