

Office of Superintendent of Schools
Board Meeting of December 11, 2013

December 9, 2013

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

SUBJECT: AUTHORIZATION TO INITIATE LEGAL ACTION
LINK TO STRATEGIC FRAMEWORK: SCHOOL/DISTRICT LEADERSHIP

In 2005, the City of North Miami ("City") filed an application for a municipal charter school with the School Board. Prior to School Board action on that application, the City and the School Board entered into an Interlocal Agreement ("ILA") pursuant to Chapter 163.01, F.S., in which the School Board agreed to make multiple, significant improvements of City educational and recreational facilities, including but not limited to, replacing an existing high school, constructing a new high school, K-8 center, and a joint-use stadium and other recreational facilities. Other schools were enhanced or constructed. In exchange, the City agreed to withdraw its charter application and promised not to pursue any future municipal charter applications that would compete with District-owned and operated schools in the City for the 40 year term of the agreement.

In accordance with the ILA, and in good faith, the School Board completed capital construction projects in the City of North Miami totaling almost \$174 million, including but not limited to rebuilding North Miami Senior High School, constructing the new high school, state school "QQQ-1 or BLHS" now known as Alonzo and Tracy Mourning, the new David Lawrence Jr. K-8, and the North Miami Athletic Stadium.

The City was represented at all times by legal counsel and freely and voluntarily entered into the ILA. Section 13, p. 27 of the ILA ("Existing/Future Charter Schools"), provides that:

The City covenants and agrees that, during the terms of the Ground Leases (as same may be extended), the City shall not seek, approve or accept any charter school within the City that would compete with NMHS, BLHS or the K to 8 Educational Center for so long as such facility is operated for school purposes.

REPLACEMENT

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Despite this agreement, and with no prior notice to the School Board, on June 24, 2013, the City sent a letter of intent to the School Board stating that on August 1, 2013, it would be submitting an application for a municipal charter school that would compete with District operated schools in the City and would open in the 2014-2015 school year. In a July 18, 2013 letter, District officials notified the City that submitting the charter application would violate the provisions of the ILA.

Even after receiving the School Board's notice and in clear violation of the ILA, the City submitted a charter school application to the School Board on August 1, 2013. District officials have held numerous meetings with City elected officials and staff, both before and after the application was submitted, to address their concerns and offered to provide expanded magnet programs, collaborations with Miami-Dade College, and other enhancements to the existing schools serving City students. However, in order to protect and uphold the integrity and implementation of the ILA, entered into in good faith by both parties, the District had no choice but to reject the application without further review since it clearly violates the ILA. On October 18, 2013, the School Board notified the City that the application was being rejected on this basis. Inexplicably, the City is now appealing the rejection of its application to the Charter School Appeal Commission and the State Board of Education.

The District will continue its attempts to amicably resolve this matter. However, if those efforts fail, this item seeks authorization to take any and all necessary legal action to enforce the terms of the ILA. Because the City has appealed the District's rejection of its charter school application to the State Board of Education, legal action must take place before the provisions of the Florida Governmental Conflict Resolution Act take effect or significant legal rights of the School Board will be compromised. If this item is approved and this matter is not amicably resolved, the School Board Attorney will call an attorney-client session, as provided by law, before the City of North Miami is served with a lawsuit.

A copy of the ILA and related documents will be forwarded to the Board under separate cover.

RECOMMENDED: That the School Board of Miami-Dade County, FL:

- (1) authorize the School Board Attorney to take any and all legal action necessary to declare the City of North Miami in default of the ILA and to enforce its terms,

and

- (2) find that significant legal rights of the School Board would be compromised if a court proceeding does not take place before the provisions of the Florida Governmental Conflict Resolution Act take effect.