

Office of Superintendent of Schools
Board Meeting of May 20, 2020

May 5, 2020

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 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

- Numerous MOUs with Municipalities and Police Departments for Campus Security Renewed as required by SB 7026
- Phase II Disparity Study and M/WBE Policy Amendments
- SEED/KIPP – District Managed Charter Schools
- Multi-state litigation against opioid manufacturers
- Multi-state litigation against JUUL vaping products
- Litigation with the City of Aventura over property tax referendum proceeds
- Statewide Grand Jury requests related to its investigation of compliance with the Marjory Stoneman Douglas High School Safety Act
- Florida Legislation – Legal Analysis and Compliance Issues
- Forums and Seminars with Local Courts
- Complex Agreements and Transactions, including the 20-1500 Downtown Development Project
- Favorable Ruling in Important Education Law Cases
- During the ongoing state emergency due to COVID-19 pandemic, assisted District administration in meeting State and Federal compliance issues relative to Distance Learning, and employment matters

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), Delray Beach, FL, *“Update on Legal Issues Related to Transgender Students in Public Schools”*;
- Safe Schools Conference, Legal Panel, St. Petersburg, FL, *“LGBTQ Legal Issues and Best Practices in Public Schools*, February 26, 2019;
- American Bar Association Section of State & Local Government Law;
- The Florida Bar, Education Law Committee Exam Preparation Course;
- The Florida Bar, Education Law Committee, *“Overview of Marjory Stoneman Douglas High School Public Safety Act and Other School Safety Laws,”* Boca Raton, FL;
- The Quarterly Chat for SBE and MWBE firms on Joint Ventures;
- The Risk Management Society, Greater Miami Chapter;

- Judicial Nominating Commission, “*Judicial Nomination Process and Procedures*,” various voluntary bar associations;
- Annual presenter at the Student Journalism Forum, discussing implications of law, social media and student rights;
- Guest lecturers at local law schools, colleges and high schools regarding various topics in Education Law; and
- Forums and seminars with local judges and attorneys regarding public schools and education law.

Internal Staff Trainings

The SBAO attorneys also provide trainings for District staff and advisory committees on a regular basis and upon request on a variety of issues.

- SBAO provided a contract training to the District staff.
- SBAO attorney is 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 School Health Advisory Committee (SHAC), 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, the Twenty-First Century Bond Advisory Committee, the Secure Our Future Advisory Committee, the SBE/MBE and M/WBE Advisory Committee, and various task forces.
- SBAO provided ongoing training with Student Services staff to District Counselors and others on LGBTQ issues.
- SBAO presented “*Creating Evidence of Proper Notice to Support Placement & Assignment Decisions, Alternative Education: Placement, Policies, and Procedures*” to Staffing Specialists, Psychologists, and other personnel.

Trademark, Licensing and Copyright Programs

The SBAO continues to assure the legal protection of the District’s marks through the registration and re-registration of District trademarks and continued enforcement through cease and desist letters and individual contracts with vendors.

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

After the 2018 Legislature passed SB 7026, the SBAO continued to work with the Superintendent, Chief of Police, and Cabinet to implement its safety and security provisions by assisting in negotiating MOUs with Miami-Dade County and various municipalities to assign school safety officers to District schools. In addition, the SBAO assisted the District in developing threat assessment protocols and procedures that meet the legal standards required by the state. The SBAO also assisted the District in responding to public records and information requests from the Grand Jury that was convened to investigate school district compliance under the Act. And, the SBAO worked with District staff to bring several policies to the Board that addressed school safety and surveillance to comply with the Act.

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. In 2019, 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 2019 calendar year, the SBAO provided substantial assistance to the Board and District staff of multiple departments in forty-four (44) 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, religious expression, charter schools, emergencies, personnel, purchasing, testing, safety and security, the student progression plan, magnet schools, medical marijuana, human trafficking, and treasury policies.

In addition, in consultation with the Superintendent's Office and Cabinet, the SBAO has facilitated the Board's annual review of policy revisions in 2020. Since January 2020, the School Board has adopted twenty-seven (27) new and amended policies brought by the SBAO that address charter schools, personnel, suicide prevention, mental health assessments, and many others, to conform to statutory changes.

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 handle the majority of all general liability claims and lawsuits brought against the District. These are notices of claims and lawsuits which seek monetary damages against the District for personal injuries and damage to property suffered as a result of alleged negligent conduct by the District. During 2019, 174 notices of claims (pre-suit notices of personal injury claims required by §768.28, F.S.) and 69 general liability lawsuits were received and processed by the SBAO. Significantly, the 69 general liability lawsuits represent a 17% increase over the 59 general liability lawsuits received during 2018 and a 46% increase over the 47 general liability lawsuits received in 2017. Much of the increase in the number of 2019 lawsuits is attributed to the filing of eight (8) extremely serious sexual assault claims and an additional pending claim. These lawsuits required extensive investigation and legal handling during 2019.

At present, SBAO attorneys are defending in-house 103 lawsuits filed against the District. This represents approximately 93% of all lawsuits presently pending against the District. Furthermore, the SBAO supervises all lawsuits assigned to outside attorneys. During 2019 there were 7 litigated matters involving specialized areas of legal practice assigned to outside counsel.

As a direct result of the substantial increase in new sexual assault lawsuits filed against the District during 2019, general liability outside counsel fees increased from \$346,247 in 2018 to **\$454,935** in 2019. See Exhibit A General Liability Attorneys' Fees attached. However, the utilization of SBAO attorneys in the defense of the numerous claims and lawsuits filed against the District continues to result in substantial cost savings to the District and outside counsel legal fees continue to remain at historic lows (prior to the restructuring of the SBAO approved by the Board at its meeting of October 14, 2009, the District spent an average of \$1,400,000 annually in this category of outside counsel fees). See Exhibit D, Attorneys' Fee Comparison attached. In addition, monetary payouts on tort and general liability claims have also remained 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. At present, SBAO attorneys are handling in excess of 150 litigated workers' compensation claims that were filed against the District. During 2019, 71

new litigated workers' compensation claims have been assigned to SBAO attorneys, for a 2019 total of 303 active litigates workers' compensation claims currently being defended. This represents the majority all litigated workers' compensation claims filed against the District during 2019.

The utilization of the SBAO in the legal defense of the numerous workers' compensation claims filed against the District each year will result in significant cost savings for the District. Legal fees paid to outside workers' compensation defense counsel decreased significantly from the prior five-year average of \$2,424,790 to **\$1,564,691** in 2019. See Exhibit B, Workers' Compensation Attorneys' Fees, attached.

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 works 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 and 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 City of South Miami and other municipalities, as well as agreements relating to District initiatives known as Brickell Solutions enhancing capacity in the Downtown area and ongoing representation relating to School Site and Educational Facilities Planning including mitigation agreements in compliance with school concurrency. Several significant closings took place such as a land donation from the University of Miami and conveyance to Miami-Dade County of two Board-owned properties under Miami-Dade County's Environmental Endangered Land Program for land preservation. SBAO also continued its work towards the acquisition of the Young Women's Preparatory Academy requiring intricate negotiations in a land exchange which also included a legislative appropriation. Also, the SBAO works with District staff, Broward County and the State of Florida on the redevelopment of a radio communications tower and supporting facilities at the McTyre Park in Pembroke Park pursuant to a 2006 Sublease Agreement.

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 well as a Master Plan which will inform the School Board's initiative.

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 legal advisor and 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. Finally, the SBAO has been able to assist the Department of Transportation in the purchase and delivery of 68 new District buses which will be added to our fleet.

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 civil rights violations, discrimination, sexual assaults, battery, fatalities, or other serious claims having potentially high financial exposure.

Contracts

SBAO continues updating the District's standard form agreements to incorporate the requirements of laws, rules and regulations. All revised forms are uploaded to the online

District forms bank. Our office continues to assist District staff in ensuring that updated forms are used in order to ensure that the School Board's interests are protected. Some of the significant agreements the SBAO assisted District staff in negotiating include: (i) Home Builder's Institute (Schools Skills Initiative); (ii) National Wildlife Federation; (iii) Bloomberg Finance (Bloomberg Terminals); (iv) Mental Health Assistance Plan; (v) Dual Enrollment and Articulation Agreements with Universities and Colleges; (vi) Bilingual Agreements with Spain, Portugal, and France; (vii) Numerous Programs with CareerSource, (viii) Cooperating Agreement with Miami-Dade County and other parties for the Summer Youth Internship Program; and (ix) Cooperative Agreement for Future Bound Miami Consortium.

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, Royalty Trademark Agreements as well as contracts for travel for interscholastic tournaments for high school athletics. The SBAO also renewed numerous memorandums of understanding with local municipalities in order to remain in compliance with the Marjory Stoneman Douglas Act.

In anticipation of Super Bowl LIV, the SBAO assisted District staff in negotiating, and drafting contracts to upgrade several District sports facilities. Some of these multi-million dollar agreements include: a complete overhaul of Traz Powell Stadium through a Grant Agreement from Nike; a renovation of Miami Edison Senior High's field, turf and scoreboard with Adidas; a turf and track installation at Miami Beach Senior High; and a series of improvement projects at middle schools throughout the District funded in part by the College Playoff Foundation. These major projects are in addition to a number of contracts that the SBAO reviewed for the Board during Super Bowl LIV ranging from simple transportation contracts to drafting Temporary Use Agreements to monetize District facilities for the Super Bowl.

The SBAO assisted staff in the negotiation of a Letter Agreement Supplementing and Modifying the Educational Broadband Service Long-Term De Facto Lease Agreement with Clearwire Spectrum Holdings II LLC ("Clearwire") dated June 27, 2008, providing for, among other things, a \$3.5 million Upfront IP Conversion Payment, a 13.5% increase (\$60,750) in monthly payments, and an interim service credit and additional mobile data hotspot devices to be used during the COVID-19 pandemic.

The SBAO continues to advise District staff and the School 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 reviews of titles and real estate closings and matters relating to procurement.

Since January 1, 2019, a total of 1,553 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 the 2019 calendar year, the SBAO continued to provide extensive legal advice and representation to District staff regarding all employment matters including claims under Federal and State statutes as well as employee disciplinary matters. During 2019, there was a dramatic increase in the number of personnel matters litigated before the Division of Administrative Hearings (DOAH) and handled by the SBAO. Since January 1, 2019, the three in-house personnel and employment attorneys handled thirty-eight (38) cases at different stages of litigation, including cases in state and federal courts, appellate courts and the 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:

State and Federal litigation	12
Appellate	3
DOAH	24

During 2019 the SBAO conducted seven (7) evidentiary hearings/trials before DOAH and resolved almost one third of the active employment/personnel case load. In both appellate cases, the SBAO won preliminary victories dispensing with the appeals but pending reconsideration. These litigation and appellate victories have substantially reduced the District's exposure to liability while supporting District administration's aggressive enforcement of Board policies.

During the same period, the SBAO conducted extensive legal reviews for both the Office of Professional Standards (OPS) and the Office of Civil Rights Compliance (CRC), ensuring that District staff can be confident in making informed personnel decisions. The approximate numbers of reviews conducted during 2019 were:

OPS Legal Reviews	222
CRC Legal Reviews	40
ADA Legal Reviews	48

Child Care and Development Block Grant Act

The SBAO continues to be instrumental in assisting the District with implementing procedures required by amended state laws in order to comply with the Child Care and

Development Block Grant (CCDBG), which prescribes health and safety requirements for childcare providers. Pursuant to the CCDBG, the Florida Legislature amended state laws in 2016 governing screenings, licensing, inspections and training. The SBAO researched and analyzed the CCDBG, the amended Florida Statutes and the Florida Legislative sessions to ensure that the District has a thorough comprehension of the requirements. The SBAO continues to serve as the liaison on behalf of the District with the Florida Office of Early Learning and the Department of Children and Families (DCF). Complete compliance is required by the District for it to continue to receive its School Readiness Dollars, which affects the most vulnerable members of our community. The SBAO continues to provide guidance to District staff and school sites regarding required DCF training and the DCF exam for personnel to work with students participating in the early learning program, the before and after care programs and the District's summer camp programs.

The Americans with Disabilities Act and The Family and Medical Leave Act

In an effort to protect the District from potential litigation, the SBAO meets regularly with the Office of Professional Standards and the Office of Leave, Retirement, and Unemployment Compensation to provide District administrators with timely legal advice concerning individual employee cases.

SBAO participates monthly in the American with Disabilities District Consultative Committee meetings to assist staff in addressing employee requests for on the job accommodations based on an employee's disability.

District's Website and Web Application Accessibility

SBAO continues to provide extensive legal advice to staff regarding the accessibility of the District's websites and web applications to individuals regardless of disability. SBAO has been working closely with staff in preparation for an upcoming review by the United States Department of Education Office for Civil Rights (OCR).

Additionally, SBAO has successfully negotiated a settlement agreement in a federal employment lawsuit alleging inaccessibility to the District's web applications and websites. As a result, the District has established a process to ensure that all vendors provide accessible web programs when doing business with the District and to work with current vendors to provide equal access to employees with disabilities.

Pro Se Litigant

In a case involving a pro se litigant, the SBAO successfully argued that the plaintiff's several complaints, appeals, and petitions qualified her as a "vexatious litigant" whose pleadings should be limited. We obtained an order from the Eleventh Judicial Circuit Court of Florida requiring that the plaintiff obtains counsel before filing any document in that court system. After the plaintiff's complaint was dismissed for failing to comply with this order, she

appealed to Florida's Third District Court of Appeal. The appellate court, in a *per curiam* summary order, affirmed the lower court's dismissal of the action. Plaintiff filed a petition in the Florida Supreme Court challenging that order, which remains pending.

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.

In conjunction with District staff, the SBAO drafted parental notification letters about employee violation(s) of School Board Policy in accordance with new parental reporting procedures delineated in state law. In addition, the SBAO worked in conjunction with District staff to develop procedures and forms to comply with the heightened twenty-four-hour reporting requirements to the Department of Education of certain criminal offenses and suspected offenses by employee(s). The SBAO also assists with the determination of whether certain allegations meet the criteria for heightened reporting.

The SBAO assisted District staff with drafting memoranda and guidelines to employees about mandatory reporting obligations under Florida law and professional expectations with regards to student/teacher relationships.

The SBAO assisted OPS with the processing of hundreds of fingerprint and criminal background screenings for applicants, including researching out-of-state criminal violations that impact Level 2 screening requirements. In addition, the SBAO facilitated the development of the appeal and exemption process, including the preparation of forms to be utilized by District staff.

In order to comply with the Superintendent's Memorandum dated February 2019 regarding Enhancements to Employee Training Investigation Protocols and Measures to Enhance Students Safety, a representative from the SBAO attended a three-day investigation seminar held by Miami-Dade Police, along with investigators from the General Investigative Unit, the Civilian Investigative Unit and the Office of Civil Rights Compliance. A representative from the SBAO assisted OPS in developing internal quarterly training for the District's investigative units, including obtaining accreditation of master plan points for the attendees through the Office of Professional Development and Evaluation. A representative from the SBAO also conducts high-level reviews of investigations of certain cases by the investigative units and regularly meets with District staff about these pending investigations as required by the Superintendent's memorandum. In connection with the high-level review, the SBAO representative also conducts retroactive reviews of employees accused of misconduct to determine if the employee has been the subject of similar allegations. The SBAO facilitates the organization of, and also participates in, the quarterly Case Study review sessions that are attended by the District's investigative units and OPS. The SBAO

provided extensive assistance to District staff in reviewing and revising the Personnel Investigation Model (PIM).

The SBAO participated with District staff to provide state required continuing education on identifying and reporting child abuse and neglect to teachers in grades K-12.

The SBAO also worked with OPS to revise the OPS Manual and all its attachments for the 2019-2020 school year.

RELEVANT, RIGOROUS & INNOVATIVE ACADEMICS

The SBAO continues to provide extensive representation and advice in matters involving various student-related policies and procedures. The SBAO provides advice and representation to resolve disputes involving students with disabilities pursuant to the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973. 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 related to student-specific legal claims:

Florida Division of Administrative Hearings - 34
Circuit Court - 1
District Court of Appeal - 2
United States District Court - 5
Florida Supreme Court - 1
Pre-Litigation matters – Approximately 150

The SBAO has continued to assist 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 continued 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 forms for administrative assignments to District alternative programs and continued to provide assistance on individual student disciplinary assignments. At the invitation of the School Operations Department, the SBAO presented *“Creating Evidence of Proper Notice to Support Placement & Assignment Decisions, Alternative Education: Placement, Policies, and Procedures”* to Staffing Specialists, Psychologists, and other personnel.

SBAO attorneys provided ongoing legal assistance to the Mental Health, Student Services, ESE, and School Operations departments and school sites regarding Threat Assessment and Mental Health Team procedures in response to the Marjory Stoneman Douglas Act (SB 7026).

The SBAO attorneys assisted the District's Civil Rights Compliance Office with revisions to forms and procedures related to discrimination against students.

The SBAO assisted the District Federal & State Compliance Office, Student Services Department and school sites with ongoing student records and registration issues, including specific student records, student records correction requests, and unique issues affecting homeless students and students receiving services from the Department of Children and Families and/or Department of Juvenile Justice. The SBAO continued to provide advice on magnet and other school choice programs.

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	11
Review of Board Items	4
Charter contracts, including new, renewals and amendments	45

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

During the 2018-2019 school year, three attorneys in the SBAO became adjunct professors at Florida Memorial University and worked 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 provided 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.

Recently, the School Board Attorney hosted and chaired two Judicial Nominating Commission Meetings at the Law Enforcement Officers' Memorial High School, wherein current and future county and circuit court judges were interviewed and gave lectures over a two-day period.

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 school administrator referrals 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. Moreover, our designated attorneys assisted in renewing numerous memorandums of understanding with local municipalities in order to remain in compliance with the Marjory Stoneman Douglas Act.

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 reviewing and 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 School Health Advisory Committee (SHAC), 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 Secure Our Future Advisory 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 the highlights section of this Report for details.

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 school administrator referrals. School administrator referrals 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, 2019, the SBAO handled:

Board Member Referrals/Legal Reviews	454
Superintendent Referrals	104
Public Records Requests	50
School Administrator Referrals	1699
Creditor Rights/Garnishments	303

AWARDS AND RECOGNITIONS

The School Board Attorney is the first Registered Parliamentarian (“R.P.”) to serve in the SBAO, and one of the few R.P.s to serve as a school board attorney in the entire State of Florida. He, along with two Assistant School Board Attorneys, are certified by the Florida Bar Board as specialists/experts in Education Law. The School Board Attorney and the two Assistant School Board Attorneys have been re-certified as specialists in Education Law by the Florida Bar. Another Assistant School Board Attorney recently qualified for and took the

certification exam. 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. Henry Suarez, Assistant School Board Attorney, served on the Florida Bar Worker's Compensation Rules Advisory Committee. 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 appointed by the Florida Governor to the 11th 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 Chair of the JNC, which is the largest and busiest JNC in the State of Florida.

Mindy McNichols, Assistant School Board Attorney, was awarded the prestigious C. Graham Carothers Award given by the Florida School Board Attorneys Association for her outstanding contributions to education law and the legal profession. This is the first time in the Association's 65-year history that the award has been presented to an attorney in the Miami-Dade School Board Attorney's Office. Ms. McNichols was also recently appointed by the Florida Supreme Court to a five-year term on the Florida Bar Board of Examiners.

Jeff James, Assistant School Board Attorney, was recently awarded a Diversity Scholarship for the American Bar Association Forum on Construction Law. The scholarship covers the cost for the recipient to attend the Annual ABA Forum on Construction Law. The purpose of the forum is to keep its members updated on all the legal changes related to the construction industry. Mr. James was selected from a large group of attorneys throughout the United States.

On November 7, 2019, Assistant School Board Attorney Cristina Rivera Correa was nominated by the Eleventh Circuit Judicial Nominating Commission for a gubernatorial appointment as Miami-Dade County Court judge. Ms. Correa was invited to Tallahassee

where she met with Governor Ron DeSantis' General Counsel to interview for the position. Our office supports Ms. Correa in her prestigious endeavor to continue serving the Miami-Dade County community.

In 2019, a group of Judges of Compensation Claims and Miami-Dade workers' compensation practitioners founded the Richard A. Sicking American Inn of Court under the auspices of the American Inns of Court, an organization driven by goals of professionalism and mentoring. After careful vetting, the Inn chose MDCPS partner *Take Stock in Children* as its chosen charity. The Inn, through TSIC and our MDCPS Office of Community Engagement volunteering screening, offers mentorship opportunities bringing together workers' compensation attorneys, judges, and mediators with at-risk high school students attending Miami-Dade County public high schools. Assistant Board Attorney Jeanette Edwards is a founding member of the Inn and is presently serving a two-year term as Secretary, and Executive Board member.

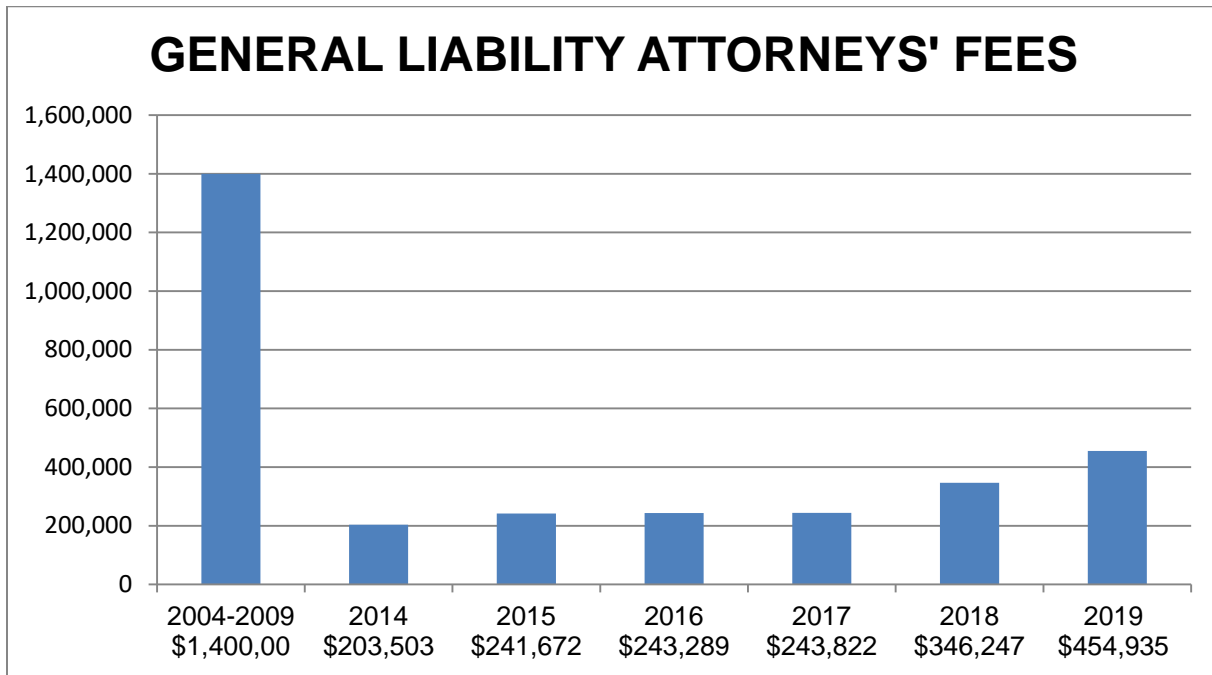
In addition, Julia Fleurantin has been a member of the SBAO since 2011. She initially joined the office as a high school student volunteer and was subsequently hired as a paralegal while continuing her education as a full-time college student. Ms. Fleurantin has worked in the majority of our practice areas including Contracts, Real Estate, and Academics. She is currently a senior level paralegal responsible for Worker's Compensation, Intellectual Property, and Policy matters. The SBAO is proud to report that Ms. Fleurantin has recently been accepted for admission to several prestigious national law schools and will be commencing her law studies in the Fall of 2020.

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, Organizational 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.

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

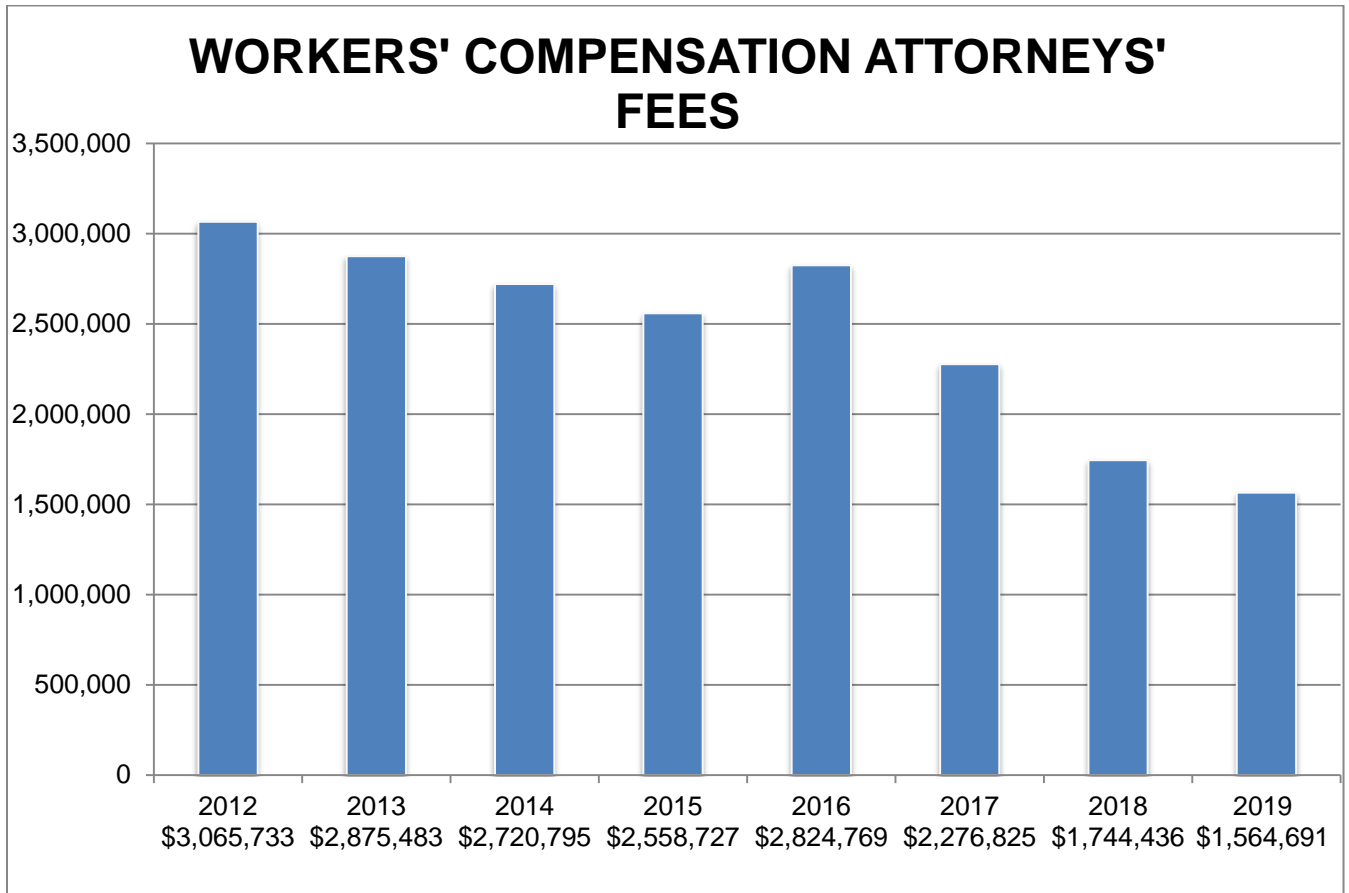


EXHIBIT C

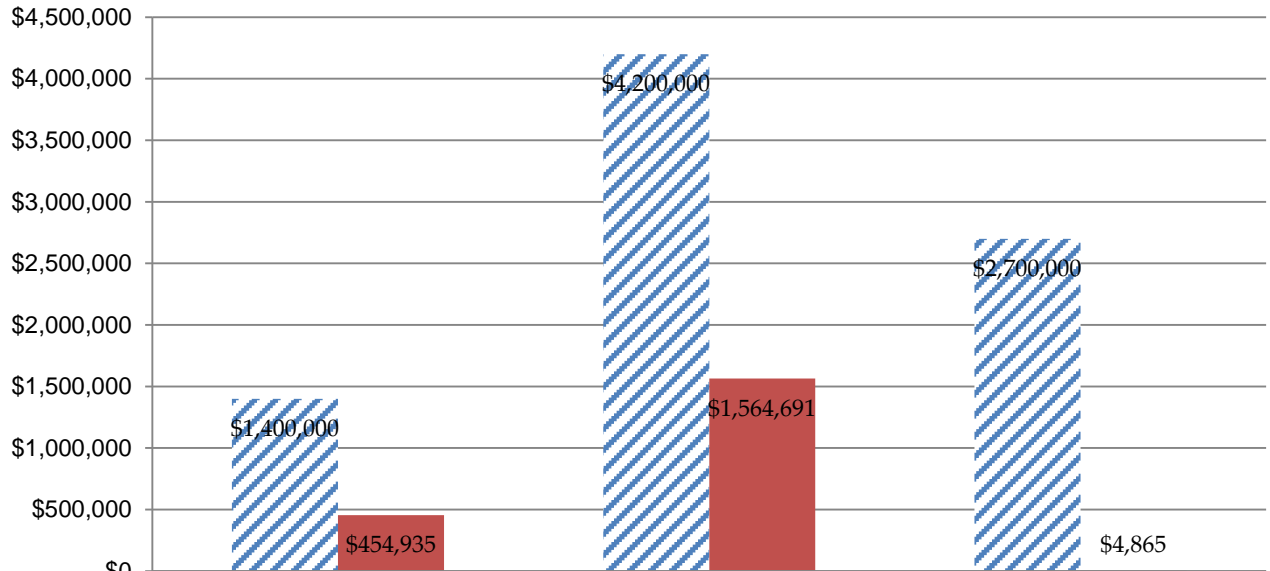
TOTAL CONSTRUCTION-RELATED ATTORNEYS' FEE EXPENDITURES

FISCAL YEAR	# CASES/ CLAIMS	TOTAL ATTORNEYS' FEE EXPENDITURES
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
2018/2019	9	\$ 4,865.11

EXHIBIT D

ATTORNEYS' FEE COMPARISONS

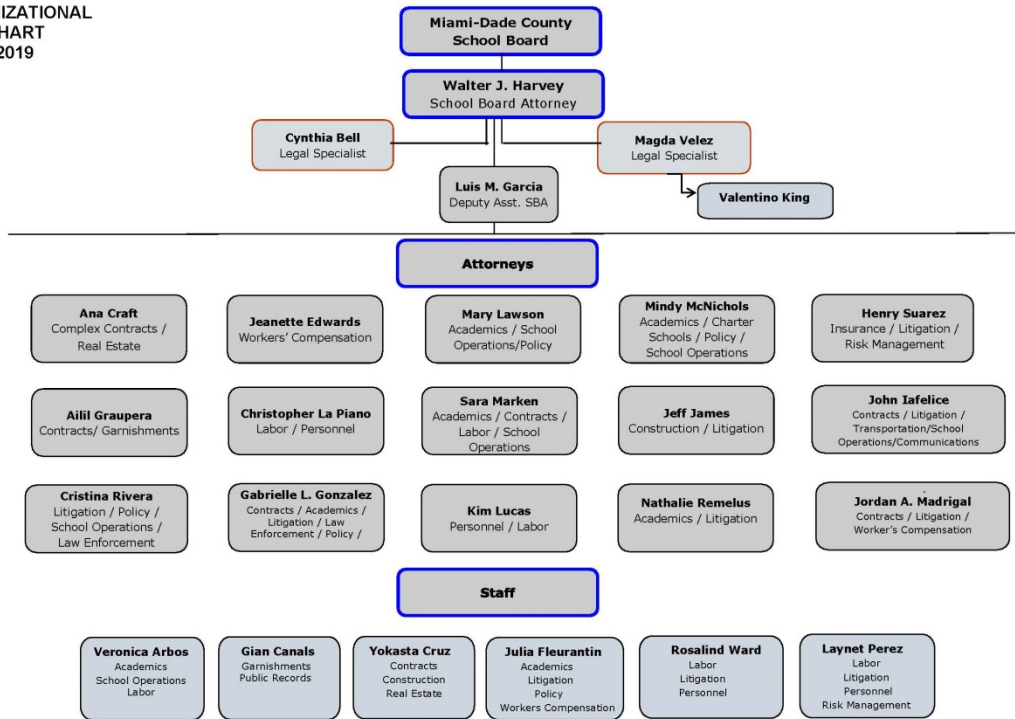
■ Pre-2010 Average
■ 2019



	General Liability	Workers' Compensation	Construction
Pre-2010 Average	\$1,400,000	\$4,200,000	\$2,700,000
2019	\$454,935	\$1,564,691	\$4,865

EXHIBIT E

ORGANIZATIONAL
CHART
2019



RECOMMENDED:

That The School Board of Miami-Dade County, Florida accept the 2019 Annual Report of the School Board Attorney.