GUIDELINES
for
OUTSIDE COUNSEL

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GUIDELINES FOR OUTSIDE COUNSEL
THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA[1]

These Guidelines set forth the procedures that are to be followed by the law firms, attorneys, and consultants ("Outside Counsel") retained by The School Board of Miami-Dade County, Florida ("School Board" or "District") through the School Board Attorney's Office ("Attorney's Office"). These Guidelines address the representation of the District, and District personnel when appropriate, by Outside Counsel from the assignment of a matter through its completion, including its billing process.

I.
INTRODUCTION

The Attorney's Office, through the School Board Attorney, is responsible for overseeing the legal affairs of the School Board. The Attorney's Office employs highly skilled in-house lawyers ("Assistant Board Attorney(s)") who are committed to the success of the District's mission, to uphold high standards of professional and ethical conduct, and to provide timely, responsive, and cost-effective legal services. The Attorney's Office retains Outside Counsel to provide the District with the requested legal services that are necessary to facilitate the District's goal of providing a comprehensive and well-rounded education for the students of Miami-Dade County. Outside Counsel representing the School Board is expected to maintain the highest ethical standards at all times.

These Guidelines are an addendum to and shall be incorporated by reference into the written contract between Outside Counsel and the School Board and govern the terms of the engagement on all matters handled by Outside Counsel for the District and its employees. Outside Counsel retained by the School Board should ensure that a copy of these Guidelines is provided to all attorneys, paralegals, administrative, clerical or other assistants assigned to a particular matter before any work is performed on behalf of the District.

1.1 Philosophy

The School Board, while maintaining strong advocacy positions, seeks to facilitate the cost-effective resolution of legal issues whenever possible. The Attorney's Office expects Outside Counsel to aggressively defend cases in which there is no liability, and to work toward the early settlement of cases where there is liability and exposure.

[1]The Guidelines are to all legal representation of The School Board, and are subject to revision by the School Board Attorney.

1.2 Client

The School Board is the client to be represented. However, consistent with School Board policies, there are occasions when individual Board Members or District employees may require individual representation provided by the School Board. These Guidelines shall apply to Outside Counsel representing these individuals as well.

1.3 Conflict of Interest

All potential conflicts of interest must be cleared with the School Board Attorney in writing at the outset of the assignment of the matter or as soon as they become apparent.

1.4 Public Records Law

As a political subdivision, the School Board is subject to Florida's Public Records Law contained in Florida Statutes Chapter 119. Accordingly, Outside Counsel must be familiar with these laws.

1.5 Third Party Administrator

The School Board contracts with a Third Party Administrator ("TPA") to administer its third party claims and its workers' compensation claims. Adjusters from the TPA ("District Adjuster") work closely with the Board Attorney's Office as it relates to third party liability claims, and with the District's Risk Management/Workers' Compensation office as it relates to workers' compensation claims.

II.

ASSIGNMENT OF CASES/MATTERS

All matters will be assigned to Outside Counsel in writing, and Outside Counsel must confirm receipt of all new matters in writing. Except by prior arrangement with respect to certain routine litigation matters, only the Attorney's Office is authorized to engage Outside Counsel. If Outside Counsel is asked to perform legal services by any person outside of the Attorney's Office, Outside Counsel should contact the Attorney's Office before proceeding, and advise the person that it is doing so. Lawsuits assigned to Outside Counsel by the Attorney's Office will be transmitted through a lawsuit memorandum. All matters assigned to Outside Counsel will be overseen by an Assistant Board Attorney, or a District Adjuster if it pertains to a workers' compensation matter.

2.1 Budget Package

When Outside Counsel begins work on a legal matter, it must prepare a Budget Package consisting of a Case Plan or Initial Status Report (the "Case Plan/Initial Status Report"), and a Budget. The Case Plan/Initial Status Report explains how Outside Counsel anticipates accomplishing the work for which it has been retained, and summarizes the strategy for achieving a satisfactory resolution of the matter. The Budget controls the costs and payment of the services outlined in the Case Plan/Initial Status Report, and shows a phase-by-phase breakdown of the anticipated costs of the legal representation. The Budget must be approved by the Board Attorney's Office before significant work is performed on a matter.

2.1.1 Case Plan/Initial Status Report

Proper planning, coordination, and cooperation are essential for the proper management of the School Board's legal affairs. A thorough discussion of the appropriate strategy and necessary resources is needed to effectively and efficiently accomplish the School Board's legal objectives. Effective case management requires a cooperative and coordinated team effort among Outside Counsel, the Attorney's Office (the District's Adjusters if applicable) and the School Board staff/business unit involved in the matter.

Within the first 30 days of the assignment of a legal matter, Outside Counsel should discuss the matter with the Assistant Board Attorney (or District Adjuster if workers' compensation matter) overseeing the matter, and provide the Case Plan/Initial Status Report . (Status Report Formats for Litigation and Non-Litigation matters are attached as Exhibits 1 and 2.) For litigation matters, it is essential for Outside Counsel to evaluate whether the case will be targeted for trial or settlement. Although the Case Plan should contain a plan for the possible resolution of the case by way of settlement, it should be based on the assumption that the case will go to trial.

If Outside Counsel is handling a number of cases that are routine and involve similar issues or approaches, it may develop and submit a standardized Case Plan/Initial Status Report applicable for all such cases. When appropriate, it must note in the Case Plan the factors that differ between cases. The decision to submit a standardized Case Plan/Initial Status Report shall be made in conjunction with the Assistant Board Attorney (or District Adjuster if workers' compensation matter) overseeing the matter. When cases are well prepared and well tried, the Attorney's Office will not "second guess" Outside Counsel based upon an adverse result.

2.1.2 Budget

Outside Counsel must prepare and submit the Budget before significant time is spent on a matter (within 30 days absent extenuating circumstances). The initial

Budget should be based upon the Case Plan, and should translate the Case Plan into financial expectations. The Budget shall set forth the hourly billing rate of the attorneys and paralegal who will work on the matter, unless a different fee arrangement not based on an hourly rate is agreed upon on a particular matter. Changes to these rates may not be made during the engagement without the approval of the School Board Attorney. Absent extenuating circumstances, no changes to the rates contained in the budget will be approved by the School Board Attorney. The Budget should include the estimated costs for consultants and experts retained by outside counsel.

For litigation cases, the budget shall identify the different phases of the representation, and shall provide the estimated cost for each phase. It shall be a detailed and specific itemization of all aspects and categories of the representation.

The School Board Attorney must be advised promptly when it becomes apparent that the Budget will be exceeded. If the approved Budget is not sufficient to complete a case or matter, Outside Counsel must submit an amended Budget Package before it exceeds the initial Budget. Outside Counsel should not wait until after it has exceeded the approved Budget to submit an amended Budget Package.

Requests for increases to the Budget shall be examined on a case by case basis and will only be approved on a limited basis and for extraordinary circumstances. Written approval from the School Board Attorney (or District Adjuster if workers' compensation matter) is required for any increase in the approved Budget. Outside Counsel should make sure the amended Budget has been approved before it exceeds the Budget.

2.2. Staffing

Staffing must be discussed with the Assistant Board Attorney (or District Adjuster if workers' compensation matter) overseeing the matter upon its assignment. Outside Counsel should use lawyers and paralegals when cost effective. Associates should not be used for services that can be performed by paralegals, such as routine document reviews. Paralegals should not be assigned tasks that can be performed by secretaries, such as photocopying, typing, filing, etc.; as these tasks do not qualify as billable activity. Where an attorney or paralegal leaves Outside Counsel in the midst of an engagement for the School Board, Outside Counsel will be responsible for the cost of bringing a replacement up to speed.

The School Board typically only pays for one attorney to accomplish a single task. For example, it does not pay for two or more attorneys to attend depositions or court hearings without prior approval. It does not pay for an attorney redoing the work of another attorney, nor for duplicate entries for reviewing and analyzing documentation and/or legal research. Conferences among attorneys in the office are generally not compensable unless the conference is a necessary strategy meeting relating to some significant legal event,

such as an upcoming trial or key deposition. Any work arrangement requiring more than one attorney or staffer must be preapproved.

2.3. Status Reports

The Attorney's Office depends on Outside Counsel to keep it advised of the status of all pending matters handled by Outside Counsel. Outside Counsel is required to keep the Assistant Board Attorney (or District Adjuster if workers' compensations matter) overseeing the assignment advised of all changes and developments in the case that may materially impact the outcome of the matter. It is required to participate in quarterly meetings with the Assistant Board Attorney (or District Adjuster if workers 'compensation matter) overseeing the matter to report on the status of the case. In anticipation of these quarterly meetings, Outside Counsel is expected to provide a Status Report to the Assistant Board Attorney (or District Adjuster if workers' compensation matter) overseeing the case, providing the status of the case and all developments and upcoming activity. The Status Reports should follow the format contained in Exhibits 1 and 2.

For litigation matters, the Assistant Board Attorney (or District Adjuster if workers' compensation matter) overseeing the matter must be informed of all major substantive hearings, depositions, trial dates, settlement offers, and all other information that could significantly affect the outcome of the case. The Assistant Board Attorney (or District Adjuster if workers' compensation matter) overseeing the case should also receive copies of all major pleadings, motions and memoranda. However, it is not necessary to send copies of all other routine correspondence and pleadings unless otherwise requested by the Assistant Board Attorney (or District Adjuster if workers' compensation matter) overseeing the case.

III.

LITIGATION

Upon assignment of the case, it is necessary for defense counsel to obtain information which is critical to the case. For tort cases, Outside Counsel should communicate with the District Adjuster assigned to the case to obtain the claim file. On all matters, Outside Counsel should discuss the case with the Assistant Board Attorney (or District Adjuster if workers' compensation matter) overseeing the case upon assignment of a new matter. However, while the Board Attorney's Office is available to assist with Outside Counsel's representation of the District, it does not have sufficient staff or resources to assist with all the particulars of the case, such as performing investigations, contacting witnesses, responding to discovery, gathering documents, etc.

3.1 Initiation of Claims/Lawsuits

School Board authorization is required before any lawsuit is initiated on behalf of the District. For pending cases, Outside Counsel must communicate with the Assistant Board Attorney (or District Adjuster if workers' compensation matter) overseeing the matter before a counter-claim, cross-claim, or any other type of claim is filed on behalf of the School Board. In some cases, Board approval may also be required.

3.2 Motion Practice and Discovery

While dispositive motions (motions to dismiss, motions for summary judgment, etc.) should be used to resolve as many issues as possible, protracted motion practice is strongly discouraged. Counsel should provide draft copies of all major and /or dispositive motions to the Assistant Board Attorney (or District Adjuster if workers' compensation matter) done overseeing the case prior to filing. The costs associated with such motions should be referenced in the Budget.

3.3 Depositions

Prior to the deposition of any School Board employee, Outside Counsel is expected to hold a pre-deposition conference. Only one attorney shall participate in the pre-deposition conference and deposition unless prior approval is obtained from the Assistant Board Attorney (or District Adjuster if workers' compensation matter) overseeing the case. Except in tort, employment, and workers' compensation cases, all depositions taken by Outside Counsel must be cleared with the Assistant Board Attorney (or District Adjuster if workers' compensation matter) overseeing the subject litigation. Depositions should be referenced in the Budget.

3.4 Experts/Consultants

Except in tort, workers' compensation and employment cases, the retention of all experts and consultants must be approved in advance by the Assistant Board Attorney overseeing the subject litigation. For all consulting agreements greater than $2000 the Assistant School Board Attorney should request a copy of the consulting agreement prior to approval. In addition, the costs associated with retaining said expert or consultant should be included in Outside Counsel's Budget.

3.5 Settlement

While the District will not retreat from the commitment to zealously defend cases in which liability is lacking, Outside Counsel should never assume that the School Board would have no interest in settling a case. Settlement possibilities of all matters should be identified and considered early in the representation and periodically revisited thereafter. Where possible, cases best resolved by settlement should be settled at an early stage. If Outside Counsel believes that the School Board should initiate settlement discussions, it should communicate this to the Assistant Board Attorney (or District Adjuster if workers'

Compensation matter) overseeing the case. When Outside Counsel receives a settlement demand, it should communicate the demand, along with Outside Counsel's recommendation, to the Assistant Board Attorney or District Adjuster overseeing the case.

3.6 Settlement Authority

No offers or agreements to settle can be made without prior authorization from the Assistant Board Attorney overseeing the case. On workers' compensation matters, Outside Counsel should communicate with the District's Worker's Compensation Office and the District Adjuster overseeing the case. The Worker's Compensation Office, in conjunction with the TPA, will perform all functions in connection with claims, including the offering and acceptance of settlements, receiving of restitution payments and signing of Proofs of Loss on behalf of the School Board. On all other legal matters, Outside Counsel should communicate with the Assistant Board Attorney overseeing the case.

All non-tort settlement agreements and offers of judgment in excess of $10,000 require School Board approval. Certain tort claims and offers of judgment may also require School Board approval.

Settlement agreements must be fully negotiated and executed by the opposing party and their attorney in order to be submitted to the School Board for approval.

3.7 Attorney-Client Sessions

Settlement negotiations and requests for authority requiring School Board approval must be presented to the School Board in an attorney-client session in conformance with Florida Statute Section 286.011(8), or in a risk management session pursuant to Florida Statute 768.28. Scheduling an attorney-client session or risk management session requires advanced planning in order to comply with advertising notice provisions. Therefore, the Assistant Board Attorney (or District Adjuster if workers' compensation matter) overseeing the matter should be notified immediately as soon as Outside Counsel believes such a session may be needed.

3.8 Mediation

In advance of any mediation, Outside Counsel is required to provide the Assistant Board Attorney (or District Adjuster if workers' compensation matter) overseeing the case with its written recommendation regarding settlement. The letter should be accompanied by the most recent Status Report. The evaluation letter should be based on an objective appraisal of the case based upon Outside Counsel's best professional judgment. It is imperative to submit the Status Report and evaluation letter well in advance of mediation in order to afford the Assistant Board Attorney (or District Adjuster if workers' compensation matter) overseeing the case an opportunity to evaluate and discuss the case with Outside Counsel prior to the mediation.

The Assistant Board Attorney (or District Adjuster if workers' compensation matter) overseeing the case will attend the mediation. Under no circumstance should Outside Counsel attend a mediation without previously discussing the case with the Assistant Board Attorney or District Adjuster overseeing the case.

IV.

RECORDS AND COMMUNICATIONS

Throughout its representation of the District, Outside Counsel will receive communications pertaining to case specific policies, procedures, and strategies of the District.

4.1 Records

Outside Counsel may also be required to obtain records or information pertaining to students or personnel of the District. These records must be obtained and maintained in accordance with the confidentiality and notice requirements of Florida and Federal laws, and School Board Policies.

4.2 Communication(s) with the Media

Outside Counsel is not authorized to respond to media inquiries concerning a School Board matter or case without first obtaining approval from the Board Attorney. All media contacts with Outside Counsel must be referred to the Board Attorney. If outside counsel anticipates that a matter may require a response to the media, Outside Counsel should immediately contact the Board Attorney's Office.

4.3 Communication(s) with Board Members

To ensure all Board Members receive the same information, Outside Counsel should refrain from communicating with individual Board Members. In the event of an inquiry or request for information from an individual Board Member, please contact the Board Attorney's Office for a response.

V.

BILLING

When a matter is assigned to Outside Counsel, the appropriate partner, associate and/or paralegal assigned to the matter must be designated. Invoices submitted in an improper format will be returned. All costs shall be itemized separately from the legal fees on the invoices.

Outside Counsel is to bill on a 30-day cycle, except for workers' compensation cases that should be billed on a quarterly basis. All worker's compensation, tort and general liability invoices should be submitted to the Third Party Administrator for initial review and processing. All other invoices should be submitted to the Board Attorney's Office. Invoices will be paid in a timely manner provided that the attorney adheres to all of the billing requirements, including having provided a budget. The Board Attorney's Office reserves the right to review all fees and disbursements, and all applicable supporting documentation.

5.1 Fees

Invoices must identify the partner, associate and paralegal performing services by name, their respective billing rates, and the hours spent by each during the relevant billing period. Invoices should also detail the services rendered on a daily basis, identifying the attorney or paralegal performing the work and the time spent. Narrative or block billing is prohibited.

5.2 Costs

The following sections set forth the policies regarding costs incurred in the School Board's representation.

5.2.1 Prohibited Costs

The School Board will not pay for the following costs:

(1) On-Line Research: Costs for on-line legal research databases such as Westlaw and Lexis-Nexis will not be paid.

(2) In County Mileage/Travel/Parking/Meals: Reimbursements shall not be made for regular in-county mileage, travel, parking or meals.

5.2.2 Pre-Authorized Fees and Costs

The following must be pre-authorized by the Assistant Board Attorney (or District Adjuster if workers' compensation matter) overseeing the matter:

(1) Out of County Travel: Outside Counsel should travel on the School Board's behalf only when necessary and when approved in advance by the Assistant Board Attorney (or District Adjuster if workers' compensation matter) overseeing the matter. All reimbursements for pre-approved travel will be made in accordance with Florida Statute 112.061. Additionally, the School Board will not reimburse Outside Counsel for travel or other expenses incurred by family members, friends or other persons not performing services for the School Board.

(2) Attendance of Numerous Attorneys: No more than one attorney is allowed to attend and bill for attendance at a deposition, hearing, witness interview, other proceeding, etc., unless previously authorized by the Assistant Board Attorney (or District Adjuster if workers' compensation matter) overseeing the case.

(3) Retention of Experts/Consultants: The retention of expert witnesses or consultants in non-tort, employment or workers' compensation cases must be pre-authorized by the Assistant Board Attorney (or District Adjuster if workers' compensation matter) overseeing the matter.

(4) Costs Exceeding $1,000: Any single cost in excess of $1,000 must be pre-authorized by the Assistant Board Attorney (or District Adjuster if workers' compensation matter) overseeing the matter.

5.2.3 Allowable Reimbursements

Reimbursable expenses and costs may include, but are not limited to, postage, long distance telephone charges, photocopying, court filing fees, and witness fees. Photocopy costs should not exceed the rate prescribed by Fla. Stat. § 119.07.

EXHIBIT #1

LITIGATION STATUS REPORT

(Date of Report)

Case/Matter Name:

Date of Assignment:

Plaintiff(s) Name:

Plaintiff(s) Attorney:

Defendant(s) Name:

Defense Counsel: (Attorney(s), Paralegal(s), and billing rates as per §II of Guidelines for Outside Counsel)

Judge:

Case No.:

Date of Accident:

Claim No. (if applicable):

Mediation Date:

Trial Date:

1. Summary
2. Analysis of Liability
3. Analysis of Damages
4. Legal Action Taken to Date
5. Legal Action Needed to be Taken
6. Any Unusual Legal Issues/Facts
7. Evaluation of Exposure (including verdict ranges/values)
8. Total Amount of Litigation Budget (This does not obviate the requirement for submitting the separate detailed Budget required in §2.1.2 of the Guidelines for Outside Counsel)

EXHIBIT #2

NON-LITIGATION STATUS REPORT
(Date of Report)

Matter Name:

Date of Assignment:

Defense Counsel: (Attorney(s), Paralegal(s), and billing rates as per §II of Guidelines for Outside Counsel)

Adverse Party Name (if applicable):

Adverse Counsel Name (if applicable):

1. Summary
2. Analysis of Legal Issues
3. Legal Action Taken to Date
4. Legal Action Needed to be Taken to Date
5. Any Unusual Legal Issues / Facts
6. Potential Exposure (if applicable)
7. Proposed Resolution
8. Total Amount of Litigation Budget (This does not obviate the requirement for submitting the separate detailed Budget required in §2.1.2 of the Guidelines for Outside Counsel)

THE SCHOOL BOARD
OF
MIAMI-DADE COUNTY, FLORIDA

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