

July 8, 1999

Deputy Superintendent of Schools  
Henry C. Fraind

**SUBJECT: REQUEST FOR AUTHORIZATION TO ENTER INTO A CONTRACT WITH THE LAW FIRM OF MARINO & WALSH TO PROVIDE CONTRACT LEGAL SERVICES SPECIFIC TO THE OPERATIONS OF THE MIAMI-DADE COUNTY SCHOOL POLICE DEPARTMENT**

The Miami-Dade County Police Department is the fourth-largest police force in Miami-Dade County, Florida. As issues have developed unique to the department, a need for continuing legal advice has arisen to address issues that include the following:

- ✓ Statutory Compliance
- ✓ Mutual Aid Agreements
- ✓ Allegations of False Arrest, Detention, or Imprisonment
- ✓ Civil Rights Violations
- ✓ Malicious Prosecution
- ✓ Wrongful Entry, Eviction or Invasion of Private Occupancy
- ✓ Discrimination, Humiliation, Libel, Slander
- ✓ Violation of Right of Privacy
- ✓ Assault and Battery
- ✓ Investigations

As an initial step to address legal exposures resulting from these issues, the Board approved the purchase of Police Professional Liability Insurance Coverage at the Board meeting of October 21, 1998. This coverage became effective November 1, 1998 and includes limits of liability coverage of \$5 million per occurrence/annual aggregate, with a \$100,000 per wrongful act/\$200,000 annual aggregate deductible. This policy also includes coverage for specific firms to provide legal defense in the event of a covered loss.

While the Board enjoys limited immunity from suit, pursuant to the provisions of Chapter 768.28, Florida Statutes, for claims involving Florida tort, most, if not all, claims made against a police force would fall outside these boundaries. Now that the Police Professional Liability Insurance is in place to handle claims brought against the Board, it is being recommended that the Board also contract with a firm to provide specific legal counsel to limit exposure.

The Law Firm of Marino & Walsh has been identified by the nationally known liability consulting firm of The Gallagher-Westfall Group, Inc. Pursuant to the exemption provided by Board Rule 6Gx13-3F-1.021, Professional Service Contracts, staff has been negotiating with the firm to provide "as-needed" (upon request of the Chief of Police, or designee), legal consulting services to the Miami-Dade County Division of School Police (School Police Department) for legal matters dealing with the department. The firm provided a written proposal outlining its references and scope of services, which include the following:

- ▶ Legal advice on statutory and contract compliance involving law enforcement liability issues
- ▶ 24-hour, seven-day-a-week access
- ▶ \$125 per hour fee for legal services from Mr. Peter Walsh, Esq., or Mr. Paul Marino, Esq., with more than 30 years in government service for police related legal matters
- ▶ Experienced counsel, both of whom are former law enforcement officers and are individually certified to practice law in the United States District Court, Middle District of Florida, Southern District of Florida, and the United States Eleventh Circuit Court of Appeals. Mr. Marino is also certified to practice before the United States Supreme Court.

Since the contract will be on an "as-needed" basis, controls will be established to assure proper utilization of these services, including the recommendation of an annual budget for these services, including all expenses, not to exceed \$90,000. The implementation of this contract is expected to be very cost-effective, as sound legal advice on such potentially serious matters can keep the Board out of expensive litigation.

The appropriation for this item will be included in the 1999-2000 tentative budget, which will be brought to the Board for adoption on July 26, 1999.

RECOMMENDED:

That The School Board of Miami-Dade County, Florida:

1. authorize the Superintendent to contract with the law firm of Marino & Walsh to provide "as-needed" legal advice to the M-DCPS Police Department on legal matters dealing with the department, pursuant to the terms of their proposal and subsequent contract, including the use of the attorneys at a rate of \$125 per billable hour, and \$60 per hour for paralegal services, plus related expenses pursuant to the School Board's reimbursable schedule, as it applies to all contracted defense attorneys, effective July 15, 1999 to July 15, 2000, with annual expenditures not to exceed \$90,000;
2. authorize the Superintendent to extend the contract for two additional one-year terms, upon the same terms and conditions.

The appropriation for this contract will be included in the 1999-2000 tentative budget, which will be brought back to the Board for adoption on July 26, 1999.

HCF:sc