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March 7, 2024

Peter Licata
Superintendent
Broward County School District
600 SE 3rd Ave
Ft. Lauderdale, Florida 33301

Dear Dr. Licata,

It has recently come to my attention that the Broward County School District is not complying with Florida laws requiring it to share revenue collected via a discretionary tax levied under section 1011.71(9), Florida Statutes (2018), with its charter schools. Two Florida appellate courts, including the Fourth District Court of Appeal, in whose jurisdiction the Broward County School District resides, have determined that revenue generated under this discretionary tax had to be shared with the district's charter schools. *Acad. for Positive Learning, Inc. v. Sch. Bd. of Palm Beach Cnty. (Academy II)*, 359 So. 3d 767, 771 (Fla. 4th DCA 2023); *Acad. for Positive Learning, Inc. v. Sch. Bd. of Palm Beach Cnty. (Academy I)*, 315 So. 3d 675, 678, 684 (Fla. 4th DCA 2021) (en banc); see also *Archimedean Acad., Inc. v. Sch. Bd. of Miami-Dade Cnty.*, 338 So. 3d 1032, 1035–36 (Fla. 3d DCA 2022).

In *Academy I*, 315 So. 3d at 684, the Fourth District Court of Appeal held that a discretionary tax levied by Palm Beach County that expressly excluded charter schools from receiving any of the revenues raised by the tax violated section 1002.33(17), Florida Statutes, which provides that students in charter schools should be funded the same as students in other public schools. However, the Court left undecided the question of whether the aggrieved charter school was “retroactively entitled to referendum funds” from school years prior to the Court’s opinion. *Id.* at 685.

In *Academy II*, 359 So. 3d at 771, The Court answered that question in the affirmative—the charter school was due funds collected from the inception of the tax. *Id.* In between the Fourth District’s decisions in *Academy I* and *Academy II*, the Third District Court of Appeal adopted the Fourth District’s reasoning in *Academy I* and held that the School Board of Miami-Dade County also owed one of its charter schools funds the district collected through its own similar referendum. See *Archimedean Acad.*, 338 So. 3d at 1036. These interpretations of sections

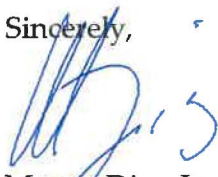
1002.33(17) and 1011.71(9) apply to the School Board of Broward County as well. *See Pardo v. State*, 596 So. 2d 665, 666–67 (Fla. 1992).

It has been alleged that Broward joined Palm Beach and Miami-Dade by instituting a similar tax and, likewise, did not properly share the revenues with its charter schools. If that is true, your District is violating Florida law and is subject to disciplinary action under section 1008.32, Florida Statutes (2023).

The State Board of Education is charged with overseeing “the performance of . . . district school boards” in enforcement of all laws and rules. § 1008.32. In executing this duty, “[t]he Commissioner of Education may investigate allegations of noncompliance with law or state board rule and determine probable cause.” § 1008.32(2)(a). The Commissioner is required to “report determinations of probable cause to the State Board of Education,” and the State Board must “require the . . . district school board . . . to document compliance with law or state board rule.” § 1008.32(2)(a). “If the . . . district school board . . . cannot satisfactorily document compliance, the State Board of Education may order compliance within a specified timeframe.” § 1008.32(3). “If the State Board of Education determines that . . . a district school board . . . is unwilling or unable to comply with law or state board rule within the specified time, the state board” may impose certain sanctions, including withholding “the transfer of state funds, discretionary grant funds, discretionary lottery funds, or any other funds specified as eligible for this purpose by the Legislature until the . . . school district . . . complies with the law or state board rule.” § 1008.32(4).

This letter serves as notice that I have opened an investigation into the allegation of noncompliance described above, and employees from the Department may soon reach out to the district for documentation and other information relevant to this alleged noncompliance. *See* § 1008.32(1), (2)(a). Your district’s cooperation in this matter is expected.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Manny Diaz, Jr.', is written over the word 'Sincerely,'.

Manny Diaz, Jr.

Commissioner of Education