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DATE: March 4, 2022

TO: Joris Jabouin, Chief Auditor

FROM: Robert Paul Vignola, Deputy General Counsel 

SUBJECT: *Tort Liability/Immunity – Members of School District Advisory Committees*

A member of the Audit Committee copied this Office with an email that member sent to you on February 25, 2022 in which the committee member requested legal guidance. Before addressing the specific request posed in that message, it is appropriate to review the proper procedure for an advisory committee to request legal guidance.

The only matters upon which an individual advisory committee member may request legal guidance are ones regarding that member's possible prohibited ethical conflict or potential voting conflict. Requests for legal guidance upon matters applicable to the entire advisory committee are presented by motion during a public meeting of the advisory committee and must receive approval of a majority of the committee present at that meeting in order to be referred to the Office of the General Counsel. Once such a motion is approved by the advisory committee, it will then be forwarded to this Office by the advisory committee's district staff facilitator or liaison. This Office will respond to the advisory committee's district staff facilitator or liaison, who will in turn distribute the response to the entire advisory committee.

The February 25, 2022 email message asked whether school district advisory committee members have the benefit of (a) the limitations upon civil liability that are applicable to volunteers under Section 768.1355(1) and (2), Florida Statutes [the Florida Volunteer Protection Act] or (b) the limitations to civil liability that are applicable to members of appointed boards of special districts under Section 768.1355(3), Florida Statutes. Although it is unclear whether the February 25, 2022 request for legal guidance was that of an individual advisory committee member or that of a majority of the Audit Committee, this Office provides the following response for appropriate distribution.

School district advisory committee members are granted immunity from civil liability by Section 768.1355(3), Florida Statutes. That law is part of the Florida Volunteer Protection Act and provides individual members of appointed school district advisory committees with immunity from suit under Section 768.28, Florida Statutes, and from any civil liability for acts or omissions by advisory committee members relating to the conduct of their official duties. Pursuant to Section 768.28(9)(a), Florida Statutes, the relief from civil liability granted to advisory committee

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members under Section 768.1355(3), Florida Statutes, applies to “any act, event, or omission of action in the scope of [the advisory committee member’s]... function, unless [the advisory committee member]... acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.” This means that there is potential liability for a committee member if they act outside the scope of their appointment and in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

Please let this Office know if a majority of the Audit Committee requires any further guidance upon this matter.

RPV:mi

CC: Marylin C. Batista, Interim General Counsel
Jeffrey Moquin, Chief of Staff
Aston Henry, Director – Risk Management

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