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MEMORANDUM

TO: School Board Members
Millage Tax Oversight Committee

FROM: Anthony D. George, Jr., School Board Attorney

DATE: August 24, 2020

RE: 2018 Voter Approved Millage Tax Proceeds

An email was sent by Danielle McDonough to the Millage Oversight Committee. The email raised two questions regarding how the referendum millage proceeds are being spent.¹

- 1) Did the District have the legal authority to allocate and disburse \$1,000,000.00 to AFSCME under the category of "Academic Initiatives"?
- 2) Did the District have the legal authority to pay millage stipends to non-teachers?

I. Can Academic Initiatives include \$1,000,000.00 to AFSCME Employees?

Resolution 18-01² authorized a referendum for the August 28, 2018 Primary election that requested voter approval of a one-half millage increase pursuant to Fla. Stat. 1011.71(9). The ballot language requested funding for essential operating expenses in 5 categories - 1) school safety and security for all schools; 2) mental health programs; 3) recruiting and retaining qualified teachers; 4) professional development for teachers and staff; and 5) academic initiatives.

Ballot language is limited pursuant to Fla. Stat. 101.161(1) to a summary of 75 words or less. The nature of a summary is the actual expenditures or proposal will be more detailed. Before the referendum was voted on, workshops were conducted in the Summer of 2018 to discuss the allocation of the millage proceeds if approved. At the July 17, 2018 board meeting, the Board

¹ Attached.

² Attached.

approved funding for the five categories³ as follows:

- 1) School Safety and Security for all schools – 6.48%
- 2) Mental Health Programs – 3.52%
- 3) Recruiting and Retaining Qualified Teachers – 77.43%
- 4) Professional Development for Teachers and Staff – 2.07%
- 5) Academic Initiatives – 10.49%

In the 10.49% to be disbursed on Academic Initiatives, 9.40% was identified and approved for non-instructional personnel. The Board approved 9.40% of the millage referendum proceeds to go to non-instructional personnel at a board meeting. The public had the opportunity to address the allocation of millage proceeds (many did). The Board's approved proposed allocation of millage referendum proceeds was available to Martin County voters before the 2018 primary election. Therefore the Board can legally disburse 9.40% of the referendum proceeds to non-instructional personnel from the category of Academic Initiatives.

II. Can Qualified Teachers include Non-teaching Positions

In Ms. McDonough's email, she also raises the question as to whether disbursements from the Recruiting and Retaining Qualified Teachers Category paid to non-classroom teachers and non-teachers is against the ballot language. Ms. McDonough cites 'teachers' as defined under the Best and Brightest Teachers Scholarship Program.

The Best and Brightest Teachers Program is a state funded scholarship program. The qualifications for eligibility are one of several definitions of what 'Qualified Teachers' can be defined as. However it is not the only definition of what a teacher is. At the local level, the Board approved an allocation of the millage referendum proceeds to 'Qualified Teachers' before the referendum was voted on. The Board was not required to adhere to Best and Brightest Teachers Program definition of teachers.

Following voter approval, the MCSB and MCEA⁴ collectively bargained to whom the voter referendum proceeds would be disbursed to as 'Qualified Teachers'. From multiple possible definitions of 'Qualified Teachers' and manners of disbursing the funds within the Board's 77.43% allocations, the end product of negotiations was a joint agreement which in effect defined 'Qualified Teachers' as being those employee job descriptions represented by the MCEA.⁵ The Board later approved the agreement.

The definition adopted was a rational choice from multiple possible definitions of what are 'Qualified Teachers'. To change the definition chosen *for future years* of the Millage Referendum

³ Attached.

⁴ "MCEA is a not-for-profit professional teachers' organization designed to advocate the advancement of a free public education for all; to empower and advance professional growth for educators; and to engage our members and our community in order to ensure that our students learn and succeed in a diverse world."
MCEA website.

⁵ Employee job descriptions represented by the MCEA, in addition to traditional classroom teachers, include teachers promoted out of the classroom (e.g. deans) and jobs not necessarily requiring a teaching license (e.g. occupational specialists).

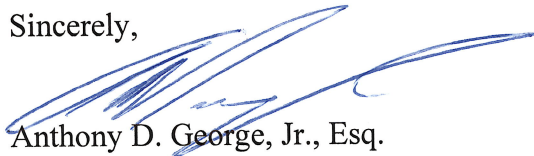
would require negotiations between the MCSB and the MCEA. However, as a rational definition of what are 'Qualified Teachers', the Board is not legally wrong to disburse to 'Qualified Teachers' as defined and agreed to by the MCSD and the MCEA (later approved by the MCSB).

III. Summary

In summary, for both questions, the answers are yes. The District can legally allocate and disburse \$1,000,000.00 to AFSCME under the category of "Academic Initiatives". The District can legally pay millage stipends, including to 'non-teachers', pursuant to the MCSD-MCEA Collective Bargaining Agreement.

I plan to attend via Zoom the August 31, 2020 Millage Tax Oversight Committee meeting to answer any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Anthony D. George, Jr.", is written over the typed name.

Anthony D. George, Jr., Esq.