

Dr. Steve Gallon III, Board Member

**SUBJECT: EDUCATIONAL IMPACT FEES**

**COMMITTEE: FISCAL ACCOUNTABILITY & GOVERNMENT RELATIONS**

**LINK TO STRATEGIC**

**PLAN: EFFECTIVE & SUSTAINABLE OPERATIONAL PRACTICES**

The School Board of Miami-Dade County remains committed to promoting and maintaining a high level of accountability, integrity, and transparency in the operation of the school district, including those that involve expenditures, procurement, and related financial matters. In fact, the ultimate, accountability for these matters' rests with the School Board, as stipulated in Florida Statute 1001.42. As a part of this obligation and work, the School Board must continue to examine and explore all means and measures to secure revenue in the operation of the district and its schools and support the education of its students. This includes revenue from local, state, federal, and private sources, as well as those available through appropriate Interlocal Agreements with other governmental entities.

One such source of revenue available to and accessible by the District is Educational Facilities Impact Fees (EFIFs). EFIFs are fees for new residential development in the county, which are remitted and collected in accordance with applicable statutes, ordinances, and agreements. Through an Interlocal Agreement (ILA) with the Board, Miami-Dade County is primarily responsible for imposing, calculating, and collecting EFIFs on new residential construction developments or expansion of existing residential properties on behalf of the School District. The principle behind the EFIF is the reasonable expectation that new residential developments will be occupied by school aged children needing to be accommodated by the District. In effect, new residential development increases the student population being served by nearby schools. The revenue generated from this process is intended to create additional student stations at schools found within three benefit districts, generally identified as East, Northwest, and Southwest.

The collection of EFIFs is authorized through Section 163.31801, Florida Statutes. Subsection (4)(a), in pertinent part, reads: *"At a minimum, each local government that adopts and collects an impact fee by ordinance and each special district that adopts, collects, and administers an impact fee by resolution must: (a) Ensure that the calculation of the impact fee is based on the most recent and localized data."*

An impact fee is not a tax. An impact fee is generally regarded as a regulatory function established based upon the specific benefit to the user related to a given infrastructure type and

is not established for the primary purpose of generating revenue for the general benefit of the community, as are taxes. However, impact fee expenditures must convey a proportional benefit to the fee payer (e.g., developer, builder). This is accomplished through the establishment of benefit districts as needed, where fees collected in a benefit district are spent in the same benefit district. As previously explained Miami-Dade County has three benefit districts for schools pursuant to the ILA. Moreover, an impact fee must be tied to a proportional need for new infrastructure capacity created by new development in the relevant districts.

The current Miami-Dade County EFIF rates and corresponding formula were developed in 1995 based on Miami-Dade County Ordinance 95-79, adopted by the Miami-Dade County Board of County Commissioners on May 2, 1995, and amended March 1, 2022 with the same rate. The current EFIFs have been amended several times (for instance, through HB 7103 in 2019, SB 1066 in 2020, HB 1339 in 2020 and HB 337 in 2021).

In 2006, there was an unsuccessful effort by the School Board to have the County Commission revise the EFIF formula and rates based on a study commissioned by the School Board. The 2006 study supported and recommended changes to the EFIF formula and periodic adjustments to the EFIF rates to account for inflation in building costs. Since those revisions were not adopted by the County, the EFIF formula and rates have remained unchanged for nearly thirty (30) years. This stagnation, according to some estimates, may have resulted in the loss of potential revenue to the District to support its operations, and most importantly, the education of its students. The School Board has a fiduciary obligation and responsibility to pursue and avail itself to all available financial revenue for its students and EFIFs are part of this financial revenue.

While the EFIF rates for Miami-Dade County have remained unchanged for decades, other counties have increased their EFIF rates over time. As part of its March 2022 study of Palm Beach County's impact fees, the firm of Benesch reported on EFIFs for the state's five largest school Districts: M-DCPS, Broward, Hillsborough, Orange and Palm Beach. The Benesch report reflects that the impact fee rate/formula was established in Miami-Dade in 1995 and yields \$2,448 in EFIF for a 2000 square foot home. However, the other four large district/county rates were updated ranging from 2015 to 2021 and yielding EFIFs of \$6,608 to \$9,148.

At the School Board Audit and Budget Advisory Committee (ABAC) meeting of April 3, 2023, an operational audit of EFIFs was presented. In addition to unanimously receiving the findings of the audit, ABAC members unanimously voted to support proposed action by the ABAC Board Representative that would include, but was but limited to, sharing and discussing findings with the School Board; reviewing the current EFIF rates and any and all policies relating to periodic reviews of the EFIF, examining various methodology for reviewing EFIF rates, and re-engaging Miami-Dade County in the review of EFIF rates.

Therefore, this item seeks to direct the Superintendent of Schools to schedule and provide a presentation on EFIFs at the Fiscal Accountability and Government Relations meeting of June 14, 2023; review, and where appropriate, initiate rulemaking consistent with the requirements of the Educational Facilities Impact Fee Ordinance/Interlocal Agreement and the Interlocal Agreement for Public School Planning, for Educational Facilities Planning, County Ordinance and State Statutes regarding the frequency of review and/or requests for revision to EFIF rates; and re-engage Miami-Dade County and other stakeholders in preliminary discussions concerning the process for a review of EFIF rates and take other action as deemed appropriate to implement the requirements of this item and determine whether it is feasible to recommend revising the EFIF formula and rates.

The item has been reviewed and approved by the General Counsel's Office as to form and legal sufficiency.

**ACTION PROPOSED BY**

**DR. STEVE GALLON III:**

That The School Board of Miami-Dade County, Florida directs the Superintendent to:

1. schedule and provide a presentation on Educational Facilities Impact Fees (EFIFs) at the Fiscal Accountability and Government Relations Meeting of June 14, 2023;
2. review, and where appropriate, initiate rulemaking consistent with the requirements of the Educational Facilities Impact Fee Ordinance/Interlocal Agreement and the Interlocal Agreement for Public School Planning, for Educational Facilities Planning, County Ordinance and State Statutes regarding the frequency of review and/or requests for revision to EFIF rates; and
3. re-engage Miami-Dade County and other stakeholders in preliminary discussions concerning the process for a review of EFIF rates and take other action as deemed appropriate to implement the requirements of this item and determine whether it is feasible to recommend revising the EFIF formula and rates.