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February 7, 2018

Robert Runcie, Superintendent
Nora Rupert, Chair
Broward County Public Schools
600 S.E. Third Avenue
Ft. Lauderdale, Florida 33301

Dear Superintendent Runcie and School Board Chair Rupert:

During the 2017 Session, the Florida Legislature adopted an education bill known as HB 7069, Ch. 2017-116, Laws of Fla., which the Governor signed on June 15, 2017, and which took effect on July 1, 2017. HB 7069's capital-millage provisions require school districts to distribute capital outlay funds to eligible charter schools by February 1, 2018:

School districts shall distribute capital outlay funds to charter schools no later than February 1 of each year, beginning on February 1, 2018, for the 2017-2018 fiscal year. (Section 1013.62(3)(e), F.S.)

The statute charges the Florida Department of Education with the limited responsibility for using a specific "calculation methodology to determine the amount of revenue that a school district must distribute to each eligible charter school." Section 1013.62(3) F.S. The Department completed the calculation for the current school year and reported the results to all school districts on January 9, 2018.

It has come to my attention that the School Board of Broward County failed to distribute the capital outlay funds to eligible charters by the statutory deadline. As you know, the Department acts as the administrative and supervisory education agency over local school districts under the direction of the State Board of Education. *See* Art. 9, section 2, Fla. Const. In its supervisory capacity, the Department is required to ensure compliance with the Florida Statutes and State Board of Education Rules. *See* s. 1008.32, F.S.

HERSHEL LYONS
CHANCELLOR OF PUBLIC SCHOOLS

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I am aware that the School Board of Broward County and twelve other school districts have brought an action challenging certain provisions in HB 7069, including the provisions that require school districts to distribute capital outlay funds to charter schools. *See School Board of Alachua County et al. v. Florida Department of Education et al.*, No. 2017 CA 002158 (Fla. 2d Cir. Ct. filed Oct. 16, 2017). In those court proceedings, the Plaintiff School Districts asked the Court to enjoin the statute until such time as a final ruling on the constitutionality of HB 7069 could be obtained. Plaintiff School Districts also sought leave of the court to deposit the capital outlay funds with the Court. The Court denied both of these requests. Accordingly, the pendency of this legal action is not an appropriate basis for nonpayment of the capital outlay funds.

I am writing to urge you to immediately take all steps that are necessary to comply with s. 1013.62(3), F.S. By noon on Friday, February 9, 2018, please provide me with documentation sufficient to show that the payments to the eligible public charter schools in Broward County, as set out in the Department's calculation, have been made. Alternatively, by this same deadline, please provide me with every factual and legal justification that the School Board of Broward County has for nonpayment.

The Commissioner will review your response in accordance with s. 1008.32, F.S., and determine whether there is probable cause to find that the School Board of Broward County has failed to comply with s. 1013.62(3), F.S. Thank you for your prompt attention to this important matter.

Sincerely,



Hershel Lyons
Chancellor of Public Schools