

Alberto M. Carvalho, Superintendent of Schools

SUBJECT: DISMISSAL OF LAWSUIT AGAINST THE STATE OF FLORIDA IN THE CASE KNOWN AS *THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA v. THE STATE OF FLORIDA BOARD OF EDUCATION, ET AL.*, CIRCUIT COURT CASE NO. 09-00507 CA-20.

**LINK TO DISTRICT
STRATEGIC PLAN: IMPROVE FINANCIAL SERVICES**

Pursuant to School Board Agenda Item A-3 ("Authorization to Retain Legal Counsel to File Lawsuit Against the State of Florida and its Appropriate Departmental Units to Recover Funds Improperly Withheld by the State") approved at the December 10, 2008 School Board meeting, the School Board filed a complaint for declaratory and injunctive relief on January 5, 2009, against the State of Florida and appropriate departments in order to correct pending matters related to public school financing, that severely impacted the Miami-Dade County school district.

Prior to the lawsuit being filed and thereafter, school district officials have continued to seek alternative means of resolving these matters in a way that would obviate the need for continued litigation. As a result of these efforts, the District has been able to obtain concessions and related assurances from the State that will immediately resolve one of the issues included in the lawsuit (payment through capital millage revenues of the cost of premiums for property and casualty insurance necessary to insure school district educational and ancillary plants) and an outstanding issue with respect to the payment of computer software with capital funds, which had been listed as an exception in a prior audit by the Auditor General's office. The combination of these two items amounts to a relief of approximately \$12,000,000 to the District's general fund balance and thereby decreasing the existing deficit. These issues will be resolved at the special legislative session that is expected to conclude this week.

Thus, the resolution of these issues signifies that the only remaining dispute raised by this lawsuit relates to the amendment of section 1011.62(4), Florida Statutes, and the calculation methodology for the District's local contribution under the Florida Education Finance Program ("FEFP"). The FEFP requires that each school district make a "local effort," which amounts to the district's annual financial contribution to the program. The amount of the local contribution effort is

GOOD CAUSE

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determined pursuant to section 1011.62(4) and is based on tax revenues generated from the ad valorem value of property within the district. The balance of the revenue needed to operate the District represents the State's contribution under the FEFP. In its lawsuit, the School Board challenged the constitutionality of the State retroactively implementing a new method of calculating the FEFP, which adversely impacts this school district's already difficult financial situation.

In the past few days, the State's legislative leadership has agreed to seek a resolution of the remaining issue prior to the regular legislative session. Based upon this representation and the actions taken in the special legislative session, we are recommending that the above-referenced lawsuit be voluntarily dismissed without prejudice. The dismissal of this lawsuit is being sought as a good faith effort to amicably resolve, the aforementioned issues, with the State.

This item does not appear on the published Agenda. There is good cause to vary from the Agenda since recent actions by the State dictate that the lawsuit be voluntarily dismissed as expeditiously as possible.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, authorize the voluntary dismissal without prejudice of the lawsuit against the State in the case known as *The School Board of Miami-Dade County, Florida v. The State of Florida Board of Education, et al.*, Circuit Court Case No. 09-00507-CA-20.