

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

SUBJECT: SETTLEMENT OF POTENTIAL LIABILITY UNDER COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT ("CERCLA") FOR DISPOSAL OF WASTE IN DISPOSAL SITE LOCATED IN ROCK HILL, SOUTH CAROLINA

COMMITTEE: FACILITIES AND CONSTRUCTION REFORM

LINK TO STRATEGIC FRAMEWORK: FINANCIAL EFFICIENCY AND STABILITY

The School Board has received notices from the South Carolina Department of Health & Environmental Control ("South Carolina DHEC") that MDCPS has been identified as a "Potentially Responsible Party" or "PRP" under the Federal Comprehensive Environmental Response, Compensation and Liability Act (known as "CERCLA") for having engaged waste disposal companies to transport certain hazardous materials, between 1989 and 1992, which were subsequently delivered to a dump site known as the Philip Services Site in Rock Hill, South Carolina.

CERCLA is a federal statute which imposes "cradle to grave" liability" on all originators and intermediary transporters of hazardous waste (mainly joint and several liability for cleanup costs).

The Board has received an invitation to join a group of approximately 1100 PRPs to settle its estimated portion of the damages. According to the offer sent by the PRP Group's Administrator, Robinson, Bradshaw & Hinson, P.A., MDCPS, for its part, could settle the existing CERCLA claims against it by paying \$1.00 per pound of hazardous waste disposed under 50,000 pounds.

The School Board Attorney's Office seeks authority from the Board to settle the District's potential liability under CERCLA for up to \$25,581.00. This payment would entitle MDCPS to be a named party to a Consent Decree to be issued in December, 2014, which would resolve MDCPS's liability to South Carolina DHEC. Moreover, if a Consent Decree is not entered by December 31, 2014 MDCPS would be entitled to a refund of the amount paid.

The School Board Attorney's office and administrative staff agree with this recommendation as being in the best interests of the Board. A copy of the Settlement

Agreement will be made available under separate cover prior to the Board meeting of December 10, 2014.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, approve and execute the Agreement to join the PRP Group for the Philip Services Site.