

August 25, 2017

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

SUBJECT: PROVISION OF LEGAL REPRESENTATION FOR THE FOLLOWING MATTERS: Elswith Levy, individually and as a natural parent and legal guardian of A.H. a minor v. Miami-Dade County School Board and Jelean L. Weary, Circuit Court Case No. 17-068001-CA-01; Esperanza Pocerull v. Edward Smith, County Court Case No. 17-000964-SP-21

The School Board was served with the above-referenced lawsuits on July 6, 2017, and on May 2, 2017, respectively. The individually-named employees were personally served in both cases. The complaint in the first lawsuit includes four claims; three of the counts are against the School Board and assert claims for, among other things, negligence, negligent supervision, hiring and retention, and one count against the employee for assault and battery. In the second lawsuit, the school principal is being sued in his official capacity by an employee claiming breach of the collective bargaining agreement and lost wages when she was not assigned to the position of department chair. A motion to dismiss the second lawsuit was previously granted by the court, but the employee has now filed an appeal.

In accordance with the District's established practice, the school district employees who are individually named as Defendants in these two cases have formally requested that the School Board provide her with legal representation. The acts alleged in these Complaints arose out of and in the course of the performance of the employees' assigned duties and responsibilities as school district employees.

Pursuant to School Board Policy 6900, *Legal Services for Employees of the Board* and § 1012.26 Fla. Stat. (2016), we are requesting that the School Board authorize the provision of legal representation for the individually named Defendants in the above-referenced lawsuits. In the interim, the School Board Attorney's office will be filing the necessary documents with the listed courts to protect the defendant employees and School Board's legal interests.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, authorize the office of the School Board Attorney to provide or secure legal representation for the legal defense of the current School Board employees who are individually named as a Defendants in the following cases: *Elswith Levy v. Miami-Dade County School Board and Jelean L. Weary*, Circuit Case No. 17-068001-CA-01, and *Esperanza Pocerull v. Edward Smith*, County Court Case No. 17-000964-SP-21.