



THE SCHOOL DISTRICT OF
PALM BEACH COUNTY, FL

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CHIEF FINANCIAL OFFICER

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SUPERINTENDENT

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January 26, 2018

*Sent via U.S. Mail and email to the respective board chairs and administration of
all charter schools sponsored by the School Board of Palm Beach County*

**SUBJECT: NOTICE OF INTENT TO RECOUP DISCRETIONARY CAPITAL MILLAGE FUNDS
DISTRIBUTED TO CHARTER SCHOOLS IF LEGAL CHALLENGE TO HB 7069 IS SUCCESSFUL**

Charter School Operators and Governing Board Chairs:

This shall serve as a follow-up to the letter I issued on August 25, 2017, regarding the School Board of Palm Beach County's legal challenge to the constitutionality of the revisions to sections 1011.71(2) and 1013.62, Florida Statutes pursuant to Section 31 of House Bill 7069. These provisions require school districts to distribute a portion of their discretionary capital outlay millage revenues to charter schools no later than February 1st of each year, beginning on February 1, 2018.

The School Board filed its legal challenge in the Second Circuit Court of Florida in Leon County in September of 2017. The School Board also filed a motion for a temporary injunction in the case, asking the court to enjoin the State from implementing the provisions of the above-referenced statutes that require school districts to distribute a portion of their discretionary capital outlay ad valorem tax revenues, until a final judgment was entered in the case.

One of the School Board's primary arguments in asking the court to enjoin temporarily the implementation of the capital millage provisions before February 1, 2018, was that, once the funds are distributed, the School Board will not be able to recover them. The Defendants¹ disagreed with the School Board, however. They argued that the School Board had adequate remedies available in the event the statute was declared unconstitutional. The remedies the Defendants identified included, but were not limited to, charter language authorizing the School Board to recoup or "claw back" funds through adjustments to revenue disbursements. The court denied the School Board's motion for a temporary injunction on January 12, 2018.

This letter shall serve as notice, in the event that the School Board obtains a final judgment in its favor that the above-referenced statutory requirements are unconstitutional, **the School Board will utilize any available mechanism(s) to recoup those funds that were distributed while the unconstitutional provisions were in effect.**

¹ The Defendants in the case are the State Board of Education, the Florida Department of Education, and the Commissioner of Education, as well as the charter school Academy for Positive Learning, which intervened as a Defendant in the case.

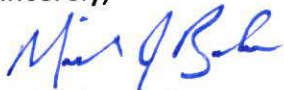
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The District requests that you immediately provide this NOTICE to any and all relevant parties in any way connected to this matter, including, but not limited to, your Governing Board Members, Auditor, Financial personnel including your Accountant, Financial advisors, consultants and investors, your legal counsel, your landlord and/or facility leasing company and the charter school's management company, if applicable.

Please acknowledge receipt of this NOTICE by signing and returning the acknowledgement form on the following page within five (5) business days.

Sincerely,



Michael J. Burke
Chief Financial Officer

RMA/DWC/MJB/JAR/KO/PBL/JTP:mw

cc: Robert M. Avossa, Ed., Superintendent
David W. Christiansen, Ed., Deputy Superintendent/Chief of Schools
Julieann Rico, General Counsel
Keith Oswald, Chief Academic Officer
Peter B. Licata, Ph.D., Assistant Superintendent of Choice and Innovation
James T. Pegg, Director, Department of Charter Schools

January 26, 2018

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Acknowledgment Form

On behalf of _____ (charter school name), I acknowledge that I received and reviewed the foregoing NOTICE of Intent to Recoup Discretionary Capital Millage Funds Distributed to Charter Schools if Legal Challenge to HB 7069 is Successful. I agree to notify the School Board of Palm Beach County of any questions or concerns that I have regarding the contents of the NOTICE.

Name

Charter School Name

Date

Please acknowledge receipt of this NOTICE by signing and returning this Acknowledgment Form to Michael J. Burke, Chief Financial Officer, via fax at 561-357-7585 or email c/o Madeleine Willey at madeleine.willey@palmbeachschools.org within five (5) business days.