

Office of the Superintendent of Schools
Board Meeting of September 6, 2017

September 1, 2017

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

**SUBJECT: AUTHORIZATION TO RETAIN OUTSIDE LEGAL COUNSEL IN THE
CASE OF NATASHA ALVAREZ, et al. v. SCHOOL BOARD OF MIAMI-
DADE COUNTY, U.S. DISTRICT COURT CASE NO. 17-CV-22556-JEM**

On August 23, 2017, the School Board was served with the Complaint in the above-referenced case, which was filed by a group of school district employees covered by the United Teachers of Dade collective bargaining agreement. The Complaint generally alleges that the School Board, through the collective bargaining process, denied plaintiffs their substantive and procedural rights when it established through negotiations with the UTD labor union the salary schedules applicable to these employees. The Complaint contains seven (7) counts, which in addition to the asserted federal due process claims, includes similar due process claims under the Florida Constitution, and claims asserting a "statutory violation," negligence and conversion. The Complaint names thirty-four (34) employees as plaintiffs who are seeking class certification for themselves and other similarly situated individuals

This case follows the disposition of several complaints of Unfair Labor Practice ("ULP") charges filed with the Public Employees Relations Commission ("PERC") based on the same or similar allegations involving the negotiated salary schedules. PERC dismissed all these ULP charges after a formal hearing and by summarily granting motions to dismiss. The final orders dismissing these charges were never appealed.

During the litigation before PERC, the District's Labor Counsel was assisted by Mr. David C. Miller, a shareholder with the firm of Bryant Miller Olive P.A., that has represented governments, businesses and agencies in legal matters relating to public finance, state and local government law, complex transactions, and litigation. Mr. Miller is Board-Certified in Labor and Employment Law by the Florida Bar, which designates him as an expert in the field. Mr. Miller's practice is concentrated in representing public sector employers assisting them with compliance, drafting policies, dealing with regulators, and litigation. He has been named as one of Florida's Super Lawyers every year since 2010. Based upon Mr. Miller's experience with these matters and his expertise in the field of labor and employment law, it is recommended that the Board retain Bryant Miller Olive to represent it in this case. The costs of this litigation will be funded through the district's Risk Management Loss Fund.

**GOOD CAUSE
G-5**

This item does not appear in the published Agenda. There is good cause to vary from the Agenda because responsive pleadings and/or appropriate motions in response to this lawsuit must be filed prior to the next School Board meeting.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, authorize the School Board Attorney to retain Mr. David C. Miller, a shareholder with the firm of Bryant Miller Olive P.A., to represent the School Board as its legal counsel in this litigation. Attorneys will be compensated at the rate of \$205.00 per hour and paralegals will be paid an hourly fee of \$95.