

Dr. Marta Pérez, Vice Chair

SUBJECT: SCHOOL BOARD ATTORNEY

**COMMITTEE: INSTRUCTIONAL EXCELLENCE AND COMMUNITY
ENGAGEMENT**

**LINK TO DISTRICT
STRATEGIC PLAN: INCREASE EFFICIENCY OF RECRUITING AND HIRING
PROCESSES**

In the recent past, when the School Board has hired a new School Board Attorney, the process has been for the Board to vote to establish general parameters for the job description for advertising purposes, select a candidate through a Board majority vote, and authorize the Chair of the Board to negotiate the contract.

This process has not worked well for the School Board since past contracts have been very favorable to the attorneys and not favorable to the public the School Board serves. As an example of this, our Inspector General has suggested that our contracts process be clearer in its provisions, Board members were unsure about what the provisions signed really meant, etc.

Notwithstanding our past practices, the Board should discuss whether a contract with the Board Attorney is even necessary. Other entities, including Miami-Dade County, do not grant employment agreements to their attorneys. This is not a far-fetched idea: one of the applicants for the position, Mr. Robert Tischenkel, said that he did not believe an attorney should be given a severance provision, since clients should be happy with their attorney or simply find another attorney with whom they are more comfortable. Our contract with former Board Attorney Phyllis Douglas did not contain provisions for severance either. Our outside counsel, Mr. Murray Greenberg and his predecessor Mr. Ginsberg were the attorneys for Miami-Dade County and never had contracts or severance provisions. Incredibly, the School Board has not, prior to negotiations, asked Mr. Murray Greenberg whether or not he thinks it is a good idea to give the attorney a contract at all, or what terms he thinks would put the Board at its best fiscal advantage.

**REPLACEMENT
H-3**

When the position of Board Attorney became vacant this past year, I proposed an item, approved by Board majority recommending that the Board conduct a workshop to formalize safeguards necessary in our contract process. Said workshop was conducted and members of the Board expressed their desire on how the process could be strengthened. However, School Board Rule 6Gx13- 8A-1.05, Counsel for the Board, was not amended to reflect these safeguards

Since then, the Board has voted 5-3, in what some consider awkward conditions, to select Mr. Walter Harvey as the Board Attorney and used the "same old" process to have the Chair negotiate a contract with him. The contract has some problematic provisions, in my opinion, and with our past experience, the Board should be more mindful than ever and look at the contract, provision by provision, to make sure that it is fully understood before it is granted.

In order to allay some of the above mentioned concerns and to best serve taxpayers, the Board should consider convening a Special Board Meeting with our outside counsel, Mr. Murray Greenberg, in which he explains every provision in the contract. The Board may then discuss the provisions so that there is no doubt about what is meant and why they are contained in the contract. This exercise can be considered as a "pilot" for use in future employment contracts and, if appropriate, the Board Rule should be changed to allow for this process to be used in subsequent contracts.

**ACTION PROPOSED BY
DR. MARTA PÉREZ:**

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

1. conduct a Special Board Meeting, with Mr. Murray Greenberg, whereby he may explain every provision in Mr. Harvey's contract and the Board votes on each provision, and, if the process is agreeable to the Board;
2. initiate rulemaking procedures to amend Board Rule 6Gx13- 8A-1.05, to allow for this process to be used to enter into future contracts.