

TITLE: **Litigation Authority**

POLICY:

The purpose of this policy is to clearly identify the procedures to be followed when initiating litigation on behalf of The School Board of Orange County, Florida ("Board"), defending claims on behalf of the Board, identifying settlement procedures, and establishing authority for claims and lawsuits brought against the Board.

(1) **Initiation of Lawsuits or Appeals.**

Lawsuits or appeals shall not be initiated on behalf of the Board without the Board's prior approval. However, if the approval cannot be obtained prior to the expiration of legal time limits for such action, and/or the Board's position will be adversely affected by a delay, the General Counsel may authorize the initiation of the action if the Board Chair is notified in advance and the matter is subsequently presented at a regularly scheduled Board meeting or at an Executive Session of the Board for a determination of whether to continue the action.

(2) **Counter Claims, Third-party Claims, and Attorneys' Fees and Costs.**

The filing of counter claims and third-party claims shall be left to the discretion of the General Counsel, or designee, who shall be guided by the facts, applicable law, and best interests of the Board in determining whether to file such pleadings. Motions seeking reimbursement for attorneys' fees and costs or sanctions for frivolous actions or pleadings may only be filed on behalf of the Board by the General Counsel, or designee, or by outside counsel on behalf of the Board upon express written consent from the General Counsel. The provisions herein concerning prior authorization from the Board shall also not apply to any affirmative defenses that may be raised in defense of a lawsuit or administrative proceeding in which the Board is a party.

(3) **Actions That Do Not Require Board Approval. The following actions do not require Board approval:**

(a) **Loss recovery claims initiated by a third party administrator on behalf of the Board;**

(b) **Claims in bankruptcy. In any instance where the Office of Legal Services ("OLS") or the General Counsel is requested to pursue a claim in bankruptcy by filing of a Proof of Claim or any other pleading in a bankruptcy proceeding, a written statement submitted by the appropriate Orange County Public Schools ("OCPS") department attesting to a debt owed to the Board, together with**

supporting documentation, shall constitute sufficient authorization for the filing of such pleadings or claims;

- (c) Claims in receivership;
 - (d) Class action claims.
- (4) Litigation.
- (a) The General Counsel shall make assignments of the legal work of the Board to the attorneys assisting him or her and shall direct the activities of such attorneys. The General Counsel, or designee, shall oversee the services rendered by outside counsel and shall be responsible for coordinating services and assessing the scope and performance of services rendered by outside counsel.
 - (b) Nothing herein shall be construed to prohibit the Board from retaining any attorney or firm of its choosing for representation in a particular case, or from requesting that the General Counsel search for attorneys or firms other than those listed for representation in a particular case.
- (5) Authorization to Approve Other Legal Expenditures.

The General Counsel, or designee, is authorized to approve expenditures for ancillary costs to litigation including court reporters, arbitration costs, mediation costs, appraisers, expert witnesses, and such other costs as are necessary in the defense or prosecution of a claim as authorized by law.

TITLE: **Litigation Settlement Authority**

POLICY:

- (1) The Board is self-insured in accordance with the Florida Statutes for personal injury or property damage, workers' compensation, or similar claims. The Board may utilize third party administrators ("TPAs") to process these claims. The Board may also purchase other types of insurance to provide coverage to protect the interest of the district.
- (2) The Board authorizes its Senior Director of Risk Management to settle personal injury, property damage, labor and employment, and workers' compensation claims and lawsuits below \$20,000.00.
- (3) The Board authorizes the General Counsel to settle personal injury, property damage, labor and employment and workers' compensation claims and lawsuits from \$20,000.00 to \$50,000.00.
- (4) Any proposed settlements over \$50,000.00 shall be submitted to the Board for consideration.

- (5) During the mediation of a civil proceeding, the attorney representing the Board and/or its employees, as well as the Board's representative physically present at the mediation session, shall have, within the meaning of the Florida Rules of Civil Procedure, the full authority to negotiate on behalf of the Board and to recommend settlement by the Superintendent to the Board. Any mediated settlements that exceed \$50,000.00 shall include language that the proposed settlement shall require approval from the Board to become final or enforceable.

- (6) For any settlement of a claim in tort which requires the expenditure of public funds in excess of \$5,000.00, a legal notice shall be provided in a newspaper of general circulation in the county in which the claim arose, within sixty (60) days of entering into such settlement. No notice shall be required if the settlement has been approved by a court of competent jurisdiction.

SPECIFIC AUTHORITY: Sections 1001.32, 1001.41, 1001.42, 1001.43, Florida Statutes

Rules 6A-1.012, Florida Administrative Code

Rule 1.720, Florida Rules of Civil Procedure

ADOPTED: 10/11/16