


THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
OFFICE OF THE GENERAL COUNSEL

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BARBARA J. MYRICK
GENERAL COUNSEL

MEMORANDUM

TO: School Board Members

FROM: Barbara J. Myrick, General Counsel 

DATE: June 22, 2020

SUBJECT: **Life Insurance Company of the Southwest, D/B/A National Life Group, Petitioner vs. Broward County School Board, Respondent and AXA Equitable Life Insurance Company, Intervenor, Case No. 19-5140BID, Agenda Item 1 – June 23, 2020 Special School Board Meeting**

Counsels for the parties were asked to provide proposed rulings for each exception with the appropriate citations to the record and/or statements justifying the action as required by the statute to assist the Board in ruling upon the Exceptions. Attached please find:

- (1) Respondent SBBC Suggested Proposed Rulings on Exceptions; and
- (2) Intervenor's Proposed Rulings on Exceptions

If you have any questions, please do not hesitate to contact me.

BJM:jcf
Enclosures

C: Robert W. Runcie, Superintendent of Schools
Robert Paul Vignola, Esq.
Brandice D. Dickson, Esq.
Cynthia S. Tunnicliff, Esq.
Kathryn L. Hood, Esq.
Karen Asher-Cohen, Esq.
Brittany A. Long, Esq.
Noemi Gutierrez, Supervisor – Official School Board Records

BEFORE THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

LIFE INSURANCE COMPANY
OF THE SOUTHWEST, d/b/a
NATIONAL LIFE GROUP,

Petitioner,

DOAH Case No. 19-5140 BID

vs.

BROWARD COUNTY SCHOOL BOARD,

L.T. Case No. RFP FY20-013

Respondent,

and

AXA EQUITABLE LIFE INSURANCE
COMPANY,

Intervenor.

_____ /

RESPONDENT SBBC PROPOSED RULINGS ON EXCEPTIONS

Pursuant to the June 11, 2020 letter from The School Board of Broward County, Florida (the “School Board”), the undersigned submits these proposed rulings on the exceptions filed by Petitioner, Life Insurance Company of the Southwest d/b/a National Life Group (LSW).

The School Board respectfully requested that THE SCHOOL BOARD consider the following recommended motions, as previously addressed in the RESPONDENT SBBC and INTERVENOR AXA AMENDED EQUITABLE’S RESPONSE IN OPPOSITION TO LSW’S EXCEPTIONS TO RECOMMENDED ORDER

The Administrative Law Judge correctly recommended that the bid protest filed by Petitioner LSW should be dismissed. Accordingly, it is respectfully requested that THE SCHOOL BOARD consider the following recommended motions:

1. **Suggested Motion upon Scrivener’s Errors in Paragraph 146:** From a review of the entire record and, in particular, a review of Sections 5.2 and 5.3 of the RFP; I move that THE SCHOOL BOARD modify Paragraph 146 of the Recommended

Order to correct scrivener's errors that (1) typed "RPF 20" instead of "RFP 20"; and (2) typed "Section 5.2 of the RFP" instead of "Section 5.3 of the RFP."

2. **Suggested Motion upon LSW's Exceptions to Paragraphs 146 and 147:** I move to reject the Petitioner LSW's Exception to Paragraphs 146 and 147 of the Recommended Order as the findings of fact contained in those paragraphs are supported by competent substantial evidence and as the Conclusions of Law contained in those paragraphs are not ones over which THE SCHOOL BOARD has substantive jurisdiction nor do they interpret any administrative rules over which THE SCHOOL BOARD has substantive jurisdiction.
3. **Suggested Motion as to Cost:** I move awarding costs in favor of THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA and against LSW in the amount of \$34,810.92.
4. **Suggested Final Motion upon Recommended Order:** I move for the entry of a Final Order adopting and incorporating by reference the Recommended Order of the Administrative Law Judge as modified by THE SCHOOL BOARD to correct two (2) scrivener's errors; dismissing the Formal Written Protest filed by Petitioner LIFE INSURANCE COMPANY OF THE SOUTHWEST, d/b/a NATIONAL LIFE GROUP ("LSW").

Respectfully submitted,

DATED: June 22, 2020.

/s/ Robert Paul Vignola

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*Counsel for Respondent The School Board
of Broward County, Florida*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via electronic mail on this 22th day of June, 2020, to the parties listed on the below Service List.

By/s/ **ROBERT PAUL VIGNOLA**

ROBERT PAUL VIGNOLA

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BEFORE THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

LIFE INSURANCE COMPANY
OF THE SOUTHWEST d/b/a
NATIONAL LIFE GROUP

Petitioner,

DOAH Case No.: 19-5140BID

v.

L.T. Case No.: RFP FY20-013

BROWARD COUNTY SCHOOL
BOARD,
Respondent,

And

AXA EQUITABLE LIFE
INSURANCE COMPANY,

Intervenor.

_____ /

INTERVENOR'S PROPOSED RULINGS ON EXCEPTIONS

Pursuant to the June 11, 2020 letter from The School Board of Broward County, Florida (the "School Board"), Intervenor, AXA Equitable Insurance Company (AXA) submits these proposed rulings on the exceptions filed by Petitioner, Life Insurance Company of the Southwest d/b/a National Life Group (LSW). AXA provides the following proposed rulings:

1. AXA moves that the School Board REJECT Petitioner's exception to the Administrative Law Judge's (ALJ) Conclusion of Law # 146 in the Recommended Order. The findings of fact contained in the paragraph are supported by competent substantial evidence as explained on pages 7-8 & 10 of the School Board/Intervenor's Amended Response in Opposition to LSW's Exceptions to Recommended Order. The conclusions of law in this paragraph are not within the School Board's substantive jurisdiction; thus, the School Board cannot reject them. Even if the conclusions of law were within the School Board's substantive jurisdiction, the School

Board should reject the exception because the ALJ's conclusions are reasonable based on the evidence.

2. AXA moves that the School Board REJECT Petitioner's exception to the ALJ's Conclusion of Law # 147 in the Recommended Order. The findings of fact contained in the paragraph are supported by competent substantial evidence as explained on page 11 of the School Board/Intervenor's Amended Response in Opposition to LSW's Exceptions to Recommended Order. The conclusions of law in this paragraph are not within the School Board's substantive jurisdiction; thus, the School Board cannot reject them. Even if the conclusions of law were within the School Board's substantive jurisdiction, the School Board should reject the exception because the ALJ's conclusions are reasonable based on the evidence.

Conclusion

AXA moves that the School Board reject LSW's exceptions to conclusions of law 146 and 147, and AXA moves for an entry of a final order adopting the ALJ's Recommended Order.

Respectfully Submitted,

/s/ Brittany Adams Long _____

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CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy of the foregoing was served via electronic mail on this 19th day of June, 2020, to the parties listed below.

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/s/ Brittany Adams Long
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