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# **Schools & Learning Council Meeting Packet**

**Wednesday, April 23, 2008**

**12:45 pm**

**212 Knott Building**

**Marco Rubio  
Speaker**

**Joe H. Pickens  
Council Chair**



**Council Meeting Notice**  
**HOUSE OF REPRESENTATIVES**

**Speaker Marco Rubio**

**Schools & Learning Council**

**Start Date and Time:** Wednesday, April 23, 2008 12:45 pm

**End Date and Time:** Wednesday, April 23, 2008 01:15 pm

**Location:** 212 Knott Building

**Duration:** 0.50 hrs

**Consideration of the following bill(s):**

HB 1039 Relief/Gough/Miami-Dade County School Board by Lopez-Cantera

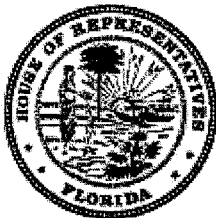
HB 1223 Relief/Daniel Decembre/Orange County School Board by Thompson, G.

**NOTICE FINALIZED on 04/23/2008 09:19 by TJG**









**STORAGE NAME:** h1039.SLC.doc

**DATE:** 4/23/2008

April 23, 2008

**SPECIAL MASTER'S FINAL REPORT**

The Honorable Marco Rubio  
Speaker, The Florida House of Representatives  
Suite 420, The Capitol  
Tallahassee, Florida 32399-1300

Re: HB 1039 - Representative Lopez-Cantera  
Relief of Gough/Miami-Dade County School Board

**THIS IS A SETTLED EQUITABLE CLAIM FOR \$1,000,000 BASED ON A SETTLEMENT AGREEMENT IN WHICH THE MIAMI-DADE COUNTY SCHOOL BOARD AGREED TO COMPENSATE MARIA AND JORGE GOUGH \$1,700,000 FOR THE DEATH OF THEIR FOURTEEN-YEAR-OLD SON, JAIME GOUGH, AS THE RESULT OF A STABBING BY A FELLOW STUDENT AT SOUTHWOOD MIDDLE SCHOOL.**

**FINDING OF FACT:**

**The Claim:** Maria and Jorge Gough and the Estate of Jaime Gough are the Claimants in this matter. Maria and Jorge Gough are the parents and natural guardians of Jaime Gough, a minor. Jorge Gough is the personal representative of the Estate of Jaime Gough. Jaime Gough, a 14-year-old student, was fatally stabbed by a classmate at Southwood Middle School in Miami-Dade County on February 3, 2004. The respondent in this claim is the Miami-Dade County School Board. The parties entered into a settlement agreement in this matter prior to going to trial. This is not a contested claim, and the School Board has admitted liability.

**The Incident:** Shortly before 9:00 a.m. on Tuesday, February 3, 2004, Jaime Gough, a 14-year-old gifted

student, was fatally stabbed forty-one times by Michael Hernandez, a 14-year-old gifted student and classmate, in a bathroom at Southwood Middle School in Miami-Dade County, Florida. Michael Hernandez was able to bring the knife onto the school grounds concealed in his book bag. The stabbing occurred prior to the school being officially opened at 9:00 a.m. for students to enter that day. After the stabbing, a student informed a hall monitor that that he saw the legs of a student protruding from a stall in the second floor bathroom, however, the hall monitor did not investigate. The hall monitor did immediately respond when the student returned stating that a dead boy was in the bathroom.

**Foreseeability:** The Claimants argue that several factors demonstrate that the Miami-Dade School Board was on notice that violent crimes occurred in their schools, that there were measures that should have been taken in the schools such as metal detectors, and that they should have known that Michael Hernandez posed a risk to other students. The Claimants also argue that the school should have had better trained security personal and taken additional security measures. The evidence offered in support of these arguments is discussed in the following paragraphs.

School Board Meeting: On October 20, 1999, the Miami-Dade County School Board held a "Conference Session" on school safety. Minutes of this session were provided to the Special Master for consideration. In preparation for the conference session, the School Board had convened a school safety operations committee that conducted surveys, researched literature, identified funding sources and sought the collaboration of different departments. At this session, Mr. Wolfgang Halbig made a presentation regarding safety in schools. Mr. Halbig was Chief of Security for Seminole County and President of the National Institute of School Safety. The minutes reflect that "Mr. Halbig discussed various standards that must be present in order to have safe schools." The standards listed in the minutes are:

- An annual assessment must be conducted on school safety
- Every school must have an emergency



management plan and a comprehensive safe schools program.

- Schools should have a program that identifies troubled children so that they can be helped.

Sworn Testimony: The record includes testimony from a teacher at Southwood Middle School that students had told her that Michael Hernandez had brought a knife "into my classroom last year." The teacher also stated that students had told her that Michael Hernandez had punched a student and that he did not remember doing this afterwards. However, these statements were made to the teacher long after the alleged incidents may have taken place and were not pursued.

The record includes testimony from a student at Southwood Middle School at the time of the stabbing that Michael Hernandez had visited disturbing websites on the internet in the school's computer lab. The testimony stated that these websites depicted "dead skeletons and people being hanged and dead people and a baby getting killed."

Another student testified that the student and Jaime Gough and Michael Hernandez would sneak into the school in the mornings prior to the school officially being opened and that the school's security guards would not pay attention to them.

Crime Statistics: The Claimants provided uncontested statistics of crimes and other incidents being reported at school campuses in Miami-Dade County. The record shows that each year since 2000, over 20,000 "offenses" have been reported in the Miami-Dade School system. These "offenses" cover a wide variety of reports and incidents, many of which can be considered criminal acts, including hundreds of weapon possession offenses each year. During the 2002-2003 school year, 107 calls for police services were made to Southwood Middle School and over 20 arrests occurred.

**The Settlement Agreement:** On August 17, 2005, the claimants entered into a "Settlement Agreement and Stipulation For Agreed Florida Claim Bill" with the Miami-Dade County School Board and United Educators

Insurance Company as "a full and complete compromise settlement as to all of Claimants' claims against the School Board..." The agreement did not originally contain an admission of liability by the School Board but has since been amended to admit liability. Pursuant to the agreement, the related civil lawsuit was dismissed. The financial terms of the settlement were for a total of \$1,700,000. The School Board paid \$200,000 immediately to the Claimants and United Insurance Company paid \$500,000 to the Claimants under the terms of an excess coverage insurance policy. The School Board agreed to a claim bill for the payment of the remaining \$1,000,000.

CONCLUSION OF LAW:

A claim bill, whether based on a jury verdict or not, must be measured anew against the four standard elements of negligence: duty, breach of duty, proximate cause, and damages. If, and only if, all four elements are satisfied, can liability be found. While the Miami-Dade County School Board clearly owed a duty of care to Jaime Gough for his safety while at school as provided under the common law and s. 1006.07, F.S., (district school board duties relating to student discipline and school safety) the record does not demonstrate that there was a breach of this duty. Section 1006.07, F.S., provides that the "district school board shall provide for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students..."

While the School Board owes a duty of care to its students, the Claimants did not provide expert testimony that established the relevant standard of care or practices applicable to meet this duty of care or that the School Board acted unreasonably. The Claimants failed to meet the burden of proving by the greater weight of the evidence that the alleged action or inaction of the School Board departed from any prevailing standard.

The Claimants argued that the President of the National Institute of School Safety advised the Miami-Dade School Board in 1999 that metal detectors and/or x-ray machines should be installed in schools. The record does reflect some discussion of metal detectors and x-ray machines before the School Board, but the recommendation

appears to be for a pilot project subject to funding by a federal grant that was never received. It may be that this advice was given, but there is no evidence of this advice nor is there evidence that the installation of metal detectors and/or x-ray machines in schools is a standard of care used by schools consistently anywhere else. There are conflicting statements in the record as to the success of metal detectors and x-ray machines at preventing students from getting contraband onto school campuses. One newspaper article provided by the Claimants quoted a national school safety expert as saying, "[i]f you put a metal detector at the doorway, kids know exactly how searches occur and they're going to find a way to beat the system." This expert further stated that "I prefer the roving, random selection approach. It keeps the kids off guard because it's harder for the ones who want to bring weapons to school to detect a pattern and find a way around it." This "roving, random selection approach" appears very similar to the strategy actually employed by the Miami-Dade County School Board. While these are not sworn statements, nor was this expert cross-examined by counsel, they do show that the record does not sufficiently support this line of argument.

The Claimants argued that Michael Hernandez brought a knife to school regularly and that he utilized a screw driver on school grounds to poke students and start a fight. This allegation may be true, but it is not clearly supported by the record and there is not evidence that, if true, the school was aware of this conduct. While one teacher stated that she was told by students that Michael Hernandez had brought a knife to school the year before, this does not sufficiently demonstrate the allegation.

The Claimants argued that Michael Hernandez viewed inappropriate websites in the internet in the computer room at Southwood Middle School. This allegation appears to be true, but there is not evidence that, if true, the school was aware of this conduct. While one student mentioned a single incident that a teacher saw Michael Hernandez visit a gory website, this does not sufficiently demonstrate the allegation for purposes of liability or provide foreseeability for a future stabbing.

The Claimants argued that the Hall Monitors used by

Southwood Middle School were not licensed or properly trained. However, evidence was not submitted that this was a breach of any common standard of security used by schools or that it was negligent.

The Claimants did demonstrate that the Miami-Dade School Board was on notice that weapon offenses and violent acts were likely to occur in their schools. However, the Claimants have not established by a preponderance of evidence that the Miami-Dade School Board or its agents breached their applicable duty of care to Jaime Gough. The outcome of this incident could not be more tragic and will continue to haunt and traumatize Jaime's family, friends, and community. However, based on the record before me, I must find that the Claimants have not met their burden to demonstrate by a preponderance of the evidence that this tragic outcome was the result of negligence by the School Board or its employees. There are many actions in hindsight that may have prevented this tragic incident from occurring, but to find liability on behalf of the School Board, the record must demonstrate all the elements necessary to prove negligence.

**Damages:** In light of the above findings, discussion of damages seems unnecessary. However, should the Legislature make the decision to find the Miami-Dade County School Board responsible for the death of Jaime Gough, the record does support as reasonable damages in the requested amounts of \$1,000,000 for the Claimants.

If any additional funds are awarded to the Goughs through a claim bill to be paid by the Miami-Dade County School Board, the School Board has the assets set aside in its reserve accounts to make payment of this claim in the requested amounts.

ATTORNEY'S/  
LOBBYING FEES:

The attorney for the claimant has provided an affidavit to the effect that his fees will be limited to 25 percent of all gross amounts paid to the Claimants as the result of a claim bill. The affidavit states that all costs, including costs for professional lobbying services, will be borne by the client in addition to the 25% for attorney's fees. The agreed upon lobbying fees for this claim are six percent of any claim bill amount. Outstanding costs are \$3,718.05.

The bill, however, requires that the attorney's fees, lobbyist's fee and costs are limited to no more than 25 percent of the total amount awarded by the Legislature.

LEGISLATIVE HISTORY:

This is the third year that a claim bill has been submitted for Maria Gough and Jorge Gough, as a result of the death of their son, Jaime Gough (see House Bill 1045 and Senate Bill 78 from the 2007 Legislative Session and House Bill 895 and Senate Bill 46 from the 2006 Session).

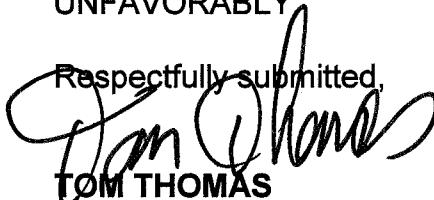
A joint hearing with the Senate Special Master was held on this claim on December 22, 2006, at the Division of Administrative Hearings, Tallahassee, Florida, and again on December 14, 2007, by videoconference between Tallahassee and Miami, Florida.

In preparation for the 2008 session, both parties have been given the opportunity to supplement the record for this claim.

RECOMMENDATIONS:

Based on the record before me, I find that the Claimants have not met their burden to demonstrate by a preponderance of the evidence that the death of Jaime Gough was caused by any negligent act or omission by the Miami-Dade County School Board or its employees. Therefore, I recommend that this claim bill be reported UNFAVORABLY

Respectfully submitted,



**TOM THOMAS**

House Special Master

cc: Representative Lopez-Cantera, House Sponsor  
Representative Wilson, Senate Sponsor  
The Honorable Eleanor Hunter, Senate Special Master



HB 1039

2008

1                                   A bill to be entitled  
 2           An act relating to the Miami-Dade County School Board;  
 3           providing for the relief of Maria Gough and Jorge Gough,  
 4           parents and natural guardians of Jaime Gough, a minor, and  
 5           of Jorge Gough, as personal representative of the estate  
 6           of Jaime Gough, for the wrongful death of their son, which  
 7           was due in part to the school board's negligent failure to  
 8           prevent foreseeable violence on school grounds; providing  
 9           a limitation on the payment of fees and costs; providing  
 10          an effective date.

11  
 12           WHEREAS, on February 3, 2004, Jaime Gough, a 14-year-old  
 13          gifted student and violinist, was fatally stabbed by a classmate  
 14          in a bathroom at Southwood Middle School in Miami-Dade County,  
 15          and

16           WHEREAS, according to sworn statements by other students,  
 17          Jaime's assailant, 14-year-old Michael Hernandez, had brought a  
 18          knife to the school almost daily, not just on the day of the  
 19          assault, and

20           WHEREAS, the Miami-Dade County School Board had been  
 21          advised in 1999 by the President of the National Institute of  
 22          School Safety to install metal detectors or X-ray machines, but  
 23          the school board had not done so, and

24           WHEREAS, the Miami-Dade School Board was on notice that  
 25          crimes frequently occur in the county's schools, since crime  
 26          statistics kept by the board show, for example, that in the  
 27          2002-2003 school year, 24,526 offenses were reported in the  
 28          county school system, and that 175 of those offenses involved

29 the possession of weapons, and

30 WHEREAS, the Miami-Dade County Police Department's public  
 31 records show that, in the 3-year period before Jaime Gough died,  
 32 many crimes had occurred at Southwood Middle School, including  
 33 batteries, assaults, and possession of weapons, and

34 WHEREAS, during the school year preceding the year of Jaime  
 35 Gough's death, 107 calls for police service were made to the  
 36 middle school, and more than 20 arrests were made, and

37 WHEREAS, the school used lay people as hall monitors and  
 38 had not adequately trained them and did not employ trained,  
 39 licensed security guards, and it was common knowledge among the  
 40 students that they could wander around the halls without the  
 41 required hall pass, and

42 WHEREAS, after a student told the hall monitor who was on  
 43 duty the day of the homicide that someone's legs were protruding  
 44 from a bathroom stall, the monitor did not immediately check the  
 45 bathroom but waited until the second time he was asked to go to  
 46 the murder scene, and

47 WHEREAS, teachers at Southwood Middle School knew that  
 48 Michael Hernandez had been using school computers to access  
 49 sites that feature violent crime, but they had not taken any  
 50 disciplinary action or corrective action, and

51 WHEREAS, upon learning of her son's death, Maria Gough  
 52 collapsed, and, subsequently, she experienced depression and was  
 53 compelled to quit working, and

54 WHEREAS, in the wake of his loss, Jorge Gough has  
 55 difficulty sleeping, has stated that Maria Gough cannot be  
 56 comforted and that he cannot count on her to do anything at



57 home, and he is overwhelmed by all his responsibilities, and  
 58 WHEREAS, the murder has caused difficulties between Jaime's  
 59 parents, and this once harmonious family is broken, fragile, and  
 60 devastated, and

61 WHEREAS, the Miami-Dade County School Board agreed to pay  
 62 to Maria Gough and Jorge Gough the sum of \$1,700,000, and

63 WHEREAS, of the \$1,700,000 settlement amount, \$700,000 has  
 64 already been paid, such payment consisting of \$500,000 paid by  
 65 the United Educators Insurance Company, \$100,000 paid to Maria  
 66 Gough under s. 768.28, Florida Statutes, and \$100,000 paid to  
 67 Jorge Gough under s. 768.28, Florida Statutes, leaving a  
 68 remaining balance of \$1,000,000, NOW, THEREFORE,

69

70 Be It Enacted by the Legislature of the State of Florida:

71

72 Section 1. The facts stated in the preamble to this act  
 73 are found and declared to be true.

74 Section 2. The Miami-Dade County School Board is  
 75 authorized and directed to appropriate from funds of the school  
 76 board not otherwise appropriated and draw a warrant payable to  
 77 Maria Gough, as parent and natural guardian of Jaime Gough, a  
 78 minor, in the sum of \$500,000 for the wrongful death of her son,  
 79 Jaime Gough.

80 Section 3. The Miami-Dade County School Board is  
 81 authorized and directed to appropriate from funds of the school  
 82 board not otherwise appropriated and draw a warrant payable to  
 83 Jorge Gough, as parent and natural guardian of Jaime Gough, a  
 84 minor, and as personal representative of the estate of Jaime

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85 Gough, a minor, in the sum of \$500,000 for the wrongful death of  
 86 his son, Jaime Gough.

87 Section 4. The amounts awarded in this act are intended to  
 88 provide the sole compensation for all present and future claims  
 89 arising out of the factual situation described in this act which  
 90 resulted in the death of Jaime Gough. The total amount paid for  
 91 attorney's fees, lobbying fees, costs, and other similar  
 92 expenses relating to this claim may not exceed 25 percent of the  
 93 total amount awarded under this act.

94 Section 5. This act shall take effect upon becoming a law.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. **HB 1039**

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Schools & Learning Council  
2 Representative Lopez-Cantera offered the following:

3  
4  
5  
6  
7  
8

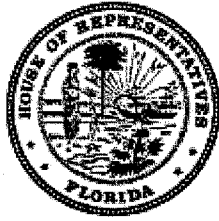
**Amendment**

Remove lines 20-23.









**STORAGE NAME:** h1223.SLC.doc  
**DATE:** 4/23/2008

April 23, 2008

**SPECIAL MASTER'S FINAL REPORT**

The Honorable Marco Rubio  
Speaker, The Florida House of Representatives  
Suite 420, The Capitol  
Tallahassee, Florida 32399-1300

Re: HB 1223 - Representative G. Thompson  
Relief/Daniel Decembre/Orange County School Board

**THIS IS AN UNOPPOSED EQUITABLE CLAIM FOR \$1.8 MILLION ARISING FROM A STIPULATED SETTLEMENT AGREEMENT BETWEEN DESNAR AND MIGNONE DECEMBRE, AS PARENTS AND GUARDIANS OF DANIEL DECEMBRE, AND THE ORANGE COUNTY SCHOOL BOARD FOR INJURIES THAT DANIEL RECEIVED WHEN HE WAS ATTACKED BY A PIT BULL ON THE CAMPUS OF RIDGEWOOD PARK ELEMENTARY SCHOOL.**

**FINDING OF FACT:**

On March 4, 2003, after regular classes had ended at Ridgewood Park Elementary School in Orlando, Daniel Decembre, then 8 years old, was talking with a friend while waiting for his after-school tutoring class to begin. Daniel saw a large dog running straight for him and he began to run toward a playground area where there were teachers and other students. Daniel tripped and fell down as he ran across a broad drainage swale. The dog jumped on top of Daniel and began to maul him, biting him repeatedly on his face and head.

A teacher drove her car over to the area and tried without success to knock the dog away with the car. Other teachers threw things at the dog. One teacher beat the dog with an umbrella until it finally stopped its attack.

Daniel's injuries were extensive. He was taken via air ambulance to the hospital. He had deep lacerations of both

cheeks, his eyelids, and chin. He lost much of his right ear and his left ear had to be amputated. He has undergone four subsequent surgeries to repair the damage to his face and eyes.

Daniel suffered permanent physical injuries to his face and head. He will need several more surgeries and a prosthetic ear implant which must be replaced every 2 to 5 years (to account for his growth) until he reaches physical maturity. He has recurring pain on the left side of his head, some facial nerve damage, and the tear duct of his left eye continually runs.

The incident also caused Daniel lasting psychological trauma. He has frequent nightmares and is now afraid to be near dogs. The incident, subsequent surgeries, and his recovery caused Daniel to fall a year behind in school. He is regularly teased at school due to his disfigurement.

The dog belonged to a man who lived in a house adjacent to the school grounds. He said that the dog bolted through the front door when his daughter came into the house. There was no explanation in the record for why the dog's owner did not immediately run after the dog and arrive sooner to prevent or to help stop the dog's attack on Daniel. The evidence only shows that the owner arrived after the attack had ended and took the dog back to his house. The owner was issued a citation and he paid a fine. The dog, a pit bull, was put to sleep.

In the 3 years preceding the attack on Daniel, officials at Ridgewood Park Elementary had called Orange County Animal Services 19 times to have dogs removed from the school campus. None of the prior incidents had involved a dog bite or attack on a student or adult.

Claimants sued the School Board in the circuit court for Orange County in 2005. The case was successfully mediated and the parties entered into a Stipulated Settlement Agreement in November 2007 that called for payment to Desnar and Mignone Decembre, individually and as the parents and guardians of Daniel, the sovereign immunity limit of \$200,000 and for the School Board to take a neutral position on the passage of a claim bill for an additional \$1.8 Million. The Decembres did not sue the dog owner for Daniel's injuries because his homeowner's insurance did not cover dog bites, and he had no significant assets.

The Decembres are from Haiti and came to Florida on work visas. However, those visas have expired and they are presently seeking legal immigration status. Therefore, Daniel has not been eligible to receive medical services paid for by Medicaid.



CONCLUSION OF LAW:

At the Special Master's level, every claim bill, whether based on a settlement or not, must be measured anew against the four standard elements of negligence: duty, breach of duty, proximate cause, and damages. If, and only if, all four elements are satisfied, can liability be found.

The School Board has a duty to take reasonable measures to protect its students from foreseeable injuries. Even though no student had previously been bitten by a dog on the campus of Ridgewood Park Elementary, a dog attack was foreseeable because dogs had previously entered the campus. The fencing around the campus was in disrepair in several places, but the pit bull that attacked Daniel came through the front gate that is always open during school hours to allow for children to arrive at the campus by school bus or by car, as well as for teachers, other school employees, and visitors. Whether the School Board breached its duty to protect Daniel comes down to the question of whether the School Board, using reasonable means, could have prevented a dog from entering the campus through the front gate.

Calling Animal Services was a responsible action to take when dogs were found on the school campus. Claimants argued that, because dogs had been removed from the school on 19 previous occasions, something more should have been done to keep dogs out. Claimant's attorneys suggested that the School Board should have posted someone at the front gate to prevent a dog from entering and should have erected interior fencing so that a dog entering the front gate could not easily get to the area where Daniel was attacked. The record does not support a conclusion that these are reasonable measures nor that the failure to implement these measures shows that the School Board was negligent.

It was not demonstrated how the suggested precautions would have prevented this dog from entering through the wide front gate and attacking one of numerous students and adults who were in the front of the school. While interior fencing would have made it much harder for the pit bull to get to where Daniel was standing on the day he was attacked, interior fencing would not have prevented the dog from entering through the front gate and attacking someone else. Therefore, the evidence presented does not demonstrate that Daniel's injuries resulted from the negligence of the School Board.

LEGISLATIVE HISTORY:

This is the first claim bill ever filed in this matter.

SOURCE OF FUNDS:

If the claim bill is passed, the award would be paid from the School Board's General Funds.

ATTORNEY'S/  
LOBBYING FEES:

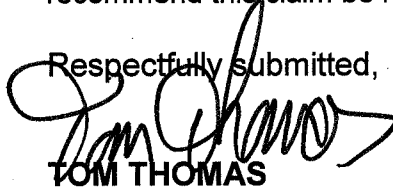
The attorney for the claimant has provided an affidavit to the effect that his fees will be limited to 25 percent of all gross amounts paid to the Claimants as the result of a claim bill. The affidavit states that all costs, including costs for professional lobbying services, will be borne by the client in addition to the 25% for attorney's fees. The agreed upon lobbying fees for this claim are five percent of any claim bill amount. Outstanding costs are \$33,987.11.

The bill, however, requires that the attorney's fees, lobbyist's fee and costs are limited to no more than 25 percent of the total amount awarded by the Legislature.

RECOMMENDATIONS:

The evidence presented does not demonstrate that the School Board is liable for Daniel Decembre's injuries. Therefore, I recommend this claim be reported UNFAVORABLY.

Respectfully submitted,



**TOM THOMAS**  
House Special Master

cc: Representative Thompson  
Senator Joyner  
Senate Special Master Canter

1                                   A bill to be entitled  
 2           An act for the relief of Daniel Decembre, a minor, by and  
 3           through his parents and natural guardians, Desnar and  
 4           Mignone Decembre, by the Orange County School Board;  
 5           providing for an appropriation to compensate Daniel  
 6           Decembre for injuries and damages he sustained as a result  
 7           of negligence by agents and employees of the school board;  
 8           providing a limitation on attorney's fees, lobbying fees,  
 9           costs, and other similar expenses relating to the claim;  
 10          providing an effective date.

11  
 12           WHEREAS, on March 4, 2003, a dog came onto the school  
 13          premises of Ridgewood Park Elementary School, located in Orange  
 14          County, Florida, and attacked Daniel Decembre, causing him  
 15          serious and permanent injuries, and

16           WHEREAS, as a result of the dog attack of March 4, 2003,  
 17          Daniel Decembre has had to undergo several corrective surgeries,  
 18          and

19           WHEREAS, the Orange County School Board and its agents and  
 20          employees had advance notice of the dangerousness of dogs  
 21          entering the school premises of Ridgewood Park Elementary School  
 22          and had reported several incidents of loose dogs on the campus  
 23          of the school to the Orange County Animal Services, and

24           WHEREAS, the Orange County School Board and its agents and  
 25          employees knew or should have known that dogs on the school  
 26          premises of Ridgewood Park Elementary School would and could  
 27          harm one of its students, such as Daniel Decembre, and

28           WHEREAS, the Orange County School Board and its agents and

29 employees failed to secure the premises of Ridgewood Park  
 30 Elementary School from dogs entering where Daniel Decembre was  
 31 injured, and

32 WHEREAS, as a direct and proximate result of negligence by  
 33 the Orange County School Board and its agents and employees,  
 34 Daniel Decembre suffered serious physical and mental injuries;  
 35 will continue to experience mental and physical pain and  
 36 suffering, disability, and loss of capacity for the enjoyment of  
 37 life; and will require additional medical care, surgeries,  
 38 psychiatric care, and hospitalization, continuing beyond the age  
 39 of majority, and

40 WHEREAS, in the future, Daniel Decembre will also suffer  
 41 lost wages and loss of earning capacity, and

42 WHEREAS, following a lawsuit filed by Desnar and Mignone  
 43 Decembre, the Orange County School Board agreed to a settlement  
 44 in the amount of \$2 million, of which \$200,000 was paid within  
 45 30 days after the date of the settlement agreement, and  
 46 \$1,800,000 is sought through the submission of a claim bill to  
 47 the Legislature with respect to which the Orange County School  
 48 Board has agreed to remain neutral, NOW, THEREFORE,

49  
 50 Be It Enacted by the Legislature of the State of Florida:

51  
 52 Section 1. The facts stated in the preamble to this act  
 53 are found and declared to be true.

54 Section 2. The Orange County School Board is authorized  
 55 and directed to appropriate from funds of the school board not  
 56 otherwise encumbered and to draw a warrant in the amount of

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57 \$1,800,000 payable to Desnar and Mignone Decembre, parents and  
 58 natural guardians of Daniel Decembre, to compensate Daniel  
 59 Decembre for personal injuries and damages suffered as a result  
 60 of negligence by agents and employees of the Orange County  
 61 School Board.

62 Section 3. Any amount awarded under this act pursuant to  
 63 the waiver of sovereign immunity permitted under s. 768.28,  
 64 Florida Statutes, and this award is intended to provide the sole  
 65 compensation for all present and future claims arising out of  
 66 the factual situation described in the preamble to this act  
 67 which resulted in the injury to Daniel Decembre. The total  
 68 amount paid for attorney's fees, lobbying fees, costs, and other  
 69 similar expenses relating to this claim may not exceed 25  
 70 percent of the amount awarded under section 2.

71 Section 4. This act shall take effect upon becoming a law.



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. **HB 1223**

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

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1 Council/Committee hearing bill: Schools & Learning Council  
2 Representative G. Thompson offered the following:

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4  
5  
6  
7  
8  
9

**Amendment**

Remove line(s) 32-33 and insert:

WHEREAS,

