

Office of Superintendent of Schools  
Board Meeting of April 17, 2019

April 15, 2019

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

**SUBJECT: ANNUAL REPORT TO THE BOARD**

**COMMITTEE: PERSONNEL, STUDENT, SCHOOL, & COMMUNITY SUPPORT**

**LINK TO STRATEGIC BLUEPRINT: EFFECTIVE AND SUSTAINABLE BUSINESS PRACTICES**

The School Board Attorney presents this annual report to the Board summarizing and highlighting the legal work and overall performance of the School Board Attorney's Office (SBAO). The School Board Attorney is very proud of the dedicated and talented staff who work diligently, consistently, and responsibly to provide the highest level of legal advice and representation to the School Board.

### **OVERVIEW**

The SBAO caseload continues to increase every year in many areas. At the same time, as detailed in this report, the SBAO continues to decrease the District's outside legal costs by effectively utilizing its in-house representation and advocacy.

In addition, the SBAO is fully committed to the District's goal of Student Achievement as outlined in "Vision 20/20, 2015-2020 MDCPS Strategic Blueprint," concentrating its efforts on the five pillars: Effective and Sustainable Business Practices; Highly Effective Teachers, Leaders & Staff; Safe, Healthy & Supportive Learning Environment; Informed, Engaged & Empowered Stakeholders; and Relevant, Rigorous & Innovative Academics. The SBAO works collaboratively with the School Board, the Superintendent, Cabinet level administrators, and District departments, to be more effective in serving and protecting our students, and to safeguard the best interests of the School Board.

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## **HIGHLIGHTS**

### **Advocacy And Compliance**

- Property Tax Referendum and Related Issues
- Numerous MOUs with Municipalities and Police Departments for Campus Security as required by SB 7026
- Favorable Jury Verdict in Whistleblower Litigation
- Phase II Disparity Study and M/WBE Policy Amendments
- SEED/KIPP – District Managed Charter Schools
- Hurricane Irma / FEMA-related Issues
- Florida Constitution Amendments and Legislation – Legal Analysis and Compliance Issues
- Forums and Seminars with Local Courts
- Eleventh Circuit Court of Appeals Opinion in favor of the School Board on Employee Speech issue
- Complex Agreements and Transactions
- Favorable Ruling in Important Education Law Cases.

### **Presentations**

The SBAO is regularly requested to present at conferences and professional organizations. In the last year, SBAO attorneys were requested to present at:

- Quarterly Conference of the Florida School Board Attorneys Association (FSBAA), St. Augustine, FL, “*School Board Operated and District Managed Charter Schools;*”
- Safe Schools Conference, Legal Panel, “*LGBTQ Legal Issues and Best Practices in Public Schools;*”
- The South Florida Executive Roundtable, Miami, FL, “*A View from the Office of the General Counsel;*”
- The Florida Bar, Education Law Committee Exam Preparation Course;
- The Quarterly Chat for SMBE and MWBE firms on Joint Ventures;
- The Risk Management Society, Greater Miami Chapter;
- Judicial Nominating Commission, “*How to become a Judge;*” various voluntary bar associations;
- “Quarterly Conference of the Florida School Board Attorneys Association (FSBAA), St, Augustine, FL , “*School Health Clinics and Telehealth Contracts*”

- Annual presenter at the Student Journalism Forum, discussing implications of law, social media and student rights;
- Guest lecturers at local law schools regarding Education Law; and
- Forums and seminars with local judges and attorneys regarding public schools and education law.

### **Trainings**

The SBAO attorneys also provide trainings on a regular basis and upon request on a variety of issues.

- SBAO provided a contracts training to the District staff.
- A SBAO attorney has become a Diversity & Inclusion “Certified Trainer” who facilitates interactive training presentations to District employees on the School Board’s Business Diversity Commitment and Initiatives.
- SBAO provided training on the sunshine law, public records and ethics laws to the Attendance Boundary Committee (ABC), the Diversity Equity and Excellence Advisory Committee (DEEAC), the Charter School Application and Contract Review Committees, the Family Community Involvement Advisory Committee, the Ethics Advisory Committee, and the SBE/MBE and M/WBE Advisory Committee, and various task forces.
- SBAO provided several trainings with Student Services staff to District Counselors and others on LGBTQ issues.
- SBAO provided training to all District registrars regarding responding to subpoenas, student record requests and attorney/police requests for records and interviews.

### **Trademark, Licensing and Copyright Programs**

The SBAO continues to assure the legal protection of the District’s marks through the continuation of trademark registration and enforcement through cease and desist letters and individual contracts with vendors. The SBAO was able to successfully copyright portions of the District’s Pacing Guidelines

### **Marjory Stoneman Douglas High School Public Safety Act (SB 7026)**

After the 2018 Legislature passed SB 7026, the SBAO worked with the Superintendent, Chief of Police, and Cabinet to implement its safety and security provisions by assisting in negotiating 13 MOUs with Miami-Dade County and various municipalities to assign school safety officers to District schools. The SBAO also participated in weekly telephone conference calls throughout the summer of 2018 with attorneys around the

state and provided various legal opinions related to charter schools and other provisions in SB 7026.

### **Property Tax Referendum**

The SBAO assisted the Superintendent and Board in drafting the November 2018 ballot initiative that asked voters to approve a property tax increase for teacher salaries and law enforcement enhancements. The SBAO provided legal research, served as a liaison with the Miami-Dade County Attorney's Office, and provided the Board, Superintendent, and District staff with numerous recommendations regarding the advocacy parameters of Florida law and Board policies.

### **Phase II Disparity Study**

In 2016, the Board approved the Phase II Disparity Study that focused on goods/supplies, services, and maintenance and maintenance-related services contracts. The SBAO assisted the Superintendent and the Office of Economic Opportunity (OEO) in amending the Board's Policy 6320.02 to allow certain narrowly-tailored gender and race conscious remedies for addressing the identified disparities and ensuring that it complies with federal and state law. The SBAO also participated in presentations to the community.

### **Collaborative Partnerships**

The SBAO provides significant legal assistance and guidance to staff involved in the District's development of multiple collaborative partnerships with other government and private entities to provide greater access to educational opportunities to students and parents, including, but not limited to, interlocal agreements, affiliating agreements and joint facilities use agreements with municipalities and local non-profits.

### **Policy Updates**

Within the last year, the SBAO provided substantial assistance to the Board and District staff of multiple departments in recommending thirty-five (35) new and amended Board bylaws and policies to the Board, including but not limited to, those addressing changes in Board governance, bylaws, and processes, attendance boundaries, audit and management, emergencies, personnel, purchasing, human capital, safety and security, the Code of Student Conduct, and the student progression plan.

In addition, in conjunction with the Superintendent's Office and Cabinet, the SBAO is currently facilitating the Board's annual review of policy revisions. The SBAO is bringing twenty-three (23) new and amended policies that address religious expression, charter schools, personnel, safety and security, and testing, to conform to statutory changes for the Board's consideration.

## **PILLARS**

### **EFFECTIVE AND SUSTAINABLE BUSINESS PRACTICES**

The SBAO represents the School Board, the Superintendent and the District in general business issues.

#### **General Liability/Tort**

SBAO attorneys continue to handle the vast majority of all general liability claims and lawsuits brought against the District (claims and lawsuits seeking monetary damages for personal injuries and property damages). During 2018, 206 notices of claims (pre-suit notices of personal injury claims required by §768.28, F.S.), were received and processed by the SBAO. This represents a 24% increase over the 166 notices of claim received in 2017. Furthermore, the SBAO received and processed 59 general liability lawsuits during 2018, a 25% increase over the 47 general liability lawsuits received during 2017.

At present, SBAO attorneys are defending 106 general liability lawsuits brought against the District. This represents approximately 95% of all lawsuits presently pending against the District. The SBAO also supervises all lawsuits assigned to outside defense counsel. There are currently 6 general liability lawsuits involving specialized areas of legal practice being handled by outside counsel.

The utilization of SBAO attorneys in the defense of the numerous claims and lawsuits brought against the District continues to result in substantial cost savings to the District. See Exhibit A, *General Liability Attorneys' Fees*. Furthermore, outside general liability defense counsel legal fees continue to remain at historic lows. From 2004-2009, the District spent an average of \$1,400,000 annually in tort and general liability outside counsel fees compared to 2018 expenditures of \$346,247. See Exhibit D, *Attorneys' Fee Comparisons*. In addition, monetary payouts for tort and general liability claims remain low, further resulting in reductions in tort and general liability claim reserves.

#### **Workers' Compensation**

Commencing in early 2017, the SBAO extensively expanded its in-house workers' compensation law practice. 2018 was a benchmark calendar year for the reduction of attorney's fees paid to outside counsel in the field of workers' compensation. It was the first full calendar year that we had in-house counsel completely dedicated to handling workers' compensation matters. Presently, SBAO attorneys are handling in excess of 300 litigated workers' compensation claims that were filed against the District. During

2018, 94 of the 170 new litigated workers' compensation claims were assigned to SBAO attorneys.

The utilization of the SBAO in the legal defense of the numerous workers' compensation claims filed against the District each year has resulted in significant cost savings for the District. Legal fees paid to outside workers' compensation defense counsel decreased dramatically in 2018 to \$1,744,436 from \$2,275,961 in 2017. When compared to the District's expenditure of \$2,843,980 in 2016, workers' compensation defense spending in 2018 decreased by 38.7%. These savings to the District are even more substantial when compared to average costs of \$4,100,000 a decade ago. See Exhibit D, *Attorneys' Fee Comparisons*. We anticipate that outside workers' compensation defense counsel legal fees will continue to see a downward trend in the coming years. See Exhibit B, *Worker's Compensation Attorneys' Fees*.

### **Construction, Planning, and Facilities**

The SBAO assisted District staff and community stakeholders in revising Board procedures related to construction and procurement, as well as revising existing construction and professional service form contracts of the District, including the Miscellaneous CM-at-Risk, Architect/Engineer, and Building Code Consultant contracts. The SBAO is also working closely with the Office of Procurement Management Services to provide assistance with the Contractor Disciplinary Review Committee and prepare responses to bid protests filed against the District. The SBAO has assisted Facilities in developing a Guaranteed Energy Performance Program that will ultimately fund capital improvements through energy saving initiatives. Construction projects will be energy efficient and the District will utilize the stream of income from the savings to repay the costs of the project, including the costs of the initial investment. This is a means of updating District facilities solely based on the savings from utilizing new energy efficient means.

The SBAO assists and attends the Goal Setting Committee Meetings, Contractor Prequalification Committee Meetings and the Small/ Micro and Minority/ Women Owned, and Veteran Business Enterprise Advisory Committee Meetings, to provide legal assistance in the implementation of Board policies. The SBAO continues to be strongly committed to working with the Office of Economic Opportunity, Office of Procurement Management Services and Office of School Facilities to develop policies and procedures to increase the participation of minority firms and vendors.

To ensure that staff and community members are aware of the new/revised construction policies implemented by the School Board, the School Board Attorney provided a presentation at the "On-Boarding Session" for new hires and at various committee meetings where members of the community were present. The SBAO participated in the Diversity Inclusion Training Program and now has an in-house attorney that is a Certified Trainer in Diversity and Inclusion.

Even with the increase in construction services necessary due to the General Obligation Bond Issues, the District's legal cost for claims and bid protests remained in line with historic lows when compared to expenditures from 2004-2009. The District spent approximately an average of about \$37,835.10 annually on outside counsel fees. 8. See Exhibit C, Total Construction-Related Attorneys' Fee Expenditures, and Exhibit D, *Attorneys' Fee Comparisons*.

### **Real Estate and Complex Commercial Transactions**

During the period covered by this Report, the SBAO provided extensive support in the area of complex real estate transactions, including the real estate closings involving a property exchanges and leases, with the SBAO providing representation from contract negotiations thorough the closings of Board-owned properties. SBAO also provided legal representation relating to several interlocal/interagency agreements with the County, State and municipalities; numerous leases and facilities use agreements, including management and lease agreements, among which were agreements with Florida International University for Mast at FIU Biscayne Campus Site, and agreements for public park spaces, such as Master Joint Use Agreement with Miami-Dade County, as well as agreements relating to District initiatives know as Brickell Solutions enhancing capacity in the Downtown area and ongoing representation relating to School Site and Educational Facilities Planning including without limitation mitigation agreements by and among the School Board, local governments and developers in compliance with school concurrency.

In addition, the SBAO continues to provide legal services and opinions regarding a variety of School Board financing arrangements, and also works with and assists District staff in the review and drafting of documents related to numerous partnerships with local municipalities, governmental and private entities, to improve the services provided to employees and students, such as the 20-1500 project involving the ten acre School Board Administration (SBAB) complex.

As a result of the significant involvement of SBAO in-house counsel in these complicated real estate transactions (e.g., negotiation and drafting of contracts, ground leases and associated documents, conducting title examinations, rendering Opinions of Title, platting analysis, preparation and representation at Closings, etc.) substantial savings were realized and the risk of liability for the Board was substantially reduced. The SBAO continues to work diligently with District Facilities and Procurement staff and other departments on a number of projects considered by the District for possible recommendation to the School Board.

## **Transportation**

The SBAO continues to provide legal assistance to the District's Department of Transportation and its staff in a wide ranging capacity. This not only includes legal analysis of specific policy implications, but also weighing liabilities for real time decisions that must be implemented by the Department. The SBAO reviews and approves all contracts for the rental of District vehicles, all contracts for the payment of private or parental transportation, and has vigorously defended multiple breach of contract claims brought against the District. The SBAO remains an active participant in the Accident Review Committee, which examines every accident involving District vehicles. The SBAO pursues recovery in any situation where a District vehicle was damaged as a result of third-party negligence. In addition, the SBAO provides general liability and tort defense for this Department.

## **Office of Risk and Benefits Management Support**

The SBAO provides extensive legal support to the Office of Risk and Benefits Management. This includes legal analysis and recommendations required for administration of the District's self-insured general liability and workers' compensation programs. Furthermore, the SBAO provided legal guidance for issuance of RFPs for various insurance products, the drafting of insurance and risk and safety contracts, and legal reviews to ensure compliance with applicable laws, regulations and contractual obligations. The SBAO also works with the Office of Risk and Benefits Management staff to process and maximize recovery of funds for the District in insurance fraud investigations and claims, property damage, motor vehicle accident claims. The SBAO also provides legal support and analysis of subrogation claims made against at fault third parties for the purpose of obtaining reimbursement of payment made by the District's self-insurance health care plan.

The SBAO further provides legal counsel to District staff and Gallagher Bassett Services and defends in-house litigated claims in areas such as general liability, workers' compensation, personnel, employment discrimination, and insurance subrogation. The SBAO provides legal advice and recommendations on claims handling strategies in order to reduce costs and prevent otherwise unnecessary litigation expenditures. SBAO attorneys are immediately assigned to work collaboratively with Gallagher Bassett Services claim representatives on all pre-suit claims involving alleged sexual assaults, fatalities, or other serious claims having potentially high financial exposure.

## **Contracts**

The SBAO has continued updating all of the District's standard form agreements and uploaded them to the online District forms bank and continues to assist staff in ensuring



that the Board's best interests are reflected in agreements. Some of the significant agreements included : (i) Prologis Logistics Warehouse and Operations Academy; (ii) Trademark Managing and Logo Protection through K-12; (iii) Facebook Workplace Agreement; (iv) Wraparound Services for Schools of Hope; (v) Numerous Dual Enrollment and Articulation Agreements; (vi) Lang Lang's "Keys of Inspiration" (digital piano keyboards for elementary and middle school students); (vii) Cooperative Agreement for Summer Youth Internship; and (viii) Cooperative Agreement for Together for Children. Additionally, the SBAO reviews every contract for prom, homecoming, senior breakfast and graduation for all District high schools. Further, the SBAO has drafted and reviewed contracts regarding filming locations and releases, television rights, sideline credentials as well as contracts for travel for interscholastic tournaments for high school athletics.

The SBAO continues to advise District staff and the Board on the negotiation of management and facilities agreements with District-managed charter schools, interlocal agreements, school concurrency, professional services, construction, academics, information technology, intellectual property and third-party service providers, including the drafting of agreements, performing review of titles and real estate closings and matters relating to procurement.

Since July 1, 2018, a total of 1,061 contracts (not including charter school related contracts) were drafted and reviewed. The average review turnaround time is 0.5 – 1 day on standard agreement forms and 0.5 – 2.5 days on non-form agreements.

## **HIGHLY EFFECTIVE TEACHERS, LEADERS & STAFF**

### **Personnel Matters & Employment Litigation**

During fiscal year 2018, while the SBAO continued to provide extensive legal advice and representation in employee disciplinary matters, there was a dramatic increase in the number of employee matters and cases handled by the SBAO. Since July 1, 2018, the three in-house personnel and employment attorneys handled forty (40) cases at different stages of litigation, including cases at state and federal courts and the Division of Administrative Hearings (DOAH). From pre-litigation defense through trials, appeals, dismissals, summary judgment, or settlement, the interests of the District have been vigorously defended. The case distribution was as follows:

<b>State and Federal</b>	<b>22</b>
<b>DOAH</b>	<b>18</b>

Twenty-five (25) of these cases have been closed, which included the completion of five (5) evidentiary hearings or trials before DOAH and resolution of thirteen (13) cases at



## **Jury Trial**

This year the SBAO also prevailed in a jury trial in a Florida Whistle-blower Act claim. The case involved claims of free speech and whistle-blower retaliation made by a long time District employee working as a Media Specialist. The trial lasted two weeks and involved approximately 30 witnesses. Between the Plaintiff's claimed damages and a potential attorney's fee award, the School Board could have been held responsible for over \$750,000. The School Board ultimately prevailed and the Plaintiff was awarded no damages by the jury.

## **Office of Professional Standards**

In order to better meet the District's needs, the SBAO participates in regularly scheduled Incident Review Team meetings so it can provide timely legal advice and guidance to administrators and District staff with issues of potential legal exposure.

## **Eleventh Circuit Opinion in Employee Speech Case**

After many years of litigation, in a case dealing with the "question whether the speech of two public employees of the Miami-Dade County School District is protected by the First Amendment," the Eleventh Circuit Court of Appeals affirmed the District Court's judgment in favor of the School Board, and held that: "At the end of the day, the administrators spoke not as private citizens but as the principal and assistant principal of a public school, pursuant to their official duties, when they undertook to convert their public school into a charter school. Under controlling precedent, their speech was not protected by the First Amendment." *Fernandez v. School Board of Miami-Dade County, Florida*, 898 F.3d 1324, 1326 (11th Cir. 2018), cert. denied, 18-955, 2019 WL 330992 (U.S. Mar. 18, 2019).

## **RELEVANT, RIGOROUS & INNOVATIVE ACADEMICS**

The SBAO continues to provide extensive representation and advice in matters involving the federal Individuals with Disabilities Education Act (IDEA) to resolve disputes involving students with disabilities. The SBAO also handles various complaints and lawsuits alleging Title VI and Title IX discrimination, disciplinary issues, and other types of complaints and legal claims involving students. Since the last report to the Board, the SBAO has worked with the District staff in handling the following cases and pre-suit matters brought by individual plaintiffs, advocates, attorneys, and parents:

Florida Division of Administrative Hearings - 39  
Circuit Court - 3  
District Court of Appeal - 2  
United States District Court - 1  
Florida Supreme Court - 2  
Pre-Litigation matters – Approximately 130

The SBAO has assisted District staff with responses to complaints filed with the United States Department of Education, Office for Civil Rights (OCR) and the Florida Department of Education and in negotiating and implementing resolution agreements where warranted.

The SBAO assisted the Curriculum and Instruction staff in reviewing and updating the Student Progression Plan. Similarly, the SBAO continues to assist staff of K-12 and Adult Education programs on reviewing new legislative and updating current Board policies, including fundamental changes resulting from legislation.

The SBAO assisted the School Operations Department with revisions to the Code of Student Conduct and various policies affecting students and their school performance.

SBAO attorneys also provided legal assistance to Student Services, ESE, and School Operations staff and school sites regarding establishment of Threat Assessment and Mental Health Team processes in response to the Marjory Stoneman Douglas Act (SB 7026). SBAO also submitted comments in response to the United States Department of Education's Notice and Comment period for revisions to Title IX regulations that affect public schools and the District's Civil Rights Compliance Office.

On a daily basis, the SBAO addresses a high volume of calls from Principals, Assistant Principals, Region staff, and District administration on daily operational issues concerning students. Attorneys answer calls and written correspondence on issues such as child custody matters, student records, court subpoenas, court orders, domestic violence restraining orders, academic accountability, extra-curricular activities, student discipline, school assignments, student rights and special education/accommodations.

### **Charter Schools**

The SBAO provides extensive legal assistance related to charter schools in a variety of ways through charter school application reviews, legal opinions, contract negotiations, District charter management agreements, and many other legal matters relating to charter schools:

Review of Charter Applications	13
Review of Board Items	7
Charter contracts, including new, renewals and amendments	52

The SBAO also assisted the Chief Auditor and the staff involved in District charter management by providing legal advice and written opinions. Legal advice was also provided to Charter School Support and School Operations.

Over the past year, the SBAO regularly participated in statewide meetings and conference calls related to implementation of new state legislation, proposed state rules, and other issues related to Florida and national charter school law.

### **SAFE, HEALTHY & SUPPORTIVE LEARNING ENVIRONMENT**

Three attorneys in the SBAO are currently working with the office of Advanced Academic Programs to teach a dual enrollment Criminal Justice course at Miami Carol City High School. The nine week course provides our attorneys with the opportunity to share their professional experience with the class while teaching introductory concepts in Criminal Justice. The SBAO continues to give lectures at various schools throughout the District and provide leadership and guidance to moot court teams in countywide and statewide competitions. The SBAO has been active within specific M-DCPS social science and legal programs acting as moot court judges for moot court competitions and on occasion even offering constructive criticism and instruction for teams prior to competitions.

For a number of years, the SBAO has provided extremely competitive internship opportunities to both high school students and law students. This program provides practical working experience in a legal office and helps these students gain a better understanding and foundation of the legal field as a whole.

The SBAO's designated in-house attorneys assist School Police in legal matters and serves as the SBAO's liaison. The SBAO provided School Resource Officers (SROs) with FDLE-required training in advanced criminal law and procedure, and post-academy orientation on important legal issues to new officers. The SBAO handled duty calls from SROs requesting assistance in school-related issues and provided legal review and advice to School Police regarding proposed contractual arrangements with other agencies, Public Records Requests and court orders regarding the sealing and expunction of criminal records.

The SBAO collaborated last year with other departments, including the Office of Intergovernmental Affairs, Grants Administration and Community Engagement and Schools Police, to provide legal review of over 170 bills proposed during the 2018 Florida Legislative Session affecting public schools and assisted in drafting suggested legislative amendments.

SBAO continues to work with the law schools at the University of Miami, St. Thomas University, Florida International University and Nova Southeastern University offering internships, externships and pro-bono opportunities. This partnership allows law students to work closely with practicing attorneys on a wide variety of legal matters while developing legal reading and writing skills in a practical setting.

## **INFORMED, ENGAGED & EMPOWERED STAKEHOLDERS**

The School Board Attorney's Office served as Parliamentarian and provided legal assistance to the Attendance Boundary Committee (ABC) during this year's attendance boundary change process, the Diversity Equity and Excellence Advisory Committee, the Ethics Advisory Committee, Teacher Task Force, Contractor Prequalification Review Committee, Goalsetting Committee, 21st Century General Obligation Bond Committee, the SBE/MBE and M/WBE Advisory Committee, and other Board advisory committees.

The SBAO provided multiple and varied trainings throughout the year to staff and collaborated with staff to update policies across almost every area of School Board operations. See highlights section of this Report for details.

The ethics training was presented again last year by the SBAO allowing the School Board and the Superintendent to fulfill the annual state-required four hours of ethics training. The School Board Attorney invited Ms. Patricia Gleason, Office of the Florida Attorney General, to present on Florida's sunshine and public records laws. The SBAO also presented on gifts and gift disclosure laws.

### **Referrals and Requests**

The SBAO prides itself on its efficient relationship with school site and District administrators. This interaction with staff comes in the form of referrals, public records requests, and duty calls. Duty calls are often phone calls, faxes, and emails to our office regarding various school operations and student matters. These inquiries range from student contact cards to legal guidance pertaining to issues such as subpoenas.

Since January 1, 2018, the SBAO handled:

Board Member Referrals/Legal Reviews	405
Superintendent Referrals	162
Public Records Requests	62
Duty Call Entries	2500+
Creditor Rights/Garnishments	283

### **AWARDS AND RECOGNITIONS**

This section is the same as last year's-may need to update it a bit.

The School Board Attorney is the first registered Parliamentarian to ever serve in the SBAO. He, along with two Assistant School Board Attorneys, are certified by the Florida Bar Board as specialists/experts in Education Law. The two Assistant School Board Attorneys have recently been re-certified as specialists in Education Law by the

Florida Bar. In addition, he and several attorneys are recognized as statewide legal experts in their practices, and routinely provide a significant portion of the lectures and materials for the Education Law Certification preparation courses in the areas of Charter Schools, Student Rights, Instructional Materials, Student Discipline and Special Education. In addition, numerous attorneys in the SBAO are licensed to practice in multiple state jurisdictions as well as before the Federal Bar. Several professionals in the SBAO have received statewide recognitions and awards.

The School Board Attorney has an “AV Preeminent rating (Highest Possible Rating in both legal ability and Ethical Standards)” by Martindale-Hubbell. He has also received several recognitions and awards since July 2011, including the South Florida Legal Guide’s Top Lawyers, Top Lawyers in Florida, the Super Lawyers, and The Legacy Legal Leader Award recognition. The School Board Attorney also recently received several awards and certificates for his contributions to the local legal community.

The SBAO continues to participate in various community activities, including pro-bono activities at District schools, such as the law student seminars at local law schools on legal topics, and the Bench and Bar Committee. The School Board Attorney has served on several committees to select United States Magistrate Judges in the Southern District of Florida and was recently appointed by the Florida Governor to the 11<sup>th</sup> Judicial Circuit Nominating Commission (“JNC”), a prestigious appointment to a committee that screens and recommends judicial candidates to the governor for appointment to the local bench. The School Board attorney is currently the Vice Chair of the JNC.

In addition, Mindy McNichols, Assistant School Board Attorney, was recently elected by her peers as President of the Florida School Board Attorneys Association, a professional network of over 200 school board attorneys statewide. This is the first time in the Association’s 50 year history that the President has been elected from Miami-Dade.

### **OFFICE COMPOSITION, FUTURE GOALS, COMPENSATION**

The District’s legal work has been handled by the SBAO in a competent and professional manner as evidenced by the high degree of success in litigation and other matters. With the support of the School Board, the organization of the SBAO has had a dramatic impact, leading to financial savings and favorable outcomes for the District. The attorneys have been organized into practice areas with designated specialties. See Exhibit E, *Organization Chart*.

In order to meet the challenge of retaining experienced attorneys and support staff (paralegals) with our District, the School Board approved a revised salary schedule in April 2013. The implementation of this schedule has been cost-neutral and within the

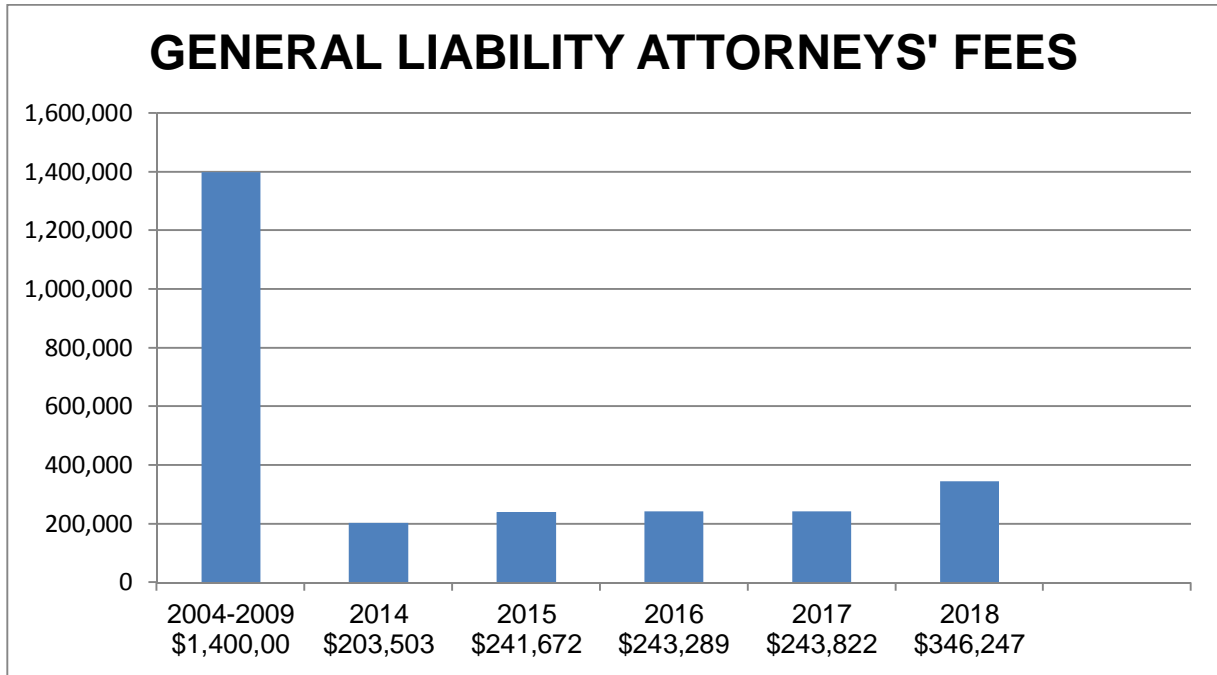
School Board Attorney's Office's budget, with the goal of greater flexibility to provide competitive salary adjustments for those SBAO employees that perform at a level that exceeds expectations. The attorneys remain on annual contracts with a managerial exempt benefits package.

Due to an imminent vacancy in the position of Assistant School Board Attorney/General Litigation (current attorney is accepting other employment within the District), the School Board Attorney is seeking to fill this vacant position. Having completed the screening and interview process the Board Attorney is requesting authorization to enter into a contractual agreement with the Mr. Jordan Madrigal for the position of Assistant School Board Attorney/General Litigation. The proposed employment contract, along with references and Mr. Madrigal's resume will be forwarded under separate cover.

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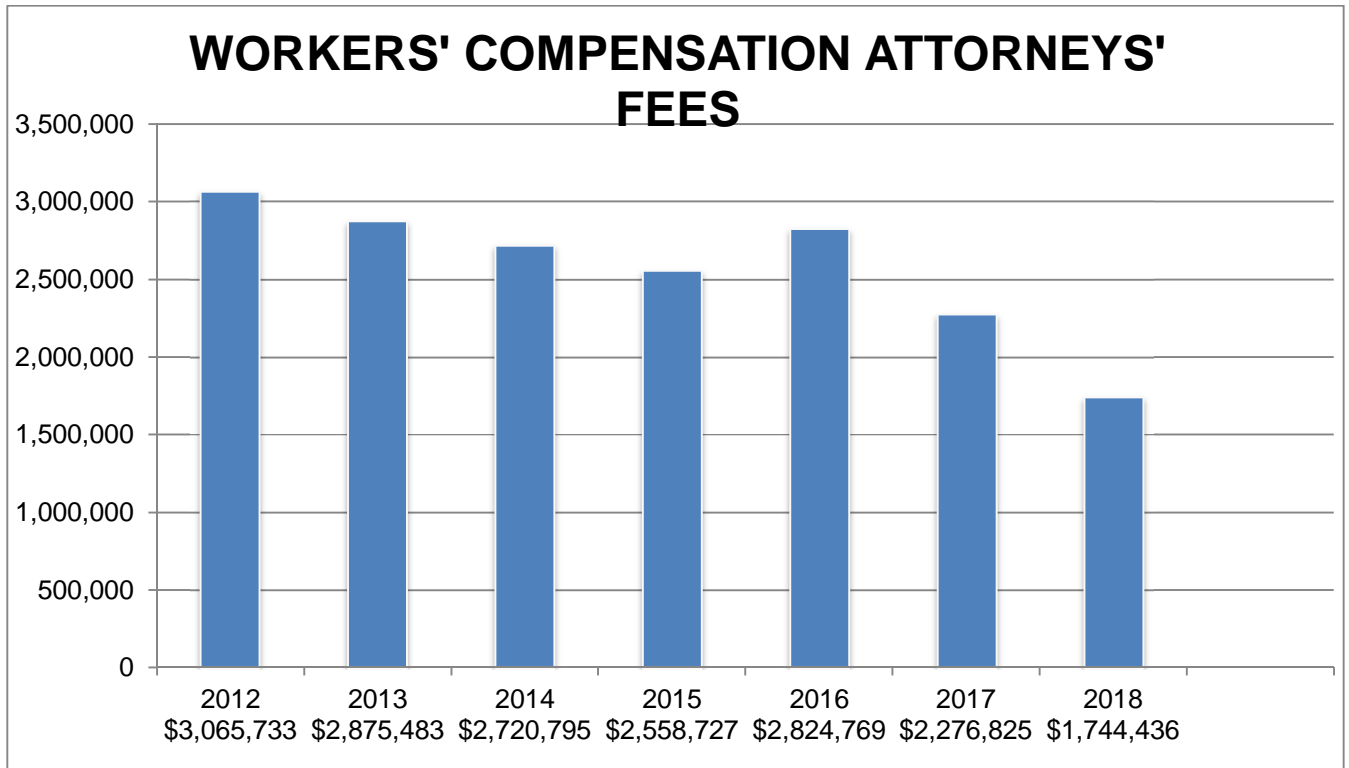


**EXHIBIT A**



Includes police liability claims which are covered under the District's insurance policy with Lexington Insurance, and therefore may be subject to reimbursement by the insurance carrier.

**EXHIBIT B**



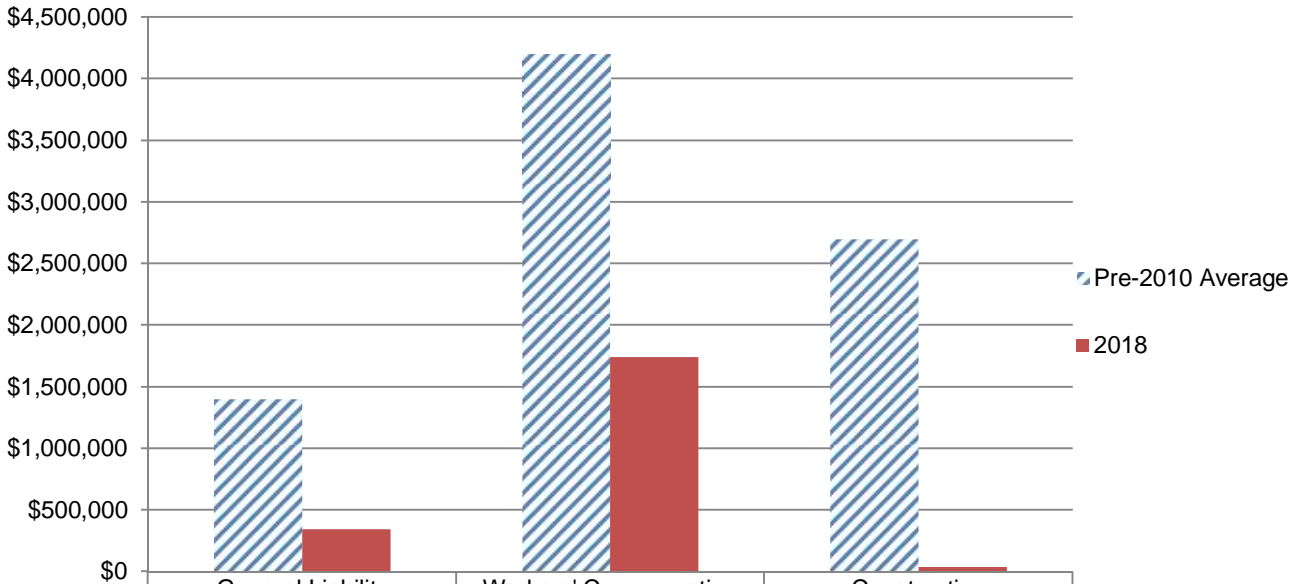
**EXHIBIT C**

**TOTAL CONSTRUCTION-RELATED ATTORNEYS' FEE EXPENDITURES**

<b>FISCAL YEAR</b>	<b># CASES/ CLAIMS</b>	<b>TOTAL ATTORNEYS' FEE EXPENDITURES</b>
2004/2005	9	\$ 3,383,189.00
2005/2006	6	\$ 3,145,609.00
2006/2007	3	\$ 3,087,140.00
2007/2008	4	\$ 2,537,426.00
2008/2009	3	\$ 2,184,488.00
2009/2010	12	\$ 929,323.00
2010/2011	8	\$ 693,698.00
2011/2012	17	\$ 561,654.23
2012/2013	11	\$ 461,633.04
2013/2014	7	\$ 415,647.14
2014/2015	9	\$ 81,551.00
2015/2016	12	\$ 35,595.94
2016/2017	8	\$ 18,209.00
2017/2018	16	\$ 37,835.10

**EXHIBIT D**

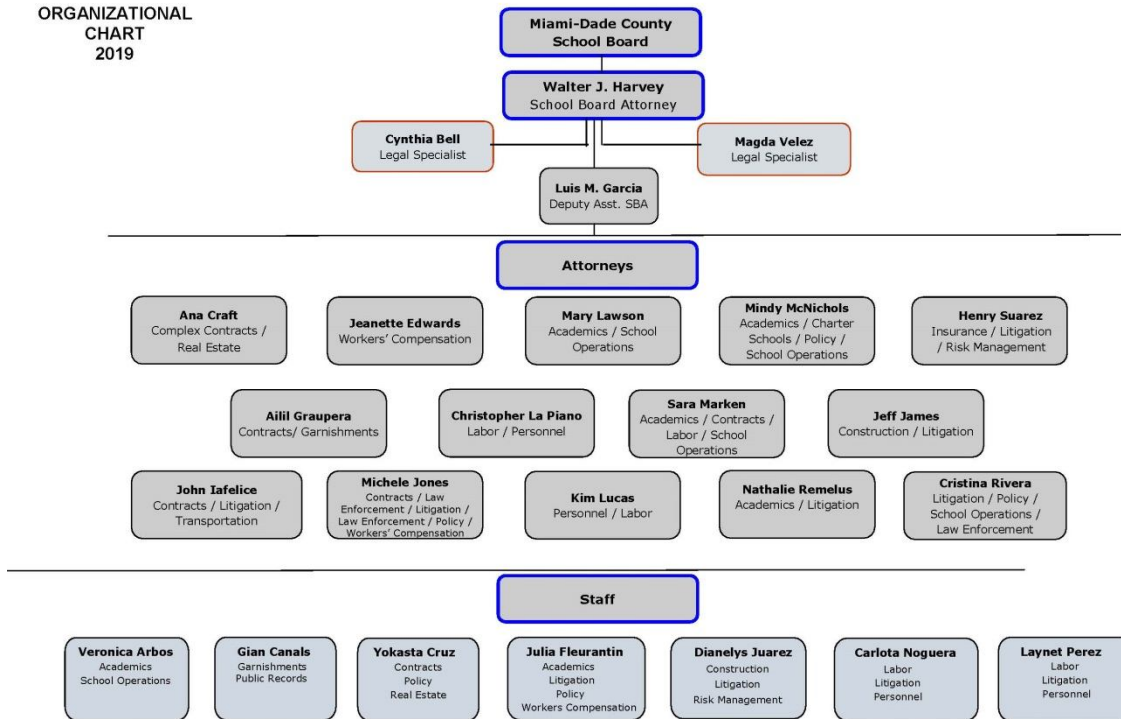
**ATTORNEYS' FEE COMPARISONS**



	General Liability	Workers' Compensation	Construction
Pre-2010 Average	\$1,400,000	\$4,200,000	\$2,700,000
2018	\$346,247	\$1,744,436	\$37,835

# EXHIBIT E

ORGANIZATIONAL  
CHART  
2019



**RECOMMENDED:**

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

- 1) accept the 2018 Annual Report of the School Board Attorney; and,
- 2) approve the employment of Mr. Jordan Madrigal for the position of Assistant School Board Attorney/General Litigation and authorize the School Board Attorney to execute the requisite employment contract.

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