

**District School Board of Indian River County, Florida
6500 - 57th Street, Vero Beach, FL 32967**

If a person decides to appeal any decision made by the Board with respect to any matter considered at these meetings, he will need to ensure that a verbatim record is made which includes the testimony and evidence upon which the appeal is to be made.

INVOCATION: Shortly before the opening gavel that officially begins a School Board meeting, the Chairman will introduce the Invocation Speaker. No person in attendance is or shall be required to participate in this observance and the personal decision of each person regarding participation will have no impact on his or her right to actively participate in the School Board's business meeting.

Date: December 11, 2018

Time: 6:00 p.m.

Room: Joe N. Idlette, Jr. Teacher Education Center (TEC)

Business Meeting Agenda

- I. CALL MEETING TO ORDER
- II. PLEDGE OF ALLEGIANCE TO THE FLAG AND PRESENTATION OF COLORS
By Vero Beach High School's Air Force Junior ROTC Detachment 043 under the Direction of Wade E. Dues, Chief Master Sergeant, (Retired), Aerospace USAF.
- III. ADOPTION OF ORDERS OF THE DAY
- IV. PRESENTATIONS
 - A. **Musical Rendition by – Treasure Coast Elementary School**
 - B. **Short Video on School Initiatives**
 - C. **Casual for a Cause – Veteran's Council**
 - D. **Veteran of the Month – Marine Corp Sergeant Pete Sayles**
 - E. **Alternative Certification Participation Program – ~~Terri Beckham~~ Julie Kastensmidt**
- V. CITIZEN INPUT
- VI. CONSENT AGENDA
 - A. **Approval of Minutes – Dr. Rendell**
 - 1. 2018/11/20 Organization Meeting Minutes
Superintendent recommends approval.
 - B. **Approval of Personnel Recommendations – Dr. Purcell**
Attached is a list of personnel recommendations that includes personnel additions, job descriptions, terminations, and/or changes. Superintendent recommends approval.

C. Approval of Amended 2018-2019 Salary Schedule, Substitute and Miscellaneous Pay – Dr. Purcell

Schedule updated to include salary information for Indian River Virtual Adjunct Instructors under Substitute and Miscellaneous Pay. Copy of amended page is attached and new language is underlined. Superintendent recommends approval.

D. Approval of Donations – Dr. Rendell

1. Beachland Elementary School received a donation in the amount of \$1,780.16 from the Beachland Elementary PTA. The funds will be utilized by the Beachland Elementary Media Center.
2. Wabasso School received a donation in the amount of \$5,135 from the Space Coast PCA. The funds will be utilized for General Activities at the Wabasso School.
3. The Physical Plant Department received a donation of 1800 recycling labels from Bank of America. The Fair market value of the donated items is estimated to be \$3,330. The labels will be utilized by the School District Recycling Program. A donation of recycling totes was received from Waste Management. The fair market value of the donated items is \$10,920 the recycling totes will be used to expand the recycling program and educate students, faculty, and staff of the School District.

Superintendent recommends approval.

E. Approval to Dispose of Surplus Property – Dr. Rendell

This request is for approval to dispose of surplus property in accordance with Florida Statutes 274.05 and 274.06. The attached lists represent property to be deleted from various inventories and/or for items that have been declared surplus. After Board approval, property will be recycled and/or auctioned. Superintendent recommends approval.

F. Approval of SRHS Washington D.C. Spring Break Study Tour (March 2019) – Mrs. Dampier

Sebastian River High School students in history classes will travel to Washington, D.C. during Spring break 2019. Students will be visiting famous educational and historical sites such as the Smithsonian Institution, the Pentagon, and even Air Force One. This trip aligns with the curriculum of I.B. History as well as African-American history. All expenses will be paid for through student payments and fundraising proceeds. Insurance has been approved by Risk Management. Superintendent recommends approval.

G. Approval of Student Expulsion Recommendation 2018-02 – Dr. Rendell

Principal Mr. O'Keefe is requesting the expulsion of Student #19-12 on charges of School Board Rule 5772 – Weapons – Violation of Hearing Officer's Findings of Fact, Conclusion of Law and Recommendations dated December 4, 2018. Recommendation is for expulsion for the remainder of the 2018-2019 school year. Superintendent recommends approval.

H. Approval of Student Expulsion Recommendation 2018-01 – Dr. Rendell

Principal Mr. O’Keefe is requesting the expulsion of Student #19-09 on charges of School Board Rule 5772 – Weapons – Violation of Hearing Officer’s Findings of Fact, Conclusion of Law and Recommendations dated October 11, 2018. Recommendation is for expulsion for the remainder of the 2018-2019 school year. Superintendent recommends approval.

VII. ACTION AGENDA

A. Public Hearing for Adoption of New, Revised, and Repealed District School Board Policies – Dr. Rendell

On October 23, 2018, the Board moved approval to set a Public Hearing date to adopt new, revised, and repealed District School Board Policies. The purpose of the revisions, new policies, and repealed policies is to be consistent with present practice and legislation. The policy change process was followed in accordance with Florida Statutes, under Florida Administrative Procedures Act, Chapter 120 Rulemaking; and School Board Bylaw 0131. The proposed policies are attached. Superintendent recommends approval.

B. Approval to Issue a Purchase Order That Exceeds \$50,000.00 - Dr. Rendell

Pursuant to School Board Policy 6320, the Superintendent’s authority is limited to purchase commodities and/or contractual services where the total amount does not exceed \$50,000 and does not exceed the applicable appropriation in the District Budget. Staff is requesting approval to process and release the requisition listed on the backup for this item. This requisition exceeds \$50,000.00 and therefore requires Board approval. This requisition is in full compliance with School Board Policy 6320.

Requisition #1 – IB Testing Material \$60,279.00

Superintendent Recommends Approval.

C. Approval of Budget Amendment – Dr. Rendell

This request is for approval of the following budget amendment for fiscal year ending June 30, 2018:

Amendment # 1 - Federal Budget July 1 – September 30, 2018

Amendment # 1 - Capital Fund

Amendment # 1 - Food Service

Amendment # 1 – General Fund

Superintendent recommends approval.

DELETED:

~~D. Approval of Postponed Personnel Recommendation from November 20, 2018 Business Meeting – Dr. Rendell~~

E. Approval of Agreements Pertaining to the Sale of City of Vero Beach (COVB) Electric Utility to FPL Regarding Fiber Optics – Mr. Teske

The closing for the sale of COVB electric utility is scheduled for December 17, 2018. That sale requires FPL to resolve issues related to the fiber that is owned and used by the Consortium members (SDIRC, Indian River County, and COVB) of the Joint Fiber Optics Project Interlocal Agreement. The parties involved have negotiated the following attached agreements: Substation License and Access Agreement, Linear Facilities Pole Attachment Agreement, Fiber License Agreement, and First Amendment to Revised and Restated Joint Fiber Optics Project Interlocal Agreement. Also attached is the Memorandum from IRC Attorney Dylan Reingold to the Board of County Commissioners with their recommendation for County approval. Superintendent recommends approval.

F. Approval to Award SDIRC 03-0-2019JC Invitation to Bid (ITB) for a Single Point of Entry at Sebastian Elementary to Kerns Construction and Property Management, Inc. - Mr. Teske

The purpose and intent of this Invitation to Bid was to secure a firm price to create a single point of entry into the administrative offices at Sebastian Elementary as per specifications and drawings provided by Song + Associates Architects. The cost to the District is \$199,00 (Bid amount of \$179,000 and owner added contingency of \$20,000). The Purchasing Department recommends award to Kerns Construction and Property Management, Inc. as the lowest and best responsive and responsible bidder meeting specifications, terms and conditions. Please see attached backup. Superintendent approves recommendation.

G. Approval of Owner/Contractor Construction Agreement for Sebastian Elementary School Single Point of Entry (SDIRC #03-0-2019JC) – Mr. Teske

Approval is recommended for the Owner/Contractor Construction Agreement between the School Board of Indian River County and Kerns Construction & Property Management Corp., for Sebastian Elementary School Single Point of Entry (SDIRC #03-0-2019JC) in the amount of \$199,00.00. The scope of work includes creating a new single point of entry into the school administration office in accordance with the architectural plans and specifications. The contract amount consists of the Contractor's Base Bid in the amount of \$179,000.00 and an owner added contingency in the amount of \$20,000.00, which includes all construction costs associated with this project. The contract amount does not include architectural fees, at an estimated amount of \$23,950.00, for an overall total project cost of \$222,950.00. Superintendent recommends approval.

H. Approval to Award SDIRC 02-0-2019JC Invitation to Bid (ITB) for a Single Point of Entry at Pelican Island Elementary to Kerns Construction and Property Management, Inc. - Mr. Teske

The purpose and intent of this Invitation to Bid was to secure a firm price to create a single point of entry into the administrative offices at Pelican Island Elementary as per specifications and drawings provided by Song + Associates Architects. The cost to the District is \$199,500 (Bid amount of \$179,500 and owner added contingency of \$20,000). The Purchasing Department recommends award to Kerns Construction and Property Management, Inc. as the lowest and best responsive and responsible bidder meeting specifications, terms and conditions. Please see attached backup. Superintendent approves recommendation.

I. Approval of Owner/Contractor Construction Agreement for Pelican Island Elementary School Single Point of Entry (SDIRC #02-0-2019JC) – Mr. Teske

Approval is recommended for the Owner/Contractor Construction Agreement between the School Board of Indian River County and Kerns Construction & Property Management Corp., for Pelican Island Elementary School Single Point of Entry (SDIRC #02-0-2019JC) in the amount of \$199,500.00. The scope of work includes creating a new single point of entry into the school administration office in accordance with the architectural plans and specifications. The contract amount consists of the Contractor's Base Bid in the amount of \$179,500.00 and an owner added contingency in the amount of \$20,000.00, which includes all construction costs associated with this project. The contract amount does not include architectural fees, at an estimated amount of \$23,950.00, for an overall total project cost of \$223,450.00. Superintendent recommends approval.

J. Approval of Release of Final Payment to Summit Construction of Vero Beach, LLC for the Treasure Coast Technical College (SDIRC # 01-0-2018JC) – Mr. Teske

Approval is recommended for release of Final Payment in the amount of \$159,348.09 to Summit Construction of Vero Beach, LLC for the Treasure Coast Technical College Project (SDIRC # 01-0-2018JC). On January 23, 2018, the Board approved the Guaranteed Maximum Price (GMP) in the amount of \$1,600,100.00 for the Treasure Coast Technical College project. The final construction cost for this project totals \$1,530,044.01. The unused portion of the GMP, in the amount of \$70,055.99, is being returned to the District. Final payment for this project is being brought to the Board for approval in accordance with Florida Statute 1013.50. The final payment to the contractor consists of the project retainage, which is held until project completion. Superintendent recommends approval.

K. Approval of Agreement Form for Construction Contracted Services with Stuart Fence Company, Inc. for VBHS Freshman Learning Center Fencing and Gates – Mr. Teske

Approval is recommended for the Agreement Form of Construction Contracted Services between the School Board of Indian River County and Stuart Fence Company, Inc., to furnish materials and labor to install fencing and gates at the VBHS Freshman Learning Center School campus as outlined in the proposal. This Agreement is the result of the lowest of multiple quotes, in compliance with School Board Policy 6322, Competitive Solicitation Requirements for Construction Contracting, Section C. The cost of this project is not to exceed \$95,400.00, which includes the proposal amount of \$90,400.00 and an owner added contingency in the amount of \$5,000.00. Superintendent recommends approval.

L. Approval of Economic Opportunities Council of Indian River County, Inc. Headstart Program Agreement for Dodgertown Elementary and Indian River Academy Portable Classroom Buildings - Mr. Teske

Approval is recommended for the renewal of the Agreement between the School Board of Indian River County and the Economic Opportunities Council of Indian River County, Inc., Head Start Program for the allowance to house two (2) portable classroom buildings on School District property: one (1) portable located at Dodgertown Elementary School and one (1) portable located at Indian River Academy School. The portable classroom buildings are leased, operated and maintained by the Economic Opportunities Council of Indian River County, Inc. This Agreement is valid through June 30, 2022. Superintendent recommends approval.

VIII. SUPERINTENDENT'S REPORT

- IX. DISCUSSION
 - A. School Finance Forum – Mrs. Rosario
 - B. Organizational Chart – Mrs. Rosario
 - C. Board Discussion Sessions – Mrs. Zorc

- X. SCHOOL BOARD MEMBER MATTERS

- XI. INFORMATION AGENDA
 - No information items

- XII. SUPERINTENDENT’S CLOSING

- XIII. ADJOURNMENT

Any invocation that may be offered before the official start of the School Board business meeting is and shall be the voluntary offering of a private citizen to and for the benefit of the School Board pursuant to Resolution #2015-08. The views and beliefs expressed by the Invocation Speaker have not been previously reviewed or approved by the School Board and do not necessarily represent their individual religious beliefs, nor are the views or beliefs expressed intended to express allegiance to or preference for any particular religion, denomination, faith, creed, or belief by the School Board. No person in attendance at this meeting is or shall be required to participate in any invocation and such decision whether or not to participate will have no impact on his or her right to actively participate in the public meeting.

Anyone who needs a special accommodation to participate in these meetings may contact the School District’s American Disabilities Act Coordinator at 564-3175 (TTY 564-2792) at least 48-hours in before the meeting. NOTE: Changes and amendments to the agenda can occur 72-hours prior to the meeting. All business meetings will be held in the Joe N. Idlette, Jr. Teacher Education Center (TEC) located in the J.A. Thompson Administrative Center at 6500 – 57th Street, Vero Beach, FL 32967, unless otherwise specified. Meetings may broadcast live on Comcast/Xfinity Ch. 28, AT&T Uverse Ch. 99, and the School District’s website stream; and may be replayed on Tuesdays and Thursdays at the time of the original meeting. For a schedule, please visit the District’s website at www.indianriverschools.org/iretv. The agenda can be accessed by Internet at <http://www.indianriverschools.org>.

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The District School Board of Indian River County met on November 20, 2018, at 5:00 p.m. The Organization Meeting was held in the Joe N. Idlette, Jr. Teacher Education Center located in the School District Office at the J.A. Thompson Administrative Center located at 6500 – 57th Street, Vero Beach, Florida 32967. District School Board Members attending were: Chairman Laura Zorc, Vice Chairman Tiffany M. Justice, and Board Members: Teri Barenborg, Jacqueline Rosario, and Dr. Mara Schiff. Dr. Mark J. Rendell, Superintendent of Schools; and Suzanne D’Agresta, School Board Attorney, were also present.

Annual Organization Meeting Minutes

In compliance with Florida Statute 1001.371 and Indian River County District School Board Policy 0150, the Superintendent shall act as Presiding Officer until the organization is complete.

- I. Meeting was called to order by Dr. Rendell at 5:00 p.m.
- II. PLEDGE OF ALLEGIANCE TO THE FLAG
Dr. Rendell asked everyone to join him in the Pledge of Allegiance to the Flag.
- III. OATH OF OFFICE – Honorable Victoria Griffin, Judge for 19th Judicial Circuit Court of Florida, Serving Students and Families of Indian River County.

Dr. Rendell introduced Judge Griffin to conduct the swearing in of the three new Board Member. Judge Griffin spoke briefly prior to the swearing in. She then performed the duty of swearing into office District School Board Members, Dr. Mara Schiff, District 1; Jaqueline Rosario, District 2; and Teri Barenborg, District 4. Dr. Rendell thanked Judge Griffin for coming and for her work serving the students and families of Indian River County, Florida.

- IV. ELECTION OF CHAIRMAN AND VICE CHAIRMAN – Dr. Rendell

A. Election of Chairman

Dr. Rendell called for the nomination for Chairman. Mrs. Rosario nominated Laura Zorc. Mrs. Barenborg nominated Mrs. Justice. With no further nominations, Dr. Rendell called for the vote in the order they came in. He asked for those in favor of Laura Zorc to say “I”. Mrs. Rosario, Dr. Schiff, and Mrs. Zorc voted in favor of Mrs. Zorc for Chairman. Mrs. Barenborg and Mrs. Justice voted nay. The vote was carried with a 3-2 vote. Dr. Rendell congratulated Mrs. Zorc on the position of Chairman of the Indian River County School Board.

B. Election of Vice Chairman

Dr. Rendell called for the nominations for Vice-Chair. Mrs. Zorc nomination Tiffany Justice. There were no other nominations. Dr. Rendell called for a vote. The Board voted unanimously in favor of Tiffany Justice as Vice Chairman of the District School Board, with a 5-0 vote.

~~~~~ Break ~~~~~

Recess was taken at 5:15. The meeting was reconvened at 5:20 p.m. by Chairman Zorc.

V. CITIZEN INPUT

Liz Cannon – Joint Relationship

VI. APPROVAL OF REGULAR MEETINGS OF THE SCHOOL BOARD

**A. Approval of Business Meeting Dates and Times - Chairman**

Present practice is to hold two monthly meetings. The meetings are held the second and fourth Tuesday's of each month at 6:00 p.m. for the business portion of the meeting and at 4:30 p.m. for Hearing Officer Review, only when necessary. The Board is able to schedule meetings as it determines necessary. A list of specific meeting dates for December 2018 through November 2019 is attached.

Chairman Zorc read the above information to the audience. She then called for a vote. Mrs. Justice moved approval. Dr. Schiff seconded the motion and it carried unanimously, with a 5-0 vote.

**B. Approval of Meeting Place - Chairman**

The Joe N. Idlette, Jr. Teacher Education Center (TEC) located at the J.A. Thompson Administrative Center at 6500 – 57th Street, Vero Beach, FL 32967, is the meeting place, unless public interest can best be served by meeting elsewhere. The room is the Joe N. Idlette, Jr. Teacher Education Center (TEC).

Chairman Zorc read the above information to the audience. She then called for a vote. Mrs. Justice moved approval. Mrs. Barenborg seconded the motion and it carried unanimously, with a 5-0 vote.

VII. OFFICIAL APPOINTMENTS BY THE CHAIRMAN

**A. Indian River County Commission's Metropolitan Planning Organization (MPO), Committee Member and an Alternate for this Voting Position**

Duties include attending monthly meetings on the 2<sup>nd</sup> Wednesday of the month at 10 a.m. in Room B1-501. Last year Mr. Frost served, with Mrs. Simchick as Alternate.

Chairman Zorc read the above information to the audience. She then asked who would be interested in taking this position. Mrs. Justice said that she would take the position and Mrs. Rosario would take the alternate position. Chairman Zorc confirmed both.



**B. Indian River County Commission's Economic Development Council (EDC), Committee Member and an Alternate for this Four-Year, Voting Position**

Duties include attending monthly meetings on the 3<sup>rd</sup> Tuesday of the month at 3:30 p.m. in Conference Room B1-501. Last year Mrs. Zorc served her second year, with Mrs. Justice as Alternate.

Chairman Zorc read the above information to the audience. There was a brief discussion. Chairman Zorc stated that she would maintain the position and Mrs. Rosario accepted the alternate position. Chairman Zorc confirmed both.

**C. Indian River County Planning and Zoning Commission with an Alternate for this Four-Year, Non-Voting Position**

The Commission meets on the 2<sup>nd</sup> and 4<sup>th</sup> Thursday of the month at 7 p.m. in County Commission Chambers in Building A. During November and December, they meet only on the 2<sup>nd</sup> Thursday of the month. The appointments are for four years. Last year Mr. Frost served his fourth year, with Mrs. Simchick as the Alternate.

Chairman Zorc read the above information to the audience. She then asked who would be interested in the position. Mrs. Barenborg said that she would take the position and Dr. Schiff accepted the alternate. Chairman Zorc confirmed both.

**D. City of Vero Beach Planning and Zoning Commission, Non-Voting Position**

The Commission meets on the 1st and 3rd Thursdays of the month at 1:30 p.m. in City Hall. Last year Mrs. Zorc served.

Chairman Zorc read the above information to the audience. She explained the position to see if anyone else was interested in the position. No one volunteered to take the position, so Chairman Zorc said she would stay on and serve.

**E. City of Sebastian Planning and Zoning Commission, Three-Year Term, Non-Voting Position**

The Commission meets on the 1st and 3rd Thursday of the month at 6 p.m. in City Hall, as needed. Positions starts on the first meeting after the City votes on the new member. Last year Mrs. Simchick served.

Chairman Zorc read the above information to the audience. She then asked who would be interested in the position. Dr. Schiff said that she would take the position. Chairman Zorc confirmed.

**F. City of Fellsmere Planning and Zoning Commission, Non-Voting Position**

The Commission meets on the 1st Wednesday of the month at 5:05 p.m. in City Council Chambers. Last year Mrs. Simchick served.

Chairman Zorc read the above information to the audience. She then asked who would be interested in the position. Mrs. Barenborg said that she would take the position. Chairman Zorc confirmed.

**G. City of Indian River Shores Planning and Zoning Commission, One-Year, Non-Voting Position**

May 2008 was the first year for this appointment. The Commission meets on the 2<sup>nd</sup> Monday of the month at 2 p.m. in City Hall, as needed. Last year Mrs. Justice served.

Chairman Zorc read the above information to the audience. She then asked Mrs. Justice if she would like to maintain that position. Mrs. Justice said yes, she would like to continue with this committee. Chairman Zorc confirmed.

**H. Treasure Coast Council of Local Governments, Inc., Committee Member**

The Committee meets on the first Wednesday of the month at 10 a.m. at St. Lucie County's Administration Building. Last year Mrs. Zorc served.

Chairman Zorc read the above information to the audience. She shared that she served for the past two years and opened it up to the other Board Members. Mrs. Justice has a conflict with the schedule and is unable to volunteer for the position. Chairman Zorc asked that the Board delay this committee appointment at this time.

**I. Executive Roundtable, Committee Member for this Voting Position**

One Board Member will be appointed to serve on the Executive Roundtable. The Committee meets the last Thursday of each month at 9:00 a.m. at United Way Building. Last year Mrs. Justice served.

Chairman Zorc read the above information to the audience. She then asked Mrs. Justice if she would like to continue to serve on this committee. Mrs. Justice accepted. Chairman Zorc confirmed.

VIII. BOARD APPOINTMENTS

**A. Approval of Appointment of a Citizen to the Indian River County Metropolitan Planning Organization (MPO), County Citizen Advisory Committee for Transportation and an Alternate for this Voting Position**

This is a volunteer position that began on September 11, 2012. The term of this position coincides with the Board's organization meeting. The CAC meets the first Tuesday of the month at 2 p.m. in Conference Room B1-501. The position was filled by Amy Speak and the late John Kim was the Alternate. Board Members will submit names and vote on both the Committee Member and an Alternate Citizen to serve.

Chairman Zorc read the above to the audience. It was decided to provide the Board Members with an application and to also advertise the position.

**B. Approval of Appointment of a Citizen to the Indian River County School Planning Citizen Oversight Committee re: Interlocal Agreement for Public School Planning for this Voting Position**

Peter Robinson served on this Committee since its inception in 2003. The purpose of the Committee is to monitor implementation of the Interlocal Agreement and to report to participating local governments, the District School Board, and the general public on the effectiveness with which the Interlocal Agreement is being implemented. The Committee meets once per year on a date and time to be determined. [Mr. Robinson](#) submitted a yearly report and agreed to do an additional term. Board Members will vote on this appointment.

Chairman Zorc read the above to the audience. She called for a motion. A motion was made by Mrs. Barenborg to appoint Mr. Robinson. Dr. Schiff seconded the motion and it was carried unanimously, with a 5-0 vote.

**C. Approval of Appointment of a Citizen to the County Commission's Value Adjustment Board (VAB) for this Voting Position**

Reference: Florida State Statute 194.015. The Value Adjustment Board is an independent forum created by Florida Statute Chapter 194 to provide property owners with an opportunity to appeal their property value or denial of an exemption, classification, or tax deferral. The Committee meets each year as needed. The appointment will be effective upon approval by the County Commission. On January 22, 2013, [Mr. Todd Heckman](#) was appointed by the School Board. The position is for a calendar year/tax cycle. Mr. Heckman submitted a yearly report and is interested in serving for an additional term.

Chairman Zorc read the above to the audience. She called for a motion. Dr. Schiff moved approval. Mrs. Justice seconded the motion and it carried unanimously, with a 5-0 vote.

**D. Approval of Appointment to County Commission's Value Adjustment Board (VAB), One Committee Member and One Alternate for this Voting Position**

Reference: Florida State Statute 194.015. The Value Adjustment Board is an independent forum created by Florida Statute Chapter 194 to provide property owners with an opportunity to appeal their property value or denial of an exemption, classification, or tax deferral. The Committee meets each year as needed. The appointment will be effective upon approval by the County Commission. Last year Mr. Searcy was reappointed as Committee Member and Mrs. Simchick was reappointed as Alternate.

Chairman Zorc read the above to the audience. She asked who would like to be on this committee. Mrs. Rosario said she would like to be a Committee Member and Mrs. Justice offered to be the alternate. Chairman Zorc called for a motion. Mrs. Barenborg moved approval. Mrs. Justice seconded the motion and it carried unanimously, with a 5-0 vote.

**E. Approval of Appointment as District School Board's Legislative Liaison for this Non-Voting Position**

The Legislative Liaison position was established by the District School Board on 11/22/2011. This position requires extensive knowledge of local, state, and federal issues. Last year Mrs. Zorc was appointed as the District School Board's Legislative Liaison.

Chairman Zorc read the above to the audience. She asked if someone else would like to take the position. The Chairman was asked to speak about the position. There was a brief discussion. Chairman Zorc asked that the Board hold off on appointing someone until they discuss the Legislative Platform at the next meeting.

**F. Approval of Appointment to Moonshot Community Action Network for this Non-Voting Position**

The Committee is comprised of community leaders in support of the Moonshot Goal. Normally they meet once every month. Last year Mrs. Justice was appointed.

Chairman Zorc reviewed the above with the audience. She asked Mrs. Justice to speak to this. In doing so, it was suggested to have this Committee be open for all of the Board Members to attend. Mrs. Justice made a motion to eliminate this Committee from the appointment list. Mrs. Rosario seconded the motion and it carried unanimously, with a 5-0 vote. There was a brief discussion.

**G. Approval of Appointment to Central Florida Public School Board Coalition**

The Central Florida Public School Board Coalition meets the first or second Monday of every month in Orlando at the Ronald Blocker Educational Leadership Center. The coalition is comprised of sixteen school districts from the Central Florida area. Last year Mrs. Justice was appointed.

Chairman Zorc read the above to the audience. She asked Mrs. Justice to speak to a recommendation she had at a previous Board Meeting. Mrs. Justice moved to remove this committee from the agenda so that all members can attend. Dr. Schiff seconded the motion and it carried unanimously, with a 5-0 vote.

**IX. INFORMATION**

**A. Staff Appointments to Indian River County Committees**

Attached is a list of staff appointments to Indian River County Committees that are required by law and approved by the Superintendent for the 2019 calendar year.

**B. Agnes Peebles Memorial Scholarship Committee**

As per the legal Trust Agreement established in 1953, the Chairman of the School Board of Indian River County and the Principal of Vero Beach High School serve as Chairman of this scholarship committee.

**C. County, School Planning, Elected Officials Oversight Committee**

Membership bylaws require that the Chairman of the School Board hold this position. The Committee meets, annually, in June.

**X. Discussion**

Chairman Zorc brought up a committee that had been removed previously, the Indian River County School Health Advisory Committee (SHAC). It was discussed that any Board Member could attend and minutes are always available. There are various staff members that do attend. It can be brought back with more information to discuss.

- VII. ADJOURNMENT – Chairman Zorc  
Meeting adjourned at approximately 5:58 p.m.

CONSENT AGENDA 12/11/18

**Personnel Recommendations**

1. Instructional Leaves

Ladow, Sheila – SRHS, 11/26/18 – 12/14/18

Lunny, Chelsea – SRHS, 12/3/18 – 5/24/19

**Rosales, Angela – Rosewood Magnet 12/10/18 – 5/24/19**

Spagnuolo, Bethany – Sebastian River Middle, 11/16/18 – 3/5/19

Talenda, Michelle A – Fellsmere Elementary, 1/22/19 – 4/16/19

2. Instructional Transfers

**Rolle, Nena – from Treasure Coast Technical College, Career and Technical Education Advisor to Oslo Middle, Language Arts Teacher 12/7/18**

3. Instructional Separations

Larkin, Elizabeth – Vero Beach Elementary, entering DROP 2/1/19

**Sartain, Brien – VBHS FLC, resignation 1/7/19**

4. Instructional Employment

**Bellefleur, Bailey – VBHS, JV Cheerleading Coach 12/12/18**

Caraballo, Edwin – Oslo Middle, Reading Teacher 11/27/18

De Los Santos, Michealann – ESE District Wide, Pre-K Early Intervention ESE Teacher 11/26/18

Fischer, Gabrielle – VBHS, ESE Teacher 11/26/18

**Kunz, McKenna – Indian River Academy, Physical Education Teacher 12/11/18**

McCarthy, William – Sebastian Middle, Girls' Basketball Coach 12/12/18

Platt, Jeanne – SRHS, Reading Teacher 11/26/18

**Prior, Kathy – Glendale Elementary, 5<sup>th</sup> Grade Teacher (Sunset Position) 1/7/19**

**Shulock, Sandra – Pelican Island Elementary, Primary Teacher 12/19/18**

Stedtler, Peggy – Dodgertown Elementary, 4<sup>th</sup> Grade Teacher 1/7/19

Stelick, Morgan – Indian River Academy, 4<sup>th</sup> Grade Math/Science Teacher 11/26/18

Topp, Brian – VBHS, Assistant Wrestling Coach 11/30/18

Van Deinse, James – VBHS, Head Tennis Coach 11/29/18

5. Support Staff Leaves

Cavazos, Alma – Finance, 12/10/18 – 1/7/19

Maines, Sanguenetta – Sebastian Elementary, 11/8/18 – 1/7/19

Vega, Jannette – Fellsmere, 11/29/18 – 3/8/19

6. Support Staff Promotions

**Anderson, Marcia – from Transportation, Routing Specialist to Transportation, Transportation Routing Manager 12/12/18**

7. Support Staff Transfers

Chaney, Lasedric – from Gifford Middle, Custodian to Beachland Elementary, Custodian 11/28/18

Massaroni Santella, Lori – from Liberty Magnet, Teacher Assistant to Fellsmere Elementary, Student Monitor 12/10/18

Patterson, Greg – from Physical Plant, Carpenter to Physical Plant, Tile Setter/Mason 12/12/18

Ross, Kathaleen – from Purchasing, Press Operator to Purchasing, Records Specialist 12/18/18

Smith, Willie Dean – from Transportation, Bus Driver to Transportation, Bus Assistant 10/22/18

**Strater, Christina – from Food and Nutrition Services, Cafeteria Manager Trainee to Glendale Elementary, Food Service Manager 12/4/18**

8. Support Staff Separations

**Bell, Jasmine – Treasure Coast Technical College, resignation 12/21/18**

Miller, Tammy – Liberty Magnet, resignation 12/7/18

Powell, Nina – Sebastian River Middle, retirement 12/21/18

**Reeves, Wendy – Transportation, resignation 12/21/18**

**Smith, Lehatta – Transportation, resignation 12/7/18**

Weaver, Wendy – Wabasso School, resignation 12/21/18

9. Support Staff Employment

**DeLoatche, Ashley – Wabasso School, Behavior Tech 12/5/18**

Dombek, Joselyn – Human Resources, Secretary II 11/26/18

Edwards, James – Food and Nutrition Services, Food Service Manager Trainee 11/28/18

Flynn, Carol – Dodgertown Elementary, Food Service Assistant 11/26/18

Harvey, Mattison – Extended Day, Part Time Child Care Assistant 11/29/18

**Land, Mark – SRHS, Theater Tech Student Worker 12/5/18**

**Morgan-Baker, Laquetta – Student Services, Health Assistant II 12/10/18**

**Noite, Barbara – Glendale Elementary, Student Monitor (2 hours) 12/10/18**

Petrulak, Megan – Treasure Coast Technical College, Extended Day Program Financial Coordinator 10/22/18

**Reams, Malissa – Extended Day, Part Time Child Care Assistant 12/3/18**

**Wood, Nancy – Vero Beach Elementary, Early Intervention Pre-K ESE Teacher Assistant 11/1/18**

10. Administrative Separations

**Purcell, Jayne – Human Resources, resignation 12/3/18**

11. Approval of Placement in Instructional Substitute Pool

Brown, Felecia – Human Resources, Substitute Teacher 12/12/18

**Jackson, Lavon – Human Resources, Substitute Teacher 12/5/18**

Jones, Patricia – Human Resources, Substitute Teacher 12/5/18

Oates, Lawrence – Human Resources, Substitute Teacher 11/28/18



Walsh, Sean – Human Resources, Substitute Teacher 11/28/18  
**Warfield, Jade – Human Resources, Substitute Teacher 12/10/18**

12. Approval of Placement in Support Staff Substitute Pool

Campbell, Tina – Food and Nutrition Services, Substitute Food Service Assistant  
11/28/18

**Coy, Sandra – Food and Nutrition Services, Substitute Food Service  
Assistant 12/4/18**

**Jourdain, Jean – Food and Nutrition Services, Substitute Food Service  
Assistant 12/4/18**

**King, VaShonte – Food and Nutrition Services, Substitute Food Service  
Assistant 12/5/18**

Morgan-Baker, Laquetta – Student Services, Substitute Health Assistant  
11/28/18

**SUBSTITUTE AND MISCELLANEOUS PAY**  
**Effective: July 1, 2018 – June 30, 2019**  
**Pending Contract Agreement**

**INSTRUCTIONAL SUBSTITUTES**

Daily rates for substitute and temporary teachers

|                             |                                                  |                            |                  |
|-----------------------------|--------------------------------------------------|----------------------------|------------------|
| Associates Degree           | Hourly Rate....                                  | \$10.0000 for 7.50 hours = | \$ 75.00 per day |
| *Bachelors Degree and above | Hourly Rate.....                                 | \$12.6667 for 7.50 hours = | \$ 95.00 per day |
|                             | After the 50 <sup>th</sup> day; Hourly Rate..... | \$13.33 for 7.50 hours =   | \$100.00 per day |

Beginning on the 21<sup>st</sup> day, all instructional Substitutes who hold a Florida Professional Certificate with a Bachelor's Degree and above, who teach more than 20 consecutive days in the same position replacing the same employee, will be classified as a long term substitute and be paid the daily rate of \$125.00 (\$16.6667 per 7.50 hours). Upon completion of this particular substitute assignment, they will revert back to receiving their regular daily rate, as specified above, when next called to substitute.

Substitute teachers are guaranteed ½ day's pay minimum (3.75 hours). Hours worked beyond ½ day will determine pay for the day. If a substitute is called in, and not needed, the substitute will be paid for ½ day (3.75 hours).

**NON-INSTRUCTIONAL SUBSTITUTES**

Non-instructional substitutes will be paid at the base rate of the position for which they are substituting. Exception - Teacher Assistant Substitute will be paid at entry level Associate Instructional Substitute rate.

Health Assistant Substitutes: A certified medical professional will be paid at the base pay rate of a Health Assistant I. An LPN will be paid at the base pay rate of Health Assistant II. An RN will be paid at the base rate of a Health Assistant III.

**HOSPITAL HOMEBOUND RATE**

|                         |                         |
|-------------------------|-------------------------|
| Substitutes*            | Current Substitute rate |
| Instructional Employees | Current hourly rate     |

**INDIAN RIVER VIRTUAL ADJUNCT INSTRUCTORS**

Instructors will receive \$2,000 at the completion of the semester. Instructor will receive an additional \$50 per student enrolled that completes the course.

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Beachland Elementary School

3350 Indian River Drive East  
Vero Beach, Florida 32969-1700  
Telephone: (772) 564-3300  
FAX: (772) 564-3350

Dr. Colleen H. Lord  
Principal

Susan Del Tufo  
Assistant Principal

November 9, 2018

{To}: School Board Members

{From}: Colleen Lord, Principal

Regarding: PTA donation

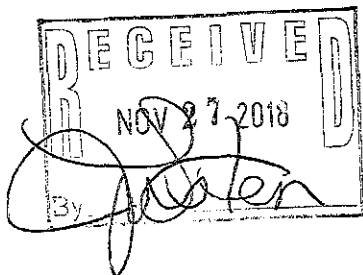
Beachland Elementary has received a donation of \$1,780.16 from the Scholastic Fall Book Fair sponsored by Beachland PTA. These funds will be used for supplies and needs in our Media Center.

These funds were deposited into Beachland Internal Funds account entitled Media Department.



Colleen Lord, Principal

CL/br



School District of Indian River County

"It Takes A Community To Raise A Child!"

# WABASSO SCHOOL



Rick Bartman, Principal

8895 U.S. Hwy 1, Sebastian, Florida 32958

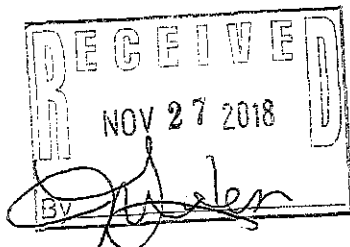
(772) 978-8000

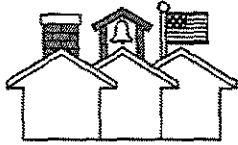
Date: 11/16/2018  
To: School Board Members  
From: Rick Bartman  
Regarding: Request for Approval of Donation

A donation of \$5,135.00 was received from the Space Coast PCA. The donation was obtained through a fundraiser the Space Coast PCA hosted raising funds for the Wabasso School.

These funds were deposited into the Wabasso School internal funds account entitled General Activities.

Rick Bartman, Principal





# School District of Indian River County

6500 57<sup>th</sup> Street • Vero Beach, Florida, 32967 • Telephone: 772-564-3000 • Fax: 772-564-3054

Mark J. Rendell, Ed.D. - Superintendent

---

**DATE:** November 30<sup>th</sup>, 2018

**TO:** School Board Members

**FROM:** Robert Michael, CHFM  
Director, Physical Plant

**SUBJECT:** Request for approval of donation

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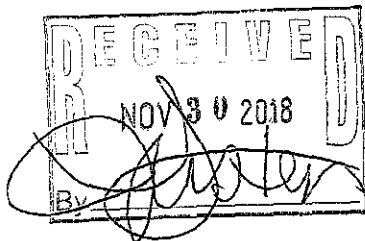
The Physical Plant department would like to request approval for a donation of 1800 recycling labels from Bank of America.

The generous donation will be used to expand our Recycling program in the School District and help educate our students, faculty and staff on the importance of promoting a sustainable environment.

The fair market value of the donated items is estimated to be \$3,330.

Respectfully

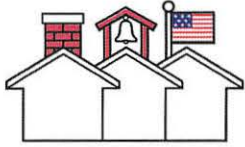
Robert Michael, CHFM  
Director of Physical Plant  
School District of Indian River County



"Educate and inspire every student to be successful"

Dr. Mara Schiff • Jacqueline Rosario • Laura Zorc • Teri Barenborg • Tiffany M. Justice  
District 1                      District 2                      District 3                      District 4                      District 5

"To serve all students with excellence"  
Equal Opportunity Educator and Employer



# School District of Indian River County

6500 57<sup>th</sup> Street • Vero Beach, Florida, 32967 • Telephone: 772-564-3000 • Fax: 772-564-3054

Mark J. Rendell, Ed.D. - Superintendent

---

DATE: December 3, 2018

TO: School Board Members

FROM: Robert Michael, CHFM

Director, Physical Plant

SUBJECT: Request for approval of donation

---

The Physical Plant department would like to request approval for a donation of Recycling Totes from Waste Management.

The generous donation will be used to expand our Recycling program in the School District and help educate our students, faculty and staff on the importance of promoting a sustainable environment.

The fair market value of the donated items is estimated to be \$10,920.00.

Respectfully

Robert Michael, CHFM

Director of Physical Plant

School District of Indian River C

“Educate and inspire every student to be successful”

Dr. Mara Schiff • Jacqueline Rosario • Laura Zorc • Teri Barenborg • Tiffany M. Justice  
District 1                      District 2                      District 3                      District 4                      District 5

“To serve all students with excellence”  
Equal Opportunity Educator and Employer

SURPLUS PROPERTY RECORDS ACT  
AUCTION ITEMS - REVENUE GENERATING

| ASSET    | DESCRIPTION 1   | DESCRIPTION 2   | ACCOUNT   |            | CURR VAL | GL   | FUND | SERIAL          | ACQ | ACQ DATE   | P.O.     | CNTR | BDG | ROOM | DP |
|----------|-----------------|-----------------|-----------|------------|----------|------|------|-----------------|-----|------------|----------|------|-----|------|----|
|          |                 |                 | ORIG VAL  | ACCUM DEPR |          |      |      |                 |     |            |          |      |     |      |    |
| 00071813 | M-99 1998       | CHEV UTILITYMAS | 30,397.00 | 27,357.30  | 3,039.70 | 1350 | 530  | 1GBKP32Y6W33140 |     | 07/16/1998 | 97802    | 9999 | 00  | ACT9 | AC |
| 00073564 | DIGITAL DIAGNOS | MARINE EQUIPMEN | 1,203.46  | 1,203.46   | .00      | 1340 | 500  | BG32808732      |     | 10/08/1998 | 00004504 | 9999 | 00  | ACT9 |    |
| 00082521 | MIG WELDER MILL | 210 D.THOMAS    | 1,192.13  | 1,192.13   | .00      | 1340 | 530  | LF46159613      |     | 12/21/2005 | 00605168 | 9999 | 00  | ACT9 |    |
| 00084677 | MIG WELDER MILL | PKG W/BOSCH 10  | 1,813.70  | 1,813.70   | .00      | 1340 | 530  | LH380972B       |     | 11/19/2007 | 00804631 | 9999 | 00  | ACT9 |    |
| 00084755 | SCANNER DIAGNOS | HARLEY DAVIDSON | 1,595.86  | 1,595.86   | .00      | 1340 | 530  | EK40755718      |     | 12/21/2007 | 00805415 | 9999 | 00  | ACT9 |    |
| 00086288 | BANDSAW 7 X 12  | /230VOLT 3/4 HP | 1,046.66  | 604.74     | 441.92   | 1340 | 530  | 080837228       |     | 11/09/2009 | 01002363 | 9999 | 00  | ACT9 |    |
| 00086730 | MFG PART #90732 | MIG WELDER MILL | 2,208.26  | 2,103.10   | 105.16   | 1340 | 530  | N/A             |     | 11/30/2011 | 01202573 | 9999 | 00  | ACT9 |    |
| 00087921 | TOM MICROMAG 24 | EDGE WALK BEHIN | 5,981.60  | 2,990.80   | 2,990.80 | 1340 | 530  | 79701           |     | 01/21/2015 | 01502671 | 9999 | 00  | ACT9 |    |
| TOTAL    |                 | 8 RECORDS       | 45,438.67 | 38,861.09  | 6,577.58 |      |      |                 |     |            |          |      |     |      |    |

\* = ACCOUNT AND BASE ORIGINAL VALUES DIFFER



ACTA

School District of Indian River County  
SURPLUS REMOVAL REQUEST/TRANSFER FORM

Requesting Facility: SRHS  
Requesting Person: Kelly Ward

Transfer To Facility: Surplus  
Contact Person: Rhonda Besancon

Property Records  
Office use only

| Property Record # | Item Description (make/model)     | Serial #    | Condition     | Property Records Office use only |
|-------------------|-----------------------------------|-------------|---------------|----------------------------------|
| ✓ 73564           | Digital Diagnosis Marine Equip.   | BG 32808732 | obsolete      |                                  |
| ✓ 84755           | Scanner Diagnosis Harley Davidson | BK 40755718 | obsolete      |                                  |
| ✓ 82521           | Mig Welder                        | LF 46159613 | unserviceable |                                  |
| ✓ 84677           | Mig Welder                        | LH 380972B  | unserviceable |                                  |
| ✓ 86730           | Mig Welder                        | N/A         | unserviceable |                                  |
| ✓ 86288           | Bandsaw 7 x 12                    | D80837228   | unserviceable |                                  |
|                   |                                   |             |               |                                  |
|                   |                                   |             |               |                                  |
|                   |                                   |             |               |                                  |
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|                   |                                   |             |               |                                  |
|                   |                                   |             |               |                                  |
|                   |                                   |             |               |                                  |

Kelly A. Ward  
Releasing Signature - Site P.R. Custodian  
Rhonda Besancon  
Receiving Signature

11/16/18  
Date  
11-16-18  
Date Received

(In addition to this form please enter your electronic work order request to expedite the removal of the items listed above)

Original - Property Records Department  
Copy for your records

ACT-9

School District of Indian River County  
SURPLUS REMOVAL REQUEST/TRANSFER FORM

Requesting Facility: PHYSICAL PLANT

Transfer To Facility: SURPLUS

Requesting Person: JIM

Contact Person: MIKE REMBUER

| Property Record # | Item Description (make/model) | Serial # | Condition | Property Records Office use only |
|-------------------|-------------------------------|----------|-----------|----------------------------------|
| 87921             | TOM MICROMAG 24 EDGE SCRUBBER | 79701    | Obsolete  |                                  |
|                   |                               |          |           |                                  |
|                   |                               |          |           |                                  |
|                   |                               |          |           |                                  |
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|                   |                               |          |           |                                  |
|                   |                               |          |           |                                  |

Jim Bergman  
Releasing Signature - Site P.R. Custodian

10/25/18  
Date

Michael A. Leung  
Receiving Signature

10/25/18  
Date Received

(In addition to this form please enter your electronic work order request to expedite the removal of the items listed above)

Original - Property Records Department  
Copy for your records

ACT9

School District of Indian River County  
SURPLUS REMOVAL REQUEST/TRANSFER FORM

Requesting Facility: Physical Plant

Transfer To Facility: Surplus

Requesting Person: Robert Michael

Contact Person: Rhonda Besancon

| Property Record # | Item Description (make/model)    | Serial #        | Condition | Property Records Office use only |
|-------------------|----------------------------------|-----------------|-----------|----------------------------------|
| 71813             | 1998 Chevrolet Utilitymaster Van | 1GBKP32Y6W33140 | POOR      |                                  |
|                   |                                  |                 |           |                                  |
|                   |                                  |                 |           |                                  |
|                   |                                  |                 |           |                                  |
|                   |                                  |                 |           |                                  |
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|                   |                                  |                 |           |                                  |
|                   |                                  |                 |           |                                  |
|                   |                                  |                 |           |                                  |

Robert Michael

Releasing Signature - Site P.R. Custodian



Receiving Signature

11-7-18

Date

11-7-18

Date Received

(In addition to this form please enter your electronic work order request to expedite the removal of the items listed above)

Original - Property Records Department  
Copy for your records

SURPLUS PROPERTY RECORDS RCY  
EQUIPMENT TO RECYCLE - REVENUE GENERATING

| ASSET    | DESCRIPTION 1   | DESCRIPTION 2   | ACCOUNT  |            | CURR VAL | GL   | FUND | SERIAL          | ACQ | ACQ DATE   | P.O.     | CNTR | BDG | ROOM | DP |
|----------|-----------------|-----------------|----------|------------|----------|------|------|-----------------|-----|------------|----------|------|-----|------|----|
|          |                 |                 | ORIG VAL | ACCUM DEPR |          |      |      |                 |     |            |          |      |     |      |    |
| 00067288 | LIFT            | SURFACE MOUNTED | 3,500.00 | 3,499.99   | .01      | 1340 | 530  | 405-03294       |     | 09/15/1994 | 41246    | 9999 | 00  | RCY9 | 00 |
| 00067289 | LIFT            | SURFACE MOUNTED | 3,500.00 | 3,499.99   | .01      | 1340 | 530  | 405-03293       |     | 09/15/1994 | 41246    | 9999 | 00  | RCY9 | 00 |
| 00068911 | FLOOR POLISHER  | POWR-FLITE HIGH | 1,221.60 | 1,221.60   | .00      | 1340 | 530  | B8400           |     | 12/15/1995 | 68907    | 9999 | 00  | RCY9 | 00 |
| 00068912 | FLOOR POLISHER  | POWR-FLITE HIGH | 1,221.60 | 1,221.60   | .00      | 1340 | 530  | B8508           |     | 12/15/1995 | 68907    | 9999 | 00  | RCY9 | 00 |
| 00069568 | RADIO           | #70 SERIES WIRE | 1,050.00 | 1,050.00   | .00      | 1340 | 530  | 501T17170       |     | 08/31/1995 | 65576    | 9999 | 00  | RCY9 | 00 |
| 00069569 | RADIO           | #70 SERIES WIRE | 1,050.00 | 1,050.00   | .00      | 1340 | 530  | 501T17018       |     | 08/31/1995 | 65576    | 9999 | 00  | RCY9 | 00 |
| 00069570 | RADIO           | #70 SERIES WIRE | 1,050.00 | 1,050.00   | .00      | 1340 | 530  | 501T17684       |     | 08/31/1995 | 65576    | 9999 | 00  | RCY9 | 00 |
| 00069571 | RADIO           | #70 SERIES WIRE | 1,050.00 | 1,050.00   | .00      | 1340 | 530  | 501T16925       |     | 08/31/1995 | 65576    | 9999 | 00  | RCY9 | 00 |
| 00069572 | RADIO           | #70 SERIES WIRE | 1,050.00 | 1,050.00   | .00      | 1340 | 530  | 501T17869       |     | 08/31/1995 | 65576    | 9999 | 00  | RCY9 | 00 |
| 00070834 | DISPLAY         | WADDELL ALUM. D | 1,150.00 | 1,150.00   | .00      | 1340 | 530  | N/A             |     | 12/09/1996 | 82646    | 9999 | 00  | RCY9 | 00 |
| 00072755 | VIDEO PRODUCTIO | BLONDER TONGUE  | 1,015.00 | 1,015.00   | .00      | 1383 | 530  | 29001           |     | 07/30/1999 | 09984    | 9999 | 00  | RCY9 | 00 |
| 00073275 | ERICSSON HANDHE | RADIO 800MHZ -  | 1,350.00 | 1,350.00   | .00      | 1340 | 530  | 9309900         |     | 01/31/2001 | 00024228 | 9999 | 00  | RCY9 | 00 |
| 00073280 | ERICSSON HANDHE | RADIO 800MHZ -  | 1,350.00 | 1,350.00   | .00      | 1340 | 530  | LPE-200         |     | 01/31/2001 | 00024228 | 9999 | 00  | RCY9 | 00 |
| 00073281 | ERICSSON HANDHE | RADIO 800MHZ -  | 1,350.00 | 1,350.00   | .00      | 1340 | 530  | 9309913         |     | 01/31/2001 | 00024228 | 9999 | 00  | RCY9 | 00 |
| 00073286 | ERICSSON HANDHE | RADIO 800MHZ -  | 1,350.00 | 1,350.00   | .00      | 1340 | 530  | 939903          |     | 01/31/2001 | 00024228 | 9999 | 00  | RCY9 | 00 |
| 00073498 | U-SHAPED DESK   |                 | 1,272.71 | 1,272.71   | .00      | 1340 | 500  | N/A             |     | 11/23/1998 | 04230    | 9999 | 00  | RCY9 | 00 |
| 00075223 | SICO MOBILE FOL |                 | 1,012.90 | 1,012.90   | .00      | 1340 | 530  |                 |     | 02/18/2000 | 00050296 | 9999 | 00  | RCY9 | 00 |
| 00076615 | DOLPHIN SCANNER | FOR WINDOWS     | 1,597.31 | 1,597.31   | .00      | 1383 | 530  |                 |     | 05/31/2001 | 00109599 | 9999 | 51  | RCY9 | 00 |
| 00077434 | GENERAL SLICING | FOOD PROCESSOR  | 1,280.43 | 1,280.43   | .00      | 1340 | 541  | 122001BV001     |     | 01/14/2002 | 00206350 | 9999 | 00  | RCY9 | FS |
| 00078219 | UNIVERSAL SEATN | FREE STANDING   | 1,092.80 | 1,092.80   | .00      | 1340 | 530  | BLUE PICNIC STY |     | 10/22/2001 | 00202916 | 9999 | 00  | RCY9 | 00 |
| 00078234 | FITBELLS & ROLL | RACK            | 1,100.35 | 1,100.35   | .00      | 1340 | 500  |                 |     | 04/25/2002 | INTERNAL | 9999 | 00  | RCY9 | 00 |
| 00079096 | USED YAMAHA G16 | GOLF CART       | 1,300.00 | 1,300.00   | .00      | 1340 | 500  | 22701           |     | 10/07/2002 | 00303384 | 9999 | 00  | RCY9 | 00 |
| 00079665 | DELL LATITUDE C | P415.0,2.0GHZ   | 1,995.00 | 1,995.00   | .00      | 1383 | 500  | 7X6WP21         |     | 05/12/2003 | 00309440 | 9999 | 00  | RCY9 | LS |
| 00079782 | PLAYSTAGE "TICK | BOOTH" W/PLAY D | 4,340.65 | 4,340.65   | .00      | 1340 | 500  | NONE            |     | 06/30/2003 | 00310191 | 9999 | 00  | RCY9 | 00 |
| 00080513 | SURESIGHT VISIO | SCREENER [PRIN  | 3,842.00 | 3,842.00   | .00      | 1340 | 542  | 4411            |     | 10/31/2003 | 00403226 | 9999 | 00  | RCY9 | ES |
| 00080518 | COMPUTER PROJEC | ULTRA PORTABLE  | 2,189.00 | 2,189.00   | .00      | 1340 | 530  | 99J3577B2134200 |     | 11/17/2003 | 00405007 | 9999 | 00  | RCY9 | 00 |
| 00080520 | COMPUTER PROJEC | ULTRA PORTABLE  | 2,189.00 | 2,189.00   | .00      | 1340 | 530  | 99J3577B2134200 |     | 11/17/2003 | 00405007 | 9999 | 00  | RCY9 | 00 |
| 00080523 | COMPUTER PROJEC | ULTRA PORTABLE  | 2,189.00 | 2,189.00   | .00      | 1340 | 530  | 99J3577B2134200 |     | 11/17/2003 | 00405007 | 9999 | 00  | RCY9 | 00 |
| 00080525 | COMPUTER PROJEC | ULTRA PORTABLE  | 2,189.00 | 2,189.00   | .00      | 1340 | 530  | 99J3577B2134200 |     | 11/17/2003 | 00405007 | 9999 | 00  | RCY9 | TV |
| 00080529 | COMPUTER PROJEC | ULTRA PORTABLE  | 2,189.00 | 2,189.00   | .00      | 1340 | 530  | 99J3577B2134200 |     | 11/17/2003 | 00405007 | 9999 | 00  | RCY9 | 00 |
| 00080530 | COMPUTER PROJEC | ULTRA PORTABLE  | 2,189.00 | 2,189.00   | .00      | 1340 | 530  | 99J3577B2134200 |     | 11/17/2003 | 00405007 | 9999 | 00  | RCY9 | 00 |
| 00080531 | COMPUTER PROJEC | ULTRA PORTABLE  | 2,189.00 | 2,189.00   | .00      | 1340 | 530  | 99J3577B2134200 |     | 11/17/2003 | 00405007 | 9999 | 00  | RCY9 | 00 |
| 00080533 | COMPUTER PROJEC | ULTRA PORTABLE  | 2,189.00 | 2,189.00   | .00      | 1340 | 530  | 99J3577B2134200 |     | 11/17/2003 | 00405007 | 9999 | 00  | RCY9 | 00 |
| 00080537 | COMPUTER PROJEC | ULTRA PORTABLE  | 2,189.00 | 2,189.00   | .00      | 1340 | 530  | 99J3577B2134200 |     | 11/17/2003 | 00405007 | 9999 | 00  | RCY9 | 00 |
| 00081976 | LCD PROJECTORS  | XGA 2200 (MEDI  | 1,675.00 | 1,675.00   | .00      | 1340 | 530  | 99J7677BF644800 |     | 03/31/2005 | 00508723 | 9999 | 00  | RCY9 | 00 |
| 00081977 | LCD PROJECTORS  | XGA 2200 (MEDI  | 1,675.00 | 1,675.00   | .00      | 1340 | 530  | 99J7677BF644800 |     | 03/31/2005 | 00508723 | 9999 | 00  | RCY9 | 00 |
| 00081978 | LCD PROJECTORS  | XGA 2200 (MEDI  | 1,675.00 | 1,675.00   | .00      | 1340 | 530  | 99J7677BF644800 |     | 03/31/2005 | 00508723 | 9999 | 00  | RCY9 | 00 |
| 00083839 | DIGICOM HCK 500 | ITAL VOICE ANAL | 3,445.25 | 3,445.25   | .00      | 1340 | 500  | 19425126        |     | 09/11/2006 | 00702438 | 9999 | 00  | RCY9 | 00 |
| 00084085 | SPANISH TUTOR 5 | UNLIMITED CONCU | 3,050.00 | 3,050.00   | .00      | 1382 | 500  | UPGRADE         |     | 01/08/2007 | 00602414 | 9999 | 00  | RCY9 | 00 |
| 00084118 | EPSON 82C 2000  | PROJECTOR 5ER X | 2,396.50 | 2,396.50   | .00      | 1383 | 530  | GY8P6Y0488L     |     | 02/20/2007 | 00705006 | 9999 | 00  | RCY9 | 00 |
| 00084139 | ESE CAMERA SYST | CORDER UPGRADE  | .00 *    | .00        | .00      | 1340 | 542  | DU6B0763        |     | 03/29/2007 | 00706726 | 9999 | 00  | RCY9 | 00 |
| 00084139 | ESE CAMERA SYST | CORDER UPGRADE  | 2,400.00 | 2,400.00   | .00      | 1340 | 500  | DU6B0763        |     | 03/29/2007 | 00706726 | 9999 | 00  | RCY9 | 00 |
| 00084981 | COBALT FLUX DAN | HEAVY DUTY ELEC | 1,992.88 | 1,992.88   | .00      | 1340 | 500  | HU6251204       |     | 04/21/2008 | 00808827 | 9999 | 00  | RCY9 | 00 |
| 00085305 | PRESSURE WASHER | KARCHER HD 3600 | 1,318.90 | 1,318.90   | .00      | 1340 | 530  | PE-GCAKT-137298 |     | 11/10/2008 | 00810923 | 9999 | 00  | RCY9 | 00 |
| 00085538 | HP ELITEBOOK W/ | CELL BATTERY DU | 1,150.00 | 1,150.00   | .00      | 1383 | 530  | 2CE836S9HL      |     | 01/28/2009 | 00902591 | 9999 | 00  | RCY9 | 00 |
| 00085540 | HP ELITEBOOK W/ | CELL BATTERY DU | 1,150.00 | 1,150.00   | .00      | 1383 | 530  | 2CE836S9M8      |     | 01/28/2009 | 00902591 | 9999 | 00  | RCY9 | 00 |
| 00085541 | HP ELITEBOOK W/ | CELL BATTERY DU | 1,150.00 | 1,150.00   | .00      | 1383 | 530  | 2CE836S9LL      |     | 01/28/2009 | 00902591 | 9999 | 00  | RCY9 | 00 |
| 00085542 | HP ELITEBOOK W/ | CELL BATTERY DU | 1,150.00 | 1,150.00   | .00      | 1383 | 530  | 2CE836S9KF      |     | 01/28/2009 | 00902591 | 9999 | 00  | RCY9 | 00 |
| 00085543 | HP ELITEBOOK W/ | CELL BATTERY DU | 1,150.00 | 1,150.00   | .00      | 1383 | 530  | 2CE836S9KJ      |     | 01/28/2009 | 00902591 | 9999 | 00  | RCY9 | 00 |

\* = ACCOUNT AND BASE ORIGINAL VALUES DIFFER

ASSET SUMMARY  
 SURPLUS PROPERTY RECORDS RCY  
 EQUIPMENT TO RECYCLE - REVENUE GENERATING

| ASSET    | DESCRIPTION 1   | DESCRIPTION 2   | ACCOUNT    |            | CURR VAL  | GL   | FUND | SERIAL          | ACQ | ACQ DATE   | P.O.     | CNTR | BDG | ROOM | DP |
|----------|-----------------|-----------------|------------|------------|-----------|------|------|-----------------|-----|------------|----------|------|-----|------|----|
|          |                 |                 | ORIG VAL   | ACCUM DEPR |           |      |      |                 |     |            |          |      |     |      |    |
| 00085544 | HP ELITEBOOK 69 | CELL BATTERY DU | 1,150.00   | 1,150.00   | .00       | 1383 | 530  | 2CE836S9C8      |     | 01/28/2009 | 009      |      |     |      |    |
| 00085545 | HP ELITEBOOK W/ | CELL BATTERY DU | 1,150.00   | 1,150.00   | .00       | 1383 | 530  | 2CE836S9LZ      |     | 01/28/2009 | 00902591 | 9999 | 00  | RCY9 |    |
| 00085546 | HP ELITEBOOK W/ | CELL BATTERY DU | 1,150.00   | 1,150.00   | .00       | 1383 | 530  | 2CE836S9J4      |     | 01/28/2009 | 00902591 | 9999 | 00  | RCY9 |    |
| 00085547 | HP ELITEBOOK W/ | CELL BATTERY DU | 1,150.00   | 1,150.00   | .00       | 1383 | 530  | 2CE836S9J2      |     | 01/28/2009 | 00902591 | 9999 | 00  | RCY9 |    |
| 00085549 | HP ELITEBOOK W/ | CELL BATTERY DU | 1,150.00   | 1,150.00   | .00       | 1383 | 530  | 2CE836S9K2      |     | 01/28/2009 | 00902591 | 9999 | 00  | RCY9 |    |
| 00085550 | HP ELITEBOOK W/ | CELL BATTERY DU | 1,150.00   | 1,150.00   | .00       | 1383 | 530  | 2C3836S9JL      |     | 01/28/2009 | 00902591 | 9999 | 00  | RCY9 |    |
| 00085551 | HP ELITEBOOK W/ | CELL BATTERY DU | 1,150.00   | 1,150.00   | .00       | 1383 | 530  | 2CE836S9KX      |     | 01/28/2009 | 00902591 | 9999 | 00  | RCY9 |    |
| 00085552 | HP ELITEBOOK W/ | CELL BATTERY DU | 1,150.00   | 1,150.00   | .00       | 1383 | 530  | 2CE836S9KC      |     | 01/28/2009 | 00902591 | 9999 | 00  | RCY9 |    |
| 00085553 | HP ELITEBOOK W/ | CELL BATTERY DU | 1,150.00   | 1,150.00   | .00       | 1383 | 530  | 2CE836S9J8      |     | 01/28/2009 | 00902591 | 9999 | 00  | RCY9 |    |
| 00085554 | HP ELITEBOOK W/ | CELL BATTERY DU | 1,150.00   | 1,150.00   | .00       | 1383 | 530  | 2CE836S9KM      |     | 01/28/2009 | 00902591 | 9999 | 00  | RCY9 |    |
| 00085555 | HP ELITEBOOK W/ | CELL BATTERY DU | 1,150.00   | 1,150.00   | .00       | 1383 | 530  | 2CE836S9LQ      |     | 01/28/2009 | 00902591 | 9999 | 00  | RCY9 |    |
| 00085723 | NEW TEK TRICAST | STUDIO TV EQUIP | 6,350.00   | 6,350.00   | .00       | 1340 | 530  | F1C1T3619534851 |     | 02/27/2009 | 00905536 | 9999 | 00  | RCY9 |    |
| 00085813 | FOOD PROCESSOR  | HOBART HL300    | 2,575.00   | 2,575.00   | .00       | 1340 | 530  | 76-1035110      |     | 03/16/2009 | 00904092 | 9999 | 00  | RCY9 | FS |
| 00086046 | ADVANCED EDITIO | PROGRAM         | 3,000.00   | 3,000.00   | .00       | 1382 | 500  | N/A             |     | 07/23/2009 | INTERNAL | 9999 | 00  | RCY9 |    |
| 00086425 | INVERTED LEG PR | LOCKING ADJUSTA | 1,805.25   | 1,805.25   | .00       | 1340 | 500  | W/WEIGHT STORAG |     | 06/14/2010 | INTERNAL | 9999 | 00  | RCY9 |    |
| 00086436 | TEACHER RESOURC | PLANS POWERPOIN | 56,157.33  | 56,157.33  | .00       | 1382 | 543  | N/A SERIES-1,2, |     | 06/30/2010 | 01006011 | 9999 | 00  | RCY9 |    |
| 00086507 | BODYGUARD ELLIP | PULL COMMERCIAL | 3,624.00   | 3,624.00   | .00       | 1340 | 530  | 9905340061      |     | 09/15/2010 | 01006774 | 9999 | 00  | RCY9 |    |
| 00087513 | NOVA CHAT 7X W/ | SOFTWARE W/CARR | 3,325.50   | 3,325.50   | .00       | 1382 | 542  | 7NXNC2357       |     | 07/31/2013 | 01306270 | 9999 | 00  | RCY9 |    |
| 00087519 | WRITER UNLIMITE | ESE SOFTWARE    | 1,172.67   | 1,172.67   | .00       | 1382 | 542  |                 |     | 07/31/2013 | 01306267 | 9999 | 00  | RCY9 | ES |
| 00087520 | WRITER UNLIMITE | ESE SOFTWARE    | 1,172.67   | 1,172.67   | .00       | 1382 | 542  |                 |     | 07/31/2013 | 01306267 | 9999 | 00  | RCY9 | ES |
| 00087521 | WRITER UNLIMITE | ESE SOFTWARE    | 1,172.67   | 1,172.67   | .00       | 1382 | 542  |                 |     | 07/31/2013 | 01306267 | 9999 | 00  | RCY9 | ES |
| 00087522 | WRITER UNLIMITE | ESE SOFTWARE    | 1,172.67   | 1,172.67   | .00       | 1382 | 542  |                 |     | 07/31/2013 | 01306267 | 9999 | 00  | RCY9 | ES |
| 00087523 | WRITER UNLIMITE | ESE SOFTWARE    | 1,172.67   | 1,172.67   | .00       | 1382 | 542  |                 |     | 07/31/2013 | 01306267 | 9999 | 00  | RCY9 | ES |
| 00087524 | WRITER UNLIMITE | ESE SOFTWARE    | 1,172.67   | 1,172.67   | .00       | 1382 | 542  |                 |     | 07/31/2013 | 01306267 | 9999 | 00  | RCY9 | ES |
| 00087525 | WRITER UNLIMITE | ESE SOFTWARE    | 1,172.67   | 1,172.67   | .00       | 1382 | 542  |                 |     | 07/31/2013 | 01306267 | 9999 | 00  | RCY9 | ES |
| 00087665 | ICE MACHINE & B | 570 W/EVERPURE  | 3,235.00   | 1,925.60   | 1,309.40  | 1340 | 530  | 1101266389      |     | 05/15/2014 | 01404262 | 9999 | 00  | RCY9 | FS |
| 00087800 | NOVACHAT COMM D | SPEECH GENERATI | 3,595.50   | 2,876.40   | 719.10    | 1383 | 542  | 7NXNC3771       |     | 07/16/2014 | 01406164 | 9999 | 00  | RCY9 |    |
| 00088164 | STEAMER CONVECT | 2 COMPARTMENT   | 14,116.80  | 6,050.06   | 8,066.74  | 1340 | 541  | 062315M-1123-10 |     | 07/31/2015 | 01505843 | 9999 | 00  | RCY9 | FS |
| 01006490 | FREEZER         | BALLY WALKIN    | .00 *      | 10,128.00  | 10,128.00 | 1330 | 530  | DX20880301      |     | 10/19/1992 | 16073    | 9999 | 00  | RCY9 | FS |
| 01006490 | FREEZER         | BALLY WALKIN    | 10,128.00  | .00        | 10,128.00 | 1340 | 530  | DX20880301      |     | 10/19/1992 | 16073    | 9999 | 00  | RCY9 | FS |
| TOTAL    |                 |                 | 214,942.95 | 204,847.69 | 10,095.26 |      |      |                 |     |            |          |      |     |      |    |

\* = ACCOUNT AND BASE ORIGINAL VALUES DIFFER

School District of Indian River County  
SURPLUS REMOVAL REQUEST/TRANSFER FORM

RCY 9

Requesting Facility: Freshman Learning Center

Transfer To Facility: Warehouse / Surplus

Requesting Person: Bobbi Johnson

Contact Person: Rhonda Robinson

Property Records  
Office use only

| Property Record # | Item Description (make/model)      | Serial #             | Condition | Property Records Office use only |
|-------------------|------------------------------------|----------------------|-----------|----------------------------------|
| ✓ 80523 ✓         | BENQ Projectors model PB8220       | 99J3577B21342000039H | obsolete  |                                  |
| ✓ 80529 ✓         | Bena Projectors XGA 2200           | 99J3577B21342000044H | obsolete  |                                  |
| ✓ 80537 ✓         | Bena Projectors XGA 2200           | 99J3577B21342000077H | obsolete  |                                  |
| ✓ 80520 ✓         | Bena Projector XGA 2200            | 99J3577B21342000013H | obsolete  |                                  |
| ✓ 80525 ✓         | Bena Projector XGA 2200            | 99J3577B21342000078H | obsolete  |                                  |
| ✓ 80530 ✓         | Bena Projector XGA 2200            | 99J3577B21342000062H | obsolete  |                                  |
| ✓ 80518 ✓         | Bena Projector XGA 2200            | 99J3577B21342000082H | obsolete  |                                  |
| ✓ 80531 ✓         | Bena Projector XGA 2200            | 99J3577B21342000083H | obsolete  |                                  |
| ✓ 80533 ✓         | Bena Projector XGA 2200            | 99J3577B21342000064H | obsolete  |                                  |
| ✓ 81976 ✓         | BENQ Projectors model PB7210       | 99J7677BF6448000375H | obsolete  |                                  |
| ✓ 81978 ✓         | Bena Projector XGA 2200            | 99J7677BF6448000365H | obsolete  |                                  |
| ✓ 81977 ✓         | Bena Projector XGA 2200            | 99J7677BF6448000372H | obsolete  |                                  |
| ✓ 79665 ✓         | Dell Latitude C840 laptop and case | 7X6WP21              | obsolete  |                                  |
| ✓ 84139 ✓         | ESE Camera System                  | DUL030763            | obsolete  |                                  |
|                   |                                    |                      |           |                                  |
|                   |                                    |                      |           |                                  |

Bobbi Johnson

Releasing Signature – Site P. R. Custodian

10/23/18  
Date

Rhonda Robinson  
Receiving Signature

10/25/18  
Date Received

(In addition to this form please enter your electronic work order request to expedite the removal of the items listed above)

Original – Property Records Department

Ray9

School District of Indian River County  
SURPLUS REMOVAL REQUEST/TRANSFER FORM

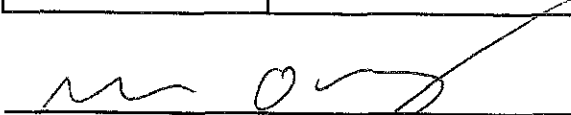
Requesting Facility: OME

Transfer To Facility: Warehouse


Requesting Person: Mark Duffany

Contact Person: Mark Duffany

| Property Record # | Item Description (make/model) | Serial # | Condition | Property Records Office use only |
|-------------------|-------------------------------|----------|-----------|----------------------------------|
| 0000076615        | Dolphin Scanner               |          | obsolete  |                                  |
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Releasing Signature - Site P.R. Custodian

<sup>07 Dec</sup>  
~~11-20-2018~~  
Date

  
Receiving Signature

11-07-18  
Date Received

(In addition to this form please enter your electronic work order request to expedite the removal of the items listed above)

Original - Property Records Department  
Copy for your records



RCY-9

School District of Indian River County  
SURPLUS REMOVAL REQUEST/TRANSFER FORM

Requesting Facility: GIFFORD

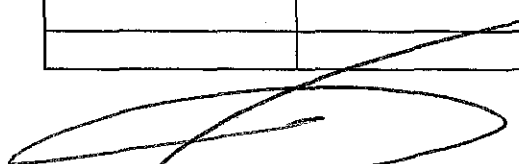
Transfer To Facility: SURFUS

Requesting Person: Jeremy Szpaichel

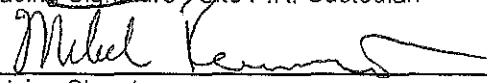
Contact Person: Mike Reminger

Property Records  
Office use only

| Property Record # | Item Description (make/model) | Serial # | Condition | Property Records<br>Office use only |
|-------------------|-------------------------------|----------|-----------|-------------------------------------|
| 68911             | Floor Polisher powerlite      | B8400    | Obsolete  |                                     |
| 68912             | Floor Polisher powerlite      | B8508    | Obsolete  |                                     |
|                   |                               |          |           |                                     |
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Releasing Signature - Site P.R. Custodian

11/16/18  
Date

  
Receiving Signature

11/15/18  
Date Received

(In addition to this form please enter your electronic work order request to expedite the removal of the items listed above)

Original - Property Records Department  
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RCY-9

School District of Indian River County  
SURPLUS REMOVAL REQUEST/TRANSFER FORM

Requesting Facility: DODGERTOWN ELEMENTARY Transfer To Facility: Warehouse (Surplus)  
Requesting Person: Vernette Contact Person: Mike Reminger

| Property Record # | Item Description (make/model)  | Serial # | Condition | Property Records<br>Office use only |
|-------------------|--------------------------------|----------|-----------|-------------------------------------|
| 00072753          | VIED PRODUCTION BLONDER TONGUE | 29001    | obsolete  |                                     |
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Arona J. Vernetto 11-08-2018  
 Releasing Signature - Site P.R. Custodian Date  
Michael A. Reminger 11/8/18  
 Receiving Signature Date Received

(In addition to this form please enter your electronic work order request to expedite the removal of the items listed above)

Original - Property Records Department  
Copy for your records

RCY-9

School District of Indian River County  
SURPLUS REMOVAL REQUEST/TRANSFER FORM

Requesting Facility: Sebastian Elementary  
Requesting Person: Ronald Smith

Transfer To Facility: surplus  
Contact Person: Ronald Smith

| Property Record # | Item Description (make/model) | Serial # | Condition | Property Records Office use only |
|-------------------|-------------------------------|----------|-----------|----------------------------------|
| 79782             | play stage "ticket booth"     | na       | obsolete  |                                  |
|                   |                               |          |           |                                  |
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Ronald H. Smith  
Releasing Signature - Site P.R. Custodian  
Michael [Signature]  
Receiving Signature

10/23/2018  
Date  
10/23/18  
Date Received

(In addition to this form please enter your electronic work order request to expedite the removal of the items listed above)

Original - Property Records Department  
Copy for your records

School District of Indian River County  
SURPLUS REMOVAL REQUEST/TRANSFER FORM

*Page 9*

Requesting Facility: Gardale Elementary  
Requesting Person: Jandy Besley

Transfer To Facility: Warehouse/ Surplus  
Contact Person: Jandy Besley

Property Records  
Office use only

| Property Record # | Item Description (make/model)    | Serial #         | Condition       |
|-------------------|----------------------------------|------------------|-----------------|
| <i>✓</i> 10834    | <i>Display, Waddell Aluminum</i> | <i>N/A</i>       | <i>poor</i>     |
| <i>✓</i> 84981    | <i>Cobalt Flux Lance</i>         | <i>HW6251204</i> | <i>obsolete</i> |
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*Jandy Besley*  
Releasing Signature - Site P.R. Custodian

*7-11-18*  
Date

*Max*  
Receiving Signature

*07-11-18*  
Date Received

(In addition to this form please enter your electronic work order request to expedite the removal of the items listed above)

Original - Property Records Department  
Copy for your records

RCY-9

School District of Indian River County  
SURPLUS REMOVAL REQUEST/TRANSFER FORM

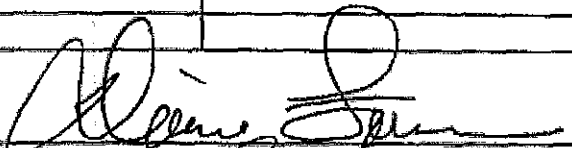
Requesting Facility: IRA

Transfer To Facility: SURPLUS

Requesting Person: DIANE FANNIN

Contact Person: MIKE REMINGER

| Property Record # | Item Description (make/model) | Serial #        | Condition | Property Records<br>Office use only |
|-------------------|-------------------------------|-----------------|-----------|-------------------------------------|
| 85723             | TEK TRICASTEL PRO Studio      | PIC1T3619534850 | obsolete  |                                     |
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Releasing Signature - Site P.R. Custodian

11/13/18  
Date

  
Receiving Signature

11/13/18  
Date Received

(In addition to this form please enter your electronic work order request to expedite the removal of the items listed above)

Original - Property Records Department  
Copy for your records

RCY-9

School District of Indian River County  
SURPLUS REMOVAL REQUEST/TRANSFER FORM

Requesting Facility: SRHS

Transfer To Facility: SURPLUS

Requesting Person: Kelly Ward

Contact Person: Mike Reminger

Property Records  
Office use only

| Property Record # | Item Description (make/model)   | Serial #    | Condition | Property Records<br>Office use only |
|-------------------|---------------------------------|-------------|-----------|-------------------------------------|
| ✓ 69568           | RADIO CP-0520 70 SERIES         | 50117170    | obsolete  |                                     |
| ✓ 69569           | RADIO CP-0520 70 SERIES         | 5011717018  | obsolete  |                                     |
| ✓ 69570           | RADIO CP-0520 70 SERIES         | 5011717684  | obsolete  |                                     |
| ✓ 69571           | RADIO CP-0520 70 SERIES         | 5011716925  | obsolete  |                                     |
| ✓ 69572           | RADIO CP-0520 70 SERIES         | 5011717869  | obsolete  |                                     |
| ✓ 83839           | Digicom HCK 5000 VOICE ANALYZER | 19425126    | obsolete  |                                     |
| ✓ 75223           | SICO Folding TABLE              | N/A         | obsolete  |                                     |
| ✓ 86507           | Body guard ELLIPTICAL           | 9905340061  | obsolete  |                                     |
| ✓ 78234           | INVERTED LEGG PRESS             | N/A         | obsolete  |                                     |
| ✓ 86425           | FITBELLS 1 Rolling RACK         | N/A         | obsolete  |                                     |
| ✓ 73498           | U-SHAPED DESK                   | N/A         | obsolete  |                                     |
| ✓ 84118           | EPSON 82C 2000 Lumen            | G48F6Y0488L | obsolete  |                                     |
| ✓ 84085           | SPANISH TUTOR SOFTWARE          |             | obsolete  |                                     |
| ✓ 86436           | TEACHER RESOURCE PACK           | N/A         | obsolete  |                                     |
| ✓ 86046           | ADVANCED EDITION SOFTWARE       | N/A         | obsolete  |                                     |

Kelly Ward  
Releasing Signature - Site P.R. Custodian

10.15.18  
Date

Michael Reminger  
Receiving Signature

10/22/18  
Date Received

(In addition to this form please enter your electronic work order request to expedite the removal of the items listed above)

Original - Property Records Department  
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School District of Indian River County  
SURPLUS REMOVAL REQUEST/TRANSFER FORM

RCY-9

Requesting Facility: SRHS  
Requesting Person: Kelly Ward

Transfer To Facility: SURPLUS  
Contact Person: MIKE R.

| Property Record # | Item Description (make/model) | Serial #  | Condition     | Property Records Office use only |
|-------------------|-------------------------------|-----------|---------------|----------------------------------|
| ✓ 67288           | Lift - surface mounted        | 405-03294 | unserviceable |                                  |
| ✓ 67289           | Lift - surface mounted        | 405-03293 | unserviceable |                                  |
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Kelly A. Ward  
Releasing Signature - Site P.R. Custodian

Mike A. Kennis  
Receiving Signature

11.12.18  
Date

11/13/18  
Date Received

(In addition to this form please enter your electronic work order request to expedite the removal of the items listed above)

Original - Property Records Department  
Copy for your records

RCY-9

School District of Indian River County  
SURPLUS REMOVAL REQUEST/TRANSFER FORM

Requesting Facility: Treasure Coast

Transfer To Facility: Surplus

Requesting Person: Tabetha Esposito

Contact Person: Mike Renninger

Property Records  
Office use only

| Property Record # | Item Description (make/model) | Serial #   | Condition | Property Records<br>Office use only |
|-------------------|-------------------------------|------------|-----------|-------------------------------------|
| ✓ 00085538        | HP Elitebook                  | 2CE836S9HL | Obsolete  |                                     |
| ✓ 00085540        | HP Elitebook                  | 2CE836S9M8 | Obsolete  |                                     |
| ✓ 00085541        | HP Elitebook                  | 2CE836S9LL | Obsolete  |                                     |
| ✓ 00085542        | HP Elitebook                  | 2CE836S9KF | Obsolete  |                                     |
| ✓ 00085543        | HP Elitebook                  | 2CE836S9KJ | Obsolete  |                                     |
| ✓ 00085544        | HP Elitebook                  | 2CE836S9C8 | Obsolete  |                                     |
| ✓ 00085545        | HP Elitebook                  | 2CE836S9LZ | Obsolete  |                                     |
| ✓ 00085546        | HP Elitebook                  | 2CE836S9J4 | Obsolete  |                                     |
| ✓ 00085547        | HP Elitebook                  | 2CE836S9J2 | Obsolete  |                                     |
| ✓ 00085549        | HP Elitebook                  | 2CE836S9K2 | Obsolete  |                                     |
| ✓ 00085550        | HP Elitebook                  | 2CE836S9JL | Obsolete  |                                     |
| ✓ 00085551        | HP Elitebook                  | 2CE836S9KX | Obsolete  |                                     |
| ✓ 00085552        | HP Elitebook                  | 2CE836S9KC | Obsolete  |                                     |
| ✓ 00085553        | HP Elitebook                  | 2CE836S9J8 | Obsolete  |                                     |
| ✓ 00085554        | HP Elitebook                  | 2CE836S9KM | Obsolete  |                                     |
| ✓ 00085555        | HP Elitebook                  | 2CE836S9LQ | Obsolete  |                                     |

  
Releasing Signature - Site P.R. Custodian

10/16/18  
Date

  
Receiving Signature

10/17/18  
Date Received

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RCY-9

School District of Indian River County  
SURPLUS REMOVAL REQUEST/TRANSFER FORM

Requesting Facility: TREASURE COAST

Transfer To Facility: SURPLUS

Requesting Person: LIZ T.

Contact Person: MIKE RENNINGEL

Property Records  
Office use only

| Property Record # | Item Description (make/model)     | Serial # | Condition | Property Records<br>Office use only |
|-------------------|-----------------------------------|----------|-----------|-------------------------------------|
| ✓ 78219           | UNIVERSAL SEATING (OUTDOORS) BLUE | N/A      | Obsolete  |                                     |
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Releasing Signature - Site P.R. Custodian

10/16/18  
Date

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Receiving Signature

10/16/18  
Date Received

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Original - Property Records Department  
Copy for your records







School District of Indian River County  
SURPLUS REMOVAL REQUEST/TRANSFER FORM

REC-9

Requesting Facility: Building standards

Transfer To Facility: Surplus

Requesting Person: Amy Caldwell

Contact Person: Mike R

Property Records  
Office use only

| Property Record # | Item Description (make/model) | Serial # | Condition | Property Records<br>Office use only |
|-------------------|-------------------------------|----------|-----------|-------------------------------------|
| ✓ 00073215        | Ericsson Handheld 800MHz      | 9309900  | obsolete  |                                     |
| ✓ 00073280        | Ericsson Handheld 800MHz      | LPE-200  | obsolete  |                                     |
| ✓ 00073286        | Ericsson Handheld 800mhz      | 939903,  | Obsolete  |                                     |
| ✓ 00073281        | ERICSSON HANDHLD 800 MHz      | 9309913  | Obsolete  |                                     |
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OC  
Releasing Signature Site P.R. Custodian

10/26/18  
Date

Michael Lewis  
Receiving Signature

10/26/18  
Date Received

(In addition to this form please enter your electronic work order request to expedite the removal of the items listed above)

Original - Property Records Department  
Copy for your records



RCY-9

School District of Indian River County  
SURPLUS REMOVAL REQUEST/TRANSFER FORM

Requesting Facility:   ESE DEPARTMENT  

Transfer To Facility:   WAREHOUSE  

Requesting Person:   SHERRY JOHNSON  

Contact Person:   SHERRY JOHNSON OR KATHERINE WOLF  

Property Records  
Office use only

| Property Record # | Item Description (make/model)    | Serial # | Condition | Property Records Office use only |
|-------------------|----------------------------------|----------|-----------|----------------------------------|
| ✓ 00087519        | CO-WRITER UNLIMITED ESE SOFTWARE |          | OBSOLETE  |                                  |
| ✓ 00087520        | CO-WRITER UNLIMITED ESE SOFTWARE |          | OBSOLETE  |                                  |
| ✓ 00087521        | CO-WRITER UNLIMITED ESE SOFTWARE |          | OBSOLETE  |                                  |
| ✓ 00087522        | CO-WRITER UNLIMITED ESE SOFTWARE |          | OBSOLETE  |                                  |
| ✓ 00087523        | CO-WRITER UNLIMITED ESE SOFTWARE |          | OBSOLETE  |                                  |
| ✓ 00087524        | CO-WRITER UNLIMITED ESE SOFTWARE |          | OBSOLETE  |                                  |
| ✓ 00087525        | CO-WRITER UNLIMITED ESE SOFTWARE |          | OBSOLETE  |                                  |
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Sherry Johnson  
Releasing Signature - Site P.R. Custodian

Oct 29, 2018

[Signature]  
Receiving Signature

10/30/18  
Date Received

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Original - Property Records Department  
Copy for your records

RCY-9

School District of Indian River County  
SURPLUS REMOVAL REQUEST/TRANSFER FORM

Requesting Facility: ESE DEPT

Transfer To Facility: WAREHOUSE

Requesting Person: SHERRY JOHNSON

Contact Person: SHERRY JOHNSON

| Property Record # | Item Description (make/model) | Serial #  | Condition | Property Records Office use only |
|-------------------|-------------------------------|-----------|-----------|----------------------------------|
| ✓ 00087800 ✓      | NOVACHAT COMM SPEECH GEN      | 7NXNC3771 | OBSOLETE  |                                  |
| ✓ 00087513 ✓      | NOVACHAT COMM SPEECH GEN      | 7NXNC2357 | OBSOLETE  |                                  |
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Sherry Johnson  
Releasing Signature - Site P.R. Custodian

10/24/2018

Alexis E. [Signature]  
Receiving Signature

10-24-18  
Date Received

(In addition to this form please enter your electronic work order request to expedite the removal of the items listed above)

Original - Property Records Department  
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RC4-9

School District of Indian River County  
SURPLUS REMOVAL REQUEST/TRANSFER FORM

Requesting Facility: Food Service

Transfer To Facility: SURPLUS

Requesting Person: Brend

Contact Person: Mike Remington

Property Records  
Office use only

| Property Record # | Item Description (make/model) | Serial            | Condition | Property Records Office use only |
|-------------------|-------------------------------|-------------------|-----------|----------------------------------|
| ✓ 77434           | Food Processor                | 1220018V001       | obsolete  |                                  |
| ✓ 85813           | Food Processor                | 76-1035110        | obsolete  |                                  |
| ✓ 87665           | Ice Machine                   | 1101266389        | Obsolete  |                                  |
| ✓ 88164           | STEAMER                       | 062315M-1123-1092 | obsolete  |                                  |
| ✓ 1006490         | Freezer                       | DK20880351        | obsolete  |                                  |
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10/18/18  
Date

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Receiving Signature

10/18/18  
Date Received

(In addition to this form please enter your electronic work order request to expedite the removal of the items listed above)

Original - Property Records Department  
Copy for your records



# SEBASTIAN RIVER HIGH SCHOOL

9001 Shark Boulevard • Sebastian, Florida 32958

Telephone: (772) 564-4170 • Fax: (772) 564-4182

October 4, 2018

Dr. Pierandozzi

I am writing this letter to request permission for one of my teachers at Sebastian River High School, Lori Infanzon, to take a group of students from her history classes to Washington, D.C. during Spring break 2019. During Spring Break 2016, she took a trip to Washington with 7 students, and it was an amazing experience. During Spring Break 2017, she took 21 students and also had an incredible time. Not only did they see the typical sights of D.C., such as the famous monuments and museums, but they also had very rare 'behind-the-scenes' tours of the West Wing of the White House, the Pentagon, and the US Capitol building! The students experienced learning first-hand in ways in which they will never forget. Lori also took students in 2003 and 2008 to Washington DC and in 2004 to New York City.

This year, she has the opportunity to replicate the trips from previous years for a new group of students. Her contact at the Pentagon is still there, and she has now established working relationships with people in the Congressman's office, Smithsonian museums, and more. This year, there is also the opportunity for the students to tour Air Force One. The students are very excited about this possibility, and she wants to make it a reality for them, as she did before. There are multiple fundraisers planned to make the trip affordable, and she hopes to take approximately 25 students this year.

Below is the proposed itinerary:

✓ Overview of itinerary:

- Arrive Saturday, March 16 @ 9 a.m. (Jet Blue airlines)
  - Hotel check-in/leave bags- **Ritz Carlton Pentagon City 1250 S. Hayes St., Arlington, VA**
  - **International Spy Museum**: Operation Spy interactive program and museum exploration
  - **Newseum**
  - Tour of **Air Force One** @ Andrews Air Force Base (date/time subject to change)
- Sunday, March 17
  - **National Museum of African American History and Culture** (group tour)
  - **Smithsonian museum choices**: American History, Natural History, Air and Space, American Indian, National Gallery of Art, Holocaust museum, etc.
  - Group dinner @ Founding Farmers restaurant
- Monday, March 18
  - **Pentagon tour (\*\*subject to date/time change)**
  - **Ford's Theater/Peterson House**
  - Washington Wizards NBA game @ 7 p.m.: Capitol One Arena
- Tuesday, March 19
  - **White House Mansion tour (\*\*subject to date/time change)**
  - Group lunch and bowling @ Eisenhower Executive Office Building/Truman Bowling Alley
  - **U.S. Capitol "Red Coat" Tour**
  - Exploration/dinner in **Capitol Hill** neighborhood
  - Evening tour of **memorials on National Mall and Tidal Basin**: Vietnam, Korea, WWII, Lincoln, Jefferson, FDR
- Wednesday, March 20
  - **Holocaust Museum**
  - Return home

Like last time, they would fly from Orlando to Reagan Int'l Airport via Jet Blue Airways, use metro transportation (which connects directly at the airport and at the hotel), and stay at the same hotel (Ritz Carlton Pentagon City), where our school has an established account.

Thank you for your consideration of this amazing learning opportunity.

Sincerely,

Dariyall Brown

Principal, Sebastian River High School

**"You Can't Hide That Shark Pride"**

Dariyall Brown  
Principal

Michele Holmes  
Assistant Principal

Kevin Van Brimmer  
Assistant Principal

Kelly Ward  
Assistant Principal

William Wilson III  
Assistant Principal

Madison Cama  
Guidance Counselor

Kim O'Keefe  
Guidance Counselor

Wendy Palmer  
Guidance Counselor

Lynn Phillips  
Guidance Counselor

Enrique Valencia  
Guidance Counselor



School District of Indian River County







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Special Event Supplemental General Liability Application

(Complete in addition to ACORD General Liability Application)

Name of Applicant: School District of Indian River County

Web site Address: www.indianriverschools.org

1. Description of event (attach any flyers, brochures, etc.): student field trip to Washington D.C. during Spring Break 2019

Maximum daily attendance: Total attendance: Sales: \$0

Length of event: 5 days Estimated age group of audience: From 16 to 50

No. of Participants: 30 Do participants sign waiver of liability agreements? Yes No

2. Applicant's experience in conducting events of this or similar nature: I have led 5 previous out-of-state student trips to Washington, D.C. and New York City as a teacher in the SDIRC.

Is applicant an event coordinator? Yes No

3. Rides:

Will rides be provided? Yes No

If yes, type of rides:

Will ride operators hold applicant harmless? Yes No

Does applicant have certificates of insurance from the ride vendors? Yes No

Rides inspected? Yes No

Do rides have signs clearly marking age, height, and size limitations? Yes No

Will applicant be in compliance with state laws regulating amusement ride inspections? Yes No

4. Entertainment:

Will live entertainment be provided? Yes No

If yes, describe:

If a concert, type of music: classical jazz rap blue grass country/western gospel R&B alternative hard rock heavy metal hip-hop gothic other (describe):

Any special effects for the concert? Yes No

If yes, describe:

If fireworks are planned, is pyrotechnician licensed? Yes No

Distance between fireworks staging area and audience?

Spectators allowed in fireworks staging area? Yes No

Will firemen be present? Yes No



5. **Bicycle/Running Event:**

Is the route surface free of hazards and clearly marked? .....  Yes  No  
Will all pedestrians and vehicular traffic be rerouted? .....  Yes  No

6. **Under 21 Dance, Grad Night or Prom:**

Are students allowed to leave and return? .....  Yes  No

7. **Haunted House:**

Describe building and construction: \_\_\_\_\_  
\_\_\_\_\_

Age: \_\_\_\_\_ Condition: \_\_\_\_\_

Are there separate entrances and exits? .....  Yes  No

Has the house been inspected by a Fire Marshall? .....  Yes  No

Does the house meet all local, city and state codes? .....  Yes  No

Describe any temporary structures: \_\_\_\_\_  
\_\_\_\_\_

Are the following present? .....  Yes  No

- Unlit stairs                       Moveable Floors                       Sinking Floors
- Slides                                       Suspended Bridges                       Electric Shock Devices
- Fire or Flash Powders

Describe special effects: \_\_\_\_\_  
\_\_\_\_\_

Does applicant have lead and follow-up guides? .....  Yes  No

Ratio of attendants to the public: \_\_\_\_\_ Number of persons per group: \_\_\_\_\_

Age of clients: \_\_\_\_\_ Are children supervised? .....  Yes  No

Does applicant have a door monitor? .....  Yes  No

Does applicant have the public participate in stunts? .....  Yes  No

Does anyone touch the public? .....  Yes  No

If yes, explain: \_\_\_\_\_  
\_\_\_\_\_

Does applicant have a gift shop or concession stand? .....  Yes  No

If yes, receipts: \_\_\_\_\_

8. **Parade:**

Will souvenirs or other items be thrown into the crowd? .....  Yes  No

If yes, what is thrown: \_\_\_\_\_  
\_\_\_\_\_

Animals in the parade are: \_\_\_\_\_

Are all of the animals insured against third-party liability claims by the owner? .....  Yes  No

If yes, what are the minimum liability limits required of the owners: \_\_\_\_\_

Length of parade route: \_\_\_\_\_ Number of floats: \_\_\_\_\_ Number of Equestrians: \_\_\_\_\_

Number of bands: \_\_\_\_\_ Number of motorized vehicles and/or floats: \_\_\_\_\_

9. **Rodeo:**

Name(s) of rodeo promoter/company/stock contractor: \_\_\_\_\_  
\_\_\_\_\_

Does the rodeo board the stock in the applicant's facility overnight?.....  Yes  No  
 Does the rodeo company maintain responsibility for security of stalls/pens used to board the stock? .....  Yes  No  
 Are the transfer areas between the animal pens and the competition restricted from the general public?  Yes  No  
 Rodeo arena specifics:  Indoors  Outdoors  Permanent  Temporary

**10. Political Rally:**

Please describe: \_\_\_\_\_  
 \_\_\_\_\_

**11. Security** (indicate type and number of each):

Independent security co.: \_\_\_\_\_  Off-duty police: \_\_\_\_\_  
 Employed security: \_\_\_\_\_  Chaperons: \_\_\_\_\_  
 Is there a written emergency plan in the event of an accident? .....  Yes  No  
 Does independent security company provide a certificate of insurance? .....  Yes  No  
 Do they hold the applicant harmless?.....  Yes  No

**12. Stadiums:**

Are bleachers or platforms to be used?.....  Yes  No  
 If yes, type:  portable  permanent  
 Back and side railings provided? .....  Yes  No  
 Construction:  Wood  Steel  Concrete  
 Height in feet: \_\_\_\_\_ Age of bleachers or platform: \_\_\_\_\_  
 Are patrons protected from, and warned against, potential flying objects?.....  Yes  No  
 Are patrons allowed on the field, track or pit area? .....  Yes  No  
 Is public address system clearly audible in all parts of the facility?.....  Yes  No  
 Is there a backup electrical supply for lighting and the public address system?.....  Yes  No  
 Are premises entrances/exits well lit?.....  Yes  No

**13. Traffic Control:**

Who is responsible for crowd and traffic control? \_\_\_\_\_  
 Are parking areas smooth with clearly marked parking areas and exit roads?.....  Yes  No  
 Is parade route able to handle size and height of floats and are cross streets barricaded? .....  Yes  No

**14. Liquor:**

Is liquor to be served by applicant? .....  Yes  No  
 If yes, explain: \_\_\_\_\_  
 \_\_\_\_\_  
 Does applicant want Host Liquor? .....  Yes  No  
 Is liquor to be served by others?.....  Yes  No  
 If yes, do they have Liquor Liability coverage?.....  Yes  No

**15. First Aid:**

Will first aid facilities be provided at the event?.....  Yes  No  
 If yes, describe: \_\_\_\_\_  
 If yes, who will be in charge of the facilities?  Doctors  Nurses  Others: \_\_\_\_\_

**16. If applicant is the sponsor, does the operator have liability insurance? .....  Yes  No**

If yes, name of insurance carrier: \_\_\_\_\_ and policy limits of liability: \$ \_\_\_\_\_

17. **Hold-harmless Agreements:**

Is applicant held harmless by others? .....  Yes  No

Does applicant agree to hold any third party harmless? .....  Yes  No

If yes, who? School District of IRC

Is applicant naming anyone as additional insured? .....  Yes  No

If yes, who and why? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**APPLICABLE IN THE STATE OF NEW YORK:**

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation.

**FRAUD WARNING:**

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.

PRODUCER'S SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

APPLICANT'S SIGNATURE: \_\_\_\_\_ DATE: 10/4/18

AGENT NAME: Regina Lucente AGENT LICENSE NUMBER: A159817

*(Applicable to Florida Agents Only.)*

IOWA LICENSED AGENT: \_\_\_\_\_



**Nelson, Karen**

---

**From:** Mercado, Meri-De  
**Sent:** Tuesday, October 23, 2018 12:16 PM  
**To:** Nelson, Karen; Enriquez, Teresa  
**Cc:** Smith, Judy; Pierandozzi, Kathrine  
**Subject:** RE: COI and Red font RE: Risk Management review of FW: Washington DC student trip  
**Attachments:** COI - Special Events-Out of State Trip-Scottsdale Insurance.pdf

The insurance for the Washington DC student trip has been provided. The COI is attached.

\*\*\*\*\*

Meri-de J. Mercado, MBA, SHRM-CP  
Risk Management and Employee Benefits  
School District of Indian River County  
6500 57<sup>th</sup> Street, Vero Beach, Florida 32967  
Meride.Mercado@indianriverschools.org  
Office: (772) 564-3129 Fax: (772) 564-3160

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Do you know about the \$25,000 Anti-Fraud Reward Program? Rewards of up to \$25,000 may be paid to persons providing information to the Dept. of Financial Services leading to the arrest and conviction of persons committing insurance fraud, including employers who illegally fail to obtain workers' compensation coverage. Persons may report suspected fraud to the Department at 1-800-378-0445. A person is not subject to civil liability for furnishing such information, if such person acts without malice, fraud or bad faith. FRAUDULENT claims cost us all money.

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## Summary Points for Recommended Board Policy Changes

| Policy # | Policy Title                                           | Summary Points                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Owner       |
|----------|--------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| 100      | Bylaw - Definitions                                    | Revised. A comprehensive definition of “social media” was added to Bylaw 0100 Definitions and the definition of “apps and services” was revised.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Dr. Rendell |
| 8315     | Information Management                                 | Revised. The revisions to this policy are related to the Board's responsibilities with respect to litigation holds. Due to the rapidly changing nature of technology and litigation requirements, we decided that it was more appropriate to have a separate administrative procedure addressing litigation holds. As such, we transferred substantial portions of this policy and incorporated it into a newly administrative procedure - AP 8315 (Litigation Hold Procedure). The remaining provisions of this policy still address the Board's legal requirements with respect to litigation holds, but it now gives further flexibility for the Superintendent to develop and revise appropriate internal procedures for initiating and responding to litigation holds through AP 8315. | Dr. Rendell |
| 8805     | Model Policy on Religious Expression in Public Schools | <b>NEW.</b> F.S. 1002.206 requires the Florida Department of Education to adopt a model policy on religious expression in public schools that must in turn be adopted by all school districts in Florida. This new policy is the model policy adopted by the Florida Department of Education.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Dr. Rendell |
| 1122     | Nondiscrimination and Equal Employment Opportunity     | Revised. Neola has learned that the US DOE's Office for Civil Rights expects to see policy language mandating that school districts retain records and materials gathered during the course of investigations of harassment. The revised policy now includes a section addressing the Board's responsibility to maintain investigatory records. Boards should already be maintaining such records as a matter of practice.                                                                                                                                                                                                                                                                                                                                                                  | Dr. Purcell |



## Summary Points for Recommended Board Policy Changes

| Policy # | Policy Title                                       | Summary Points                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Owner       |
|----------|----------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| 1213     | Student Supervision and Welfare                    | Revised. These policies (1213, 3213, & 4213) were revised to eliminate the standards of care as options; instead, all standards of care are now required policy provisions. Additionally, we have added a requirement that employees report unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities to the Superintendent and local safety agencies and/or school officials in accordance with new Policy 8406 - Reports of Suspicious and Potential Threats to Schools. We also inserted "abandonment" at the end of the policy to clarify that employees must report suspected child abandonment in addition to abuse and neglect. | Dr. Purcell |
| 1362     | Anti-Harassment                                    | Revised. Neola has learned that the US DOE's Office for Civil Rights expects to see policy language mandating that school districts retain records and materials gathered during the course of investigations of harassment. The revised policy now includes a section addressing the Board's responsibility to maintain investigatory records. Boards should already be maintaining such records as a matter of practice.                                                                                                                                                                                                                                                              | Dr. Purcell |
| 3122     | Nondiscrimination and Equal Employment Opportunity | Revised. Neola has learned that the US DOE's Office for Civil Rights expects to see policy language mandating that school districts retain records and materials gathered during the course of investigations of harassment. The revised policy now includes a section addressing the Board's responsibility to maintain investigatory records. Boards should already be maintaining such records as a matter of practice.                                                                                                                                                                                                                                                              | Dr. Purcell |

## Summary Points for Recommended Board Policy Changes

| Policy # | Policy Title                                       | Summary Points                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Owner       |
|----------|----------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| 3213     | Student Supervision and Welfare                    | Revised. These policies (1213, 3213, & 4213) were revised to eliminate the standards of care as options; instead, all standards of care are now required policy provisions. Additionally, we have added a requirement that employees report unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities to the Superintendent and local safety agencies and/or school officials in accordance with new Policy 8406 - Reports of Suspicious and Potential Threats to Schools. We also inserted "abandonment" at the end of the policy to clarify that employees must report suspected child abandonment in addition to abuse and neglect. | Dr. Purcell |
| 3362     | Anti-Harassment                                    | Revised. Neola has learned that the US DOE's Office for Civil Rights expects to see policy language mandating that school districts retain records and materials gathered during the course of investigations of harassment. The revised policy now includes a section addressing the Board's responsibility to maintain investigatory records. Boards should already be maintaining such records as a matter of practice.                                                                                                                                                                                                                                                              | Dr. Purcell |
| 4122     | Nondiscrimination and Equal Employment Opportunity | Revised. Neola has learned that the US DOE's Office for Civil Rights expects to see policy language mandating that school districts retain records and materials gathered during the course of investigations of harassment. The revised policy now includes a section addressing the Board's responsibility to maintain investigatory records. Boards should already be maintaining such records as a matter of practice.                                                                                                                                                                                                                                                              | Dr. Purcell |

## Summary Points for Recommended Board Policy Changes

| Policy # | Policy Title                                                                 | Summary Points                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Owner       |
|----------|------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| 4162     | Drug and Alcohol Testing of Employees Who Perform Safety Sensitive Functions | Revised to include a requirement that the Superintendent establish a program mandating that bus drivers, CDL license holders, and any staff member performing safety sensitive functions be tested for the presence of certain controlled substances. The proposed revisions also include the replacement of "opiates" with "opioids" on the list of controlled substances. Also added were provisions addressing when employees who perform safety-sensitive functions may return to work after having been removed from their duties (i.e. return-to-duty testing).                                                                                                                   | Dr. Purcell |
| 4213     | Student Supervision and Welfare                                              | Revised. These policies (1213, 3213, & 4213) were revised to eliminate the standards of care as options; instead, all standards of care are now required policy provisions. Additionally, we have added a requirement that employees report unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities to the Superintendent and local safety agencies and/or school officials in accordance with new Policy 8406 - Reports of Suspicious and Potential Threats to Schools. We also inserted "abandonment" at the end of the policy to clarify that employees must report suspected child abandonment in addition to abuse and neglect. | Dr. Purcell |
| 4362     | Anti-Harassment                                                              | Revised. Neola has learned that the US DOE's Office for Civil Rights expects to see policy language mandating that school districts retain records and materials gathered during the course of investigations of harassment. The revised policy now includes a section addressing the Board's responsibility to maintain investigatory records. Boards should already be maintaining such records as a matter of practice.                                                                                                                                                                                                                                                              | Dr. Purcell |

## Summary Points for Recommended Board Policy Changes

| Policy # | Policy Title                                      | Summary Points                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Owner      |
|----------|---------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| 6320     | Purchasing and Contracting for Goods and Services | Revised. The revisions to this policy include the following: (1) adding a statement clarifying that purchases can be made through an online procurement system, an electronic auction service, or other efficient procurement tools; (2) adding provisions regarding certain pre-purchasing review requirements; and (3) adding a statement requiring that all contracts contain certain language mandated under Chapter 119, Florida Statutes (i.e. Florida's Public Records Act). | Mr. Carver |
| 7430.01  | Environmental Health Program                      | <b>NEW/Revised.</b> This policy retains most of the language from deleted Policy 7440.01 related to environmental health. (The safety and security language from deleted Policy 7440.01 is addressed in Policy 8405 - School Safety & Security.) In light of the revisions to other policies herein, we felt it more appropriate to create a standalone policy for environmental health (new Policy 7430.01) rather than entangling it with safety and security issues.             | Mr. Teske  |
| 7440     | Plant Security                                    | Revised to insert several optional provisions related to certain actions that may be taken to secure school buildings, school grounds, and school equipment.                                                                                                                                                                                                                                                                                                                        | Mr. Teske  |
| 7440.01  | Protection of Personnel and Property              | <b>DELETE/REPEAL.</b> Includes several provisions related to school safety, certain drills, and environmental health. In light of the revisions to other policies herein, we felt it more appropriate to create a standalone policy for environmental health (new Policy 7430.01) rather than entangling it with safety and security issues.                                                                                                                                        | Mr. Teske  |
| 8405     | School Safety                                     | Revised to include new provisions related to the District's School Safety Specialist, recommendations of the School Safety Specialist, the development of safety and security best practices, threat assessment teams, referrals to mental health services, and a student crime watch program. All revisions are related to Senate Bill 7026.                                                                                                                                       | Mr. Teske  |

## Summary Points for Recommended Board Policy Changes

| Policy # | Policy Title                                                  | Summary Points                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Owner     |
|----------|---------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| 8406     | Reports of Suspicious Activity & Potential Threats to Schools | <p><b>NEW.</b> Senate Bill 7026 includes creating new Florida Statute Section 943.082 (School Safety Awareness Program). The statutory provisions required the Department of Education to develop a mobile suspicious reporting tool that allows students and the community to relay information anonymously concerning unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, to appropriate public safety agencies and school officials. The tool is named "FortifyFL." In order to further address school safety and security, we decided to create a new policy requiring employees, and strongly encouraging students and members of the community, to promptly report unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, to appropriate public safety agencies and school officials. Also provided, is a list of how this information can be reported, including a reference to the FortifyFL mobile suspicious reporting tool. Of note, employees are required to disclose these behaviors to the Superintendent (see also revisions to Policy 1213/3213/4213).</p> | Mr. Teske |
| 8407     | Safe-Schools Officers                                         | <p><b>NEW.</b> Senate Bill 7026 requires the District to establish or assign one or more safe-school officers at each school in the District. The Board is permitted to select more than one type of safe-school officer to meet its statutory requirement. (School Resource Officers, Commissioned School Safety Officers, and/or School Guardians). This new policy enables the Board to identify what types of safe-school officers it will utilize in the District.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Mr. Teske |

## Summary Points for Recommended Board Policy Changes

| <b>Policy #</b> | <b>Policy Title</b>                                                    | <b>Summary Points</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <b>Owner</b> |
|-----------------|------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| 8410            | Crisis Event Intervention and Response                                 | Revised for minor clerical revisions and insertion of a requirement that each school have a counseling plan requiring employees to report unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, in accordance with new Policy 8406.                                                                                                                                                                                                                                                               | Mr. Teske    |
| 8420            | Emergency Evacuation of Schools                                        | Revised to include mandatory requirements for the District to conduct active shooter and hostage situations at least as often as other emergency drills, that the District establish a schedule to test the functionality and coverage capacity of all emergency communication systems to determine, if adequate signal strength is available in all areas of school campuses, and that the District identify the individual(s) responsible for contacting primary emergency response agencies. All of these revisions are related to Senate Bill 7026. | Mr. Teske    |
| 2260            | Nondiscrimination and Access to Equal Educational Opportunity          | Revised. Neola has learned that the US DOE's Office for Civil Rights expects to see policy language mandating that school districts retain records and materials gathered during the course of investigations of harassment. The revised policy now includes a section addressing the Board's responsibility to maintain investigatory records. Boards should already be maintaining such records as a matter of practice.                                                                                                                              | Mrs. Dampier |
| 2260.01         | Section 504/ADA Prohibition Against Discrimination Based on Disability | District Requested. Revised to change contact information for the District Compliance Officer.                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Mrs. Dampier |
| 2623            | Student Assessment                                                     | Revised to include provisions addressing alternative assessments available to students with significant cognitive disabilities (the Florida Standards Assessments (FSAA) - Performance Task and the FSAA - datafolio assessments).                                                                                                                                                                                                                                                                                                                      | Mrs. Dampier |

## Summary Points for Recommended Board Policy Changes

| Policy # | Policy Title               | Summary Points                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Owner        |
|----------|----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| 5112     | Entrance Requirements      | Revised to include provisions related to the requirement that students disclose prior expulsions, arrests resulting in a charge, juvenile justice actions, and referrals to mental health services at the time of enrollment. Of note, the requirement that students disclose referrals to mental health services is a product of Senate Bill 7026. Importantly, if students disclose any of this information at the time of enrollment. District staff will need to review the Student Code of Conduct, Policy 5500, and Policy 5610 to address disciplinary placement issues.                                        | Mrs. Dampier |
| 5120     | Assignment Within District | Revised to make clear that the Board must adhere to formal rule-making requirements when creating or revising school attendance boundaries.                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Mrs. Dampier |
| 5500     | Student Conduct            | Revised in relation to Senate Bill 7026 to include: (1) a requirement that students be referred to mental health services when committing certain specified offenses; (2) a new reference to "threats of unsafe and potentially harmful, dangerous, violent, or criminal activities" as the types of acts that pose a threat to school safety; and (3) a provision stating that the Student Code of Conduct shall contain provisions for the assignment of violent or disruptive students to an alternative educational program and/or referral of such students to mental health services identified by the District. | Mrs. Dampier |
| 5517     | Anti-Harassment            | Revised. Neola has learned that the US DOE's Office for Civil Rights expects to see policy language mandating that school districts retain records and materials gathered during the course of investigations of harassment. The revised policy now includes a section addressing the Board's responsibility to maintain investigatory records. Boards should already be maintaining such records as a matter of practice.                                                                                                                                                                                             | Mrs. Dampier |

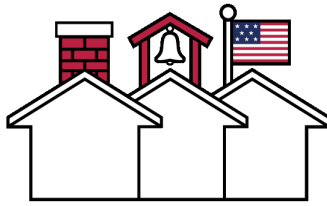
## Summary Points for Recommended Board Policy Changes

| Policy # | Policy Title                                   | Summary Points                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Owner        |
|----------|------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| 5517.02  | Sexual Violence                                | Revised. Neola has learned that the US DOE's Office for Civil Rights expects to see policy language mandating that school districts retain records and materials gathered during the course of investigations of harassment. The revised policy now includes a section addressing the Board's responsibility to maintain investigatory records. Boards should already be maintaining such records as a matter of practice.                                                                                                                                                                                                                                                                                                                                                                  | Mrs. Dampier |
| 5517.03  | Dating Violence and Abuse                      | Revised. Neola has learned that the US DOE's Office for Civil Rights expects to see policy language mandating that school districts retain records and materials gathered during the course of investigations of harassment. The revised policy now includes a section addressing the Board's responsibility to maintain investigatory records. Boards should already be maintaining such records as a matter of practice.                                                                                                                                                                                                                                                                                                                                                                  | Mrs. Dampier |
| 5610     | Removal, Suspension, and Expulsion of Students | Revised. Revisions to this policy are the result of a recent case in Florida which held that disciplinary placement in an alternative school is similar to an expulsion and, therefore, students recommended for disciplinary placement in an alternative school are entitled to the same due process as students recommended for expulsion. See, S.J. v. Thomas, Case No. 1D16-3635, 2017 WL 6458980 (Fla. 1DCA Dec. 19, 2017). We have included a definition of "disciplinary placement" to identify what types of disciplinary placements should be treated the same as expulsions for purposes of due process. Other minor revisions to the policy are simply to clarify certain procedural issues. For example, the term "hearing officer" has been replaced with "presiding officer". | Mrs. Dampier |



### Summary Points for Recommended Board Policy Changes

| Policy # | Policy Title                  | Summary Points                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Owner        |
|----------|-------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| 5610.01  | Emergency Removal of Students | Revised to insert a provision restating (see revisions to Policy 1213/3213/4213) the requirement that employees disclose in accordance with the new Policy 8406 (Reports of Suspicious and Potential Threats to Schools) whether a student's behavior involves unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities. Since this policy addresses the emergency removal of students, we felt it was important to reiterate this requirement. | Mrs. Dampier |
| 5610.02  | In-School Discipline          | Revised to better describe the progressive discipline options that the District might choose to use in lieu of out-of-school suspension.                                                                                                                                                                                                                                                                                                                                                          | Mrs. Dampier |



|              |                                        |
|--------------|----------------------------------------|
| Book         | Policy Manual                          |
| Section      | Special Release - Social Media REVISED |
| Title        | Copy of DEFINITIONS                    |
| Number       | *po0100 BD 07 10 18                    |
| Status       |                                        |
| Adopted      | August 13, 2013                        |
| Last Revised | February 14, 2017                      |

## 0100 - **DEFINITIONS**

Whenever the following items are used in these bylaws and policies, they shall have the meaning set forth below:

### **Administrative Procedures**

A statement, based on policy, usually written, which outlines and/or describes the means by which a policy should be implemented and which provides for the management cycle of planning, action, and assessment or evaluation.

### **Agreement**

A collectively negotiated contract with a recognized bargaining unit.

### **Apps and ~~Web~~ Services**

Apps and ~~Web~~ services are software (i.e., computer programs) that support the interaction of wireless personal communication devices over a network, or client-server applications in which the user interface runs in a web browser. Apps and ~~Web~~ services are used to communicate/transfer information/data that allow students to perform actions/tasks that assist them in attaining educational achievement goals/objectives, enable staff to monitor and assess their students' progress, and allow staff to perform other tasks related to their employment. Apps and ~~Web~~ services also are used to facilitate communication to, from, and among and between staff, students, ~~and~~ parents, Board members, and/or other stakeholders and members of the community.

### **Board**

The School Board of Indian River County.

### **Bylaw**

Policy of the Board for its own governance.

### **Chairman**

The presiding officer of the Board. (See Bylaw 0163)

### **Compulsory School Age**

All children who have attained the age of six (6) years or who will have attained the age of six (6) years by February 1<sup>st</sup> of any school year or who are older than six (6) years of age but who have not attained the age of sixteen (16) years, except as otherwise provided in Florida statute, are required to attend school regularly during the entire school term. F.S. 1003.21

**District**

The School District. When referencing the local School District, School District will be capitalized.

**District-Based Noninstructional Administrators**

Included in this classification are persons with District-level administrative or policymaking duties who have broad authority for the management of policies and general School District operations related to the noninstructional program. Such personnel often report directly to the Superintendent and supervise other administrative employees. This classification includes assistant, associate, or deputy superintendents and directors of major noninstructional areas, such as personnel, construction, facilities, transportation, data processing, and finance. (F.S. 1012.01(2)(b))

**Due Process**

The safeguards to which a person is entitled in order to protect his/her rights.

**Information Resources**

The Board defines information resources to include any data/information in electronic, audio-visual, or physical form, or any hardware or software that makes possible the storage and use of data/information. This definition includes but is not limited to electronic mail, voice mail, social media, text messages, databases, CD-ROMs/DVDs, web sites, motion picture film, recorded magnetic media, photographs, digitized information, or microfilm. This also includes any equipment, computer facilities, or online services used in accessing, storing, transmitting, or retrieving electronic communications.

**Major Tangible Personal School Property**

Means any tangible personal property, of a nonconsumable nature, owned by the Board which has a capitalized value equal to or greater than the value defined in Florida statute and a normal life expectancy of one (1) year or more. (F.S. 274)

**May**

Is used when an action by the Board or its designee is permitted but not required.

**Meeting**

Is any gathering which is attended by or open to all of the members of the Board, held with the intent on the part of the members of the body present to discuss or act as a unit upon the specific public business of that body. All meetings shall comply with Florida Laws (Sunshine Law).

**Minor Tangible Personal School Property**

Those items which are tangible, of a nonconsumable nature, with a life expectancy of one (1) year or more and with a value less than that amount defined in Florida statute. (F.S. 274)

**Parent**

Means either or both parents of a student, any guardian of a student, any person in a parental relationship to a student, or any person exercising supervisory authority over a student in place of a parent (F.S. 1000.21). Both parents will be considered to have equal rights unless a court of law decrees otherwise.

**Policy**

A general, written statement by the Board which defines its expectations or position on a particular matter and authorizes appropriate action that must or may be taken to establish and/or maintain those expectations.

**Principal**

The principal shall be the administrative and supervisory head of the school to which assigned by the Board and shall be responsible for the enforcement of all Board regulations and Florida State statutes which pertain to the office. In policy, capitalization of Principal implies delegation of responsibilities to appropriate staff members. F.S. 1001.41, 1212.28

**Property**

All buildings, grounds, and other real or personal school property belonging to, held by, or used by the Board shall be termed to be school property.

## **Real Property**

That portion which is used as a site or school plant for purposes of carrying out the school program. This includes any equipment which is permanently attached to or is an integral part of the building or site.

## **Relative**

The mother, father, sister, brother, spouse, parent of spouse, child, grandparents, grandchild, or dependent in the immediate household as defined in the negotiated, collectively-bargained agreement.

## **Rule**

A statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of the District. As used in this document, the term "rule" and "policy" shall have the same definition.

## **School Property Custodian**

The custodian of school property is the person to whom responsibility for the custody of property under his/her control has been delegated by the Superintendent or the Board. This is not to be confused with the building custodian who is responsible for cleaning and maintaining the building and grounds.

## **Shall**

This word is used when an action by the Board or its designee is required. (The word "will" or "must" signifies a required action.)

## **Social Media**

Social media are online platforms where users engage one another and/or share information and ideas through text, video, or pictures. Social media consist of any form of online publication or presence that allows interactive communication, including, but not limited to, text messaging, instant messaging, websites, web logs ("blogs"), wikis, online forums (e.g., chat rooms), virtual worlds, and social networks. Examples of social media include, but are not limited to, Facebook, Facebook Messenger, Google Hangouts, Twitter, LinkedIn, YouTube, Flickr, Instagram, Pinterest, Skype, and Facetime. Social media does not include sending or receiving e-mail through the use of District-issued e-mail accounts. Apps and web services shall not be considered social media unless they are listed on the District's website as District-approved social media platforms/sites.

## **Student**

A person who is officially enrolled in a school or program of the District.

## **Superintendent**

The chief executive officer of the School District. In policy, capitalization of Superintendent implies delegation of responsibilities to appropriate staff members.

## **Technology Resources**

The Board defines technology resources to include computers, laptops, tablets, e-readers, cellular/mobile telephones, smartphones, web-enabled devices, video and/or audio recording equipment, projectors, software and operating systems that work on any device, copy machines, printers and scanners, information storage devices (including mobile/portable storage devices such as external hard drives, CDs/DVDs, USB thumb drives and memory chips), the computer network, Internet connection, and online educational services and apps.

## **Textbook**

This word is used to describe the learning material duly adopted and required as standard work for the study of a particular subject. It may be bound and printed with a hard or soft cover, or it may be electronic, e.g., computer software, interactive videodisc, magnetic media, CD ROM, computer courseware, on-line service, electronic medium, or other means of conveying information.

## **Vice-Chairman**

The Vice-Chairman of the Board.

## **Wireless Communication Devices**

Wireless communication devices ("WCDs") include computers, laptops, tablets, e-readers, cellular/mobile phones, smartphones, and/or other web-enabled devices of any type.

## **Work Session or Work Shop**

A meeting called by the Board Chairman, Superintendent, or a majority of the Board for the purpose of exploring matters that constitute the business of the District.

Statutory and Code of Notations - **A.** Citations to Florida statute are noted as F.S. **B.** Citations to the rules of the State Board of Education are noted as F.A.C. (Florida Administrative Code) **C.** Citations to the Federal Register are noted as F.R. **D.** Citations to the Code of Federal Regulations are noted as C.F.R. **E.** Citations to the United States Code are noted as U.S.C.

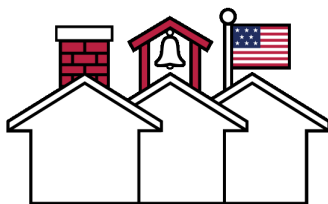
Revised 3/4/14

Revised 2/14/17

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|-------|--------------------|
| Legal | F.S. 274           |
|       | F.S. 1001.21       |
|       | F.S. 1001.41       |
|       | F.S. 1003.21       |
|       | F.S. 1012.01(3)(b) |
|       | F.S. 1012.28       |

Last Modified by Brenda Davis on September 19, 2018



|              |                                                            |
|--------------|------------------------------------------------------------|
| Book         | Policy Manual                                              |
| Section      | Vol. 18, No. 2 - REVISED                                   |
| Title        | Copy of NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY |
| Number       | *po1122 JEP 9/17/18                                        |
| Status       |                                                            |
| Adopted      | August 13, 2013                                            |
| Last Revised | April 12, 2016                                             |

#### 1122 - **NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY**

The School Board does not discriminate on the basis of race, color, national origin, sex (including sexual orientation, transgender status, or gender identity), disability (including HIV, AIDS, or sickle cell trait), pregnancy, marital status, age (except as authorized by law), religion, military status, ancestry, or genetic information which are classes protected by State and/or Federal law (collectively, "protected classes") in its programs and activities, including employment opportunities.

It is the legal obligation and the policy of the Board to employ only those persons who are best qualified, with or without reasonable accommodations.

The Superintendent shall appoint and publicize the name of the compliance officer(s) who is/are responsible for coordinating the District's efforts to comply with applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination or denial of equal access. The Superintendent shall also verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI, and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendment Act of 1972, Section 504 of the Rehabilitation Act of 1973 (as amended), Americans with Disabilities Act of 1990, and the Age Discrimination in Employment Act will be provided to staff members and the general public. Any sections of the District's collectively-bargained, negotiated agreements dealing with hiring, promotion, and tenure will contain a statement of nondiscrimination similar to that in the Board's statement above.

#### **Compliance Officer(s)**

The following persons are designated as the Compliance Officers (COs):

Executive Director for Human Resources  
6500 57<sup>th</sup> Street  
Vero Beach, FL 32967  
772-564-3000

Executive Director for Exceptional Education and Student Services  
6500 57<sup>th</sup> Street  
Vero Beach, FL 32967  
772-564-3000

The names, titles, and contact information of these individuals will be published annually on the School District's website

#### **Complaint Procedures**

If a person believes that s/he has been subjected to unlawful discrimination, the person may utilize the following complaint procedures as a means of reaching, at the lowest possible administrative level, a prompt and equitable resolution of the matter.

In accordance with Federal and State law, employees will be notified of their right to file an internal complaint regarding an alleged violation, misinterpretation, or misapplication of Federal and/or State law. In addition, employees will be notified of their right to file a complaint with the U.S. Department of Education's Office for Civil Rights, the Florida Commission on Human Relations, or the Equal Employment Opportunity Commission.

Internal complaints must be put in writing and must identify the specific circumstances or areas of dispute that have given rise to the complaint, and offer possible solutions to the dispute. The complaint must be filed with a compliance officer within the time limits specified below. The compliance officer is available to assist individuals in filing a complaint.

### **Internal Complaint Procedure**

The following internal complaint procedure is available to employees for the prompt and equitable resolution of complaints alleging discrimination based upon disability. This complaint procedure is not available to unsuccessful applicants. Use of the internal complaint procedure is not a prerequisite to the pursuit of other remedies, including the filing of a complaint with the U.S. Department of Education's Office for Civil Rights, the Florida Commission on Human Relations, or the Equal Employment Opportunity Commission.

- A. An employee with a complaint based on alleged discrimination on the basis of disability may first discuss the problem with the compliance officer.
- B. If the informal discussion does not resolve the matter, or if the employee skips Step A, the individual may file a formal written complaint with the compliance officer. The written complaint must contain the name and address of the individual or representative filing the complaint, be signed by the complainant or someone authorized to sign for the complainant, describe the alleged discriminatory action in sufficient detail to inform the compliance officer of the nature and date of the alleged violation, and propose a resolution. The complaint must be filed within thirty (30) calendar days of the circumstances or event giving rise to the complaint, unless the time for filing is extended by the compliance officer for good cause.
- C. The compliance officer will conduct an independent investigation of the matter (which may or may not include a hearing). This complaint procedure contemplates informal, but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to present witnesses and other evidence relevant to the complaint. The compliance officer will provide the complainant with a written disposition of the complaint within ten (10) work days. If no decision is rendered within ten (10) work days, or the decision is unsatisfactory in the opinion of the complainant, the employee may file, in writing, an appeal with the Superintendent. ~~The compliance officer shall maintain the District's files and records relating to the complaint.~~
- D. The Superintendent will, within ten (10) work days of receiving the written appeal, conduct a hearing with all parties involved in an attempt to resolve the complaint.  
  
The Superintendent will render his/her decision within ten (10) work days of the hearing.
- E. The employee may be represented, at his/her own cost, at any of the above-described meetings/hearings.
- F. The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights or the filing of a court case. Use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.

If it is determined that the complainant was subjected to unlawful discrimination, the CO must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate and effective, and tailored to the specific situation.

### **Filing a Complaint with OCR/Florida Commission on Human Relations/EEOC**

At any time, if an employee believes that s/he has been subjected to unlawful discrimination, the individual may file a complaint with the U.S. Department of Education's Office for Civil Rights ("OCR"), the Florida Commission on Human Relations (FCHR), or the Equal Employment Opportunity Commission ("EEOC").

### **Appealing to OCR/Florida Commission on Human Relations/EEOC**

If the complainant is not satisfied with the Superintendent's decision, the complainant will have an additional sixty (60) days to appeal the decision to the United States Department of Education Office of Civil Rights, Florida Commission on Human Relations, or the Equal Employment Opportunity Commission.

### **Retaliation**



Retaliation against a person who makes a report or files a complaint alleging unlawful discrimination, or participates as a witness in an investigation, is prohibited. Specifically, the Board will not discriminate/retaliate against, coerce, intimidate, threaten or interfere with any individual because the person opposed any act or practice made unlawful by Section 504 or the ADA, or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under those laws, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws.

## **Training**

The compliance officers will also oversee the training of employees in the District so that all employees understand their rights and responsibilities under Federal and State law, and are informed of the Board's policies and practices with respect to fully implementing and complying with the requirements of Federal and State law.

## **Retention of Investigatory Records and Materials**

**All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including, but not limited to:**

1. **all written reports/allegations/complaints/statements;**
2. **narratives of all verbal reports/allegations/complaints/statements;**
3. **a narrative of all actions taken by District personnel;**
4. **any written documentation of actions taken by District personnel;**
5. **written witness statements;**
6. **narratives of, notes from, or audio, video, or digital recordings of witness statements;**
7. **all documentary evidence;**
8. **e-mails, texts, or social media posts pertaining to the investigation;**
9. **contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;**
10. **written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;**
11. **dated written determinations to the parties;**
12. **dated written descriptions of verbal notifications to the parties;**
13. **written documentation of any interim measures offered and/or provided to complainants, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and**
14. **documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects.**

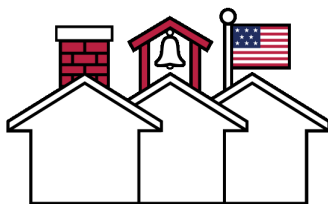
**The information, documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).**

**The information, documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 for not less than three (3) years, but longer if required by the District's records retention schedule.**

Legal

- F.S. 112.1221, 250.481, 760.01, 760.10, 1000.05
- 20 U.S.C. 1681 et seq., Title IX
- 29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967
- 29 U.S.C. 701 et seq., Rehabilitation Act of 1973, as amended
- 42 U.S.C. 2000e, et seq., Civil Rights Act of 1964
- 42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act
- 42 U.S.C. 12112, Americans with Disabilities Act of 1990, as amended
- 29 C.F.R. Part 1635
- 38 U.S.C. 4301 et seq., The Uniformed Services Employment and Reemployment Rights Act

Last Modified by Jayne Purcell on September 17, 2018



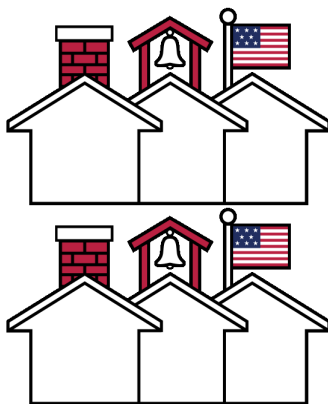
|              |                                         |
|--------------|-----------------------------------------|
| Book         | Policy Manual                           |
| Section      | Special Release -School Safety Revised  |
| Title        | Copy of STUDENT SUPERVISION AND WELFARE |
| Number       | *po1213 JEP/BD 10 18 18                 |
| Status       |                                         |
| Adopted      | August 13, 2013                         |
| Last Revised | March 4, 2014                           |

#### 1213 - **STUDENT SUPERVISION AND WELFARE**

Each administrator shall maintain a standard of care for the supervision, control, and protection of students commensurate with their assigned duties and responsibilities which include but are not limited to, the following:

- A. An administrator shall report immediately any accidents ~~s or~~, safety hazards ~~s~~, ~~or other potentially harmful condition or situation~~ about which s/he is informed or detects to his/her supervisor as well as to other authorities or District staff members as may be required by established policies and procedures.
- B. An administrator shall report unsafe, potentially harmful, dangerous, violent or criminal activities, or the threat of these activities, to the Superintendent and local public safety agencies and/or school officials in accordance with Policy 8406 - Reports of Suspicious Activity and Potential Threats to Schools.
- C. An administrator shall require staff under his/her supervision to provide proper instruction in safety matters as presented in assigned course guides.
- D. ~~An administrator shall immediately report to the Superintendent, as well as other appropriate authorities, knowledge of threats of violence by students.~~
- E. An administrator shall not send students on any non-school related errands.
- F. An administrator shall not transport students in a private vehicle without the approval of the building administrator or supervising District administrator.
- G. An administrator shall not inappropriately associate with students at any time in a manner which may give the appearance of impropriety, including, but not limited to, the creation or participation in any situation or activity which could be considered abusive or sexually suggestive or involve illegal substances such as drugs, alcohol, or tobacco. Any sexual or other inappropriate conduct with a student by any staff member will subject the offender to potential criminal liability and discipline up to and including termination of employment.
- H. ~~If a student approaches an administrator to seek advice or to ask questions regarding a personal problem related to sexual behavior, substance abuse, and/or mental or physical health, the administrator may attempt to assist the student by facilitating contact with certified or licensed individuals in the District or community who specialize in the assessment, diagnosis, and treatment of the student's state problem. However, an administrator should not attempt, unless properly licensed and authorized to do so, to counsel, assess, diagnose, or treat the student's problem or behavior.~~
- I. An administrator shall not disclose personally identifiable information about a student to third persons unless specifically authorized by law or the student's parent(s) to do so.
- J. A student shall not be required to perform work or services that may be detrimental to his/her health.





|              |                          |
|--------------|--------------------------|
| Book         | Policy Manual            |
| Section      | Vol. 18, No. 2 - REVISED |
| Title        | Copy of ANTI-HARASSMENT  |
| Number       | *po1362 JEP 9/17/18      |
| Status       |                          |
| Adopted      | August 13, 2013          |
| Last Revised | April 12, 2016           |

## 1362 - **ANTI-HARASSMENT**

### **General Policy Statement**

It is the policy of the School Board to maintain an education and work environment which is free from all forms of unlawful harassment, including sexual harassment. This commitment applies to all School District operations, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment. This policy applies to unlawful conduct occurring on school property, or at another location if such conduct occurs during an activity sponsored by the Board.

The Superintendent will vigorously enforce its prohibition against harassment on the basis of race, color, national origin, sex (including sexual orientation, transgender status, or gender identity), disability (including HIV, AIDS, or sickle cell trait), pregnancy, marital status, age (except as authorized by law), religion, military status, ancestry, or genetic information, which are classes protected by State and/or Federal law (collectively, "protected classes") or any other legally prohibited basis, and encourages those within the School District community as well as third parties, who feel aggrieved to seek assistance to rectify the problems. The Superintendent will investigate all allegations of unlawful harassment and in those cases where legally prohibited harassment is substantiated, the Superintendent will take immediate steps to end the harassment. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action.

For purposes of this policy, "School District community" means students, administrators, teachers, staff, and all other school personnel, including Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

For purposes of this policy, "third parties" include, but are not limited to, guests and/or visitors on School District property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the Board, and other individuals who come in contact with members of the School District community at school-related events/activities (whether on or off School District property).

### **Other Violations of the Anti-Harassment Policy**

The Superintendent will also take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of harassment.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of unlawful harassment, when responsibility for reporting and/or investigating unlawful harassment charges comprises part of one's supervisory duties.

## Definitions

### Sexual Harassment

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972, "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- A. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in a class, educational program, or activity;
- B. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual;
- C. Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

Sexual harassment may involve the behavior of a person of either gender against a person of the same or opposite gender.

Prohibited acts that constitute sexual harassment may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

- A. Unwelcome sexual propositions, invitations, solicitations, and flirtations.
- B. Physical assault.
- C. Threats or insinuations that a person's employment, wages, academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs or events, or other conditions of employment or education may be adversely affected by not submitting to sexual advances.
- D. Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes, or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls.
- E. Sexually suggestive objects, pictures, videotapes, audio recordings, or literature, placed in the work or educational environment, which may embarrass or offend individuals.
- F. Unwelcome and inappropriate touching, patting, or pinching; obscene gestures.
- G. A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another.
- H. Remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.
- I. Consensual sexual relationships where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment.
- J. Verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.
- K. Inappropriate boundary invasions by a District employee or other adult member of the School District community into a student's personal space and personal life.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects an individual's employment or education, or such that it creates a hostile or abusive employment or educational environment.

**NOTE: Any teacher, administrator, coach, or other school authority who engages in sexual conduct with a student may also be guilty of a crime.**

### **Sexual Cyberharassment**

Pursuant to Florida law, "sexual cyberharassment" means to publish a sexually explicit image of a person that contains or conveys the personal identification information of the depicted person to an Internet website without the depicted person's consent, for no legitimate purpose with the intent of causing substantial emotional distress to the depicted person. Sexual cyberharassment may be a form of sexual harassment.

### **Race/Color Harassment**

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

### **Religious (Creed) Harassment**

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involves religious slurs.

### **National Origin Harassment**

Prohibited national origin harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's national origin, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

### **Disability Harassment**

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance of creating an intimidating, hostile, or offensive working and/or learning environment; or with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's disabling condition, such as negative comments about speech patterns, movement, physical impairments, or defects/appearances, or the like. Such harassment may further occur where conduct is directed at or pertains to a person's genetic information.

### **Pregnancy Harassment**

Prohibited pregnancy harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's pregnancy and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's pregnancy and condition of pregnancy.

### **Reports and Complaints of Harassing Conduct**

Members of the School District community and third parties are encouraged to promptly report incidents of unlawful harassing conduct to an administrator, supervisor or other School District official so that the Superintendent may address the conduct before it becomes severe, pervasive, or persistent. Any administrator, supervisor, or other District Official who receives such a complaint shall file it with the District's Anti-Harassment Compliance Officer within two (2) days.



Members of the School District community or third parties who believe they have been unlawfully harassed by another member of the School District community or a third party are entitled to utilize the Board's complaint process that is set forth in Policy 1362.02 - Anti- Harassment Complaint Procedure. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's employment or participation in educational or extra-curricular programs unless the complaining individual makes the complaint maliciously or with knowledge that it is false. While there are no time limits for initiating complaints of harassment under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

If, during an investigation of reported act of bullying and/or harassment in accordance with Policy 5517.01 – Bullying and Harassment, the principal or his/her designee believes that the reported misconduct may have created a hostile work environment and may have constituted unlawful discriminatory harassment based on sex, race, color, national origin, religion, or disability, the principal or his/her designee will report the act of bullying and/or harassment to one of the Compliance Officers who shall investigate the allegation in accordance with this policy. While the Compliance Officer investigates the allegation, the Principal shall suspend his/her Policy 5517.01 investigation to await the Compliance Officer's written report. The Compliance Officer shall keep the Principal informed of the status of the Policy 1362 investigation and provide him/her with a copy of the resulting written report.

### **Anti-Harassment Compliance Officers**

The following individuals serve as "Anti-Harassment Compliance Officers" for the District. They are hereinafter referred to as the "Compliance Officers":

Executive Director for Human Resources  
6500 57<sup>th</sup> Street  
Vero Beach, FL 32967  
772-564-3000

Executive Director for Exceptional Education and Student Services  
6500 57<sup>th</sup> Street  
Vero Beach, FL 32967  
772-564-3000

The name(s), title(s), and contact information of these individuals will be published annually on the School District's website.

The names, titles, and/or contact information of the persons presently serving as Compliance Officers may change from time to time, and such changes shall be deemed technical corrections within the meaning of Bylaw 0131.1 and shall be made pursuant to that bylaw.

A Compliance Officer will be available during regular school/work hours to discuss concerns related to unlawful harassment, to assist students, other members of the School District community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the individual in those instances where concerns have not resulted in the filing of a formal complaint and where all parties are in agreement to participate in an informal process.

Any Board employee who directly observes unlawful harassment of a student is obligated, in accordance with this policy, to report such observations to one of the Anti-Harassment Compliance Officers within two (2) business days. Thereafter, the Compliance Officer or designee must contact the student, if over age eighteen (18) or the student's parents if under the age eighteen (18), within two (2) business days to advise s/he/them of the Superintendent's intent to investigate the alleged misconduct, including the obligation of the compliance officer or designee to conduct an investigation following all the procedures outlined for a formal complaint.

Compliance Officers are assigned to accept complaints of unlawful harassment directly from any member of the School District community or a visitor to the District, or to receive complaints which are initially filed with a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, the Compliance Officer will begin either an informal or formal process (depending on the request of the member of the School District community alleging harassment), or the Compliance Officer will designate a specific individual to conduct such a process. In the case of a formal complaint, the Compliance Officer will prepare, after consultation with the Board Attorney or Superintendent, recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. All members of the School District community must report incidents of unlawful harassment which are reported to them to a Compliance Officer within five (5) calendar days of learning of the incident.

### **Investigation and Complaint Procedure**

Any employee or other member of the School District community or visitor to the District who believes that s/he has been subjected to unlawful harassment may seek resolution of his/her complaint through either the informal or formal procedures as described below. Further, a process for investigating claims of harassment and a process for rendering a decision regarding whether the claim of legally prohibited harassment or retaliation was substantiated are set forth below.

Due to the sensitivity surrounding complaints of unlawful harassment or retaliation, time lines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) calendar days of the complaint being received).

The informal and formal procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of unlawful harassment or retaliation with the United States Department of Education, Office for Civil Rights, the Florida Civil Rights Commission, or the Equal Employment Opportunity Commission.

### **Informal Complaint Procedure**

The goal of the informal complaint procedure is to stop inappropriate behavior and to investigate and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for a student who believes s/he has been unlawfully harassed or retaliated against. This informal procedure is not required as a precursor to the filing of a formal complaint.

Employees, other members of the School District community, or third parties who believe that they have been unlawfully harassed or retaliated against may initiate their complaint through this informal complaint process, but are not required to do so. The informal process is only available in those circumstances where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in the informal process.

Employees, other members of the School District community, or third parties who believe that they have been unlawfully harassed or retaliated against may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

However, all complaints of harassment involving a District employee, any other adult member of the School District community, or a third party against a student will be formally investigated.

As an initial course of action, if an individual feels that s/he is being unlawfully harassed and s/he is able and feels safe doing so, the individual should tell or otherwise inform the harasser that the conduct is unwelcome and must stop. Such direct communication should not be utilized in circumstances involving sexual violence. The complaining individual should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officers is available to support and counsel individuals when taking this initial step or to intervene on behalf of the individual if requested to do so. An individual who is uncomfortable or unwilling to inform the harasser of his/her complaint is not prohibited from otherwise filing an informal or a formal complaint. In addition, with regard to certain types of unlawful harassment, such as sexual harassment, the Compliance Officer may advise against the use of the informal complaint process.

An individual who believes s/he has been unlawfully harassed may make an informal complaint, either orally or in writing: (1) to a teacher, other employee, or building administrator; (2) to the Superintendent or other District-level employee; and/or (3) directly to one of the Compliance Officers.

All informal complaints must be reported to the Compliance Officers who will either facilitate an informal resolution as described below on his/her own, or appoint another individual to facilitate an informal resolution.

The School District's informal complaint procedure is designed to provide employees, other members of the School District community, or third parties who believe they are being unlawfully harassed by another individual with a range of options designed to bring about a resolution of their concerns. Depending upon the nature of the complaint and the wishes of the individual claiming unlawful harassment, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the individual about how to communicate the unwelcome nature of the behavior to the alleged harasser.
- B. Distributing a copy of the anti-harassment policy as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works or attends.
- C. If both parties agree, the Compliance Officers may arrange and facilitate a meeting between the individual claiming harassment and the individual accused of harassment to work out a mutual resolution. Such a meeting is not appropriate in circumstances involving sexual violence.

While there are no set time limits within which an informal complaint must be resolved, the Compliance Officers or designee will exercise his/her authority to attempt to resolve all informal complaints within fifteen (15) calendar days of receiving the informal complaint. Parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal complaint. And, as stated above, parties may request that the informal process be terminated at any time to move to the formal complaint process.

All materials generated as part of the informal complaint process will be retained by the Compliance Officers or designee in accordance with the Board's records retention policy. (See Policy 8310 and Policy 8320)

### **Formal Complaint Procedure**

If a complaint is not resolved through the informal complaint process, if one of the parties has requested that the informal complaint process be terminated to move to the formal complaint process, or if the individual elects to file a formal complaint initially, the formal complaint process as described below shall be implemented.

This formal complaint process is not intended to interfere with the rights of an employee, other member of the School District community, or third party to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights, the Florida Civil Rights Commission, or the Equal Employment Opportunity Commission.

An individual who believes s/he has been subjected to offensive conduct/harassment hereinafter referred to as the "complainant", may file a formal complaint, either orally or in writing with a teacher, principal, or other District employee, the Compliance Officer, Superintendent, or other District employee. Due to the sensitivity surrounding complaints of unlawful harassment and retaliation, time lines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. If a complainant informs a teacher, principal, or other District employee, the Compliance Officer, Superintendent, or other District employee, either orally or in writing, about any complaint of harassment, that employee must report such information to the Compliance Officer or designee within two (2) business days.

Throughout the course of the process as described herein, the Compliance Officer should keep the parties informed of the status of the investigation and the decision making process.

All formal complaints must include the following information to the extent it is available: the identity of the individual believed to have engaged in, or engaging in, offensive conduct/harassment/retaliation; a detailed description of the facts upon which the complaint is based; a list of potential witnesses; and the resolution sought by the complainant.

If the complainant is unwilling or unable to provide a written statement including the information set forth above, the Compliance Officer shall ask for such details in an oral interview. Thereafter the Compliance Officer will prepare a written summary of the oral interview, and the complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the Compliance Officer will consider whether any action should be taken in the investigatory phase to protect the complainant from further harassment or retaliation including but not limited to a change of work assignment or schedule for the complainant and/or the alleged harasser. In making such a determination, the Compliance Officer should consult the complainant to assess his/her agreement to any action deemed appropriate. If the complainant is unwilling to consent to any change that is deemed appropriate by the Compliance Officer, the Compliance Officer may still take whatever actions s/he deem appropriate in consultation with the Superintendent and/or Board Attorney.

Within five (5) business days of receiving a formal complaint, the Compliance Officer or a designee will initiate a formal investigation to determine whether the complainant has been subjected to offensive conduct/harassment/retaliation. A Principal will not conduct an investigation unless directed to do so by the Compliance Officer.

Simultaneously, the Compliance Officer will inform the individual alleged to have engaged in the harassing conduct, hereinafter referred to as the "respondent", that a complaint has been received. The respondent will be informed about the nature of the allegations and a copy of these administrative procedures and the Board's anti-harassment policy shall be provided to the respondent at that time. The respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, the Compliance Officer or a designee will attempt to complete an investigation into the allegations of harassment/retaliation within fifteen (15) calendar days of receiving the formal complaint. The investigation will include:

- A. interviews with the complainant;
- B. interviews with the respondent;
- C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations;
- D. consideration of any documentation or other evidence presented by the complainant, respondent, or any other witness which is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Compliance Officer or the designee may consult with the Board Attorney. A written report shall then be prepared and delivered to the Superintendent which summarizes the evidence gathered during the investigation and

provides recommendations based on the evidence and the definition of unlawful harassment as provided in Board policy and State and Federal law as to whether the complainant has been subject to unlawful harassment. The Compliance Officer's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if discriminatory harassment or retaliation occurred, a preponderance of evidence standard will be used. The Compliance Officer may consult with the Board Attorney before finalizing the report to the Superintendent.

Absent extenuating circumstances, within ten (10) business days of receiving the report of the Compliance Officer or the designee, the Superintendent must either issue a final decision regarding whether or not the complaint of harassment has been substantiated or request further investigation. A copy of the Superintendent's final decision will be delivered to both the complainant and the respondent.

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within ten (10) business days. At the conclusion of the additional investigation, the Superintendent must issue a final written decision as described above.

The decision of the Superintendent shall be final.

The Superintendent reserves the right to investigate and resolve a complaint or report of unlawful harassment regardless of whether the member of the School District community or third party alleging the unlawful harassment pursues the complaint. The Superintendent also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Superintendent.

### **Privacy/Confidentiality**

The School District will employ all reasonable efforts to protect the rights of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy and related administrative procedures shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. All complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the respondent.

During the course of a formal investigation, the Compliance Officer or his/her designee will instruct all members of the School District community and third parties who are interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of a harassment investigation is expected not to disclose any information that s/he learns or that s/he provides during the course of the investigation.

All public records created as a part of an investigation of a complaint of harassment will be maintained by the Compliance Officer in accordance with the Board's records retention policy. Any records which are considered student records in accordance with the *Family Educational Rights and Privacy Act* will be maintained in a manner consistent with the provisions of the Federal and State laws.

### **Sanctions and Monitoring**

The Superintendent shall vigorously enforce the Board's prohibitions against unlawful harassment by taking appropriate action reasonably calculated to stop the harassment and prevent further such harassment. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful harassment is not substantiated, the Superintendent may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Superintendent becomes aware that a prior remedial action has been taken against a member of the School District community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its reoccurrence, and remedy its effects.

### **Retaliation**

Any act of retaliation against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation is prohibited.

### **Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct**

State law requires any teacher or school employee who knows or suspects that a child under the age of eighteen (18) is a victim of child abuse or neglect to immediately report that knowledge or suspicion to the Department of Children and Family Services. If,

during the course of a harassment investigation, the Compliance Officer or a designee has reason to believe or suspect that the alleged conduct reasonably indicates abuse or neglect of the complainant, a report of such knowledge must be made in accordance with State law and Board policy.

If the Compliance Officer or a designee has reason to believe that the complainant has been the victim of criminal conduct as defined under Florida law, such knowledge should be reported to local law enforcement.

Any reports made to the local child protection service or to local law enforcement shall not terminate the Compliance Officer's or a designee's obligation and responsibility to continue to investigate a complaint of harassment. While the Compliance Officers or a designee may work cooperatively with outside agencies to conduct concurrent investigations, in no event shall the harassment investigation be inhibited by the involvement of outside agencies without good cause after consultation with the Superintendent.

### **Mandatory Reporting of Misconduct by Certificated Employees**

The Superintendent is required by State law and Board Policy 8141 to report alleged misconduct by certificated employees of the District that affects the health, safety, or welfare of a student. In accordance with Board policy and State law, the Superintendent shall investigate each allegation of such conduct and, if confirmed, shall report such misconduct pursuant to Policy 8141.

### **Education and Training**

In support of this policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent or designee shall provide appropriate training to all members of the School District community related to the implementation of this policy and Policy 1362.02. All training regarding this policy, Policy 1362.02, and harassment in general, will be age and content appropriate.

### **Retention of Investigatory Records and Materials**

**All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including, but not limited to:**

1. **all written reports/allegations/complaints/statements;**
- 
2. **narratives of all verbal reports/allegations/complaints/statements;**
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3. **a narrative of all actions taken by District personnel;**
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4. **any written documentation of actions taken by District personnel;**
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5. **written witness statements;**
- 
6. **narratives of, notes from, or audio, video, or digital recordings of witness statements;**
- 
7. **all documentary evidence;**
- 
8. **e-mails, texts, or social media posts pertaining to the investigation;**
- 
9. **contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;**
- 
10. **written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;**
- 
11. **dated written determinations to the parties;**
- 
12. **dated written descriptions of verbal notifications to the parties;**
- 
13. **written documentation of any interim measures offered and/or provided to complainants, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and**
- 
14. **documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects.**

The information, documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

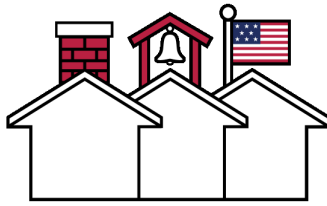
The information, documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 for not less than three (3) years, but longer if required by the District's records retention schedule.

Revised 7/28/15  
Technical Change 1/14/16  
Revised 4/12/16

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Legal F.S. 110.1221, 250.481, 760.01, 760.10, 784.049, 1000.05  
42 U.S.C. 2000d et seq.  
42 U.S.C. 2000e et seq.  
29 U.S.C. 621 et seq.  
29 U.S.C. 794  
29 C.F.R. Part 1635  
38 U.S.C. 4301 et seq., The Uniformed Services Employment and Reemployment Rights Act  
42 U.S.C. 12101 et seq.  
20 U.S.C. 1681 et seq.  
42 U.S.C. 1983  
42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act  
National School Boards Association Inquiry and Analysis - May 2008

Last Modified by Brenda Davis on September 26, 2018



|              |                                                                       |
|--------------|-----------------------------------------------------------------------|
| Book         | Policy Manual                                                         |
| Section      | Vol. 18, No. 2 - REVISED                                              |
| Title        | Copy of NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY |
| Number       | *po2260 LTM 9/17/18                                                   |
| Status       |                                                                       |
| Adopted      | August 13, 2013                                                       |
| Last Revised | February 14, 2017                                                     |

## 2260 - **NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY**

Any form of discrimination or harassment can be devastating to an individual's academic progress, social relationship, and/or personal sense of self-worth. As such, the School Board will not discriminate nor tolerate harassment in its educational programs or activities on the basis of race, color, national origin, sex (including sexual orientation, transgender status, or gender identity), disability (including HIV, AIDS, or sickle cell trait), pregnancy, marital status, age (except as authorized by law), religion, military status, ancestry, or genetic information, which are classes protected by State and/or Federal law (collectively, "protected classes").

The Board also does not discriminate on the basis of protected classes in its employment policies and practices as they relate to students.

Equal educational opportunities shall be available to all students, without regard to the protected classes, age (unless age is a factor necessary to the normal operation or the achievement of any legitimate objective of the program/activity), place of residence within the boundaries of the District, or social or economic background, to learn through the curriculum offered in this District. Educational programs shall be designed to meet the varying needs of all students.

In order to achieve the aforesaid goal, the Superintendent shall:

### **A. Curriculum Content**

review current and proposed courses of study and textbooks to detect any bias based upon the protected classes, ascertaining whether or not supplemental materials, singly or taken as a whole, fairly depict the contribution of both genders, various races, ethnic groups, etc., toward the development of human society;

### **B. Staff Training**

develop an ongoing program of in-service training for school personnel designed to identify and solve problems of bias based upon the protected classes, in all aspects of the program;

### **C. Student Access**

1. review current and proposed programs, activities, facilities, and practices to verify that all students have equal access thereto and are not segregated on the basis of the protected classes, in any duty, work, play, classroom, or school practice, except as may be permitted under State and Federal laws and regulations;
2. verify that facilities are made available for non-curricular student activities that are initiated by parents or other members of the community, including but not limited to any group that is officially affiliated with the Boy Scouts of America or any other youth group listed in Title 36 of the United States Code as a patriotic society, pursuant to Board Policy 7510 - Use of District Facilities;



In accordance with Florida Statute, the Board may establish and maintain a single-gender nonvocational class, extra-curricular activity, or school for elementary, middle, or high school students.

#### **D. District Support**

verify that like aspects of the District's program receive like support as to staff size and compensation, purchase and maintenance of facilities and equipment, access to such facilities and equipment, and related matters;

#### **E. Student Assessment**

verify that tests, procedures, or guidance and counseling materials, which are designed to evaluate student progress, rate aptitudes, analyze personality, or in any manner establish or tend to establish a category by which a student may be judged, are not differentiated or stereotyped on the basis of the protected classes.

#### **District Compliance Officer(s)**

The Board designates the following individuals to serve as the District's "Compliance Officers" (also known as "Civil Rights Coordinators") (hereinafter referred to as the "COs")

Executive Director for Human Resources  
6500 57<sup>th</sup> Street  
Vero Beach, FL 32967  
772-564-3000

Executive Director for Exceptional Education and Student Services  
6500 57<sup>th</sup> Street  
Vero Beach, FL 32967  
772-564-3000

The names, titles, and contact information of these individuals will be published annually on the School District's website.

The COs are responsible for coordinating the District's efforts to comply with applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination or denial of equal access. The CO(s) shall also verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendment Act of 1972, Section 504 of the Rehabilitation Act of 1973 (as amended), the Age Discrimination Act of 1975, the Florida Civil Rights Act of 1992, the Florida Educational Equity Act, and/or their implementing regulations is provided to students, their parents, staff members, and the general public. A copy of each of the acts and regulations on which this notice is based may be found in the CO's office.

The Superintendent shall annually attempt to identify children with disabilities, ages 3-22, who reside in the District but do not receive public education. In addition, s/he shall establish procedures to identify students who are Limited English Proficient (LEP), including immigrant children and youth, to assess their ability to participate in District programs, and develop and administer a program that meets the English language and academic needs of these students. This program shall include procedures for student placement, services, evaluation, and exit procedures and shall be designed to provide students with effective instruction that leads to academic achievement and timely acquisition of proficiency in English. As a part of this program, the District will evaluate the progress of students in achieving English language proficiency in the areas of listening, speaking, reading, and writing, on an annual basis (see AP 2260F).

#### **Reports and Complaints of Unlawful Discrimination and Retaliation**

Students and all other members of the School District community and third parties are encouraged to promptly report incidents of unlawful discrimination and/or retaliation to a teacher, administrator, supervisor, or other District official so that the Board may address the conduct. Any teacher, administrator, supervisor, or other District employee or official who receives such a complaint shall file it with the CO within two (2) business days.

Members of the School District community, which includes students or third parties, who believe they have been unlawfully discriminated/retaliated against are entitled to utilize the complaint process set forth below. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's employment or participation in educational or extra-curricular programs. While there are no time limits for initiating complaints under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

If, during an investigation of alleged bullying, aggressive behavior and/or harassment in accordance with Policy 5517.01 – Bullying and Harassment, the Principal believes that the reported misconduct may constitute unlawful discrimination based on a protected class, the Principal shall report the act to one of the COs who shall investigate the allegation in accordance with this policy. While the

CO investigates the allegation, the Principal shall suspend his/her Policy 5517.01 investigation to await the CO's written report. The CO shall keep the Principal informed of the status of the Policy 2260 investigation and provide him/her with a copy of the resulting written report.

The COs will be available during regular school/work hours to discuss concerns related to unlawful discrimination/retaliation. COs shall accept complaints of unlawful discrimination/retaliation directly from any member of the School District community or a visitor to the District, or receive complaints that are initially filed with a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, a CO will begin either an informal or formal process (depending on the request of the person alleging the discrimination/retaliation or the nature of the alleged discrimination/retaliation), or the CO will designate a specific individual to conduct such a process. The CO will provide a copy of this policy to any person who files a complaint. In the case of a formal complaint, the CO will prepare recommendations for the Superintendent or oversee the preparation of such recommendations by a designee. All members of the School District community must report incidents of discrimination/retaliation that are reported to them to the CO within two (2) business days of learning of the incident/conduct.

Any Board employee who directly observes unlawful discrimination/retaliation of a student is obligated, in accordance with this policy, to report such observations to one of the COs within two (2) business days. Additionally, any Board employee who observes an act of unlawful discrimination/retaliation is expected to intervene to stop the misconduct, unless circumstances make such an intervention dangerous, in which case the staff member should immediately notify other Board employees and/or local law enforcement officials, as necessary, to stop the misconduct. Thereafter, the CO or designee must contact the student, if age eighteen (18) or older, or the student's parents if the student is under the age eighteen (18), within two (2) school days to advise s/he/them of the Board's intent to investigate the alleged wrongdoing.

### **Investigation and Complaint Procedure**

Any student who believes that s/he has been subjected to unlawful discrimination or retaliation may seek resolution of his/her complaint through the procedures described below. The formal complaint procedures involve an investigation of the individual's claims and a process for rendering a decision regarding whether the charges are substantiated.

Due to the sensitivity surrounding complaints of unlawful discrimination or retaliation, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) business days of the complaint being received).

The procedures set forth below are not intended to interfere with the rights of a student to pursue a complaint of unlawful discrimination or retaliation with the United States Department of Education Office for Civil Rights ("OCR"). The Atlanta Office of the OCR can be reached at 61 Forsyth Street, SW. - Suite 19T10, Atlanta, GA 30303-8927 Phone: 404-974-9406; Fax: 404-974-9471; Web: <http://www.ed.gov/ocr>.

### **Informal Complaint Procedure**

The goal of the informal complaint procedure is to quickly stop inappropriate behavior and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for a student who believes s/he has been unlawfully discriminated or retaliated against. This informal procedure is not required as a precursor to the filing of a formal complaint.

The informal process is only available in those circumstances where the parties (the alleged target of the discrimination and individual(s) alleged to have engaged in the discrimination) agree to participate in it.

Students who believe that they have been unlawfully discriminated/retaliated against may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

All complaints involving a District employee or any other adult member of the School District community against a student will be formally investigated.

As an initial course of action, if a student feels that s/he is being unlawfully discriminated/retaliated against and s/he is able and feels safe doing so, the individual should tell or otherwise inform the person who engaged in the allegedly discriminatory/retaliatory conduct that it is inappropriate and must stop. The complaining individual should address the alleged misconduct as soon after it occurs as possible. The COs are available to support and counsel individuals when taking this initial step or to intervene on behalf of the individual if requested to do so. An individual who is uncomfortable or unwilling to inform the person who allegedly engaged in the unlawful conduct of his/her concerns is not prohibited from otherwise filing an informal or a formal complaint. In addition, with regard to certain types of unlawful discrimination, such as sexual discrimination, the CO may advise against the use of the informal complaint process.

A student who believes s/he has been unlawfully discriminated/retaliated against may make an informal complaint, either orally or in writing: (1) to a teacher, other employee, or building administrator in the school the student attends; (2) to the Superintendent or other District-level employee; and/or (3) directly to one of the COs.

All informal complaints must be reported to one of the COs who will either facilitate an informal resolution as described below, or appoint another individual to facilitate an informal resolution.

The School District's informal complaint procedure is designed to provide students who believe they are being unlawfully discriminated/retaliated against with a range of options aimed at bringing about a prompt resolution of their concerns. Depending upon the nature of the complaint and the wishes of the student claiming unlawful discrimination/retaliation, informal resolution may involve, but not be limited to, one (1) or more of the following:

- A. Advising the student about how to communicate his/her concerns to the person who allegedly engaged in the discriminatory/retaliatory behavior.
- B. Distributing a copy of Policy 2260 – Nondiscrimination and Access to Equal Educational Opportunity as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works or attends.
- C. If both parties agree, the CO may arrange and facilitate a meeting between the student claiming discrimination/retaliation and the individual accused of engaging in the misconduct to work out a mutual resolution.

While there are no set time limits within which an informal complaint must be resolved, the CO or designee will exercise his/her authority to attempt to resolve all informal complaints within fifteen (15) business days of receiving the informal complaint. Parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal complaint. And, as stated above, parties may request that the informal process be terminated at any time to move to the formal complaint process.

~~All materials generated as part of the informal complaint process will be retained by the COs in accordance with the Board's records retention policy and/or student records policy. (See Policy 8310 and Policy 8330)~~

### **Formal Complaint Procedure**

If a complaint is not resolved through the informal complaint process, if one (1) of the parties requested that the informal complaint process be terminated to move to the formal complaint process, or if the student elects to file a formal complaint initially, the formal complaint process shall be implemented.

A student who believes s/he has been subjected to unlawful discrimination/retaliation (hereinafter referred to as the "complainant") may file a formal complaint, either orally or in writing, with a teacher, Principal, or other District employee at the student's school, the CO, Superintendent, or another District employee who works at another school or at the District level. Due to the sensitivity surrounding complaints of unlawful discrimination, timelines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs. If a complainant informs a teacher, Principal, or other District employee at the student's school, Superintendent, or other District employee, either orally or in writing, about any complaint of discrimination/retaliation, that employee must report such information to the CO within two (2) business days.

Throughout the course of the process, the CO should keep the parties informed of the status of the investigation and the decision-making process.

All formal complaints must include the following information to the extent it is available: the identity of the individual believed to have engaged in, or be engaging in; the discriminatory/retaliatory conduct; a detailed description of the facts upon which the complaint is based; a list of potential witnesses; and the resolution sought by the complainant.

If the complainant is unwilling or unable to provide a written statement including the information set forth above, the CO shall ask for such details in an oral interview. Thereafter, the CO will prepare a written summary of the oral interview, and the complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the CO will consider whether any action should be taken in the investigatory phase to protect the complainant from further discrimination or retaliation, including, but not limited to, a change of work assignment or schedule for the complainant and/or the person alleged to have engaged in the misconduct. In making such a determination, the CO should consult the complainant to assess his/her agreement to the proposed action. If the complainant is unwilling to consent to the proposed change, the CO may still take whatever actions s/he deems appropriate in consultation with the Superintendent.

Within two (2) business days of receiving the complaint, the CO or designee will initiate a formal investigation to determine whether the complainant has been subjected to unlawful discrimination/retaliation. A Principal will not conduct an investigation unless directed to do so by the CO.

Simultaneously, the CO will inform the individual alleged to have engaged in the discriminatory or retaliatory conduct (hereinafter referred to as the "respondent") that a complaint has been received. The respondent will be informed about the nature of the allegations and provided with a copy of any relevant policies and/or administrative guidelines, including Policy 2260 - Nondiscrimination and Access to Equal Educational Opportunity. The respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, the CO or designee will attempt to complete an investigation into the allegations of discrimination/retaliation within fifteen (15) business days of receiving the formal complaint. The investigation will include:

- A. interviews with the complainant;
- B. interviews with the respondent;
- C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations;
- D. consideration of any documentation or other information presented by the complainant, respondent, or any other witness that is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the CO or designee shall prepare and deliver a written report to the Superintendent that summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful discrimination/retaliation as provided in Board policy and State and Federal law as to whether the complainant has been subjected to unlawful discrimination/retaliation. The CO's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if unlawful discrimination or retaliation occurred, a preponderance of evidence standard will be used. The CO may consult with the Board's legal counsel before finalizing the report to the Superintendent.

Absent extenuating circumstances, within five (5) business days of receiving the report of the CO or designee, the Superintendent must either issue a final decision regarding whether the charges have been substantiated or request further investigation. A copy of the Superintendent's final decision will be delivered to both the complainant and the respondent.

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within five (5) days. At the conclusion of the additional investigation, the Superintendent shall issue a final written decision as described above.

If the Superintendent determines the complainant was subjected to unlawful discrimination/retaliation, s/he must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate and effective, and tailored to the specific situation.

The Superintendent's decision will be final.

The Board reserves the right to investigate and resolve a complaint or report of unlawful discrimination/retaliation regardless of whether the student alleging the unlawful discrimination/retaliation pursues the complaint. The Board also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board or its designee.

The complainant may be represented, at his/her own cost, at any of the above described meetings/hearings.

The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights or the filing of a court case. Use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.

### **Privacy/Confidentiality**

The School District will employ all reasonable efforts to protect the rights of the complainant, the respondent(s), and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. All complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the respondent(s).

During the course of a formal investigation, the CO or designee will instruct each person who is interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of an investigation is expected not to disclose to third parties any information that s/he learns and/or provides during the course of the investigation.

All records created as a part of an investigation of a complaint of discrimination/retaliation will be maintained by the CO in accordance with the Board's records retention policy. Any records that are considered student education records in accordance with

the Family Educational Rights and Privacy Act or under Florida's student records law will be maintained in a manner consistent with the provisions of the Federal and State law.

### **Sanctions and Monitoring**

The Board shall vigorously enforce its prohibitions against unlawful discrimination/retaliation by taking appropriate action reasonably calculated to stop and prevent further misconduct. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful discrimination/retaliation is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Board becomes aware that a prior remedial action has been taken against a member of the School District community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its reoccurrence, and remedy its effects.

### **Retaliation**

Retaliation against a person who makes a report or files a complaint alleging unlawful discrimination, or participates as a witness in an investigation is prohibited. Specifically, the Board will not retaliate against, coerce, intimidate, threaten or interfere with any individual because the person opposed any act or practice made unlawful by any Federal or State civil rights law, or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under those laws, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws.

### **Education and Training**

In support of this policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent or designee shall provide appropriate information to all members of the School District community related to the implementation of this policy and shall provide training for District students and staff where appropriate. All training, as well as all information, provided regarding the Board's policy and discrimination in general, will be age and content appropriate.

### **Retention of Investigatory Records and Materials**

**All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including, but not limited to:**

1. **all written reports/allegations/complaints/statements;**
- 
2. **narratives of all verbal reports/allegations/complaints/statements;**
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3. **a narrative of all actions taken by District personnel;**
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4. **any written documentation of actions taken by District personnel;**
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5. **written witness statements;**
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6. **narratives of, notes from, or audio, video, or digital recordings of witness statements;**
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7. **all documentary evidence;**
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8. **e-mails, texts, or social media posts pertaining to the investigation;**
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9. **contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;**
- 
10. **written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or**

**harassment;**

- 11. **dated written determinations to the parties;**
- 12. **dated written descriptions of verbal notifications to the parties;**
- 13. **written documentation of any interim measures offered and/or provided to complainants, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and**
- 14. **documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects.**

**The information, documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).**

**The information, documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 for not less than ~~four~~<sup>three</sup> (4) years, but longer if required by the District's records retention schedule.**

Revised 3/24/15  
Revised 7/28/15  
Technical Change 1/14/16  
Revised 4/12/16  
Revised 2/14/17

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Legal

F.S. 553.501 et seq., Florida Americans with Disabilities Accessibility Implementation Act

F.S. 553.014

F.S. 760.08

F.S. 760.021

F.S. 1000.05, Florida Educational Equity Act

F.S. 1002.311

F.A.C. 6A-19.001

Fourteenth Amendment, U.S. Constitution

20 U.S.C. Section 1681, Title IX of Education Amendment Act

20 U.S.C. Section 1701 et seq., Equal Educational Opportunities Act of 1974

20 U.S.C. Section 7905, Boy Scouts of America Equal Access Act

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

29 U.S.C. Section 794, Rehabilitation Act of 1973, as amended

42 U.S.C. Section 2000 et seq., Civil Rights Act of 1964

42 U.S.C. 12101 et seq., The Americans with Disabilities Act of 1990, as amended

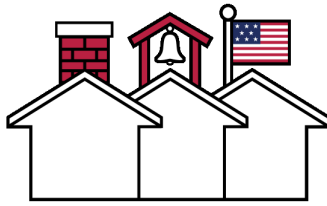
42 U.S.C. 6101 et seq., Age Discrimination Act of 1975

34 C.F.R. Part 110 (7/27/93)

29 C.F.R. Part 1635

Vocational Education Program Guidelines for Eliminating Discrimination and Denial of Services, Department of Education, Office of Civil Rights, March 1979

Title III of the No Child Left Behind Act of 2001



|              |                                                                                |
|--------------|--------------------------------------------------------------------------------|
| Book         | Policy Manual                                                                  |
| Section      | District Requested with Volume 18, Number 2                                    |
| Title        | Copy of SECTION 504/ADA PROHIBITION AGAINST DISCRIMINATION BASED ON DISABILITY |
| Number       | *po2260.01 LTM 9/26/18                                                         |
| Status       |                                                                                |
| Adopted      | August 13, 2013                                                                |
| Last Revised | January 14, 2016                                                               |

#### 2260.01 - **SECTION 504/ADA PROHIBITION AGAINST DISCRIMINATION BASED ON DISABILITY**

Pursuant to Section 504 of the Rehabilitation Act of 1973 ("Section 504"), the Americans with Disabilities Act of 1990, as amended ("ADA"), and the implementing regulations (collectively "Section 504/ADA"), no otherwise qualified individual with a disability shall, solely by reason of his/her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. The School Board does not discriminate in admission or access to, or participation in, or treatment in its programs or activities. As such, the Board's policies and practices will not discriminate against students with disabilities will make accessible to qualified individuals with disabilities its facilities, programs, and activities. No discrimination will be knowingly permitted against any individual with a disability on the sole basis of that disability in any of the programs, activities, policies, and/or practices in the District.

"An individual with a disability" means a person who has, had a record of, or is regarded as having, a physical or mental impairment that substantially limits one or more major life activities. Major life activities are functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, eating, sleeping, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

Major life activities also include the operation of a major bodily function, including, but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

An impairment that is episodic in nature or in remission is considered a disability if it would substantially limit a major life activity when active. An impairment that is temporary in nature does not constitute a disability for purposes of Section 504 unless its severity is such that it results in a substantial limitation of one or more major life activities for an extended period of time. The issue of whether a temporary impairment is substantial enough to be a disability must be resolved on a case-by-case basis, taking into consideration both the duration (or expected duration) of the impairment and the extent to which it actually limits a major life activity of the affected individual.

The determination of whether an impairment substantially limits a major life activity must be made without regard to the ameliorative effects of mitigating measures such as medication, medical supplies, health care plans, equipment or appliances, low-vision devices (not including ordinary eyeglasses or contact lenses), prosthetics (including limbs and devices), hearing aids and cochlear implants or other implantable hearing devices, mobility devices, oxygen therapy equipment or supplies, assistive technology, reasonable accommodations or auxiliary aids or services, or learned behavioral or adaptive neurological modifications.

With respect to public preschool, elementary, and secondary educational services, a qualified person with a disability means a disabled person:

- A. who is of an age during which nondisabled persons are provided educational services;
- B. is of any age during which it is mandatory under Florida law to provide educational services to disabled persons; or



C. to whom the State is required to provide a free appropriate public education pursuant to the Individuals with Disabilities Education Improvement Act (IDEIA).

With respect to career and technical education, a qualified person with a disability means a disabled person who meets the academic and technical standards requisite to admission or participation in the vocational program or activity.

### **District Compliance Officer**

The following person is designated as the District Compliance Officer ("Compliance Officer") for receiving complaints pertaining to Section 504 and/or the ADA:

Name and/or Title: ~~Ms. Heather Clark~~~~James A Robison, Psy.D.~~ District Section 504 Coordinator  
Address: ~~6500 57<sup>th</sup> Street~~  
~~Vero Beach, Florida 32967~~  
1426 19th Street, Vero Beach, 32960  
Phone: 772-564-594932  
E-mail: ~~Heather.Stanford~~~~mic.robison@indianriverschools.org~~

The name(s), title(s), and contact information of this/these individual(s) will be published annually in the School District's annual report to the public, on the School District's web site, and/or in the Positive School Climate and Code of Student Conduct.

The Compliance Officer is responsible for coordinating the District's efforts to comply with and fulfill its responsibilities under Section 504 and Title II of the ADA. A copy of Section 504 and the ADA, including copies of their implementing regulations, may be obtained from the Compliance Officer. Additionally the Compliance Officer will:

- A. ensure compliance with public notice requirements;
- B. establish and monitor the Section 504 referral, identification, and placement process;
- C. develop a child-find brochure describing the District's implementation procedures;
- D. revise, as needed, implementation procedures to comply with changes to the statute, regulations, or OCR policy interpretation;
- E. provide information to the community at large that explains, publicizes, and promotes compliance with Section 504;
- F. ensure the availability of a Section 504 grievance process;
- G. serve as the School District's liaison with the Florida Department of Education regarding matters related to Section 504;
- H. serve as the School District's liaison with the Office for Civil Rights;
- I. inform the Superintendent, the Executive Director of Exceptional Student Education and Student Services, and/or other administrators of unresolved student/parent issues.

The Compliance Officer will oversee the investigation of any complaints of discrimination based on disability, which may be filed pursuant to the Board's adopted internal complaint procedure, and will attempt to resolve such complaints.

The Board will provide for the prompt and equitable resolution of complaints alleging violations of Section 504/ADA. The Board will further establish and implement a system of procedural safeguards in accordance with Section 504, including the right to an impartial due process hearing.

### **Complaint Procedures**

If a student believes that s/he has been excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving Federal financial assistance on the basis of his/her disability, the student and his/her parents, or the eligible student, may utilize the complaint procedures set forth in Policy 2260 - Nondiscrimination and Access to Equal Educational Opportunity as a means of reaching, at the lowest possible administrative level, a prompt and equitable resolution of the matter.

### **Filing a Complaint with OCR/Florida Commission on Human Relations/EEOC**

At any time, if an employee believes that s/he has been subjected to discrimination based upon his/her disability in violation of Section 504 or the ADA, the individual may file a complaint with the U.S. Department of Education's Office for Civil Rights ("OCR"), the Florida Commission on Human Relations, or the Equal Employment Opportunity Commission ("EEOC").

## **Appealing to OCR/Florida Commission on Human Relations/EEOC**

If the complainant is not satisfied with the Superintendent's decision, the complainant will have an additional sixty (60) days to appeal the decision to the United States Department of Education Office of Civil Rights, Florida Commission on Human Relations, or the Equal Employment Opportunity Commission.

## **Retaliation**

Retaliation against a person who makes a report or files a complaint alleging unlawful discrimination, or participates as a witness in an investigation, is prohibited. Specifically, the Board will not discriminate/retaliate against, coerce, intimidate, threaten or interfere with any individual because the person opposed any act or practice made unlawful by Section 504 or the ADA, or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under those laws, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws.

## **Training**

The Compliance Officer will also oversee the training of employees in the District so that all employees understand their rights and responsibilities under Section 504 and the ADA, and are informed of the Board's policies, administrative procedures and practices with respect to fully implementing and complying with the requirements of Section 504/ADA.

The Board will provide in-service training and consultation to staff responsible for the education of persons with disabilities, as necessary and appropriate.

## **Facilities**

No qualified person with a disability will, because the District's facilities are inaccessible to or unusable by persons with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which Section 504/ADA applies.

For facilities constructed or altered after June 3, 1977, the District will comply with applicable accessibility standards. For those existing facilities constructed prior to June 3, 1977, the District is committed to operating its programs and activities so that they are readily accessible to persons with disabilities. This includes, but is not limited to, providing accommodations to parents with disabilities who desire access to their child's educational program or meetings pertinent thereto. Programs and activities will be designed and scheduled so that the location and nature of the facility or area will not deny a student with a disability the opportunity to participate on the same basis as students without disabilities.

## **Education**

The Board is committed to identifying, evaluating, and providing a free appropriate public education (FAPE) to students within its jurisdiction who are disabled within the definition of Section 504, regardless of the nature or severity of their disabilities.

If a student has a physical or mental impairment that significantly limits one (1) or more major life activities, the Board will provide the student with a free appropriate public education. An appropriate education may include regular or special education and related aids and services to accommodate the unique needs of students with disabilities. For disabled students who are not eligible for specially designed instruction under the IDEIA, the related aids and services (including accommodations/modifications/interventions) they need in order to have their needs met as adequately as the needs of nondisabled students are met, shall be delineated, along with their placement, in a Section 504 Plan. Parents/Guardians/Custodians ("parents") are invited and encouraged to participate fully in the evaluation process and development of a Section 504 Plan.

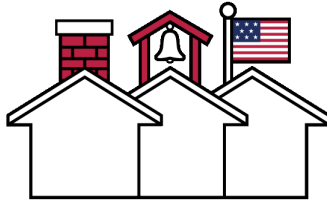
The Board is committed to educating (or providing for the education of) each qualified person with a disability who resides within the District with persons who are not disabled to the maximum extent appropriate.

Generally, the District will place a student with a disability in the regular educational environment unless it is demonstrated that the education of the student in the regular environment even with the use of supplementary aids and services cannot be achieved satisfactorily. If the District places a student in a setting other than the regular educational environment, it shall take into account the proximity of the alternate setting to the student's home.

## **Non-academic Extra-Curricular Services**

The District will provide non-academic extracurricular services and activities in such a manner as is necessary to afford qualified students with disabilities an equal opportunity for participation in such services and activities. Nonacademic and extra-curricular services and activities may include counseling services, physical recreational athletics, transportation, health services, recreational activities, special interests groups or clubs sponsored by the District, referrals to agencies that provide assistance to students with disabilities, and employment of students. At no time should any school personnel counsel students with disabilities toward more





|              |                            |
|--------------|----------------------------|
| Book         | Policy Manual              |
| Section      | Vol. 18, No. 2 - REVISED   |
| Title        | Copy of STUDENT ASSESSMENT |
| Number       | *po2623 CT 9/21/18         |
| Status       |                            |
| Adopted      | August 13, 2013            |
| Last Revised | April 12, 2016             |

#### 2623 - **STUDENT ASSESSMENT**

The School Board shall assess student achievement and needs in all program areas in compliance with the law and rules of the State Board of Education. The purpose will be to determine the progress of students and to assist them in attaining student performance objectives and the educational achievement goals of this District. Each student must participate in the Statewide, standardized assessment program required by law.

Student performance data shall be used in developing objectives for the school improvement plan, evaluating instructional personnel and administrative personnel, assigning staff, allocating resources, acquiring instructional materials and technology, implementing performance-based budgeting, and promoting and assigning students to educational programs. The analysis of student performance data will identify strengths and needs in the educational program and trends over time, and be used in conjunction with budgetary planning and development of remediation programs.

The Board shall require the following:

- A. mandatory participation by all eligible students as defined by State Board of Education rules;
- B. Statewide assessments be taken at the student's regularly assigned school, unless an alternative site is mutually agreed to by the District and the Florida Virtual School or authorized contractor;
- C. parents be informed of the testing program of the schools and of the Statewide, standardized tests or the local assessments that are to be administered to their children;
- D. data regarding individual test scores on either the Statewide, standardized tests or the local assessments be entered on the student's cumulative record, where it will be subject to the policy of this Board regarding student records;
- E. school and District test results will be reported to the public annually;
- F. the Superintendent shall develop procedures for the annual assessment of first, second, third, and fourth grade students on their reading proficiency and identify those students who are reading below grade level. S/He shall ensure that each student's teacher is involved in the assessment and in the identification of those students who are reading below grade level.

The District will notify the parent of each student who exhibits a deficiency in reading, shall consult with the parent in the development of a progress monitoring plan, and will provide intensive reading instruction to the student until the deficiency is corrected.

#### **Statewide Standardized Assessment**

The Board shall administer the Statewide, standardized assessments to students at the grade levels and for the subjects designated by the Florida Commissioner of Education. The Statewide standardized assessment program consists of Statewide standardized comprehensive assessments, end-of-course (EOC) assessments, and the Florida Standards Alternate Assessment.

A Statewide standardized EOC assessment must be used as the final cumulative examination for its associated course. No additional final assessment may be administered in a course with a Statewide, standardized EOC assessment. A District-required local assessment may be used as the final cumulative examination for its associated course in accordance with Board policy.

### **Local Assessments**

The District shall administer a local assessment that measures student mastery of course content at the necessary level of rigor for the grade levels/subjects that are not included in the subjects and grade levels measured under the Statewide, standardized assessment program. The course content that will be measured by the local assessments is set forth in the State standards that are required by F.S. 1003.41 and in the course description.

The District will provide a student's performance results on District-required local assessments to the student's teachers and parents no later than thirty (30) days after administering such assessments, unless the superintendent determines in writing that extenuating circumstances exist and report the extenuating circumstances to the Board.

### **Scheduling of Assessments**

- A. The Board will establish schedules for the administration of any Statewide, standardized assessments and District-required assessments and approve the schedules as an agenda item at a Board meeting. The Board will publish the testing schedules on its website using the Department of Education's uniform calendar with the information required by State law.

The Board will submit the schedules to the Department of Education by October 1<sup>st</sup> of each year. Each District school will publish the schedules for Statewide, standardized assessments and District-required assessments on its website using the uniform calendar.

- B. The Board will not schedule more than five percent (5%) of a student's total school hours in a school year to administer Statewide, standardized assessments and District-required local assessments. The Board will secure written consent from a student's parent before administering District-required local assessments that, after applicable Statewide standardized are scheduled, exceed the five percent (5%) test administration limit for that student. The five percent (5%) test administration limit for a student may be exceeded if necessary to provide test accommodations that are required by an IEP or are appropriate for an English language learner who is currently receiving services in the District's English language learner program.

### **Assessment Preparation**

No school in this District may suspend the regular program of curricula to administer practice assessments or engage in other assessment-preparation activities for a Statewide, standardized assessment. However, the Board authorizes schools to:

- A. distribute to students sample assessment books and answer keys that are published by the Florida Department of Education;
- B. provide individual instruction in assessment taking strategies without suspending the school's regular program of curricula for a student who scores at Level 1 or Level 2 on a prior administration of the Statewide assessment;
- C. provide individualized instruction in the content knowledge and skills assessed, without suspending the school's regular program of curriculum for a student who scores at Level 1 or Level 2 on a prior administration of the Statewide assessment or a student who, through a diagnostic assessment administered by the District is identified as having a deficiency in the content knowledge and skills assessed; and
- D. administer a practice assessment or engage in other assessment preparation activities for the Statewide assessment which are determined necessary to familiarize students with the organization of the assessment, the format of the assessment items, and the assessment directions, or which are otherwise necessary for the valid and reliable administration of the assessment, as set forth in rules adopted by the State Board of Education.

### **Students with Disabilities**

#### **A. Participation in Statewide Standardized Assessments with or without Accommodations**

All students with disabilities will participate in the Statewide standardized assessment program based on State standards, pursuant to F.A.C. 6A-1.09401, without accommodations unless the student's individual educational plan (IEP) team, or the team that develops the plan required under Section 504 of the Rehabilitation Act, determines and documents that the student requires allowable accommodations during instruction and for participation in a Statewide standardized assessment.

"Accommodations" are defined as adjustments to the presentation of the Statewide standardized assessment questions,

methods of recording examinee responses to the questions, scheduling for the administration of a Statewide standardized assessment to include amount of time for administration, settings for administration of a Statewide standardized assessment, and the use of assistive technology or devices to facilitate the student's participation in a Statewide standardized assessment. Accommodations that negate the validity of a Statewide standardized assessment are not allowable.

The provision of accommodations for students with disabilities shall be provided in accordance with section 4 (a) through (e) of F.A.C. 6A-1.0943 and applicable State and Federal laws.

## **B. Florida Standards Alternate Assessment**

A student with a disability, as defined in F.S. 1007.02(2), for whom the IEP Team determines that the Statewide standardized assessments cannot accurately measure the student's abilities, taking into consideration all allowable accommodations, shall have assessment results waived for the purpose of receiving a course grade and a standard high school diploma. Such a waiver shall be designated on the student's transcript. The statement of waiver shall be limited to a statement that performance on an assessment was waived for the purpose of receiving a course grade or a standard high school diploma, as applicable.

The alternative assessment program is designed for a student with a significant cognitive disability and includes the Florida Standards Alternate Assessment (FSAA) – Performance Task and the FSAA – datafolio assessments. The decisions of whether a student is eligible to participate in the alternative assessment program and whether the student should participate in the FSAA – Performance Task or FSAA – datafolio assessments is determined by the student's IEP team and delineated on the student's IEP. ~~Participation in the Florida Standards Alternate Assessment by students with significant cognitive disabilities will be determined by the student's IEP team and delineated on the student's IEP.~~ Such determination must be in accordance with the criteria set forth in Florida law including, but not limited to, F.S. 1008.212 and F.A.C. 6A-1.0943 and 6A-1.09430.

## **C. Extraordinary Exemptions**

A student with a disability for whom the IEP team determines is prevented by a circumstance or condition, as those terms are defined in F.S. 1008.212, from physically demonstrating the mastery of skills that have been acquired and are measured by the Statewide standardized assessment, a Statewide standardized end-of-course assessment, or an alternate assessment pursuant to F.S. 1008.22(3)(c) shall be granted an extraordinary exemption from the administration of the assessment. A learning, emotional, behavioral, or significant cognitive disability or the receipt of services through the homebound or hospitalized program is not, in and of itself, an adequate criterion for the granting of an extraordinary exemption.

Once an IEP Team determines that a student with a disability is prevented by a "circumstance" or "condition" as defined in F.S. 1008.212 from physically demonstrating the mastery of skills that have been acquired and are measured by the Statewide standardized assessment, a Statewide standardized end-of-course assessment, or an alternate assessment under F.S. 1008.22(3)(c), the IEP Team, which must include the parent, may submit to the superintendent a written request for an extraordinary exemption from the administration of the assessment pursuant to F.S. 1008.212.

The written request for an extraordinary exemption may be made at any time during the school year but not later than sixty (60) days before the first day of the administration window of the assessment for which the request is made. The request must include the following information:

1. A written description of the student's disabilities, including a specific description of the student's impaired sensory, manual, or speaking skills.
2. Written documentation of the most recent evaluation data.
3. Written documentation, if available, of the most recent administration of Statewide standardized assessments.
4. A written description of the circumstances' or conditions', as defined above, effect on the student's participation in Statewide standardized assessments.
5. Written evidence that the student has had an opportunity to learn the skills being tested.
6. Written evidence that the student has been provided appropriate instructional accommodations.
7. Written evidence as to whether the student has had the opportunity to be assessed using the instructional accommodations on the student's IEP which are allowable in the administration of a Statewide standardized assessment.
8. Written evidence of the circumstance or condition as defined above.

9. The name, address, and phone number of the student's parent.

The superintendent will recommend to the Commissioner of Education whether the request should be granted or denied, and the Commissioner will grant or deny the requested exemption within thirty (30) calendar days of receipt of the superintendent's request. A copy of the District's procedural safeguards as required in F.A.C. 6A-6.03311 shall be provided to the parent. If the parent disagrees with the IEP Team's recommendation, the dispute resolution methods described in the procedural safeguards shall be made available to the parent.

#### **D. Exemption Options for Students with a Medical Complexity**

In addition to the exemption option available under F.S. 1008.212, a student with a medical complexity as defined in F.S. 1008.22 may be exempt from participating in Statewide standardized assessments, including the Florida Standards Alternate Assessment. If a parent consents in writing, and the student's IEP team determines that the student should not be assessed based on medical documentation that confirms that the student meets the criteria of medical complexity, the parent may select from the assessment exemption options set forth in F.S. 1008.22.

#### **Florida Tax Credit Scholarship Program**

If a student who resides in the District and qualifies for a Florida Tax Credit Scholarship attends an eligible private school, pursuant to State law, that has chosen not to administer the Statewide, standardized assessments, the District shall designate, upon the request of the parent, an assessment site where the student can participate in the Statewide, standardized assessment. The parent is responsible for providing transportation to the assessment site.

#### **Test Administration and Security**

The District may contract with qualified contractors to administer and proctor Statewide, standardized assessments or local assessments required under State law. Assessments may be administered or proctored by qualified contractors at sites that meet criteria established by rules of the State Board of Education and adopted pursuant to State law to implement these contracting requirements.

The District may use District employees, such as education paraprofessionals, to administer and proctor Statewide, standardized assessments or assessments associated with Florida approved course under F.S. 1003.499. District employees will be trained according to rules of the State Board of Education before performing such duties.

The Board shall take appropriate and necessary actions against any employee who knowingly and willfully violates test security rules adopted by the FLDOE for any Statewide, standardized assessments.

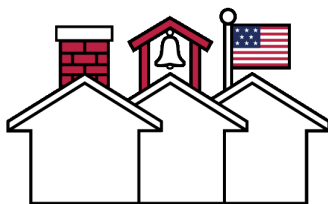
The Superintendent shall develop administrative procedures for test security that will maintain and ensure the integrity of District and State assessments.

Revised 3/4/14  
Revised 3/24/15  
Revised 4/12/16

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Legal F.S. 1002.37, 1002.395, 1003.4282, 1008.212, 1008.22, 1008.23, 1008.24, 1008.25  
F.A.C. 6A-1.09422, 6A-1.0943, 6A-1.09430, 6A-1.09431, 6A-1.09432

Last Modified by Brenda Davis on September 26, 2018



|              |                                                            |
|--------------|------------------------------------------------------------|
| Book         | Policy Manual                                              |
| Section      | Vol. 18, No. 2 - REVISED                                   |
| Title        | Copy of NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY |
| Number       | *po3122 JEP 09/17/18                                       |
| Status       |                                                            |
| Adopted      | August 13, 2013                                            |
| Last Revised | April 12, 2016                                             |

### 3122 - **NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY**

The School Board shall comply with all Federal laws and regulations prohibiting discrimination and with all requirements and regulations of the U.S. Department of Education. It is the policy of the Board that no administrative staff member or candidate for such a position in this District shall, on the basis of race, color, ethnicity, religion, national origin, age (except as authorized by law), gender (including sexual orientation, transgender status, or gender identity), pregnancy, marital status, disability, ancestry, genetic information, which are classes protected by State and/or Federal law (collectively, "protected classes"), or any other legally-protected category, be discriminated against, excluded from participation in, denied the benefits of, or otherwise be subjected to, discrimination in any program or activity for which the Board is responsible or for which it receives financial assistance from the U.S. Department of Education.

It is the legal obligation and the policy of the Board to employ only those persons who are best qualified, with or without reasonable accommodations.

The Superintendent shall appoint and publicize the name of the compliance officer(s) who is/are responsible for coordinating the district's efforts to comply with applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination or denial of equal access. The Superintendent shall also verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI, and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendment Act of 1972, Section 504 of the Rehabilitation Act of 1973 (as amended), Americans with Disabilities Act of 1990, and the Age Discrimination in Employment Act will be provided to staff members and the general public. Any sections of the District's collectively-bargained agreements dealing with hiring, promotion, and tenure will contain a statement of nondiscrimination similar to that in the Board's statement above.

#### **Compliance Officer(s)**

The following persons are designated as the Compliance Officers (COs):

Executive Director for Human Resources  
6500 57<sup>th</sup> Street  
Vero Beach, FL 32967  
772-564-3000

Executive Director for Exceptional Education and Student Services  
6500 57<sup>th</sup> Street  
Vero Beach, FL 32967  
772-564-3000

The names, titles, and contact information of these individuals will be published annually on the School District's website

#### **Complaint Procedures**



If a person believes that s/he has been subjected to unlawful discrimination, the person may utilize the following complaint procedures as a means of reaching, at the lowest possible administrative level, a prompt and equitable resolution of the matter.

In accordance with Federal and State law, employees will be notified of their right to file an internal complaint regarding an alleged violation, misinterpretation, or misapplication of Federal and/or State law. In addition, employees will be notified of their right to file a complaint with the U.S. Department of Education's Office for Civil Rights, the Florida Commission on Human Relations, or the Equal Employment Opportunity Commission.

Internal complaints must be put in writing and must identify the specific circumstances or areas of dispute that have given rise to the complaint, and offer possible solutions to the dispute. The complaint must be filed with a compliance officer within the time limits specified below. The compliance officer is available to assist individuals in filing a complaint.

### **Internal Complaint Procedure**

The following internal complaint procedure is available to employees for the prompt and equitable resolution of complaints alleging discrimination based upon disability. This complaint procedure is not available to unsuccessful applicants. Use of the internal complaint procedure is not a prerequisite to the pursuit of other remedies, including the filing of a complaint with the U.S. Department of Education's Office for Civil Rights, the Florida Commission on Human Relations, or the Equal Employment Opportunity Commission.

- A. An employee with a complaint based on alleged discrimination on the basis of disability may first discuss the problem with the compliance officer.
- B. If the informal discussion does not resolve the matter, or if the employee skips Step A, the individual may file a formal written complaint with the compliance officer. The written complaint must contain the name and address of the individual or representative filing the complaint, be signed by the complainant or someone authorized to sign for the complainant, describe the alleged discriminatory action in sufficient detail to inform the compliance officer of the nature and date of the alleged violation, and propose a resolution. The complaint must be filed within thirty (30) calendar days of the circumstances or event giving rise to the complaint, unless the time for filing is extended by the compliance officer for good cause.
- C. The compliance officer will conduct an independent investigation of the matter (which may or may not include a hearing). This complaint procedure contemplates informal, but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to present witnesses and other evidence relevant to the complaint. The compliance officer will provide the complainant with a written disposition of the complaint within ten (10) work days. If no decision is rendered within ten (10) work days, or the decision is unsatisfactory in the opinion of the complainant, the employee may file, in writing, an appeal with the Superintendent. ~~The compliance officer shall maintain the District's files and records relating to the complaint.~~
- D. The Superintendent will, within ten (10) work days of receiving the written appeal, conduct a hearing with all parties involved in an attempt to resolve the complaint.  
  
The Superintendent will render his/her decision within ten (10) work days of the hearing.
- E. The employee may be represented, at his/her own cost, at any of the above-described meetings/hearings.
- F. The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights or the filing of a court case. Use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.

If it is determined that the complainant was subjected to unlawful discrimination, the CO must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate and effective, and tailored to the specific situation.

### **Filing a Complaint with OCR/Florida Commission on Human Relations/EEOC**

At any time, if an employee believes that s/he has been subjected to unlawful discrimination, the individual may file a complaint with the U.S. Department of Education's Office for Civil Rights ("OCR"), the Florida Commission on Human Relations (FCHR), or the Equal Employment Opportunity Commission ("EEOC").

### **Appealing to OCR/Florida Commission on Human Relations/EEOC**

If the complainant is not satisfied with the Superintendent's decision, the complainant will have an additional sixty (60) days to appeal the decision to the United States Department of Education Office of Civil Rights, Florida Commission on Human Relations, or the Equal Employment Opportunity Commission.

## Retaliation

Retaliation against a person who makes a report or files a complaint alleging unlawful discrimination, or participates as a witness in an investigation, is prohibited. Specifically, the Board will not discriminate/retaliate against, coerce, intimidate, threaten or interfere with any individual because the person opposed any act or practice made unlawful by Section 504 or the ADA, or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under those laws, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws.

## Training

The compliance officers will also oversee the training of employees in the District so that all employees understand their rights and responsibilities under Federal and State law, and are informed of the Board's policies and practices with respect to fully implementing and complying with the requirements of Federal and State law.

## Notice

Notice of the Board's policy on nondiscrimination in employment practices and the identity of the compliance officers will be posted throughout the District, and published in the District's recruitment statements or general information publications as required by Federal and State law and this policy.

## Retention of Investigatory Records and Materials

**All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including, but not limited to:**

1. **all written reports/allegations/complaints/statements;**
2. **narratives of all verbal reports/allegations/complaints/statements;**
3. **a narrative of all actions taken by District personnel;**
4. **any written documentation of actions taken by District personnel;**
5. **written witness statements;**
6. **narratives of, notes from, or audio, video, or digital recordings of witness statements;**
7. **all documentary evidence;**
8. **e-mails, texts, or social media posts pertaining to the investigation;**
9. **contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;**
10. **written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;**
11. **dated written determinations to the parties;**
12. **dated written descriptions of verbal notifications to the parties;**
13. **written documentation of any interim measures offered and/or provided to complainants, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and**
14. **documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects.**

**The information, documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).**

**The information, documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 for not less than three (3) years, but longer if required by the District's records retention schedule.**

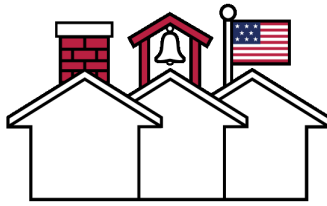
Revised 7/28/15  
Technical Change 1/14/16  
Revised 4/12/16

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Legal

- F.S. 110.1221, 250.481, 760.01, 760.10, 1000.05
- 20 U.S.C. 1681 et seq., Title IX
- 29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967
- 29 U.S.C. 701 et seq., Rehabilitation Act of 1973, as amended
- 42 U.S.C. 2000e, et seq., Civil Rights Act of 1964
- 42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act
- 42 U.S.C. 12112, Americans with Disabilities Act of 1990, as amended
- 29 C.F.R. Part 1635
- 38 U.S.C. 4301 et seq., The Uniformed Services Employment and Reemployment Rights Act

Last Modified by Jayne Purcell on September 17, 2018



|              |                                         |
|--------------|-----------------------------------------|
| Book         | Policy Manual                           |
| Section      | Special Release -School Safety Revised  |
| Title        | Copy of STUDENT SUPERVISION AND WELFARE |
| Number       | *po3213 JEP 09/17/18                    |
| Status       |                                         |
| Adopted      | August 13, 2013                         |
| Last Revised | March 4, 2014                           |

### 3213 - **STUDENT SUPERVISION AND WELFARE**

Each instructional staff member shall maintain a standard of care for the supervision, control, and protection of students commensurate with their assigned duties and responsibilities which include but are not limited to, the following:

- A. An instructional staff member shall report immediately to a building administrator any accidents, or safety hazards, ~~or other potentially harmful condition or situation~~ s/he detects.
- B. An instructional staff member shall report unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, to the Superintendent and local public safety agencies and/or school officials in accordance with Policy 8406 - Reports of Suspicious Activity and Potential Threats to Schools.
- C. ~~An instructional staff member shall immediately report to a building administrator knowledge of threats of violence by students.~~
- D. An instructional staff member shall not send students on any non-school related errands.
- E. An instructional staff member shall not inappropriately associate with students at any time in a manner which may give the appearance of impropriety, including, but not limited to, the creation or participation in any situation or activity which could be considered abusive or sexually suggestive or involve illegal substances such as drugs, alcohol, or tobacco. Any sexual or other inappropriate conduct with a student by any staff member will subject the offender to potential criminal liability and discipline up to and including termination of employment.
- F. An instructional staff member shall not transport students in a private vehicle without the approval of a building administrator.
- G. ~~If a student approaches a staff member to seek advice or to ask questions regarding a personal problem related to sexual behavior, substance abuse, mental or physical health, and/or family relationships, etc., the staff member may attempt to assist the student by facilitating contact with certified or licensed individuals in the District or community who specialize in the assessment, diagnosis, and treatment of the student's stated problem. However, a staff member should not attempt, unless properly licensed and authorized to do so, to counsel, assess, diagnose, or treat the student's problem or behavior, nor should such staff member inappropriately disclose personally identifiable information concerning the student to third persons not specifically authorized by law.~~
- H. A student shall not be required to perform work or services that may be detrimental to his/her health.
- I. Staff members are discouraged from engaging students in social media and online networking media, such as Facebook, Twitter, MySpace, etc., except for District approved social media used for educational and/or school related purposes.

J. Staff members are expressly prohibited from posting any video or comment pertaining to any student on social network sites or similar forums, such as YouTube.

K. An instructional staff member shall not knowingly distribute to a minor any material that is obscene and harmful to minors, as defined in F.S. 847.012, in any format and/or by any manner. An instructional staff member who knowingly distributes any such material to a minor also commits a felony under State law, and is subject to disciplinary action up to and including termination.

Because most information concerning a child in school, other than directory information described in Policy 8330, is confidential under Federal and State laws, any staff member who shares confidential information with another person not authorized to receive the information may be subject to discipline and/or civil liability. This includes, but is not limited to, information concerning assessments, grades, behavior, family background, and alleged child abuse.

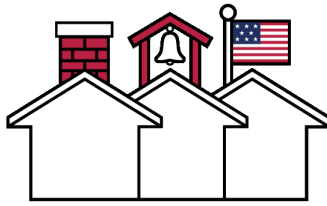
Pursuant to the laws of the State and School Board Policy 8462, each instructional staff member shall report to the proper legal authorities immediately any sign of suspected child abuse, [abandonment](#) or neglect.

Revised 3/4/14

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Legal                                F.S. 119.011, 847.012, 1001.51, 1002.22, 1003.32  
                                              20 U.S.C. 1232  
                                              34 C.F.R. Part 99

Last Modified by Jayne Purcell on September 17, 2018



|              |                          |
|--------------|--------------------------|
| Book         | Policy Manual            |
| Section      | Vol. 18, No. 2 - REVISED |
| Title        | Copy of ANTI-HARASSMENT  |
| Number       | *po3362 JEP 9/17/18      |
| Status       |                          |
| Adopted      | August 13, 2013          |
| Last Revised | April 12, 2016           |

### 3362 - **ANTI-HARASSMENT**

#### **General Policy Statement**

It is the policy of the School Board to maintain an educational and work environment which is free from all forms of unlawful harassment, including sexual harassment. This commitment applies to all School District operations, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment. This policy applies to unlawful conduct occurring on school property, or at another location if such conduct occurs during an activity sponsored by the Board.

The Superintendent will vigorously enforce its prohibition against harassment on the basis of race, color, national origin, sex (including sexual orientation, transgender status, or gender identity), disability (including HIV, AIDS, or sickle cell trait), pregnancy, marital status, age (except as authorized by law), religion, military status, ancestry, or genetic information, which are classes protected by State and/or Federal law (collectively, "protected classes") or any other legally prohibited basis, and encourages those within the School District community as well as third parties, who feel aggrieved to seek assistance to rectify the problems. The Superintendent will investigate all allegations of unlawful harassment and in those cases where legally prohibited harassment is substantiated, the Superintendent will take immediate steps to end the harassment. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action.

For purposes of this policy, "School District community" means students, administrators, teachers, staff, and all other school personnel, including Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

For purposes of this policy, "third parties" include, but are not limited to, guests and/or visitors on School District property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the Board, and other individuals who come in contact with members of the School District community at school-related events/activities (whether on or off School District property).

#### **Other Violations of the Anti-Harassment Policy**

The Superintendent will also take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of harassment.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of unlawful harassment, when responsibility for reporting and/or investigating unlawful harassment charges comprises part of one's supervisory duties.

## Definitions

### Sexual Harassment

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972, "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- A. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in a class, educational program, or activity.
- B. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual.
- C. Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

Sexual harassment may involve the behavior of a person of either gender against a person of the same or opposite gender.

Prohibited acts that constitute sexual harassment may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

- A. Unwelcome sexual propositions, invitations, solicitations, and flirtations.
- B. Physical assault.
- C. Threats or insinuations that a person's employment, wages, academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs or events, or other conditions of employment or education may be adversely affected by not submitting to sexual advances.
- D. Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes, or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls.
- E. Sexually suggestive objects, pictures, videotapes, audio recordings, or literature placed in the work or educational environment, which may embarrass or offend individuals.
- F. Unwelcome and inappropriate touching, patting, or pinching; obscene gestures.
- G. A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another.
- H. Remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.
- I. Consensual sexual relationships where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment.
- J. Verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.
- K. Inappropriate boundary invasions by a District employee or other adult member of the School District community into a student's personal space and personal life.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects an individual's employment or education, or such that it creates a hostile or abusive employment or educational environment.

**NOTE: Any teacher, administrator, coach, or other school authority who engages in sexual conduct with a student may also be guilty of a crime.**

### Sexual Cyberharassment



Pursuant to Florida law, "sexual cyberharassment" means to publish a sexually explicit image of a person that contains or conveys the personal identification information of the depicted person to an Internet website without the depicted person's consent, for no legitimate purpose with the intent of causing substantial emotional distress to the depicted person. Sexual cyberharassment may be a form of sexual harassment.

### **Race/Color Harassment**

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

### **Religious (Creed) Harassment**

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involves religious slurs.

### **National Origin Harassment**

Prohibited national origin harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's national origin, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

### **Disability Harassment**

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's disabling condition, such as negative comments about speech patterns, movement, physical impairments, or defects/appearances, or the like. Such harassment may further occur where conduct is directed at or pertains to a person's genetic information.

### **Pregnancy Harassment**

Prohibited pregnancy harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's pregnancy and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's pregnancy and condition of pregnancy.

### **Reports and Complaints of Harassing Conduct**

Members of the School District community and third parties are encouraged to promptly report incidents of unlawful harassing conduct to an administrator, supervisor, or other School District official so that the Superintendent may address the conduct before it becomes severe, pervasive, or persistent. Any administrator, supervisor, or other District Official who receives such a complaint shall file it with the District's Anti-Harassment Compliance Officer within two (2) days.

Members of the School District community or third parties who believe they have been unlawfully harassed by another member of the School District community or a third party are entitled to utilize the Board's complaint process that is set forth in Policy 3362.02 - Anti-Harassment Complaint Procedure. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's employment or participation in educational or extra-curricular programs unless the complaining individual makes the complaint maliciously or with knowledge that it is false. While there are no time limits for initiating complaints of harassment under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

If, during an investigation of reported act of bullying and/or harassment in accordance with Policy 5517.01 – Bullying and Harassment, the principal or his/her designee believes that the reported misconduct may have created a hostile work environment and may have constituted unlawful discriminatory harassment based on sex, race, color, national origin, religion, or disability, the principal or his/her designee will report the act of bullying and/or harassment to one of the Compliance Officers who shall investigate the allegation in accordance with this policy. While the Compliance Officer investigates the allegation, the Principal shall suspend his/her Policy 5517.01 investigation to await the Compliance Officer's written report. The Compliance Officer shall keep the Principal informed of the status of the Policy 3362 investigation and provide him/her with a copy of the resulting written report.

### **Anti-Harassment Compliance Officers**

The following individuals serve as "Anti-Harassment Compliance Officers" for the District. They are hereinafter referred to as the "Compliance Officers":

Executive Director for Human Resources  
6500 57<sup>th</sup> Street  
Vero Beach, FL 32967  
772-564-3000

Executive Director for Exceptional Education and Student Services  
6500 57<sup>th</sup> Street  
Vero Beach, FL 32967  
772-564-3000

The names, titles, and contact information of these individuals will be published annually on the School District's website.

The names, titles, and/or contact information of the persons presently serving as Compliance Officers may change from time to time, and such changes shall be deemed technical corrections within the meaning of Bylaw 0131.1 and shall be made pursuant to that bylaw.

A Compliance Officer will be available during regular school/work hours to discuss concerns related to unlawful harassment, to assist students, other members of the School District community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the individual in those instances where concerns have not resulted in the filing of a formal complaint and where all parties are in agreement to participate in an informal process.

Any Board employee who directly observes unlawful harassment of a student is obligated, in accordance with this policy, to report such observations to one of the Anti-Harassment Compliance Officers within two (2) business days. Thereafter, the Compliance Officer or designee must contact the student, if over age eighteen (18) or the student's parents if under the age eighteen (18), within two (2) business days to advise s/he/them of the Superintendent's intent to investigate the alleged misconduct, including the obligation of the compliance officer or designee to conduct an investigation following all the procedures outlined for a formal complaint.

Compliance Officers are assigned to accept complaints of unlawful harassment directly from any member of the School District community or a visitor to the District, or to receive complaints which are initially filed with a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, the Compliance Officer will begin either an informal or formal process (depending on the request of the member of the School District community alleging harassment), or the Compliance Officer will designate a specific individual to conduct such a process. In the case of a formal complaint, the Compliance Officer will prepare, after consultation with the Board Attorney or Superintendent, recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. All members of the School District community must report incidents of unlawful harassment which are reported to them to a Compliance Officer within five (5) calendar days of learning of the incident.

### **Investigation and Complaint Procedure**

Any employee or other member of the School District community or visitor to the District who believes that s/he has been subjected to unlawful harassment may seek resolution of his/her complaint through either the informal or formal procedures as described below. Further, a process for investigating claims of harassment and a process for rendering a decision regarding whether the claim of legally prohibited harassment or retaliation was substantiated are set forth below.

Due to the sensitivity surrounding complaints of unlawful harassment or retaliation, time lines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) calendar days of the complaint being received).

The informal and formal procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of unlawful harassment or retaliation with the United States Department of Education, Office for Civil Rights, the Florida

Civil Rights Commission, or the Equal Employment Opportunity Commission.

### **Informal Complaint Procedure**

The goal of the informal complaint procedure is to stop inappropriate behavior and to investigate and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for a student who believes s/he has been unlawfully harassed or retaliated against. This informal procedure is not required as a precursor to the filing of a formal complaint.

Employees, other members of the School District community, or third parties who believe that they have been unlawfully harassed or retaliated against may initiate their complaint through this informal complaint process, but are not required to do so. The informal process is only available in those circumstances where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in the informal process.

Employees, other members of the School District community, or third parties who believe that they have been unlawfully harassed or retaliated against may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

However, all complaints of harassment involving a District employee, any other adult member of the School District community, or a third party against a student will be formally investigated.

As an initial course of action, if an individual feels that s/he is being unlawfully harassed and s/he is able and feels safe doing so, the individual should tell or otherwise inform the harasser that the conduct is unwelcome and must stop. Such direct communication should not be utilized in circumstances involving sexual violence. The complaining individual should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officers is available to support and counsel individuals when taking this initial step or to intervene on behalf of the individual if requested to do so. An individual who is uncomfortable or unwilling to inform the harasser of his/her complaint is not prohibited from otherwise filing an informal or a formal complaint. In addition, with regard to certain types of unlawful harassment, such as sexual harassment, the Compliance Officer may advise against the use of the informal complaint process.

An individual who believes s/he has been unlawfully harassed may make an informal complaint, either orally or in writing: (1) to a teacher, other employee, or building administrator; (2) to the Superintendent or other District-level employee; and/or (3) directly to one of the Compliance Officers.

All informal complaints must be reported to the Compliance Officers who will either facilitate an informal resolution as described below on his/her own, or appoint another individual to facilitate an informal resolution.

The School District's informal complaint procedure is designed to provide employees, other members of the School District community, or third parties who believe they are being unlawfully harassed by another individual with a range of options designed to bring about a resolution of their concerns. Depending upon the nature of the complaint and the wishes of the individual claiming unlawful harassment, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the individual about how to communicate the unwelcome nature of the behavior to the alleged harasser.
- B. Distributing a copy of the anti-harassment policy as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works or attends.
- C. If both parties agree, the Compliance Officers may arrange and facilitate a meeting between the individual claiming harassment and the individual accused of harassment to work out a mutual resolution. Such a meeting is not appropriate in circumstances involving sexual violence.

While there are no set time limits within which an informal complaint must be resolved, the Compliance Officers or designee will exercise his/her authority to attempt to resolve all informal complaints within fifteen (15) calendar days of receiving the informal complaint. Parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal complaint. And, as stated above, parties may request that the informal process be terminated at any time to move to the formal complaint process.

All materials generated as part of the informal complaint process will be retained by the Compliance Officers or designee in accordance with the Board's records retention policy. (See Policy 8310 and Policy 8320)

### **Formal Complaint Procedure**

If a complaint is not resolved through the informal complaint process, if one of the parties has requested that the informal complaint process be terminated to move to the formal complaint process, or if the individual elects to file a formal complaint initially, the formal complaint process as described below shall be implemented.

This formal complaint process is not intended to interfere with the rights of an employee, other member of the School District community, or third party to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights, the Florida Civil Rights Commission, or the Equal Employment Opportunity Commission.

An individual who believes s/he has been subjected to offensive conduct/harassment hereinafter referred to as the "complainant", may file a formal complaint, either orally or in writing with a teacher, principal, or other District employee, the Compliance Officer, Superintendent, or other District employee. Due to the sensitivity surrounding complaints of unlawful harassment and retaliation, time lines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. If a complainant informs a teacher, principal, or other District employee, the Compliance Officer, Superintendent, or other District employee, either orally or in writing, about any complaint of harassment, that employee must report such information to the Compliance Officer or designee within two (2) business days.

Throughout the course of the process as described herein, the Compliance Officer should keep the parties informed of the status of the investigation and the decision making process.

All formal complaints must include the following information to the extent it is available: the identity of the individual believed to have engaged in, or engaging in, offensive conduct/harassment/retaliation; a detailed description of the facts upon which the complaint is based; a list of potential witnesses; and the resolution sought by the complainant.

If the complainant is unwilling or unable to provide a written statement including the information set forth above, the Compliance Officer shall ask for such details in an oral interview. Thereafter the Compliance Officer will prepare a written summary of the oral interview, and the complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the Compliance Officer will consider whether any action should be taken in the investigatory phase to protect the complainant from further harassment or retaliation including but not limited to a change of work assignment or schedule for the complainant and/or the alleged harasser. In making such a determination, the Compliance Officer should consult the complainant to assess his/her agreement to any action deemed appropriate. If the complainant is unwilling to consent to any change that is deemed appropriate by the Compliance Officer, the Compliance Officer may still take whatever actions s/he deem appropriate in consultation with the Superintendent and/or Board Attorney.

Within five (5) business days of receiving a formal complaint, the Compliance Officer or a designee will initiate a formal investigation to determine whether the complainant has been subjected to offensive conduct/harassment/retaliation. A Principal will not conduct an investigation unless directed to do so by the Compliance Officer.

Simultaneously, the Compliance Officer will inform the individual alleged to have engaged in the harassing conduct, hereinafter referred to as the "respondent", that a complaint has been received. The respondent will be informed about the nature of the allegations and a copy of these administrative procedures and the Board's anti-harassment policy shall be provided to the respondent at that time. The respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, the Compliance Officer or a designee will attempt to complete an investigation into the allegations of harassment/retaliation within fifteen (15) calendar days of receiving the formal complaint. The investigation will include:

- A. interviews with the complainant;
- B. interviews with the respondent;
- C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations;
- D. consideration of any documentation or other evidence presented by the complainant, respondent, or any other witness which is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Compliance Officer or the designee may consult with the Board Attorney. A written report shall then be prepared and delivered to the Superintendent which summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment as provided in Board policy and State and Federal law as to whether the complainant has been subject to unlawful harassment. The Compliance Officer's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if discriminatory harassment or retaliation occurred, a preponderance of evidence standard will be used. The Compliance Officer may consult with the Board Attorney before finalizing the report to the Superintendent.

Absent extenuating circumstances, within ten (10) business days of receiving the report of the Compliance Officer or the designee, the Superintendent must either issue a final decision regarding whether or not the complaint of harassment has been substantiated

or request further investigation. A copy of the Superintendent's final decision will be delivered to both the complainant and the respondent.

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within ten (10) business days. At the conclusion of the additional investigation, the Superintendent must issue a final written decision as described above.

The decision of the Superintendent shall be final.

The Superintendent reserves the right to investigate and resolve a complaint or report of unlawful harassment regardless of whether the member of the School District community or third party alleging the unlawful harassment pursues the complaint. The Superintendent also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Superintendent.

### **Privacy/Confidentiality**

The School District will employ all reasonable efforts to protect the rights of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy and related administrative procedures shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. All complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the respondent.

During the course of a formal investigation, the Compliance Officer or his/her designee will instruct all members of the School District community and third parties who are interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of a harassment investigation is expected not to disclose any information that s/he learns or that s/he provides during the course of the investigation.

~~All public records created as a part of an investigation of a complaint of harassment will be maintained by the Compliance Officer in accordance with the Board's records retention policy. Any records which are considered student records in accordance with the Family Educational Rights and Privacy Act will be maintained in a manner consistent with the provisions of the Federal and State laws.~~

### **Sanctions and Monitoring**

The Superintendent shall vigorously enforce the Board's prohibitions against unlawful harassment by taking appropriate action reasonably calculated to stop the harassment and prevent further such harassment. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful harassment is not substantiated, the Superintendent may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Superintendent becomes aware that a prior remedial action has been taken against a member of the School District community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its reoccurrence, and remedy its effects.

### **Retention of Public Records, Student Records, and Investigatory Records and Materials**

**All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including, but not limited to:**

1. **all written reports/allegations/complaints/statements;**
2. **narratives of all verbal reports/allegations/complaints/statements;**
3. **a narrative of all actions taken by District personnel;**
4. **any written documentation of actions taken by District personnel;**
5. **written witness statements;**

6. narratives of, notes from, or audio, video, or digital recordings of witness statements;
- 
7. all documentary evidence;
- 
8. e-mails, texts, or social media posts pertaining to the investigation;
- 
9. contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;
- 
10. written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;
- 
11. dated written determinations to the parties;
- 
12. dated written descriptions of verbal notifications to the parties;
- 
13. written documentation of any interim measures offered and/or provided to complainants, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and
- 
14. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects.

The information, documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

The information, documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 for not less than three (3) years, but longer if required by the District's records retention schedule.

## **Retaliation**

Any act of retaliation against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation is prohibited.

## **Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct**

State law requires any teacher or school employee who knows or suspects that a child under the age of eighteen (18) is a victim of child abuse or neglect to immediately report that knowledge or suspicion to the Department of Children and Family Services. If, during the course of a harassment investigation, the Compliance Officer or a designee has reason to believe or suspect that the alleged conduct reasonably indicates abuse or neglect of the complainant, a report of such knowledge must be made in accordance with State law and Board policy.

If the Compliance Officer or a designee has reason to believe that the complainant has been the victim of criminal conduct as defined under Florida law, such knowledge should be reported to local law enforcement.

Any reports made to the local child protection service or to local law enforcement shall not terminate the Compliance Officer's or a designee's obligation and responsibility to continue to investigate a complaint of harassment. While the Compliance Officers or a designee may work cooperatively with outside agencies to conduct concurrent investigations, in no event shall the harassment investigation be inhibited by the involvement of outside agencies without good cause after consultation with the Superintendent.

## **Mandatory Reporting of Misconduct by Certificated Employees**

The Superintendent is required by State law and Board Policy 8141 to report alleged misconduct by certificated employees of the District that affects the health, safety, or welfare of a student. In accordance with Board policy and State law, the Superintendent shall investigate each allegation of such conduct and, if confirmed, shall report such misconduct pursuant to Policy 8141.

## **Education and Training**

In support of this policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent or designee shall provide appropriate training to all members of the School District community related to the implementation of this policy and Policy 3362.02. All training regarding this policy, Policy 3362.02, and harassment in general, will be age and content appropriate.

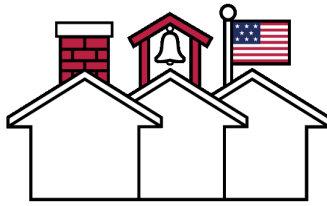
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Legal F.S. 110.1221, 250.481, 760.01, 760.10, 784.049, 1000.05, 1006.07  
20 U.S.C. 1681 et seq.  
29 U.S.C. 621 et seq.  
29 U.S.C. 794  
29 C.F.R. Part 1635  
38 U.S.C. 4301 et seq., The Uniformed Services Employment and Reemployment Rights Act  
42 U.S.C. 12101 et seq.  
42 U.S.C. 2000d et seq.  
42 U.S.C. 2000e et seq.  
42 U.S.C. 1983  
42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act  
National School Boards Association Inquiry and Analysis - May 2008

Last Modified by Jayne Purcell on September 17, 2018





|              |                                                            |
|--------------|------------------------------------------------------------|
| Book         | Policy Manual                                              |
| Section      | Vol. 18, No. 2 - REVISED                                   |
| Title        | Copy of NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY |
| Number       | *po4122 JEP 9/17/18                                        |
| Status       |                                                            |
| Adopted      | August 13, 2013                                            |
| Last Revised | April 12, 2016                                             |

#### 4122 - **NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY**

The School Board shall comply with all Federal laws and regulations prohibiting discrimination and with all requirements and regulations of the U.S. Department of Education. It is the policy of the Board that no administrative staff member or candidate for such a position in this District shall, on the basis of race, color, ethnicity, religion, national origin, military status, ancestry, age (except as authorized by law), gender (including sexual orientation, transgender status, or transgender identity), pregnancy, marital status, disability (including HIV, AIDS, or sickle cell trait), genetic information, (hereinafter referred to collectively as "Protected Classes"), which are classes protected by State and/or Federal law (collectively, "protected classes"), be discriminated against, excluded from participation in, denied the benefits of, or otherwise be subjected to, discrimination in any program or activity for which the Board is responsible or for which it receives financial assistance from the U.S. Department of Education.

It is the legal obligation and the policy of the Board to employ only those persons who are best qualified, with or without reasonable accommodations.

The Superintendent shall appoint and publicize the name of the compliance officer(s) who is/are responsible for coordinating the district's efforts to comply with applicable Federal and State laws and regulations, including the District's duty to address in a prompt and equitable manner any inquiries or complaints regarding discrimination or denial of equal access. The Superintendent shall also verify that proper notice of nondiscrimination for Title II of the Americans with Disabilities Act (as amended), Title VI, and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendment Act of 1972, Section 504 of the Rehabilitation Act of 1973 (as amended), Americans with Disabilities Act of 1990, and the Age Discrimination in Employment Act will be provided to staff members and the general public. Any sections of the District's collectively-bargained agreements dealing with hiring, promotion, and tenure will contain a statement of nondiscrimination similar to that in the Board's statement above.

#### **Compliance Officer(s)**

The following persons are designated as the Compliance Officers (COs):

Executive Director for Human Resources  
6500 57<sup>th</sup> Street  
Vero Beach, FL 32967  
772-564-3000

Executive Director for Exceptional Education and Student Services  
6500 57<sup>th</sup> Street  
Vero Beach, FL 32967  
772-564-3000

The names, titles, and contact information of these individuals will be published annually on the School District's website

#### **Complaint Procedures**

If a person believes that s/he has been subjected to unlawful discrimination, the person may utilize the following complaint procedures as a means of reaching, at the lowest possible administrative level, a prompt and equitable resolution of the matter.

In accordance with Federal and State law, employees will be notified of their right to file an internal complaint regarding an alleged violation, misinterpretation, or misapplication of Federal and/or State law. In addition, employees will be notified of their right to file a complaint with the U.S. Department of Education's Office for Civil Rights, the Florida Commission on Human Relations, or the Equal Employment Opportunity Commission.

Internal complaints must be put in writing and must identify the specific circumstances or areas of dispute that have given rise to the complaint, and offer possible solutions to the dispute. The complaint must be filed with a compliance officer within the time limits specified below. The compliance officer is available to assist individuals in filing a complaint.

### **Internal Complaint Procedure**

The following internal complaint procedure is available to employees for the prompt and equitable resolution of complaints alleging discrimination based upon disability. This complaint procedure is not available to unsuccessful applicants. Use of the internal complaint procedure is not a prerequisite to the pursuit of other remedies, including the filing of a complaint with the U.S. Department of Education's Office for Civil Rights, the Florida Commission on Human Relations, or the Equal Employment Opportunity Commission.

- A. An employee with a complaint based on alleged discrimination on the basis of disability may first discuss the problem with the compliance officer.
- B. If the informal discussion does not resolve the matter, or if the employee skips Step A, the individual may file a formal written complaint with the compliance officer. The written complaint must contain the name and address of the individual or representative filing the complaint, be signed by the complainant or someone authorized to sign for the complainant, describe the alleged discriminatory action in sufficient detail to inform the compliance officer of the nature and date of the alleged violation, and propose a resolution. The complaint must be filed within thirty (30) calendar days of the circumstances or event giving rise to the complaint, unless the time for filing is extended by the compliance officer for good cause.
- C. The compliance officer will conduct an independent investigation of the matter (which may or may not include a hearing). This complaint procedure contemplates informal, but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to present witnesses and other evidence relevant to the complaint. The compliance officer will provide the complainant with a written disposition of the complaint within ten (10) work days. If no decision is rendered within ten (10) work days, or the decision is unsatisfactory in the opinion of the complainant, the employee may file, in writing, an appeal with the Superintendent. ~~The compliance officer shall maintain the District's files and records relating to the complaint.~~
- D. The Superintendent will, within ten (10) work days of receiving the written appeal, conduct a hearing with all parties involved in an attempt to resolve the complaint.  
  
The Superintendent will render his/her decision within ten (10) work days of the hearing.
- E. The employee may be represented, at his/her own cost, at any of the above-described meetings/hearings.
- F. The right of a person to a prompt and equitable resolution of the complaint shall not be impaired by the person's pursuit of other remedies such as the filing of a complaint with the Office for Civil Rights or the filing of a court case. Use of this internal complaint procedure is not a prerequisite to the pursuit of other remedies.

If it is determined that the complainant was subjected to unlawful discrimination, the CO must identify what corrective action will be taken to stop, remedy, and prevent the recurrence of the discrimination/retaliation. The corrective action should be reasonable, timely, age-appropriate and effective, and tailored to the specific situation.

### **Filing a Complaint with OCR/Florida Commission on Human Relations/EEOC**

At any time, if an employee believes that s/he has been subjected to unlawful discrimination, the individual may file a complaint with the U.S. Department of Education's Office for Civil Rights ("OCR"), the Florida Commission on Human Relations (FCHR), or the Equal Employment Opportunity Commission ("EEOC").

### **Appealing to OCR/Florida Commission on Human Relations/EEOC**

If the complainant is not satisfied with the Superintendent's decision, the complainant will have an additional sixty (60) days to appeal the decision to the United States Department of Education Office of Civil Rights, Florida Commission on Human Relations, or the Equal Employment Opportunity Commission.

## Retaliation

Retaliation against a person who makes a report or files a complaint alleging unlawful discrimination, or participates as a witness in an investigation, is prohibited. Specifically, the Board will not discriminate/retaliate against, coerce, intimidate, threaten or interfere with any individual because the person opposed any act or practice made unlawful by Section 504 or the ADA, or because that individual made a charge, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under those laws, or because that individual exercised, enjoyed, aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by those laws.

## Training

The compliance officers will also oversee the training of employees in the District so that all employees understand their rights and responsibilities under Federal and State law, and are informed of the Board's policies and practices with respect to fully implementing and complying with the requirements of Federal and State law.

## Notice

Notice of the Board's policy on nondiscrimination in employment practices and the identity of the compliance officers will be posted throughout the District, and published in the District's recruitment statements or general information publications as required by Federal and State law and this policy.

## Retention of Investigatory Records and Materials

**All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including, but not limited to:**

1. **all written reports/allegations/complaints/statements;**
2. **narratives of all verbal reports/allegations/complaints/statements;**
3. **a narrative of all actions taken by District personnel;**
4. **any written documentation of actions taken by District personnel;**
5. **written witness statements;**
6. **narratives of, notes from, or audio, video, or digital recordings of witness statements;**
7. **all documentary evidence;**
8. **e-mails, texts, or social media posts pertaining to the investigation;**
9. **contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;**
10. **written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;**
11. **dated written determinations to the parties;**
12. **dated written descriptions of verbal notifications to the parties;**
13. **written documentation of any interim measures offered and/or provided to complainants, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and**
14. **documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects.**

**The information, documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).**

**The information, documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 for not less than three (3) years, but longer if required by the District's records retention schedule.**

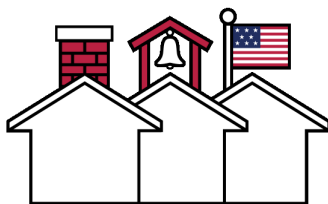
Revised 7/28/15  
Technical Change 1/14/16  
Revised 4/12/16

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Legal

- F.S. 110.1221, 250.481, 760.01, 760.10, 1000.05
- 20 U.S.C. 1681 et seq., Title IX
- 29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967
- 29 U.S.C. 701 et seq., Rehabilitation Act of 1973, as amended
- 42 U.S.C. 2000e, et seq., Civil Rights Act of 1964
- 42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act
- 42 U.S.C. 12112, Americans with Disabilities Act of 1990, as amended
- 29 C.F.R. Part 1635
- 38 U.S.C. 4301 et seq., The Uniformed Services Employment and Reemployment Rights Act

Last Modified by Jayne Purcell on September 17, 2018



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|--------------|--------------------------------------------------------------------------------------|
| Book         | Policy Manual                                                                        |
| Section      | Vol. 18, No. 2 - REVISED                                                             |
| Title        | Copy of DRUG AND ALCOHOL TESTING OF EMPLOYEES WHO PERFORM SAFETY SENSITIVE FUNCTIONS |
| Number       | *po4162 JEP 9/17/18                                                                  |
| Status       |                                                                                      |
| Adopted      | August 13, 2013                                                                      |
| Last Revised | March 24, 2015                                                                       |

#### 4162 - DRUG AND ALCOHOL TESTING OF EMPLOYEES WHO PERFORM SAFETY SENSITIVE FUNCTIONS

The School Board believes that the safety of students is of utmost importance and is the responsibility of the employee. To fulfill such a responsibility, employees, who perform safety-sensitive functions must be mentally and physically alert at all times while on duty. To that end, the Board has established this policy and others related to employees' and students' health and well-being.

For purposes of this policy and the procedures associated with the policy, the following definitions shall apply.

- A. The term *illegal drug* means drugs and controlled substances, the possession or use of which is unlawful, pursuant to Federal, State, and local laws and regulations.
- B. The term *controlled substance* includes any illegal drug and any drug that is being used illegally, such as a prescription drug that was not legally obtained or not used for its intended purposes or in its prescribed quantity. The term does not include any legally-obtained prescription drug used for its intended purpose in its prescribed quantity unless such use would impair the individual's ability to safely perform safety-sensitive functions.
- C. The term *controlled substance abuse* includes excessive use of alcohol as well as prescribed drugs not being used for prescribed purposes, in a prescribed manner, or in the prescribed quantity.
- D. The term *safety-sensitive functions* includes all tasks associated with the operation and maintenance of Board-owned vehicles and other functions as assigned by the superintendent where impaired judgment puts in jeopardy the safety of employees or students.
- E. The term *while on duty* means all time from the time the employee begins to work or is required to be in readiness for work until the time s/he is relieved from work and all responsibility for performing work.

The Board requires all employees to comply with Board Policy 4124 on drug-free schools which prohibits the possession, use, sale, or distribution of alcohol and any controlled substance on school property at all times. Further, the Board concurs with the Federal requirement that all CDL license holders should be free of any influence of alcohol or controlled substance while on duty.

The Board directs the Superintendent to establish a drug and alcohol testing program whereby any staff member performing safety sensitive functions, is tested for the presence of alcohol in his/her system as well as for the presence of the following controlled substances:

- A. Marijuana
- B. Cocaine
- C. Opioids  
Opiates

- D. Amphetamines
- E. Phencyclidine (PCP)

The drug tests are to be conducted in accordance with Federal and State regulations:

- A. prior to employment (Controlled Substances Only);
- B. for reasonable cause;
- C. upon return to duty after any alcohol or drug rehabilitation;
- D. after any accident;
- E. on a random basis, and
- F. on a follow-up basis.

Candidates shall also be tested for the presence of alcohol in their system prior to employment.

Any staff member who is subject to drug tests in accordance with this policy and who tests positive shall be:

- A. prohibited from performing safety sensitive functions;
- B. referred to the District's Employee Assistance Program;
- C. subject to discipline, up to and including discharge, in accordance with District procedures and the terms of any applicable collective bargaining agreements.

Furthermore, if during any test the lab determines that an adulterant has been added to the specimen, then the test will be considered positive.

Any staff member who refuses to submit to a test shall be prohibited from performing or continuing to perform his/her safety-sensitive functions and may be subject to disciplinary action up to and including termination.

A staff member who voluntarily discloses that they have an addiction to alcohol or controlled substances may participate in the Employee Assistance Program, and will qualify for the receipt of medical insurance benefits for treatment of alcohol or substance abuse, including follow-up care, to the extent that such benefits are provided for or offered in the Board's health insurance package. Voluntary disclosure of an alcohol or drug addiction by a staff member will not subject the staff member to disciplinary action unless such disclosure is made after the staff member is selected to be tested or immediately prior to the selection of staff members to be tested. Nothing herein shall prevent the Board from disciplining a staff member for misconduct associated with his/her alcohol and/or drug use regardless of whether the employee has disclosed that s/he has an alcohol or drug addiction.

A staff member will be subject to disciplinary action, up to and including termination, for any of the following reasons:

- A. reports for duty or performs work while having an alcohol concentration of 0.02 or greater
- B. reports for duty or performs work while testing positive for using a prohibited drug, or while being under the influence of a prohibited drug
- C. refuses to submit to drug and/or alcohol testing
- D. alters or attempts to alter or unduly influence alcohol and/or drug testing results
- E. fails to remain readily available for post-accident testing (including notifying his/her supervisor of his/her location, if the staff member leaves the scene of the accident prior to the submission of a post-accident test, unless the staff member's departure is to obtain necessary emergency medical care)

Prior to the beginning of the testing program, the District shall provide a drug-free awareness program which will inform each employee holding a safety sensitive position about:

- A. the dangers of illegal drug use and controlled substance and alcohol abuse;
- B. Board Policy 4124 - Drug-Free Workplace, Policy 4161 - Fitness for Duty, Policy 4170 - Substance Abuse, and Policy 4170.01 - Employee Assistance Program;

C. the sanctions that may be imposed for violations of Policy 4124.

All time spent undergoing an alcohol or controlled substance test, including travel time, will be paid at the staff member's regular rate of pay, or at his/her overtime rate, if applicable. Any staff member who is not allowed to return to work while awaiting test results will be compensated during the waiting period for all work time lost, including overtime, if applicable. The Board shall pay all costs associated with the administration of alcohol and controlled substance tests. This includes testing of the "split specimen" at a Federally certified laboratory if so requested by a staff member. The Board will not pay for the employee's time while not on duty, if the split specimen test results are positive.

Alcohol and drug test results shall be protected as confidential medical records as appropriate under the Americans With Disabilities Act (i.e. test results shall be provided on a right to know basis).

A tested individual, upon written request, will have access to any records relating to his/her use of drugs and alcohol, including any records pertaining to his/her drug and alcohol tests. A tested individual must provide written authorization before his/her test result can be provided to any other person except a government agency specified in the applicable Federal regulations.

All tests shall be conducted in accordance with Federal testing procedures and be performed by a laboratory that is Federally certified (i.e. testing procedures and devices used will be as set forth in 49 C.F.R. Part 40).

The alcohol and drug testing program shall be under the direction of the Superintendent.

The Superintendent shall arrange for the required amount of training for appropriate staff members in drug recognition, in the procedures for testing, and in the proper assistance of staff members who are subject to the effects of substance abuse.

The Superintendent shall submit, for Board approval, a contract with a certified laboratory to provide the following services:

- A. testing of all first and second test urine samples
- B. clear and consistent communication with the District's Medical Review Officer (MRO)
- C. methodology and procedures for conducting random tests for controlled substances and alcohol
- D. preparation and submission of all required reports to the District, the MRO, and to Federal and State governments

The Superintendent shall also select the agency or persons who will conduct the alcohol breathalyzer tests, the District's MRO, and the drug collection site(s) in accordance with the requirements of the law.

Educational materials explaining the requirements of the Federal regulations and of the Board's policies and procedures to meet the Federal regulations shall be provided to all staff members, including the following:

- A. the name of the person designated by the Board to answer questions about the materials
- B. information sufficient to make clear to employees the period of the work day during which they are required to comply with the regulations
- C. information concerning what conduct is prohibited
- D. the circumstances under which employees are subject to testing
- E. the procedures for testing in order to protect the employee and the integrity of the testing process, to safeguard the validity of the test results, and to confirm the results are attributed to the correct employee
- F. the requirement that staff members must submit to testing as required by the regulations
- G. an explanation of what constitutes a refusal to be tested and the attendant consequences
- H. the consequences of testing positive, including the requirements of immediate removal from safety-sensitive functions, and the procedures regarding referral, evaluation, and treatment
- I. the consequences for a test indicating an alcohol concentration greater than 0.02, and
- J. information concerning the effects of alcohol and drug misuse on an individual's health, work, and personal life; signs and symptoms of an alcohol problem (the employee's or a co-worker's); and available methods of intervening when a drug or alcohol problem is suspected (including confrontation and how to refer someone to an Employee Assistance Program or to management)



These materials are to be distributed to each staff member upon being hired or transferred into a covered position thereafter. Each staff member must sign a statement certifying receipt of these materials. Each employee (and labor organization representing Board employees) shall receive written notice of the availability of this information, and the identity of the Board's designated representative in charge of answering employee questions about the materials.

### **Return-to-Duty (Safety-Sensitive Positions)**

Employees who are removed from performing safety-sensitive functions as a result of this policy must take and pass a return-to-duty test before returning to performing safety-sensitive functions. The return-to-duty test will not occur until after a Substance Abuse Professional (SAP) has determined that the employee has successfully complied with prescribed education and/or treatment. The employee must have a negative drug test result and/or an alcohol test with an alcohol concentration of less than 0.02 before resuming performance of safety-sensitive duties.

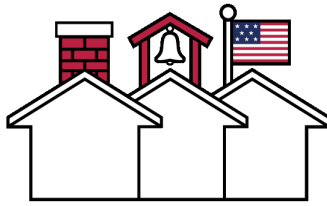
Subject to any collective bargaining agreement or other legal requirements, employees who are eligible to return to performing safety-sensitive functions may not do so without the approval of the Superintendent.

Revised 3/24/15

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Legal                                F.S. 112.0455, 440.102, 1012.45  
                                                  21 U.S.C. 812, Schedules I-V of Section 202 of the Controlled Substances Act  
                                                  21 C.F.R. 1308.11-.15  
                                                  34 C.F.R. Part 40 (DOT)  
                                                  49 C.F.R. Parts 382 and 391 (FHWA)  
                                                  49 C.F.R. 382.101 et seq.  
                                                  Omnibus Transportation Employee Testing Act, Pub. L. 102-143, Title V

Last Modified by Jayne Purcell on September 17, 2018



|              |                                         |
|--------------|-----------------------------------------|
| Book         | Policy Manual                           |
| Section      | Special Release -School Safety Revised  |
| Title        | Copy of STUDENT SUPERVISION AND WELFARE |
| Number       | *po4213 JEP 9/17/18                     |
| Status       |                                         |
| Adopted      | August 13, 2013                         |
| Last Revised | March 4, 2014                           |

#### 4213 - **STUDENT SUPERVISION AND WELFARE**

Each support staff member shall maintain a standard of care for the supervision, control, and protection of students commensurate with assigned duties and responsibilities which include but are not limited to the following:

- A. A support staff member shall report immediately to a building administrator any accidents s or safety hazards ~~or other potentially harmful condition or situation~~ s/he detects.
- B. A support staff member shall immediately report to a building administrator any knowledge of threats of violence by students.
- C. ~~A support staff member shall not send students on any non school related errands.~~
- D. A support staff member shall not inappropriately associate with students at any time in a manner which may give the appearance of impropriety, including, but not limited to, the creation or participation in any situation or activity which could be considered abusive or sexually suggestive or involve illegal substances such as drugs, alcohol, or tobacco. Any sexual or other inappropriate conduct with a student by any staff member will subject the offender to potential criminal liability and discipline up to and including termination of employment.
- E. A support staff member shall not transport students in a private vehicle without the approval of a building administrator.
- F. A student shall not be required to perform work or services that may be detrimental to his/her health.
- G. Staff members are discouraged from engaging students in social media and online networking media, such as Facebook, Twitter, MySpace, etc., except for District approved social media used for educational and/or school related purposes.
- H. Staff members are expressly prohibited from posting any video or comment pertaining to any student on social network sites or similar forums, such as YouTube.
- I. ~~If a student approaches a support staff member to seek advice or to ask questions regarding a personal problem related to sexual behavior, substance abuse, mental or physical health, and/or family relationships, etc., the support staff member may attempt to assist the student by facilitating contact with certified or licensed individuals in the District or community who specialize in the assessment, diagnosis, and treatment of the student's state problem. However, a support staff member should not attempt, unless properly licensed and authorized to do so, to counsel, assess, diagnose, or treat the student's problem or behavior, nor should such support staff member inappropriately disclose personally identifiable information concerning the student to third persons not specifically authorized by law.~~
- J. A support staff member shall not knowingly distribute to a minor any material that is obscene and harmful to minors, as defined in F.S. 847.012, in any format and/or by any manner. A support staff member who knowingly distributes any such

material to a minor also commits a felony under State law, and is subject to disciplinary action up to and including termination.

Because most information concerning a child in school, other than directory information described in Policy 8330, is confidential under Federal and State laws, any staff member who shares confidential information with another person not authorized to receive the information may be subject to discipline and/or civil liability. This includes, but is not limited to, information concerning assessments, grades, behavior, family background, and alleged child abuse.

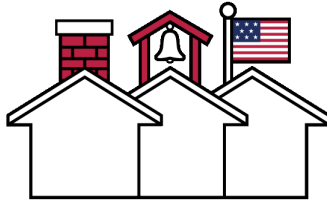
Pursuant to the laws of the State and School Board Policy 8462, each support staff member shall report to the proper legal authorities, immediately, any sign of suspected child abuse, abandonment, or neglect.

Revised 3/4/14

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Legal F.S. 119.011, 847.012, 1001.51, 1002.22, 1003.32  
20 U.S.C. 1232  
34 C.F.R. Part 99

Last Modified by Jayne Purcell on September 17, 2018



|              |                          |
|--------------|--------------------------|
| Book         | Policy Manual            |
| Section      | Vol. 18, No. 2 - REVISED |
| Title        | Copy of ANTI-HARASSMENT  |
| Number       | *po4362 JEP 9/17/18      |
| Status       |                          |
| Adopted      | August 13, 2013          |
| Last Revised | April 12, 2016           |

#### 4362 - **ANTI-HARASSMENT**

##### **General Policy Statement**

It is the policy of the School Board to maintain an education and work environment which is free from all forms of unlawful harassment, including sexual harassment. This commitment applies to all School District operations, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment. This policy applies to unlawful conduct occurring on school property, or at another location if such conduct occurs during an activity sponsored by the Board.

The Superintendent will vigorously enforce its prohibition against harassment on the basis of race, color, national origin, sex (including sexual orientation, transgender status, or gender identity), disability (including HIV, AIDS, or sickle cell trait), pregnancy, marital status, age (except as authorized by law), religion, military status, ancestry, or genetic information, which are classes protected by State and/or Federal law (collectively, "protected classes") or any other legally prohibited basis, and encourages those within the School District community as well as third parties, who feel aggrieved to seek assistance to rectify the problems. The Superintendent will investigate all allegations of unlawful harassment and in those cases where legally prohibited harassment is substantiated, the Superintendent will take immediate steps to end the harassment. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action.

For purposes of this policy, "School District community" means students, administrators, teachers, staff, and all other school personnel, including Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

For purposes of this policy, "third parties" include, but are not limited to, guests and/or visitors on School District property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the Board, and other individuals who come in contact with members of the School District community at school-related events/activities (whether on or off School District property).

##### **Other Violations of the Anti-Harassment Policy**

The Superintendent will also take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of harassment.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of unlawful harassment, when responsibility for reporting and/or investigating unlawful harassment charges comprises part of one's supervisory duties.

## Definitions

### Sexual Harassment

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972, "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- A. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in a class, educational program, or activity;
- B. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual;
- C. Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

Sexual harassment may involve the behavior of a person of either gender against a person of the same or opposite gender.

Prohibited acts that constitute sexual harassment may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

- A. Unwelcome sexual propositions, invitations, solicitations, and flirtations.
- B. Physical assault.
- C. Threats or insinuations that a person's employment, wages, academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs or events, or other conditions of employment or education may be adversely affected by not submitting to sexual advances.
- D. Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls.
- E. Sexually suggestive objects, pictures, videotapes, audio recordings, or literature, placed in the work or educational environment, which may embarrass or offend individuals.
- F. Unwelcome and inappropriate touching, patting, or pinching; obscene gestures.
- G. A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another.
- H. Remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.
- I. Consensual sexual relationships where such relationship leads to favoritism of a subordinate employee with whom the superior is sexually involved and where such favoritism adversely affects other employees or otherwise creates a hostile work environment.
- J. Verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.
- K. Inappropriate boundary invasions by a District employee or other adult member of the School District community into a student's personal space and personal life.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects an individual's employment or education, or such that it creates a hostile or abusive employment or educational environment.

**NOTE: Any teacher, administrator, coach, or other school authority who engages in sexual conduct with a student may also be guilty of a crime.**

### Sexual Cyberharassment

Pursuant to Florida law, "sexual cyberharassment" means to publish a sexually explicit image of a person that contains or conveys the personal identification information of the depicted person to an Internet website without the depicted person's consent, for no legitimate purpose with the intent of causing substantial emotional distress to the depicted person. Sexual cyberharassment may be a form of sexual harassment.

### **Race/Color Harassment**

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

### **Religious (Creed) Harassment**

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involves religious slurs.

### **National Origin Harassment**

Prohibited national origin harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's national origin, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

### **Disability Harassment**

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance of creating an intimidating, hostile, or offensive working and/or learning environment; or with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's disabling condition, such as negative comments about speech patterns, movement, physical impairments, or defects/appearances, or the like. Such harassment may further occur where conduct is directed at or pertains to a person's genetic information.

### **Pregnancy Harassment**

Prohibited pregnancy harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's pregnancy and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's pregnancy and condition of pregnancy.

### **Reports and Complaints of Harassing Conduct**

Members of the School District community and third parties are encouraged to promptly report incidents of unlawful harassing conduct to an administrator, supervisor or other School District official so that the Superintendent may address the conduct before it becomes severe, pervasive, or persistent. Any administrator, supervisor, or other District Official who receives such a complaint shall file it with the District's Anti-Harassment Compliance Officer within two (2) days.

Members of the School District community or third parties who believe they have been unlawfully harassed by another member of the School District community or a third party are entitled to utilize the Board's complaint process that is set forth in Policy 4362.02 - Anti- Harassment Complaint Procedure. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's employment or participation in educational or extra-curricular programs unless the complaining individual makes the complaint maliciously or with knowledge that it is false. While there are no time limits for initiating complaints of harassment under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

If, during an investigation of reported act of bullying and/or harassment in accordance with Policy 5517.01 – Bullying and Harassment, the principal or his/her designee believes that the reported misconduct may have created a hostile work environment and may have constituted unlawful discriminatory harassment based on sex, race, color, national origin, religion, or disability, the principal or his/her designee will report the act of bullying and/or harassment to one of the Compliance Officers who shall investigate the allegation in accordance with this policy. While the Compliance Officer investigates the allegation, the Principal shall suspend his/her Policy 5517.01 investigation to await the Compliance Officer's written report. The Compliance Officer shall keep the Principal informed of the status of the Policy 4362 investigation and provide him/her with a copy of the resulting written report.

### **Anti-Harassment Compliance Officers**

The following individuals serve as "Anti-Harassment Compliance Officers" for the District. They are hereinafter referred to as the "Compliance Officers":

Executive Director for Human Resources

Executive Director for Exceptional Education and Student Services

The names, titles, and contact information of these individuals will be published annually on the School District's website.

The names, titles, and/or contact information of the persons presently serving as Compliance Officers may change from time to time, and such changes shall be deemed technical corrections within the meaning of Bylaw 0131.1 and shall be made pursuant to that bylaw.

A Compliance Officer will be available during regular school/work hours to discuss concerns related to unlawful harassment, to assist students, other members of the School District community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the individual in those instances where concerns have not resulted in the filing of a formal complaint and where all parties are in agreement to participate in an informal process.

Any Board employee who directly observes unlawful harassment of a student is obligated, in accordance with this policy, to report such observations to one of the Anti-Harassment Compliance Officers within two (2) business days. Thereafter, the Compliance Officer or designee must contact the student, if over age eighteen (18) or the student's parents if under the age eighteen (18), within two (2) business days to advise s/he/them of the Superintendent's intent to investigate the alleged misconduct, including the obligation of the compliance officer or designee to conduct an investigation following all the procedures outlined for a formal complaint.

Compliance Officers are assigned to accept complaints of unlawful harassment directly from any member of the School District community or a visitor to the District, or to receive complaints which are initially filed with a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, the Compliance Officer will begin either an informal or formal process (depending on the request of the member of the School District community alleging harassment), or the Compliance Officer will designate a specific individual to conduct such a process. In the case of a formal complaint, the Compliance Officer will prepare, after consultation with the Board Attorney or Superintendent, recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. All members of the School District community must report incidents of unlawful harassment which are reported to them to a Compliance Officer within five (5) calendar days of learning of the incident.

### **Investigation and Complaint Procedure**

Any employee or other member of the School District community or visitor to the District who believes that s/he has been subjected to unlawful harassment may seek resolution of his/her complaint through either the informal or formal procedures as described below. Further, a process for investigating claims of harassment and a process for rendering a decision regarding whether the claim of legally prohibited harassment or retaliation was substantiated are set forth below.

Due to the sensitivity surrounding complaints of unlawful harassment or retaliation, time lines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) calendar days of the complaint being received).

The informal and formal procedures set forth below are not intended to interfere with the rights of any individual to pursue a complaint of unlawful harassment or retaliation with the United States Department of Education, Office for Civil Rights, the Florida Civil Rights Commission, or the Equal Employment Opportunity Commission.

### **Informal Complaint Procedure**

The goal of the informal complaint procedure is to stop inappropriate behavior and to investigate and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for a student who believes s/he has

been unlawfully harassed or retaliated against. This informal procedure is not required as a precursor to the filing of a formal complaint.

Employees, other members of the School District community, or third parties who believe that they have been unlawfully harassed or retaliated against may initiate their complaint through this informal complaint process, but are not required to do so. The informal process is only available in those circumstances where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in the informal process.

Employees, other members of the School District community, or third parties who believe that they have been unlawfully harassed or retaliated against may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process.

However, all complaints of harassment involving a District employee, any other adult member of the School District community, or a third party against a student will be formally investigated.

As an initial course of action, if an individual feels that s/he is being unlawfully harassed and s/he is able and feels safe doing so, the individual should tell or otherwise inform the harasser that the conduct is unwelcome and must stop. Such direct communication should not be utilized in circumstances involving sexual violence. The complaining individual should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officers is available to support and counsel individuals when taking this initial step or to intervene on behalf of the individual if requested to do so. An individual who is uncomfortable or unwilling to inform the harasser of his/her complaint is not prohibited from otherwise filing an informal or a formal complaint. In addition, with regard to certain types of unlawful harassment, such as sexual harassment, the Compliance Officer may advise against the use of the informal complaint process.

An individual who believes s/he has been unlawfully harassed may make an informal complaint, either orally or in writing: (1) to a teacher, other employee, or building administrator; (2) to the Superintendent or other District-level employee; and/or (3) directly to one of the Compliance Officers.

All informal complaints must be reported to the Compliance Officers who will either facilitate an informal resolution as described below on his/her own, or appoint another individual to facilitate an informal resolution.

The School District's informal complaint procedure is designed to provide employees, other members of the School District community, or third parties who believe they are being unlawfully harassed by another individual with a range of options designed to bring about a resolution of their concerns. Depending upon the nature of the complaint and the wishes of the individual claiming unlawful harassment, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the individual about how to communicate the unwelcome nature of the behavior to the alleged harasser.
- B. Distributing a copy of the anti-harassment policy as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works or attends.
- C. If both parties agree, the Compliance Officers may arrange and facilitate a meeting between the individual claiming harassment and the individual accused of harassment to work out a mutual resolution. Such a meeting is not appropriate in circumstances involving sexual violence.

While there are no set time limits within which an informal complaint must be resolved, the Compliance Officers or designee will exercise his/her authority to attempt to resolve all informal complaints within fifteen (15) calendar days of receiving the informal complaint. Parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal complaint. And, as stated above, parties may request that the informal process be terminated at any time to move to the formal complaint process.

~~All materials generated as part of the informal complaint process will be retained by the Compliance Officers or designee in accordance with the Board's records retention policy. (See Policy 8310 and Policy 8320)~~

### **Formal Complaint Procedure**

If a complaint is not resolved through the informal complaint process, if one of the parties has requested that the informal complaint process be terminated to move to the formal complaint process, or if the individual elects to file a formal complaint initially, the formal complaint process as described below shall be implemented.

This formal complaint process is not intended to interfere with the rights of an employee, other member of the School District community, or third party to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights, the Florida Civil Rights Commission, or the Equal Employment Opportunity Commission.



An individual who believes s/he has been subjected to offensive conduct/harassment hereinafter referred to as the "complainant", may file a formal complaint, either orally or in writing with a teacher, principal, or other District employee, the Compliance Officer, Superintendent, or other District employee. Due to the sensitivity surrounding complaints of unlawful harassment and retaliation, time lines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) calendar days after the conduct occurs while the facts are known and potential witnesses are available. If a complainant informs a teacher, principal, or other District employee, the Compliance Officer, Superintendent, or other District employee, either orally or in writing, about any complaint of harassment, that employee must report such information to the Compliance Officer or designee within two (2) business days.

Throughout the course of the process as described herein, the Compliance Officer should keep the parties informed of the status of the investigation and the decision making process.

All formal complaints must include the following information to the extent it is available: the identity of the individual believed to have engaged in, or engaging in, offensive conduct/harassment/retaliation; a detailed description of the facts upon which the complaint is based; a list of potential witnesses; and the resolution sought by the complainant.

If the complainant is unwilling or unable to provide a written statement including the information set forth above, the Compliance Officer shall ask for such details in an oral interview. Thereafter the Compliance Officer will prepare a written summary of the oral interview, and the complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the Compliance Officer will consider whether any action should be taken in the investigatory phase to protect the complainant from further harassment or retaliation including but not limited to a change of work assignment or schedule for the complainant and/or the alleged harasser. In making such a determination, the Compliance Officer should consult the complainant to assess his/her agreement to any action deemed appropriate. If the complainant is unwilling to consent to any change that is deemed appropriate by the Compliance Officer, the Compliance Officer may still take whatever actions s/he deem appropriate in consultation with the Superintendent and/or Board Attorney.

Within five (5) business days of receiving a formal complaint, the Compliance Officer or a designee will initiate a formal investigation to determine whether the complainant has been subjected to offensive conduct/harassment/retaliation. A Principal will not conduct an investigation unless directed to do so by the Compliance Officer.

Simultaneously, the Compliance Officer will inform the individual alleged to have engaged in the harassing conduct, hereinafter referred to as the "respondent", that a complaint has been received. The respondent will be informed about the nature of the allegations and a copy of these administrative procedures and the Board's anti-harassment policy shall be provided to the respondent at that time. The respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Although certain cases may require additional time, the Compliance Officer or a designee will attempt to complete an investigation into the allegations of harassment/retaliation within fifteen (15) calendar days of receiving the formal complaint. The investigation will include:

- A. interviews with the complainant;
- B. interviews with the respondent;
- C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations;
- D. consideration of any documentation or other evidence presented by the complainant, respondent, or any other witness which is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation, the Compliance Officer or the designee may consult with the Board Attorney. A written report shall then be prepared and delivered to the Superintendent which summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment as provided in Board policy and State and Federal law as to whether the complainant has been subject to unlawful harassment. The Compliance Officer's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. In determining if discriminatory harassment or retaliation occurred, a preponderance of evidence standard will be used. The Compliance Officer may consult with the Board Attorney before finalizing the report to the Superintendent.

Absent extenuating circumstances, within ten (10) business days of receiving the report of the Compliance Officer or the designee, the Superintendent must either issue a final decision regarding whether or not the complaint of harassment has been substantiated or request further investigation. A copy of the Superintendent's final decision will be delivered to both the complainant and the respondent.

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within ten (10) business days. At the conclusion of the additional

investigation, the Superintendent must issue a final written decision as described above.

The decision of the Superintendent shall be final.

The Superintendent reserves the right to investigate and resolve a complaint or report of unlawful harassment regardless of whether the member of the School District community or third party alleging the unlawful harassment pursues the complaint. The Superintendent also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Superintendent.

### **Privacy/Confidentiality**

The School District will employ all reasonable efforts to protect the rights of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy and related administrative procedures shall be maintained as confidential to the extent permitted by law. Confidentiality, however, cannot be guaranteed. All complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the respondent.

During the course of a formal investigation, the Compliance Officer or his/her designee will instruct all members of the School District community and third parties who are interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of a harassment investigation is expected not to disclose any information that s/he learns or that s/he provides during the course of the investigation.

All public records created as a part of an investigation of a complaint of harassment will be maintained by the Compliance Officer in accordance with the Board's records retention policy. Any records which are considered student records in accordance with the *Family Educational Rights and Privacy Act* will be maintained in a manner consistent with the provisions of the Federal and State laws.

### **Sanctions and Monitoring**

The Superintendent shall vigorously enforce the Board's prohibitions against unlawful harassment by taking appropriate action reasonably calculated to stop the harassment and prevent further such harassment. While observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful harassment is not substantiated, the Superintendent may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Superintendent becomes aware that a prior remedial action has been taken against a member of the School District community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its reoccurrence, and remedy its effects.

### **Retaliation**

Any act of retaliation against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation is prohibited.

### **Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct**

State law requires any teacher or school employee who knows or suspects that a child under the age of eighteen (18) is a victim of child abuse or neglect to immediately report that knowledge or suspicion to the Department of Children and Family Services. If, during the course of a harassment investigation, the Compliance Officer or a designee has reason to believe or suspect that the alleged conduct reasonably indicates abuse or neglect of the complainant, a report of such knowledge must be made in accordance with State law and Board policy.

If the Compliance Officer or a designee has reason to believe that the complainant has been the victim of criminal conduct as defined under Florida law, such knowledge should be reported to local law enforcement.

Any reports made to the local child protection service or to local law enforcement shall not terminate the Compliance Officer's or a designee's obligation and responsibility to continue to investigate a complaint of harassment. While the Compliance Officers or a designee may work cooperatively with outside agencies to conduct concurrent investigations, in no event shall the harassment investigation be inhibited by the involvement of outside agencies without good cause after consultation with the Superintendent.

### **Mandatory Reporting of Misconduct by Certificated Employees**

The Superintendent is required by State law and Board Policy 8141 to report alleged misconduct by certificated employees of the District that affects the health, safety, or welfare of a student. In accordance with Board policy and State law, the Superintendent shall investigate each allegation of such conduct and, if confirmed, shall report such misconduct pursuant to Policy 8141.

### **Education and Training**

In support of this policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent or designee shall provide appropriate information to all members of the School District community related to the implementation of this policy and shall provide training for District students and staff where appropriate. All training, as well as all information provided regarding this policy and harassment in general, will be age and content appropriate.

### **Retention of Investigatory Records and Materials**

**All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including, but not limited to:**

1. **all written reports/allegations/complaints/statements;**
2. **narratives of all verbal reports/allegations/complaints/statements;**
3. **a narrative of all actions taken by District personnel;**
4. **any written documentation of actions taken by District personnel;**
5. **written witness statements;**
6. **narratives of, notes from, or audio, video, or digital recordings of witness statements;**
7. **all documentary evidence;**
8. **e-mails, texts, or social media posts pertaining to the investigation;**
9. **contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;**
10. **written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;**
11. **dated written determinations to the parties;**
12. **dated written descriptions of verbal notifications to the parties;**
13. **written documentation of any interim measures offered and/or provided to complainants, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and**
14. **documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects.**

**The information, documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).**

**The information, documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 for not less than three (3) years, but longer if required by the District's records retention schedule.**

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Revised 4/12/16

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Legal

F.S. 110.1221, 250.481, 760.01, 760.10, 784.049, 1000.05

42 U.S.C. 2000d et seq.

42 U.S.C. 2000e et seq.

29 U.S.C. 621 et seq.

29 U.S.C. 794

29 C.F.R. Part 1635

38 U.S.C. 4301 et seq., The Uniformed Services Employment and Reemployment Rights Act

42 U.S.C. 12101 et seq.

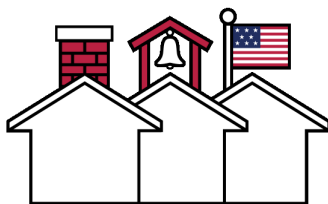
20 U.S.C. 1681 et seq.

42 U.S.C. 1983

42 U.S.C. 2000ff et seq., The Genetic Information Nondiscrimination Act

National School Boards Association Inquiry and Analysis - May 2008

Last Modified by Jayne Purcell on September 17, 2018



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|--------------|----------------------------------------|
| Book         | Policy Manual                          |
| Section      | Special Release -School Safety Revised |
| Title        | Copy of ENTRANCE REQUIREMENTS          |
| Number       | *po5112 LTM 9/17/18                    |
| Status       |                                        |
| Adopted      | August 13, 2013                        |
| Last Revised | April 12, 2016                         |

### 5112 - **ENTRANCE REQUIREMENTS**

The School Board hereby establishes entrance age requirements for students which are consistent with statute and sound educational practice and requires the equitable treatment of all eligible children.

Pursuant to State law, all children who have attained the age of six (6) years or who will have attained the age of six (6) years by February 1<sup>st</sup> of any school year or who are older than six (6) years of age but who have not attained the age of sixteen (16) years, except as otherwise provided in Florida statute, are required to attend school regularly during the entire school term. Further, all children enrolling in a District school shall meet the immunization requirements set forth in F.S. 1003.22, as well as provide evidence of a physical exam as required by State law.

In addition, consistent with rules adopted by the State Board of Education, children with disabilities who have attained the age of three (3) years shall be eligible for admission to the District's special education programs and for related services. Children with disabilities younger than three (3) years of age who are deaf or hard of hearing, visually impaired, dual sensory impaired, orthopedically impaired, other health impaired, who have experienced traumatic brain injury, who have autism spectrum disorder, established conditions, or who exhibit developmental delays or intellectual disabilities may be eligible for special programs and may receive services in accordance with rules of the State Board of Education. The identification of established conditions for children birth through two (2) years of age and developmental delays for children birth through five (5) years of age shall be in accordance rules adopted by the State Board of Education.

Further, as required by F.S. 1003.22 and Policy 5320, Immunization and Health Examination, all children enrolling in a District school shall meet the immunization requirements set forth in State law, as well as provide evidence of a physical exam as required by State law.

#### **Kindergarten**

Children entering kindergarten in this District for the first time must comply with F.S. 1003.21 regarding entry age. A child must be five (5) years old on or before September 1<sup>st</sup>, in order to meet the Florida age requirement for kindergarten. A child under age six (6) who is enrolled in kindergarten will be considered of compulsory school age.

#### **First Grade**

Children entering first grade in this District for the first time must comply with F.S. 1003.21. Any child who has attained the age of six (6) years on or before September 1<sup>st</sup> of the school year and who has been enrolled in a public school or who has attained the age of six (6) years on or before September 1<sup>st</sup> and has satisfactorily completed the requirements for kindergarten in a non-public school, or who otherwise meets the criteria for admission or transfer in a manner similar to that applicable to other grades, shall progress according to the District's student progression plan.

Students transferring to first grade from a kindergarten program other than the one offered by the District will need written verification of satisfactory completion of kindergarten from the public or non-public school attended. Home education is not an option. Verification forms are available at each elementary school.

## Initial Entry

- A. Children entering the District for the first time must comply with F.S. 1003.21 and with the District's *Student Progression Plan*. Students must have an immunization record on file at the school. Any student who does not have the proper immunization shall be temporarily excluded from attendance until compliance has been documented.
- B. Each child who is entitled to admittance to kindergarten or is entitled to any other initial entrance into a public school in the District must have a certification of a school-entry health examination performed within one (1) year before enrollment in school. Students transferring into the District from a school within the State of Florida who have completed physical examination form as part of their school record need not be re-examined. Examinations taken out-of-state may be accepted if performed within one (1) year of entry and include documentation and reported on the official forms of the physician. A student shall have up to thirty (30) school days to present a certification of a school-entry health examination. Children and youths who are experiencing homelessness and children who are known to the Department as homeless, as defined in F.S. 39.0016, shall be given a temporary exemption for thirty (30) school days. The school health services plan shall contain provisions to assist students in obtaining the health examinations.
- C. A child may be exempt from the required health examination and/or immunization upon written request of the parent or guardian of such child stating objection to examination and/or immunization on religious grounds or for medical reasons certified by a competent medical authority.
- D.

A. Any student and/or his/her parent(s) who enters the District for the first time must disclose the following information at the time of enrollment:

-

1. prior school expulsions;
- 
2. arrests resulting in a charge;
- 
3. juvenile justice actions; and
- 
4. referrals to mental health services.

Any student who discloses any of the above-referenced matters is subject to the provisions of the Code of Student Conduct, Policy 5500, and Policy 5610 relating to disciplinary placement and/or assignment of students.

-

## MAXIMUM AGE FOR ATTENDANCE IN THE REGULAR HIGH SCHOOL PROGRAM

A student reaching the age of twenty (20) years on or before September 1<sup>st</sup> of any year shall be considered ineligible for attendance in high school. The student shall be informed of opportunities to continue his/her education in a different environment, including, but not limited to, adult education and high school equivalency examination preparation. However, exceptional education students may remain in school until the student earns a standard diploma up through and including the school year in which the student turns twenty-two (22) years of age.

- A. Any parent/guardian of a student under the age of eighteen (18) or an adult student when initially enrolling in a District school for the first time shall be required to present:
1. certification of immunization as required by the Department of Health; (An exemption may be granted as provided in F.S. 1003.22)
  2. evidence of date of birth pursuant to F.S. 1003.21;
  3. evidence of health examination pursuant to F.S. 1003.22;
  4. proof of residency in Indian River County; and
  5. a report card from the last school attended, if the student has previously been enrolled in another school. (In the absence of a report card the student shall be temporarily assigned to the grade deemed appropriate until a copy of the official record is received.)

The person enrolling the student will be required to complete the enrollment form. The form includes a section that identifies the persons authorized to remove the student from school for proper and legitimate purposes other than the students' parents. The number of authorized adults is limited to six (6). Only the person enrolling the student has the right to change the name(s) of the person(s) on the list. Each parent will have the right to pick-up, visit, and meet with his/her student at school, without the need for consent, unless the school has received a certified copy of an enforceable court order that

provides to the contrary. A certified copy of an enforceable court order is also required to change names on the enrollment form.

- B. Voluntary Pre-Kindergarten—A student who has attained or will attain the age of four (4) years on or before September 1<sup>st</sup> of the school year shall be eligible for admission to voluntary pre-kindergarten.
- C. Students, who are participating in a home education program in accordance with F.S. 1002.41, may be admitted to the public schools of this District on a part-time basis. Admission consideration is restricted to middle and high schools and the following shall apply:
  - 1. Students in home education who wish to attend public schools must have met the criteria for a home education program during the entire semester immediately prior to the time of admission, meet the same registration requirement as full-time students, and enroll for and attend at least one (1) regularly scheduled class period at the zoned school. Such students must register prior to the start of the semester they will attend. Students enrolled in public school full time will be given priority in course registration. Homeschooled students who are excluded from a class/course at their zoned school due to space limitation may attend another school, if space in that class/course is available and a variance is granted. Students in exceptional student education will be provided services as required by law.
  - 2. Students enrolled in home education programs who have requested to participate in an extra-curricular activity that requires enrollment in a curricular program will be allowed to register for the program immediately with no requirement for one (1) full prior semester of home education enrollment. The student's eligibility to participate in extra-curricular activities shall be governed by F.S. 1006.15.
  - 3. The District is not responsible for the transportation of students in a home education program to or from the school. The school Principal will establish the time and place for arrival and departure of home education students. Students who attend school on a part-time basis are subject to all applicable rules and regulations pertaining to full-time students, including required immunization. Attendance on a part-time basis does not entitle the student to participate in non- interscholastic, extra-curricular activities, including graduation events.

**Verification of Residence**

Verification of a parent or guardian's residence shall be required at the time the child registers in a District school. Verification of residence may also be required at any other time at the discretion of the Superintendent or designee.

**Notification of in Loco Parentis**

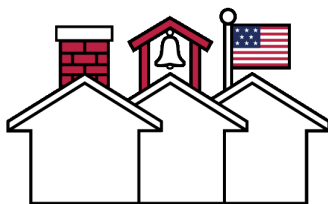
In cases in which a student is temporarily not residing with his/her parents or legal guardian for a short period of time, the parent or legal guardian of the student shall designate in writing that adult person with whom the student resides who stands in loco parentis to the student in order for him/her to be admitted or continue in school. This statement shall be notarized and presented to the principal.

Revised 3/24/15  
Revised 7/28/15  
Revised 4/12/16

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Legal                                    F.S. 1003.01, 1003.21, 1003.22  
                                                  F.A.C. 6A-1.098, 6A-1.0985

Last Modified by Brenda Davis on September 26, 2018



|              |                                    |
|--------------|------------------------------------|
| Book         | Policy Manual                      |
| Section      | Vol. 18, No. 2 - REVISED           |
| Title        | Copy of ASSIGNMENT WITHIN DISTRICT |
| Number       | *po5120 LTM 9/17/18                |
| Status       |                                    |
| Adopted      | August 13, 2013                    |
| Last Revised | January 23, 2018                   |

#### 5120 - **ASSIGNMENT WITHIN DISTRICT**

Pursuant to Florida statutes the Superintendent will recommend to the School Board the attendance zone boundaries for the non-charter public schools within the School District. The procedures by which the Board will adopt the attendance zone boundaries for the schools shall be in accordance with the requirements of Florida law. [The Board shall adhere to the rule-making requirements set forth in Bylaw 0131 and F.S. Chapter 120 when creating or revising school attendance boundaries.](#)

All students attending schools in the School District shall be assigned by the Superintendent in accordance with the student assignment plan adopted by the Board, which shall address minority balance, school boundaries, school choice, and alternative placements. The Superintendent shall have the authority to assign or transfer a student to such school as may be required by law or as determined by the Superintendent to be in the best interest of the School District.

#### **STUDENT ASSIGNMENT GRADES K – 5**

The principal is responsible for appropriate placement of students. Principals will use records provided to place students who transfer from non-District schools, private schools or home education programs. In the absence of appropriate records, the principal shall temporarily assign the student to the grade deemed to be proper until a copy of the student's official record is received or proper grade placement is otherwise determined. It is the intention of the School District to meet student academic needs in an age appropriate setting whenever possible. The principal may reassign students during the school year if teacher evaluation and test scores indicate the need for reassignment. When consideration is given to placing students outside of their age appropriate setting, the Executive Director of Elementary Education will be involved in the decision making process. This process would involve the accumulation of evidence that the student is prepared academically, socially and emotionally for the challenges of that grade. No assignment to schools or attendance schedules shall discriminate against students on the basis of race, color, national origin, sex, disability, pregnancy, marital status, age (except as authorized by law), religion, military status, ancestry, or genetic information which are classes protected by State and/or Federal law.

#### **ENGLISH LANGUAGE LEARNERS (ELL)**

The ESOL contact person and the guidance counselor/administrator review the educational background of the transferring student to determine appropriate grade level, subject, and ESOL program placement. Parental input regarding educational background should be taken into consideration especially when transcripts, records or report cards are not readily available. Program placement is reflected in the student's schedule in FOCUS. Bilingual personnel assist the students and their families when necessary to ensure proper program/course placement.

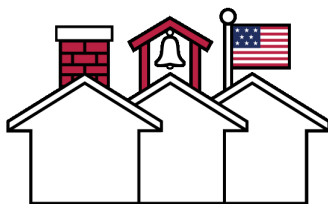
Revised 1/23/18

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F.S. 1000.05  
F.S. 1001.41  
F.S. 1002.20  
F.S. 1002.31  
F.S. 1003.06

Last Modified by Lillian Torres Martinez on September 17, 2018



|         |                                        |
|---------|----------------------------------------|
| Book    | Policy Manual                          |
| Section | Special Release -School Safety Revised |
| Title   | Copy of STUDENT CONDUCT                |
| Number  | *po5500 LTM 9/17/18                    |
| Status  |                                        |
| Adopted | August 13, 2013                        |

#### 5500 - **STUDENT CONDUCT**

Respect for law and for those persons in authority shall be expected of all students. This includes conformity to school rules as well as general provisions of law affecting students. Respect for the rights of others, consideration of their privileges, and cooperative citizenship shall also be expected of all members of the school community.

Respect for real and personal property; pride in one's work; achievement within the range of one's ability; and exemplary personal standards of courtesy, decency, and honesty shall be maintained in the schools of this District.

The School Board has zero tolerance for conduct that poses a serious threat to school safety. Zero tolerance policies must apply equally to all students, and are not intended to be rigorously applied to petty acts of misconduct and misdemeanors. This zero tolerance policy does not require the reporting of petty acts of misconduct and misdemeanors to a law enforcement agency. Petty acts of misconduct, include, but are not limited to, disorderly conduct, disrupting a school function, simple assault or battery, verbal abuse or use of profanity, cheating, theft of less than \$300, trespassing, and vandalism of less than \$1,000, possession or use of tobacco, and other school-based offenses delineated in the Code of Student Conduct.

Florida law requires that students found to have committed one of the following offenses:

- A. bringing a firearm or weapon, as defined in F.S. Chapter 790, to school, to any school function, or onto any school-sponsored transportation, or possessing a firearm at school; or
- B. making a threat or false report, as defined by F.S. 790.162 and 790.163, involving school or school personnel's property, school transportation, or a school-sponsored activity;

shall be expelled, with or without continuing educational services, from the student's regular school for a period of not less than one (1) full year, and and shall be referred to mental health services identified by the District and, ~~that the student shall be referred to~~ the criminal justice or juvenile justice system.

The Superintendent may consider the one (1) year expulsion requirement on a case-by-case basis and request that the Board modify the requirement by assigning a student to a disciplinary program or second chance school. The Superintendent's request for modification must be in writing, and may only be presented to the Board for consideration if the student and/or the student's parent(s) agree in writing to accept the Superintendent's recommendation. The Board may approve the request if it is determined to be in the best interest of the student and the school system. If a student committing either of the offenses enumerated above is a student who has a disability, the Board shall comply with applicable State Board of Education rules for discipline of such students.

The District shall enter into agreements with local law enforcement specifying procedures so that acts that pose a serious threat to school safety, whether committed by a student or adult, are reported to a law enforcement agency having jurisdiction.

Those acts that pose a serious threat to school safety include, but are not limited to,:

- A. possession of firearms or other weapons
- B. placing, discharging, or throwing an explosive item or noxious substance or making threats to do so

C. arson

D. felony assault

E. threats of unsafe and potentially harmful, dangerous, violent, or criminal activities

Notwithstanding any other provision of Board policy, pursuant to F.S. 1006.13(5), any student found to have committed an act of assault or aggravated assault, or battery or aggravated battery, on any elected official of the School District, teacher, administrator, or other School District personnel, shall be recommended for expulsion or placement in an alternative school setting, as appropriate, for a minimum period of one (1) year. Upon being charged with such offense, the student shall be removed from the classroom immediately and placed in an alternative school setting pending disposition.

The Code of Student Conduct that is adopted annually shall provide for review of a decision to suspend or expel a student pursuant to this policy and the Code, consistent with F.S. 1006.07.

Furthermore, if the Board receives notice from the Department of Juvenile Justice, as required by law, that a student enrolled in the District has been adjudicated guilty of or delinquent for, or is found to have committed, regardless of whether adjudication is withheld, or pleads guilty or *nolo contendere* to, a felony violation as set forth in F.S. 1006.13(6)(a), the Board shall, pursuant to State law and the adopted cooperative agreement with the Department of Juvenile Justice, require that any no contact order entered by a court be enforced and that all of the necessary steps be taken to protect the victim of the offense, or a sibling of the victim.

Students may be subject to discipline for violation of the Positive Climate and Discipline Code of Student Conduct even if that conduct occurs on property not owned or controlled by the Board but that is connected to activities or incidents that have occurred on property owned or controlled by the Board, or conduct that, regardless of where it occurs, is directed at a Board official or employee, or the property of such official or employee.

The principal shall require that all school personnel are properly informed as to their responsibilities regarding suspicious activity ~~crime~~ reporting, that appropriate delinquent acts and crimes are properly reported, and that actions taken in cases with special circumstances are properly taken and documented.

Student conduct shall be governed by the rules and provisions set forth in the Code of Student Conduct which is reviewed and adopted annually in accordance with F.S. Chapter 120.

The Code of Student Conduct shall contain provisions for the assignment of violent or disruptive students to an alternative educational program and/or referral of such students to mental health services identified by the District.

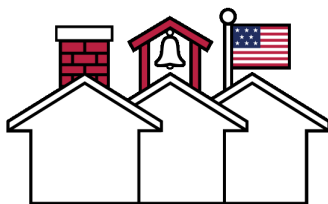
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F.S. 1006.07, 1006.13

Last Modified by Lillian Torres Martinez on September 17, 2018



|              |                          |
|--------------|--------------------------|
| Book         | Policy Manual            |
| Section      | Vol. 18, No. 2 - REVISED |
| Title        | Copy of ANTI-HARASSMENT  |
| Number       | *po5517 LTM 9/26/18      |
| Status       |                          |
| Adopted      | August 13, 2013          |
| Last Revised | April 5, 2017            |

## 5517 - **ANTI-HARASSMENT**

### **General Policy Statement**

It is the policy of the School Board to maintain an educational and work environment that is free from all forms of unlawful harassment, including sexual harassment. This commitment applies to all School District operations, programs, and activities. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment. This policy applies to unlawful conduct occurring on school property, or at another location if such conduct occurs during an activity sponsored by the Board.

The Board will vigorously enforce its prohibition against discriminatory harassment on the basis , race, color, national origin, sex (including sexual orientation, transgender status, or gender identity) religion, or disability (including HIV, AIDS, or sickle cell trait), pregnancy, maternal status, age (except as authorized by law), military status, ancestry or genetic information which are classes protected by State and/or Federal law (collectively, "protected classes") (hereinafter referred to as unlawful harassment), and encourages those within the School District community as well as third parties, who feel aggrieved to seek assistance to rectify such problems. The Board will investigate all allegations of unlawful harassment and in those cases where unlawful harassment is substantiated, the Board will take immediate steps to end the harassment, prevent its reoccurrence, and remedy its effects. Individuals who are found to have engaged in unlawful harassment will be subject to appropriate disciplinary action.

The District will offer counseling services to any person found to have been subjected to unlawful harassment, and, where appropriate, the person(s) who committed the unlawful harassment.

For purposes of this policy, "School District community" means students, administrators, teachers, staff, as well as Board members, agents, volunteers, contractors, or other persons subject to the control and supervision of the Board.

For purposes of this policy, "third parties" include, but are not limited to, guests and/or visitors on School District property (e.g., visiting speakers, participants on opposing athletic teams, parents), vendors doing business with, or seeking to do business with, the Board, and other individuals who come in contact with members of the School District community at school-related events/activities (whether on or off School District property).

### **Other Violations of the Anti-Harassment Policy**

The Board will also take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation.
- B. Filing a malicious or knowingly false report or complaint of unlawful harassment.

- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of unlawful harassment, when responsibility for reporting and/or investigating unlawful harassment charges comprises part of one's supervisory duties.

## **Definitions**

### **Bullying**

Bullying rises to the level of unlawful harassment when one or more persons systematically and chronically inflict physical hurt or psychological distress on one (1) or more students or employees and that bullying is based upon sex, race, color, national origin, religion, or disability, that is, characteristics that are protected by Federal civil rights laws. It is defined as any unwanted and repeated written, verbal, or physical behavior, including any threatening, insulting, or dehumanizing gesture, by an adult or student, that is severe or pervasive enough to create an intimidating, hostile, or offensive educational environment; cause discomfort or humiliation; or unreasonably interfere with the individual's school performance or participation; and may involve:

- A. teasing;
- B. threats;
- C. intimidation;
- D. stalking;
- E. cyberstalking;
- F. cyberbullying;
- G. physical violence;
- H. theft;
- I. sexual, religious, or racial harassment;
- J. public humiliation; or
- K. destruction of property.

### **Harassment**

Harassment means any threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal or physical conduct directed against a student or school employee that:

- A. places a student or school employee in reasonable fear of harm to his/her person or damage to his/her property;
- B. has the effect of substantially interfering with a student's educational performance, opportunities, or benefits; or
- C. has the effect of substantially disrupting the orderly operation of a school.

### **Sexual Harassment**

Pursuant to Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972, "sexual harassment" is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- A. Submission to such conduct is made either implicitly or explicitly a term or condition of an individual's employment, or status in a class, educational program, or activity.
- B. Submission or rejection of such conduct by an individual is used as the basis for employment or educational decisions affecting such individual.
- C. Such conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity.

Sexual harassment may involve the behavior of a person of either gender against a person of the same or opposite gender.

Prohibited acts that constitute sexual harassment may take a variety of forms. Examples of the kinds of conduct that may constitute sexual harassment include, but are not limited to:

- A. Unwelcome sexual propositions, invitations, solicitations, and flirtations.
- B. Physical and/or sexual assault.
- C. Threats or insinuations that a person's employment, wages, academic grade, promotion, classroom work or assignments, academic status, participation in athletics or extra-curricular programs or events, or other conditions of employment or education may be adversely affected by not submitting to sexual advances.
- D. Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes, or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls.
- E. Sexually suggestive objects, pictures, videotapes, audio recordings, or literature, placed in the work or educational environment, which may embarrass or offend individuals.
- F. Unwelcome and inappropriate touching, patting, or pinching; obscene gestures.
- G. A pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another.
- H. Remarks speculating about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history.
- I. Verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.
- J. Inappropriate boundary invasions by a District employee or other adult member of the School District community into a student's personal space and personal life.

Not all behavior with sexual connotations constitutes unlawful sexual harassment. Sex-based or gender-based conduct must be sufficiently severe, pervasive, and persistent such that it adversely affects, limits, or denies an individual's education, or such that it creates a hostile or abusive educational environment, or such that it is intended to, or has the effect of, denying or limiting a student's ability to participate in or benefit from the educational program or activities.

**NOTE: Any teacher, administrator, coach, or other school authority who engages in sexual conduct with a student may also be guilty of a crime.**

### **Sexual Cyberharassment**

Pursuant to Florida law, "sexual cyberharassment" means to publish a sexually explicit image of a person that contains or conveys the personal identification information of the depicted person to an Internet website without the depicted person's consent, for no legitimate purpose, with the intent of causing substantial emotional distress to the depicted person. Sexual cyberharassment may be a form of sexual harassment.

### **Race/Color Harassment**

Prohibited racial harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's race or color and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working, and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's race or color, such as racial slurs, nicknames implying stereotypes, epithets, and/or negative references relative to racial customs.

### **Religious (Creed) Harassment**

Prohibited religious harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's religion or creed and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's religious tradition, clothing, or surnames, and/or involves religious slurs.

### **National Origin Harassment**

Prohibited national origin harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's national origin and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's national origin, such as negative comments regarding customs, manner of speaking, language, surnames, or ethnic slurs.

### **Disability Harassment**

Prohibited disability harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's disability and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's disabling condition, such as negative comments about speech patterns, movement, physical impairments, or defects/appearances, or the like.

### **Pregnancy Harassment**

Prohibited pregnancy harassment occurs when unwelcome physical, verbal, or nonverbal conduct is based upon an individual's pregnancy and when the conduct has the purpose or effect of interfering with the individual's work or educational performance; of creating an intimidating, hostile, or offensive working and/or learning environment; or of interfering with one's ability to participate in or benefit from a class or an educational program or activity. Such harassment may occur where conduct is directed at the characteristics of a person's pregnancy and condition of pregnancy.

### **Reports and Complaints of Harassing Conduct**

**Board employees are required to promptly report incidents of unlawful harassing conduct to an administrator, supervisor, or other School District official so that the Board may address the conduct before it becomes severe, pervasive, or persistent.**

Students and all other members of the School District community, as well as third parties, are encouraged to promptly report incidents of unlawful harassing conduct to a teacher, administrator, supervisor, or other School District employee or official so that the Board may address the conduct before it becomes severe, pervasive, or persistent. Any teacher, administrator, supervisor, or other District employee or official who receives such a complaint shall file it with the District's Anti-Harassment Compliance Officer within two (2) business days.

Members of the School District community, which includes students, or third parties who believe they have been unlawfully harassed by another member of the School District community or a third party are entitled to utilize the Board's complaint process that is set forth in this policy. Initiating a complaint, whether formally or informally, will not adversely affect the complaining individual's employment or participation in educational or extra-curricular programs unless the complaining individual makes the complaint maliciously or with knowledge that it is false. While there are no time limits for initiating complaints of harassment under this policy, individuals should make every effort to file a complaint as soon as possible after the conduct occurs while the facts are known and potential witnesses are available.

If, during an investigation of reported act of harassment in accordance with Policy 5517.01 the Principal believes that the reported misconduct may have created a hostile learning environment and may have constituted unlawful discriminatory harassment based on sex, race, color, national origin, religion, or disability, the Principal will report the act of harassment to one of the Compliance Officers who shall investigate the allegation in accordance with this policy. While the Compliance Officer investigates the allegation, the Principal shall suspend his/her Policy 5517.01 investigation to await the Compliance Officer's written report. The Compliance Officer shall keep the Principal informed of the status of the Policy 5517 investigation and provide him/her with a copy of the resulting written report.

### **Anti-Harassment Compliance Officers**

The following individuals serve as "Anti-Harassment Compliance Officers" for the District. They are hereinafter referred to as the "Compliance Officers".

~~Dr. Edwina Suit~~, Executive Director for Human Resources  
6500 57<sup>th</sup> Street  
Vero Beach, FL 32967  
772-564-~~3195~~5932  
~~edwina.suit@indianriverschools.org~~

~~Dr. Lillian Torres Martinez~~, Executive Director for Student Services and Exceptional Education

6500 57<sup>th</sup> Street  
Vero Beach, FL 32967  
772-564-5946  
[Illian.torresmartinez@indianriverschools.org](mailto:Illian.torresmartinez@indianriverschools.org)

The names, titles, and contact information for these individuals will be published annually in the parent and staff handbooks, on the School District's web site, and/or on each individual school's web site.

A Compliance Officer will be available during regular school/work hours to discuss concerns related to unlawful harassment, to assist students, other members of the School District community, and third parties who seek support or advice when informing another individual about "unwelcome" conduct, or to intercede informally on behalf of the student.

Any Board employee who directly observes unlawful harassment of a student is obligated, in accordance with this policy, to report such observations to one of the Compliance Officers within two (2) business days. Thereafter, the Compliance Officer or designee must contact the student, if age eighteen (18) or older, or the student's parents if under the age of eighteen (18), within two (2) business days to advise s/he/them of the Board's intent to investigate the alleged misconduct, including the obligation of the compliance officer or designee to conduct an investigation following all the procedures outlined for a formal complaint.

The Compliance Officers are assigned to accept complaints of unlawful harassment directly from any member of the School District community or a visitor to the District, or to receive complaints that are initially filed with a school building administrator. Upon receipt of a complaint either directly or through a school building administrator, a Compliance Officer will begin either an informal or formal process (depending on the request of the member of the School District community alleging harassment or the nature of the alleged harassment), or the Compliance Officer will designate a specific individual to conduct such a process. In the case of a formal complaint, the Compliance Officer will prepare, after consultation with the board attorney, recommendations for the Superintendent or will oversee the preparation of such recommendations by a designee. All members of the School District community must report incidents of harassment that are reported to them to the Compliance Officer within two (2) calendar days of learning of the incident.

### **Investigation and Complaint Procedure**

Any student who believes that s/he has been subjected to unlawful harassment may seek resolution of his/her complaint through either the informal or formal procedures as described below. While there are no time limits for initiating a complaint of harassment, individuals should make every effort to file an informal or formal complaint as soon as possible after the harassing conduct occurs. Further, a process for investigating claims of harassment and a process for rendering a decision regarding whether the claim of legally prohibited harassment was substantiated are set forth below.

Due to the sensitivity surrounding complaints of unlawful harassment, time lines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) days after the conduct occurs while the facts are known and potential witnesses are available. Once the formal complaint process is begun, the investigation will be completed in a timely manner (ordinarily, within fifteen (15) calendar days of the complaint being received).

The informal and formal procedures set forth below are not intended to interfere with the rights of a student to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights, the Florida Civil Rights Commission, or the Equal Employment Opportunity Commission.

### **Informal Complaint Procedure**

The goal of the informal complaint procedure is to stop inappropriate behavior and to investigate and facilitate resolution through an informal means, if possible. The informal complaint procedure is provided as a less formal option for a student who believes s/he has been unlawfully harassed. This informal procedure is not required as a precursor to the filing of a formal complaint.

An informal complaint process to provide members of the School District community or third parties who believes they are being unlawfully harassed with a range of options designed to bring about a resolution of their concerns is set forth in this policy.

Students, other members of the School District community or third parties who believe that they have been unlawfully harassed may initiate their complaint through this informal complaint process, but are not required to do so. The informal process is only available in those circumstances where the parties (alleged target of harassment and alleged harasser(s)) agree to participate in the informal process.

Students, other members of the School District community or third parties who believe that they have been unlawfully harassed may proceed immediately to the formal complaint process and individuals who seek resolution through the informal procedure may request that the informal process be terminated at any time to move to the formal complaint process. However, all complaints of harassment involving a District employee or any other adult member of the School District community against a student will be formally investigated.



As an initial course of action, if a student feels that s/he is being unlawfully harassed and s/he is able and feels safe doing so, the individual should tell or otherwise inform the harasser that the conduct is unwelcome and must stop. The complaining individual should address the allegedly harassing conduct as soon after it occurs as possible. The Compliance Officers is available to support and counsel individuals when taking this initial step or to intervene on behalf of the individual if requested to do so. An individual who is uncomfortable or unwilling to inform the harasser of his/her complaint is not prohibited from otherwise filing an informal or a formal complaint. In addition, with regard to certain types of unlawful harassment, such as sexual harassment, the Compliance Officer may advise against the use of the informal complaint process.

A student who believes s/he has been unlawfully harassed may make an informal complaint, either orally or in writing: (1) to a teacher, other employee, or building administrator in the school the student attends (2) to the Superintendent or other District-level employee; and/or (3) directly to one of the Compliance Officers.

All informal complaints must be reported to the Compliance Officers who will either facilitate an informal resolution as described below on his/her own, or appoint another individual to facilitate an informal resolution.

The School District's informal complaint procedure is designed to provide students, other members of the School District community and third parties who believe they are being unlawfully harassed by a student with a range of options designed to bring about a resolution of their concerns. Depending upon the nature of the complaint and the wishes of the student claiming unlawful harassment, informal resolution may involve, but not be limited to, one or more of the following:

- A. Advising the student about how to communicate the unwelcome nature of the behavior to the alleged harasser.
- B. Distributing a copy of the anti-harassment policy as a reminder to the individuals in the school building or office where the individual whose behavior is being questioned works or attends.
- C. If both parties agree, the Compliance Officers may arrange and facilitate a meeting between the student claiming harassment and the individual accused of harassment to work out a mutual resolution.

While there are no set time limits within which an informal complaint must be resolved, the Compliance Officers or designee will exercise his/her authority to attempt to resolve all informal complaints within fifteen (15) days of receiving the informal complaint. Parties who are dissatisfied with the results of the informal complaint process may proceed to file a formal complaint. And, as stated above, parties may request that the informal process be terminated at any time to move to the formal complaint process.

~~All materials generated as part of the informal complaint process will be retained by the Compliance Officers or designee in accordance with the Board's records retention policy. (See Policy 8310 and Policy 8320)~~

### **Formal Complaint Procedure**

If a complaint is not resolved through the informal complaint process, if one of the parties has requested that the informal complaint process be terminated to move to the formal complaint process, or if the student elects to file a formal complaint initially, the formal complaint process as described below shall be implemented.

This formal complaint process is not intended to interfere with the rights of a student, other member of the School District community, or third party to pursue a complaint of unlawful harassment with the United States Department of Education, Office for Civil Rights, the Florida Civil Rights Commission, or the Equal Employment Opportunity Commission.

A student who believes s/he has been subjected to offensive conduct/harassment hereinafter referred to as the "complainant", may file a formal complaint, either orally or in writing with a teacher, principal, or other District employee at the student's school, the Compliance Officer, Superintendent, or other District employee who works at another school or at the district level.

Due to the sensitivity surrounding complaints of unlawful harassment, time lines are flexible for initiating the complaint process; however, individuals should make every effort to file a complaint within thirty (30) days after the conduct occurs while the facts are known and potential witnesses are available. If a complainant informs a teacher, principal, or other District employee at the student's school, the Compliance Officer, Superintendent, or other District employee, either orally or in writing, about any complaint of harassment, that employee must report such information to the Compliance Officer or designee within two (2) business days.

Throughout the course of the process as described herein, the Compliance Officer should keep the parties informed of the status of the investigation and the decision making process.

All formal complaints must include the following information to the extent it is available: the identity of the individual believed to have engaged in, or engaging in, offensive conduct/harassment; a detailed description of the facts upon which the complaint is based; and a list of potential witnesses and, the resolution sought by the complainant.

If the complainant is unwilling or unable to provide a written statement including the information set forth above, the Compliance Officer shall ask for such details in an oral interview. Thereafter the Compliance Officer will prepare a written summary of the oral

interview, and the complainant will be asked to verify the accuracy of the reported charge by signing the document.

Upon receiving a formal complaint, the Compliance Officer will consider whether any action should be taken in the investigatory phase to protect the complainant from further harassment or retaliation including but not limited to a change of class schedule, for the complainant or the alleged harasser, or possibly a change of school for either or both of the parties. In making such a determination, the Compliance Officer should consult the complainant to assess his/her agreement to any action deemed appropriate. If the complainant is unwilling to consent to any change that is deemed appropriate by the Compliance Officer, the Compliance Officer may still take whatever actions s/he deem appropriate in consultation with the Superintendent and/or Board Attorney.

Within two (2) business days of receiving a formal complaint, the Compliance Officer will inform the individual alleged to have engaged in the harassing conduct, hereinafter referred to as the "respondent", that a complaint has been received. The respondent will be informed about the nature of the allegations and a copy of these administrative procedures and the Board's anti-harassment policy shall be provided to the respondent at that time. The respondent must also be informed of the opportunity to submit a written response to the complaint within five (5) business days.

Within five (5) business days of receiving the complaint, the Compliance Officer or a designee will initiate a formal investigation to determine whether the complainant has been subject to offensive conduct/harassment. A principal will not conduct an investigation unless directed to do so by the Compliance Officer.

Although certain cases may require additional time, the Compliance Officer or a designee will attempt to complete an investigation into the allegations of harassment within fifteen (15) calendar days of receiving the formal complaint. The investigation will include:

- A. interviews with the complainant;
- B. interviews with the respondent;
- C. interviews with any other witnesses who may reasonably be expected to have any information relevant to the allegations;
- D. consideration of any documentation or other evidence presented by the complainant, respondent, or any other witness which is reasonably believed to be relevant to the allegations.

At the conclusion of the investigation the Compliance Officer or the designee shall prepare and deliver a written report to the Superintendent, which summarizes the evidence gathered during the investigation and provides recommendations based on the evidence and the definition of unlawful harassment as provided in Board policy and State and Federal law as to whether the complainant has been subject to unlawful harassment. In determining if discrimination occurred, a preponderance of evidence standard will be used. The Compliance Officer's recommendations must be based upon the totality of the circumstances, including the ages and maturity levels of those involved. The Compliance Officer may consult with the Board Attorney before finalizing the report to the Superintendent.

Absent extenuating circumstances, within ten (10) business days of receiving the report of the Compliance Officer or the designee, the Superintendent must either issue a final decision regarding whether or not the complaint of harassment has been substantiated or request further investigation. A copy of the Superintendent's final decision will be delivered to both the complainant and the respondent.

If the Superintendent requests additional investigation, the Superintendent must specify the additional information that is to be gathered, and such additional investigation must be completed within ten (10) business days. At the conclusion of the additional investigation, the Superintendent must issue a final written decision as described above.

The decision of the Superintendent shall be final.

The Board reserves the right to investigate and resolve a complaint or report of unlawful harassment regardless of whether the member of the School District community or third party alleging the unlawful harassment pursues the complaint. The Board also reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy or in such other manner as deemed appropriate by the Board or its designee.

### **Privacy/Confidentiality**

The School District will employ all reasonable efforts to protect the rights of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations under the terms of this policy and related administrative procedures shall be maintained as confidential to the extent permitted by law. Confidentiality cannot be guaranteed

however. All complainants proceeding through the formal investigation process will be advised that their identities may be disclosed to the respondent.

During the course of a formal investigation, the Compliance Officer or his/her designee will instruct all members of the School District community and third parties who are interviewed about the importance of maintaining confidentiality. Any individual who is interviewed as part of a harassment investigation is expected not to disclose any information that s/he learns or that s/he provides during the course of the investigation.

All public records created as a part of an investigation of a complaint of harassment will be maintained by the Compliance Officer in accordance with the Board's records retention policy. Any records which are considered student records in accordance with the *Family Educational Rights and Privacy Act* will be maintained in a manner consistent with the provisions of the Federal law.

### **Sanctions and Monitoring**

The Board shall vigorously enforce its prohibitions against unlawful harassment while observing the principles of due process, a violation of this policy may result in disciplinary action up to and including the discharge of an employee or the suspension/expulsion of a student. All disciplinary action will be taken in accordance with applicable State law and the terms of the relevant collective bargaining agreement(s). When imposing discipline, the Superintendent shall consider the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved. In those cases where unlawful harassment is not substantiated, the Board may consider whether the alleged conduct nevertheless warrants discipline in accordance with other Board policies, consistent with the terms of the relevant collective bargaining agreement(s).

Where the Board becomes aware that a prior remedial action has been taken against a member of the School District community, all subsequent sanctions imposed by the Board and/or Superintendent shall be reasonably calculated to end such conduct, prevent its reoccurrence, and remedy its effects.

### **Retaliation**

Any act of retaliation against a person who has made a report or filed a complaint alleging unlawful harassment, or who has participated as a witness in a harassment investigation is prohibited.

### **Allegations Constituting Criminal Conduct: Child Abuse/Sexual Misconduct**

State law requires any teacher or school employee who knows or suspects that a child with a disability under the age of twenty-one (21) or that a child under the age of eighteen (18) is a victim of child abuse or neglect to immediately report that knowledge or suspicion to the Department of Children and Family Services. If, during the course of a harassment investigation, the Compliance Officer or a designee has reason to believe or suspect that the alleged conduct reasonably indicates abuse or neglect of the complainant, a report of such knowledge must be made in accordance with State law and Board policy.

If the Compliance Officer or a designee has reason to believe that the complainant has been the victim of criminal conduct as defined under Florida law, such knowledge should be reported to local law enforcement.

Any reports made to the local child protection service or to local law enforcement shall not terminate the Compliance Officer's or a designee's obligation and responsibility to continue to investigate a complaint of harassment. While the Compliance Officers or a designee may work cooperatively with outside agencies to conduct concurrent investigations, in no event shall the harassment investigation be inhibited by the involvement of outside agencies without good cause after consultation with the Superintendent.

### **Mandatory Reporting of Misconduct by Certificated Employees**

The Superintendent is required by State law and Board Policy 8141 to report alleged misconduct by certificated employees of the District that affects the health, safety, or welfare of a student. In accordance with Board policy and State law, the Superintendent shall investigate each allegation of such conduct and, if confirmed, shall report such misconduct pursuant to Policy 8141.

### **Education and Training**

In support of this policy, the Board promotes preventative educational measures to create greater awareness of unlawful discriminatory practices. The Superintendent or designee shall provide appropriate information to all members of the School District community related to the implementation of this policy and shall provide training for District students and staff where appropriate. All training, as well as all information provided regarding this policy and harassment in general will be age and content appropriate.

### **Retention of Investigatory Records and Materials**

**All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including, but not limited to:**

1. **all written reports/allegations/complaints/statements;**
2. **narratives of all verbal reports/allegations/complaints/statements;**
3. **a narrative of all actions taken by District personnel;**
4. **any written documentation of actions taken by District personnel;**
5. **written witness statements;**
6. **narratives of, notes from, or audio, video, or digital recordings of witness statements;**
7. **all documentary evidence;**
8. **e-mails, texts, or social media posts pertaining to the investigation;**
9. **contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;**
10. **written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;**
11. **dated written determinations to the parties;**
12. **dated written descriptions of verbal notifications to the parties;**
13. **written documentation of any interim measures offered and/or provided to complainants, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and**
14. **documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects.**

**The information, documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).**

**The information, documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 for not less than four (4) years, but longer if required by the District's records retention schedule**

Revised 7/28/15  
Technical Change 1/14/16  
Revised 4/12/16  
Technical Change 4/5/17

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Legal

F.S. 110.1221

F.S. 784.049

F.S. 1000.05

F.S. 1006.07

20 U.S.C. 1400 et seq., The Individuals with Disabilities Improvement Act of 2004, as amended (commonly known as The Individuals with Disabilities Act)

42 U.S.C. 2000d et seq.

42 U.S.C. 2000e et seq.

29 U.S.C. 621 et seq., Age Discrimination in Employment Act of 1967

29 U.S.C. 794, Rehabilitation Act of 1973

29 U.S.C. 6101, The Age Discrimination Act of 1975

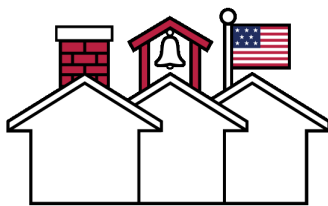
42 U.S.C. 12101 et seq., Americans with Disabilities Act of 1990, as amended

20 U.S.C. 1681 et seq.

42 U.S.C. 1983

National School Boards Association Inquiry and Analysis – May 2008

Last Modified by Brenda Davis on October 11, 2018



|         |                          |
|---------|--------------------------|
| Book    | Policy Manual            |
| Section | Vol. 18, No. 2 - REVISED |
| Title   | Copy of SEXUAL VIOLENCE  |
| Number  | *po5517.02 LTM 9/27/18   |
| Status  |                          |
| Adopted | April 12, 2016           |

#### 5517.02 - **SEXUAL VIOLENCE**

The School Board does not discriminate on the basis of race, color, national origin, sex (including sexual orientation, transgender status, or gender identity), disability (including HIV, AIDS, or sickle cell trait), pregnancy, marital status, age (except as authorized by law), religion, military status, ancestry, or genetic information which are classes protected by State and/or Federal law (collectively, "protected classes") in its education programs and activities. The Board is committed to maintaining an education and work environment that is free from all forms of unlawful harassment, including sexual harassment.

Sexual harassment, including sexual violence, interferes with students' rights to receive an education free from discrimination, and, in the case of sexual violence, is a crime. Pursuant to its Title IX obligations, the Board is committed to eliminating sexual violence in all forms and will take appropriate action against any individual found responsible for violating this policy. To further its commitment against sexual violence, the Board provides reporting options, an investigative and disciplinary process, and other related services as appropriate.

This policy applies to all student complaints, whether filed by a student, his/her parent, an employee, or third party on the student's behalf. It applies to all District operations, programs, and activities, as well as to unlawful conduct occurring on school property or during a Board-sponsored activity. All students, administrators, teachers, staff, and all other school personnel share responsibility for avoiding, discouraging, and reporting any form of unlawful harassment.

#### **Definitions**

##### **Sexual Harassment**

As detailed further in Policy 5517, sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment may involve the behavior of a person of either gender against a person of the same or opposite gender.

Examples include, but are not limited to:

- A. unwelcome sexual propositions, invitations, solicitations, and flirtations;
- B. unwanted physical and/or sexual contact;
- C. threats or insinuations implying that a person's conditions of education may be adversely affected by not submitting to sexual advances;
- D. unwelcome sexual verbal expressions, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; unwelcome sexually degrading language, jokes or innuendoes; unwelcome suggestive or insulting sounds or whistles; obscene telephone calls;
- E. sexually suggestive objects, pictures, videotapes, audio recordings or literature;
- F. unwelcome and inappropriate touching, patting, or pinching; obscene gestures;

- G. a pattern of conduct, which can be subtle in nature, that has sexual overtones and is intended to create or has the effect of creating discomfort and/or humiliation to another;
- H. speculations about a person's sexual activities or sexual history, or remarks about one's own sexual activities or sexual history;
- I. inappropriate boundary invasions into a student's personal space and personal life; and
- J. verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping that does not involve conduct of a sexual nature.

**Sexual Violence**

Sexual violence, as used in this policy, refers to physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent (e.g., due to the student’s age, intellectual or other disability, or use of drugs or alcohol).

Sexual violence includes rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. Sexual violence can be carried out by school employees, other students, or third parties. All such acts of sexual violence are forms of sexual harassment and, in turn, sex discrimination prohibited by Title IX.

Harassing conduct creates a hostile environment when it interferes with or limits a student’s ability to participate in or benefit from the school’s program. A single or isolated incident of sexual harassment may create a hostile environment if the incident is sufficiently severe. For example, a single instance of rape is sufficiently severe to create a hostile environment.

**Anti-Harassment Compliance Officers**

The Board designates the following individuals to serve as "Anti-Harassment Compliance Officers" for the District. They are hereinafter referred to as the "Compliance Officers".

~~Dr. Jamie Robinson~~  
 Section 504/ADA Coordinator  
 772-564-~~5932~~3000  
~~1426 19th Street~~6500-57<sup>th</sup> Street  
 Vero Beach, Florida 329607  
~~hdianriverschools.org~~

~~Dr. Edwina Suit~~  
 Executive Director of Human Resources  
 772-564-3000  
 6500 57<sup>th</sup> Street  
 Vero Beach, Florida 32967  
~~edwina.suit@indianriverschools.org~~

The names, titles, and contact information of these individuals will be published annually on the School District's web site, on each individual school's web site, and/or Positive Climate and Discipline Code of Student Conduct.

The Compliance Officers are available during regular school/work hours to discuss Title IX questions, sexual violence concerns, and to assist students, other members of the School District community, and third parties. Compliance Officers shall accept sexual violence complaints directly from any members of the School District community or a visitor to the District, as well as those initially filed within a school building administrator. Upon receiving a complaint, the Compliance Officer or designee will discuss confidentiality issues with the complainant (and his/her parent, if the complainant is a minor), and open an investigation as described below.

**Complaint Procedures**

**Reporting**

~~Students and~~ Board employees are required to report sexual violence promptly to an administrator, supervisor, or other school official. ~~Students, and~~ parents, community members, and third parties are strongly encouraged, to report sexual violence promptly to a teacher, administrator, supervisor, or other school official. Reports can be made orally or in writing, and should be as specific as possible. The person making the report shall identify the alleged victim, perpetrator(s), and witness(es), and describe in detail what occurred, including date(s), time(s), and location(s). The District, however, will investigate and address all reports to the extent possible.

A student has a right to file criminal and/or Title IX complaints simultaneously. A student does not need to wait until the Title IX investigation is completed before filing a criminal complaint. Likewise, questions or complaints relating to sexual violence or any other Title IX concerns may also be filed with the U.S. Department of Education's Office for Civil Rights.

Any teacher, administrator, supervisor, or other school employee or official who receives such a complaint shall file it with the District's Compliance Officer within two (2) school days, and shall comply with his/her mandatory reporting responsibilities pursuant to State law. The Compliance Officer will oversee the District's investigation and response to any Title IX-related complaints, but s/he may delegate the investigative process to another individual ("designee"). The Board reserves the right to have the formal complaint investigation conducted by an external person in accordance with this policy.

### **Confidentiality**

The District respects students' privacy and will only disclose information regarding alleged sexual violence to individuals who are responsible for handling the school's response, the student's parents (if the student is a minor or is considered a dependent under Section 152 of the Internal Revenue Code), or as otherwise required by law. During the course of a formal investigation, the Compliance Officer/designee will instruct all interviewees about the importance of maintaining confidentiality. Interviewees will be directed not to disclose any information that s/he learns or that s/he provides during the course of the investigation to third parties.

Students or their parents sometimes ask that the students' names not be disclosed to the alleged perpetrators or that no investigation or disciplinary action be pursued to address the alleged sexual violence. Upon such a request, the Compliance Officer/designee will inform the student and his/her parent that honoring the request may limit the District's ability to respond fully to the incident, including pursuing disciplinary action against the alleged perpetrator. The official will also explain that Title IX includes protections against retaliation, and that school officials will not only take steps to prevent retaliation but also take strong responsive action if it occurs.

Should the student or his/her parents continue to request complete confidentiality, the Compliance Officer/designee will balance the student's privacy request with the District's obligation to provide a safe and non-discriminatory environment for all students. Should the official determine that the District can honor the student's or parent's request and remain in compliance with its Federal and State obligations, the District may limit its investigation and/or formal action against the alleged perpetrator. The District will, however, take other action to address the sexual violence. This may include increasing monitoring and security, offering schedule changes, and conducting climate surveys.

If the Compliance Officer/designee determines that the District must disclose the student's identity to an alleged perpetrator, s/he will inform the student and his/her parents prior to disclosure. The District will then afford interim protection measures to the student as appropriate.

### **Investigation**

The District is committed to investigating all sexual violence complaints in an adequate, reliable, impartial, and prompt manner. The investigation will seek to determine whether the conduct occurred, and if so, what actions the school will take to end the sexual violence, eliminate the hostile environment, prevent its recurrence, and remedy its effects.

The investigation may include:

- A. interviewing the complainant, perpetrator, and any witnesses;
- B. reviewing law enforcement investigation documents;
- C. reviewing student and personnel files;
- D. gathering and examining other relevant documents or evidence; and
- E. providing a disciplinary hearing as needed.

The District affords both parties a balanced and fair process. Specifically, the complainant has the same rights throughout the proceeding as the alleged perpetrator. Both parties, for example, will have an equal opportunity to present relevant witnesses and other evidence at a disciplinary hearing. Likewise, the District's appeal process is available to both parties. The District, however, does not require complainants to be present for the hearing or appeal. Further, the District will not permit parties to personally question or cross-examine each other directly.

Additionally, the District permits both parties to be present for the entire hearing, but it will not require the complainant and alleged perpetrator to be present in the same room at the same time.

In resolving a complaint, the District uses a preponderance of the evidence standard, determining whether it is more likely that not that sexual violence occurred.



## **Timeline**

The Compliance Officer/designee must contact the student, if age eighteen (18) or older, or the student's parents if under the age eighteen (18), within two (2) school days after receipt of a report of sexual violence to advise s/he/them of the Board's intent to investigate the alleged misconduct. The Compliance Officer/designee will also inform the alleged perpetrator of the opportunity to submit a written response to the complaint within five (5) business days. The District's investigation, including a disciplinary hearing process (but not appeal), may take up to sixty (60) calendar days to complete. This timeframe may be extended on a case-by-case basis, depending on the complexity and severity of the matter, criminal investigation requirements, and school breaks. During this period, the District will provide the complainant with periodic updates on the status of the investigation.

## **Interim Measures**

During the investigation, the District will take interim steps to facilitate the complainant's equal access to its education programs. These steps may include, but are not limited to: (1) notifying the complainant of his/her options to avoid contact with the alleged perpetrator; (2) allowing the complainant to change his/her academic, extracurricular, transportation, dining, and working situation as appropriate; and (3) informing complainant of other available resources, such as counseling, legal assistance, and victim advocacy. Specific interim measures will be considered and offered on a case-by-case basis.

## **Notice**

Upon completing its investigation, the District will notify both parties in writing about the outcome of the complaint and any appeal. Specifically, the District will notify the complainant: (1) as to whether the investigation substantiated the allegations; (2) of individual remedies offered to the complainant; (3) of sanctions imposed on the perpetrator that directly relate to the complainant; and (4) other steps the District has taken to eliminate the hostile environment and prevent recurrence. The alleged perpetrator will be notified of the investigation's result and disciplinary consequence to him/her, if any. The District will not notify the alleged perpetrator about the individual remedies afforded to the complainant. All aforementioned notifications will comply with Federal and State privacy laws, including the Family Education Rights and Privacy Act (FERPA).

## **Remedies**

The District will provide a prompt and equitable resolution. If the investigation substantiates the complaint, the District will take steps to end the sexual violence, eliminate the hostile environment, prevent its recurrence, and remedy its effects. In addition to imposing disciplinary consequences on the perpetrator, the District will consider the following individual and global remedies, on a case-by-case basis:

- A. providing medical, counseling, and academic support services to the complainant and/or perpetrator;
- B. re-arranging schedules at the complainant's request;
- C. affording the complainant extra time to complete or retake classes without academic penalty;
- D. reviewing any disciplinary proceedings against the complainant;
- E. training or retraining employees;
- F. developing materials on sexual violence;
- G. conducting sexual violence prevention programs; and
- H. conducting climate checks.

The District will not offer mediation in cases involving sexual violence. Disciplinary consequences against offenders may include suspension, expulsion, termination, and any other sanctions the Board deems appropriate. Any discipline meted out to offenders will comply with special education and Section 504 laws and regulations.

## **Appeals Process**

Both complainants and perpetrators may appeal the outcome of the investigation. Any appeal opportunities afforded to the alleged perpetrator are also afforded to the complainant. Any party wishing to appeal the outcome of the investigation must submit a written appeal to the Board within ten (10) school days after receipt of the written notice of the outcome of the investigation. The Board shall, within twenty (20) work days, conduct a hearing concerning the appeal. The Board shall provide a written decision to the appealing individual within ten (10) work days following completion of the hearing.

## **Retaliation**

Federal law strictly prohibits retaliation against a complainant or witness. The District will inform complainant of this prohibition and direct him/her to report retaliation, whether by students or school officials, to the Compliance Officer. Upon learning of retaliation, school officials will take strong responsive action as appropriate.

### **Retention of Investigatory Records and Materials**

**All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including, but not limited to:**

1. **all written reports/allegations/complaints/statements;**
2. **narratives of all verbal reports/allegations/complaints/statements;**
3. **a narrative of all actions taken by District personnel;**
4. **any written documentation of actions taken by District personnel;**
5. **written witness statements;**
6. **narratives of, notes from, or audio, video, or digital recordings of witness statements;**
7. **all documentary evidence;**
8. **e-mails, texts, or social media posts pertaining to the investigation;**
9. **contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;**
10. **written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;**
11. **dated written determinations to the parties;**
12. **dated written descriptions of verbal notifications to the parties;**
13. **written documentation of any interim measures offered and/or provided to complainants, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and**
14. **documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects.**

**The information, documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).**

**The information, documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 for not less than ~~four~~ ~~three~~ (4) years, but longer if required by the District's records retention schedule.**

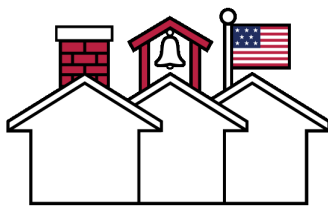
### **Training**

All staff will be trained so they know to report harassment to appropriate school officials. This training will include practical information about how to identify and report sexual harassment, including sexual violence. The training will be provided to any employees likely to witness or receive complaints involving sexual harassment and/or sexual violence, including teachers, school law enforcement unit employees or school resource officers, school administrators, school counselors, and health personnel. Further, school administrators responsible for investigating allegations of sexual harassment and sexual violence will be trained how to conduct such investigations and respond properly to such charges.

Legal

- 20 U.S.C. 1681 et seq., Title IX of the Education Amendments of 1972 (Title IX)
- 20 U.S.C. 1400 et seq., The Individuals with Disabilities Education Improvement Act of 2004 (IDEIA)
- 42 U.S.C. 2000c et seq., Title IV of the Civil Rights Act of 1964
- 42 U.S.C. 2000d et seq.
- 42 U.S.C. 2000e et seq.
- 42 U.S.C. 1983
- 34 C.F.R. Part 106
- Dear Colleague Letter on Sexual Violence (Office for Civil Rights, 2011)
- OCR's Revised Sexual Harassment Guidance (2001)

Last Modified by Brenda Davis on October 11, 2018



|         |                                   |
|---------|-----------------------------------|
| Book    | Policy Manual                     |
| Section | Vol. 18, No. 2 - REVISED          |
| Title   | Copy of DATING VIOLENCE AND ABUSE |
| Number  | *po5517.03 LTM 9/17/18            |
| Status  |                                   |
| Adopted | August 13, 2013                   |

#### 5517.03 - **DATING VIOLENCE AND ABUSE**

The School Board strictly prohibits any act of dating violence and abuse committed by one student against another on school property, during a school-sponsored activity, or during school-sponsored transportation.

#### **Dating Violence and Abuse Defined**

For purposes of this policy, dating violence and abuse shall be defined as emotional, verbal, sexual, or physical abuse of a student who is in a current or was in a past dating relationship by the other person in that dating relationship. Abuse may include insults, coercion, social sabotage, sexual harassment, stalking, threats and/or acts of mental, physical or sexual abuse. It may also be a pattern of demeaning, coercive, abusive actions that amount to emotional or psychological abuse. Dating violence and abuse may also include abuse, harassment, and stalking via electronic devices such as cell phones and computers, as well as harassment through a third party.

#### **Reporting Acts of Dating Violence and Abuse**

Any student who is the victim of an act of dating violence and abuse, or has cause to believe that s/he is in immediate danger of becoming the victim of an act of dating violence and abuse, should report the matter to the Principal or to any member of the school staff.

Any Board employee who receives a report of an act of dating violence and abuse, who directly observes an act of dating violence and abuse perpetrated by one student against another, or who has reason to believe that a student is a victim of dating violence and abuse shall report such report, observations, or suspicions to the Principal.

Any resident of the community or other member of the school community, including students, parents, volunteers, and visitors, who observes an act of dating violence and abuse perpetrated by one student against another, or who has reason to believe that a student is a victim of dating violence and abuse is strongly encouraged to promptly report the matter to the Principal or other District administrator or official. These reports can be made either in person or anonymously.

#### **Investigating Reports of Dating Violence and Abuse**

Upon receiving a report of alleged dating violence and abuse, the Principal shall conduct an investigation of the allegation promptly. As part of the investigation, the Principal shall contact the parent(s) of the alleged victim and/or the parent(s) of the alleged perpetrator, if they are under the age of eighteen, to inform them of the report.

The investigation of the report should include interviews of the alleged victim, the individual accused of perpetrating the dating violence and abusive behavior, and any other person who may have witnessed the alleged act or who may reasonably be expected to have information relevant to the situation. All interviewed parties and witnesses will be provided an opportunity to present any evidence that they reasonably believe to be relevant to the situation.

The Board reserves the right to investigate a report of dating violence and abuse regardless of whether the student who is allegedly the victim of the dating violence and abuse wants to pursue the matter.

## Consequences

At the conclusion of the investigation the Principal will determine whether or not the allegation of dating violence and abuse was substantiated. If the Principal determines that a student has committed an act of dating violence and abuse, that violation of this policy shall result in disciplinary action in accordance with the Student Code of Conduct, which may include suspension, assignment to another school or program, or recommendation for expulsion. All disciplinary action shall be taken in accordance with State law and applicable Board policy. (See Policy 5500 and Policy 5600) When imposing discipline, the totality of the circumstances involved in the matter, including the ages and maturity levels of those involved, shall be considered.

Suspensions for acts of teen violence and abuse may be appealed in accordance with the procedures set forth in the Student Code of Conduct. (See Policy 5500)

Further, the Department of Children and Families shall be notified if the student who is found to have perpetrated the act of dating violence and abuse is eighteen years of age or older and the student who was the victim of the act of dating violence and abuse is a minor.

In those cases where teen dating violence and abuse is not substantiated, the Principal may consider whether the alleged conduct nevertheless warrants disciplinary action in accordance with the Student Code of Conduct or other Board policies.

## Support and Reasonable Accommodations

If requested during or after the investigation, the Principal shall make reasonable accommodations for the student who is allegedly experiencing dating violence and abuse including, but not limited to the following:

- A. class schedule changes;
- B. protection that will enable safe egress/regress from school, as well as movement within the school; and
- C. referrals for outside support or counseling.

Students should provide the Principal with a copy of an order of protection that has been issued by the court. The Principal shall then contact the student whose behavior is to be regulated by that order of protection and initiate a Stay Away Contract that is consistent with the terms of that order and provides penalties for known violations of the contract. Further, the Principal shall notify law enforcement immediately if she/he knows or has reason to believe that a criminal or civil restraining order has been violated.

## Other Violations of the Dating Violence and Abuse Policy

The Board will also take immediate steps to impose disciplinary action on individuals engaging in any of the following prohibited acts:

- A. Retaliating against a person who has made a report or filed a complaint alleging dating violence and abuse, or who has participated as a witness in an investigation of such an allegation.
- B. Filing a malicious or knowingly false report or complaint of dating violence and abuse.
- C. Disregarding, failing to investigate adequately, or delaying investigation of allegations of dating violence and abuse, when responsibility for reporting and investigating allegations of dating violence and abuse comprises part of one's supervisory duties.

## Privacy/Confidentiality

The School District will respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the Board's legal obligations to investigate, to take appropriate action, and to conform with any discovery or disclosure obligations. All records generated under the terms of this policy and its related administrative procedures shall be maintained as confidential to the extent permitted by law.

## Retention of Investigatory Records and Materials

**All individuals charged with conducting investigations under this policy shall retain all information, documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315) created and received as part of an investigation, including, but not limited to:**

1. **all written reports/allegations/complaints/statements;**
2. **narratives of all verbal reports/allegations/complaints/statements;**

3. a narrative of all actions taken by District personnel;
4. any written documentation of actions taken by District personnel;
5. written witness statements;
6. narratives of, notes from, or audio, video, or digital recordings of witness statements;
7. all documentary evidence;
8. e-mails, texts, or social media posts pertaining to the investigation;
9. contemporaneous notes in whatever form made (e.g., handwritten, keyed into a computer or tablet, etc.) pertaining to the investigation;
10. written disciplinary sanctions issued to students or employees and a narrative of verbal disciplinary sanctions issued to students or employees for violations of the policies and procedures prohibiting discrimination or harassment;
11. dated written determinations to the parties;
12. dated written descriptions of verbal notifications to the parties;
13. written documentation of any interim measures offered and/or provided to complainants, including no contact orders issued to both parties, the dates issued, and the dates the parties acknowledged receipt; and
14. documentation of all actions taken, both individual and systemic, to stop the discrimination or harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects.

The information, documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal and/or State law (e.g., student records).

The information, documents, ESI, and electronic media (as defined in Policy 8315) created or received as part of an investigation shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 for not less than ~~four~~ ~~three~~ (4) years, but longer if required by the District's records retention schedule.

### **Education and Training**

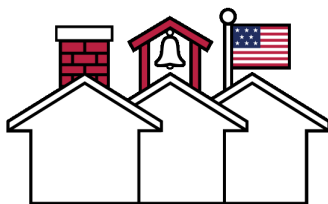
In support of this policy, the Board promotes preventative educational measures to create greater awareness of dating violence and abuse. The Superintendent shall require that the District's comprehensive health curriculum in grades 7-12 include a component about dating violence and abuse that is age appropriate and includes the content required by State law.

Further, the Superintendent shall provide appropriate training to all members of the School District staff related to dating violence and abuse, and the implementation of this policy.

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Legal F.S. 1003.42, 1006.148

Last Modified by Brenda Davis on October 11, 2018



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|--------------|----------------------------------------------------------------------|
| Book         | Policy Manual                                                        |
| Section      | Vol. 18, No. 2 - REVISED                                             |
| Title        | Copy of REMOVAL, OUT-OF-SCHOOL SUSPENSION, AND EXPULSION OF STUDENTS |
| Number       | *po5610 LTM 9/27/18                                                  |
| Status       |                                                                      |
| Adopted      | August 13, 2013                                                      |
| Last Revised | April 12, 2016                                                       |

#### 5610 - **REMOVAL, OUT-OF-SCHOOL SUSPENSION, DISCIPLINARY PLACEMENT, AND EXPULSION OF STUDENTS**

The School Board recognizes that exclusion from the educational program of the schools, whether by emergency removal, suspension, disciplinary placement, or expulsion, is the most severe sanction that can be imposed on a student in this District, and one that cannot fairly be imposed without due process.

No student is to be removed, suspended, expelled, or excluded from an activity, program, or a school unless his/her behavior represents misconduct as specified in the Code of Student Conduct approved by the Board. The Code shall also specify the procedures to be followed by school officials. In addition to the procedural safeguards and definitions set forth in this policy and the Code of Student Conduct, the procedures set forth in Policy 5605 shall apply to students identified as disabled under the IDEA and/or Section 504 of the Rehabilitation Act of 1973.

For purposes of this policy and the Superintendent's administrative procedures, the following shall apply:

- A. "Suspension", also referred to as "out-of-school suspension", means the temporary removal of a student from all classes of instruction on school grounds and all other school-sponsored activities, except as authorized by the principal, for a period not to exceed ten (10) school days and remanding of the student to the custody of the student's parent, with specific homework assignments to complete.
- B. "Serious breach of conduct" includes, but is not limited to, willful disobedience, open defiance of authority of a member of the staff, actual or threatened violence against persons or property, or any other act that substantially disrupts the orderly conduct of the school.
- C. "Expulsion" means the removal of the right and obligation of a student to attend a public school for a period of time and under conditions set by the Board not to exceed the remainder of the term or school year and one (1) additional year of attendance.
- D. "Disciplinary placement" means the involuntary separation of a student from his/her regular school or traditional education setting and benefits attached to such placement to a separate alternative school or disciplinary setting with continued educational services.

#### **REMOVAL FROM CLASS**

##### **A. Referral**

A teacher has the authority to refer a disruptive student to the office. In that circumstance, the Principal will provide oral and/or written feedback to the teacher with regard to action taken or proposed to be taken concerning the student's behavior. Disruptive behavior will include, but not be limited to, the following:

1. assault on staff or students,

2. threat(s) or violence,
3. willful disregard of a teacher's directions, interfering with the class or activity,
4. malicious vandalism,
5. possession of weapons of any type,
6. continuing use of profane language or obscene gestures, and
7. instigation of violence or mass disobedience to legitimate directions.

The teacher may request a conference with the Principal and the student's parent(s)/guardian(s) prior to the student being returned to his/her classroom. A disruptive student will not normally be returned to the classroom where he/she exhibited the disruptive behavior until the teacher has received the feedback before such conference occurs.

## B. Removal

Pursuant to F.S. 1003.32, a teacher may remove ~~a student~~ from his/her class a student whose behavior the teacher determines interferes with the teacher's ability to ~~effectively~~ communicate effectively with other students in the class or with the ability of the student's classmates to learn.

The principal may not return a student who has been removed by a teacher ~~from~~to the teacher's class without the teacher's consent, unless the Placement Review Committee established herein determines that such placement is the best or only available alternative.

The teacher and the Placement Review Committee must render decisions within five (5) working days of the removal of the student from the classroom.

In accordance with State law, each school shall establish a Placement Review Committee(s) to determine if a student is to be returned to a teacher's class after that student has been removed by the teacher and the teacher has withheld consent for that student to be returned to the teacher's class. Committee membership shall be as set forth in State law. The Placement Review Committee(s) will be selected during preschool planning.

A teacher, who removed a student from his/her class and who has withheld consent for the return of that student to his/her class, shall not serve on the committee when the committee makes its decision regarding the return of the student.

## OUT-OF-SCHOOL SUSPENSION FROM SCHOOL OR SUSPENSION FROM RIDING SCHOOL BUS

When a student's actions are so disruptive to himself/herself or to the school as to violate law, Board policies, or school rules, the student may be suspended by the Principal. A student who is suspended shall not be allowed to attend his/her regular classes or school-sponsored activities for a prescribed number of days not to exceed ten (10). The Principal may refer the student during the period of the suspension to in-school suspension, a center for special counseling or shall remand the student to the custody of his/her parent or guardian.

The principal may suspend a student from school for a period not to exceed ten (10) school days with advance approval from the Superintendent ~~or designee~~, the student may be suspended for more ten (10) days. Before suspending a student, except in emergencies or disruptive conditions that require immediate suspension or in the case of a serious breach of conduct, the principal or designee shall make a good faith effort to employ parental assistance or alternative methods of dealing with the student and shall document such efforts.

In no case shall a teacher suspend a student from school or class, nor shall a bus driver suspend a student from riding a school bus. A student may not be suspended for unexcused tardiness, lateness, absence, or truancy.

Prior to a suspension, the ~~student will receive oral and written notice of the charges and an explanation of the evidence against him/her. The~~ Principal will hold an informal hearing to give the student oral and written notice of the charges and an explanation of the evidence against him/her. The student will then have an opportunity to explain his/her side of the story. The hearing will be held on the day of the alleged infraction, unless it would be impossible or unreasonably difficult to do so.

The Principal will make a good faith effort to contact the student's parent or guardian by telephone immediately after making the decision to suspend.

The Principal will send formal written notice to the student's parent or guardian by U.S. Mail, in person, entering it into FOCUS and/or by e-mail, if the parent's the school has an email address for the parent, informing of the length of the suspension and the reasons for it or provided to the parent or guardian in person on the day of the suspension. The Principal will also report each



suspension in the automated district system accessible to the Superintendent within twenty-four (24) hours of the time the student is informed of the suspension.

Except in the event of emergencies, all out-of-school suspensions shall begin at the end of the school day of the infraction, unless the parents or guardians have been notified and are able to pick up the student at school. The school will provide homework assignments for the student to complete.

In cases of extremely disruptive or dangerous behavior persons or groups involved may be immediately suspended and ejected from the school campus without the necessity of a prior hearing. In such instances, each student shall be afforded an informal hearing before the ~~P~~principal prior to the expiration of the third day of suspension.

A student shall be given the opportunity to make up schoolwork and course requirements missed while absent due to out-of-school suspension. The student shall have a reasonable amount of time up to five (5) school days following suspension to complete the school work missed and shall do so on his/her own initiative.

When Board action on a recommendation for the expulsion of a student is pending, the superintendent may extend the suspension assigned by the principal beyond ten (10) school days if such suspension expires before the next regular or special meeting of the Board.

In the case of students with disabilities, please refer to the special programs and placement plan for exceptional student education, and the procedures outlined in the *Code of Student Conduct*.

## **APPEAL**

The Board designates the Superintendent as its representative at all hearings regarding the appeal of a suspension.

The notice to the parent will include an explanation of the right of the student or parent to appeal to the Superintendent, the right to be represented at the appeal, and the right to request the hearing be held in executive session if before the Board.

## **DELAYED ADMISSION**

The Board authorizes the superintendent to delay the admission of a student who has been suspended by another public or private school for an act that would have been grounds for suspension according to the Board-adopted *Code of Student Conduct* for a period equal to that of the suspension.

## **WAIVER OF SUSPENSION**

The Superintendent may grant to a principal the approval to waive mandatory suspension policies if the principal has submitted a request for the waiver and has an existing educational alternative program. Students at schools without alternative programs may attend alternative programs at another school with the approval of both principals and area ~~S~~superintendent.

## **School Work Assigned During Out-of-School Suspension**

- Credit will be given for work missed due to out-of-school suspension provided the student completes and submits all required assignments upon return to school.

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## **DISCIPLINARY REASSIGNMENT AND EXPULSION**

The Board recognizes that disciplinary placement and expulsion from the educational program of the schools are the most severe sanctions for a student in this District and that either one that cannot fairly be imposed without due process.

A principal may recommend to the Superintendent the disciplinary placement or expulsion of a student who has committed a serious breach of conduct. A recommendation of disciplinary placement or expulsion will include a detailed report on the student's actions and alternative measures taken before the recommendation.

A student and his/her parent or guardian will be given written notice of the principal's recommendation and the reasons, therefore and an opportunity to meet with the Superintendent or designee to answer the charges. The principal will send the disciplinary placement or expulsion recommendation to the Suspension and Expulsion Review Team (SERT). The SERT will determine if the principal request will be upheld.

~~The Board recognizes that expulsion from the educational program of the schools is the most severe sanction for a student in this District and one that cannot fairly be imposed without due process.~~

~~A principal may recommend to the Superintendent the expulsion of a student who has committed a serious breach of conduct. A recommendation of expulsion will include a detailed report on the student's actions and alternative measures taken before the recommendation.~~

~~A student and his/her parent or guardian will be given written notice of the principal's recommendation and the reasons, therefore and an opportunity to meet with the Superintendent or designee to answer the charges. The principal will send the expulsion request to the Suspension and Expulsion Review Team (SERT). The SERT will determine if the principal request will be reviewed by a hearing officer.~~

### **Disciplinary Placement and Expulsion Hearings**

When the Superintendent makes a recommendation for disciplinary placement or expulsion to the Board, written notice shall be given to the student and his/her parent or guardian of the recommendation setting forth the charges against the student, with a summary of the factual, legal, and policy grounds for the recommendation, and advising the student and his/her parent or guardian of their right of due process including the right to a hearing. A parent or adult student may make a written request for a hearing within ten (10) days from receipt of the Superintendent's notice.

If the parent or guardian wishes to contest the charges, the hearing will be conducted by an individual appointed by the Board to serve as presiding hearing officer, who may be an attorney appointed by the Board who is a member in good standing of the Florida Bar.

All parties will be given reasonable notice of the hearing of not less than fourteen (14) days; however, the fourteen (14) day requirements may be waived by the hearing presiding officer without the consent of the parties.

Failure to timely request a hearing or failure to appear at a hearing after notice of the date and time of the hearing shall be deemed to be a waiver of any hearing on the matter. However, upon presentation of good and sufficient reasons for non-appearance, the presiding officer may direct that the hearing be re-scheduled.

Hearings will be conducted in accordance with Florida statutes and the Uniform Rules of Procedure. Reasonable flexibility in method or order of presentation shall be permitted. No parent or adult student shall be prohibited from presenting reasonable matters because of insubstantial procedural irregularities. A parent or adult student may be represented at the hearing by an adult, whether as legal counsel or qualified representative. Disciplinary placement and Expulsion hearings are exempt from the public meetings law; however, the parent may elect to have the hearing held as a public meeting.

~~When the Superintendent makes a recommendation for expulsion to the Board, written notice shall be given to the student and his/her parent or guardian of the recommendation setting forth the charges against the student, with a summary of the factual, legal, and policy grounds for the recommendation, and advising the student and his/her parent or guardian of their right of due process.~~

The student and parent or representative will have the opportunity to meet with the Superintendent or designee to challenge the proposed action or to otherwise explain the student's actions. The written notice will state the time and place to appear, which must not be earlier than three (3) school days nor later than five (5) school days after the notice is given, unless the Superintendent grants an extension upon request of the student or parent.

Within one (1) school day of the meeting, the Superintendent will notify the parents, guardians, or custodians of the student and Fiscal Officer of the Board whether s/he intends to recommend to the Board that the student be expelled. The notice will include the reasons for recommendation and the right of the student, parent, guardian, or custodian to appeal to the Board, the right to be represented at the appeal, and the right to request the hearing be held in a public meeting if before the Board.

All students who are recommended for disciplinary placement or expulsion shall undergo screening to determine if they may be a student with a disability and due the procedural rights and safeguards afforded such students.

~~A parent or adult student may make a written request for a hearing within ten (10) days from receipt of the Superintendent's notice.~~

### **No Disputed Issues(s) of Material Fact**

If there is no disputed issue of material fact, the parent or adult student, or their counsel, will have the opportunity at the hearing to present written or oral evidence in opposition to the proposed action or a written statement challenging the propriety of the proposed action.

### **Disputed Issue(s) of Material Fact**

If there is a disputed issue of material fact, all parties will have an opportunity at the hearing to respond, to present evidence, and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of fact and orders and to file exceptions to the hearing officer's recommended order.

Findings of fact shall be based on a preponderance of the evidence and shall be based exclusively on the evidence of record and on matters officially recognized.

All parties may submit proposed findings of fact, conclusions of law, orders, and memoranda on the issues within a time designated by the presiding hearing officer.

The presiding hearing officer's findings of fact, conclusions of law, and recommendation for Board action will be set forth in a recommended order served upon the parent or adult student, the student's representative, if any, and the superintendent. Each party shall have fifteen (15) days from receipt to submit written exceptions to the recommended order.

### **Board Action**

The presiding hearing officer's recommended order will be submitted to the Board for action. No further information shall be provided by the parties, thereafter. The parent, adult student, or representative may appear at the Board meeting and speak to the recommended action. The parent, adult student or representative will be allowed adequate time to address the Board. The Superintendent's attorney will be allowed adequate time to respond. No new evidence will be received at the Board meeting.

The board will decide on a recommended expulsion or a disciplinary placement of any student. ~~who has been determined to have brought to, or possessed at school a firearm or weapon, as defined in F.S. Chapter 790, or have made a threat or false report, as defined by F.S. 790.162 and 790.163.~~

### **Final Order**

The Board will enter a written final order, including findings of fact, ~~if any~~, and conclusions of law separately stated. The final order will include a ruling on each exception filed, if any, in accordance with Florida statutes.

The final order will be served on all parties.

### **Appeal**

A party may seek judicial review of the final order in accordance with F.S. 120.68.

### **Denial of Admission**

A student seeking to enroll in a District school who has been expelled by an in-state or out-of-state public district school board, private school, or lab school for an act that would have been grounds for expulsion according to the Board-adopted *Code of Student Conduct* ~~by an in-state or out-of-state public district school board or private school, or lab school~~ may be denied admission to the District's school for a period equal to that of that expulsion.

Prior to making a recommendation regarding admission or denial thereof, the Superintendent may offer the student an opportunity for a hearing to review the circumstances of the expulsion and any other factors the Superintendent determines to be relevant.

The Superintendent may recommend that the Board honor the final order of expulsion from the student's previous district of attendance and deny admission to the student, or that the Board waive the final order of expulsion and admit the student.

Acting upon the recommendation of the Superintendent, the Board may deny the admission of a student who has been expelled by any in-state or out-of-state public district school board or private school for a period equal to that of the expulsion for an act that would have been grounds for expulsion according to the Board-adopted *Code of Student Conduct*. A final order of expulsion shall be recorded in the records of the District, and the student and his/her parents shall be advised of the final order of expulsion.

However, the Board may, with or without the Superintendent's recommendation, waive the expulsion, admit the student, and direct that s/he be placed in an appropriate educational program.

The Superintendent shall develop administrative procedures to implement this policy and ensure compliance with applicable statutes.

A copy of this policy is to be made accessible to students and parents in the District's online policy manual, and shall be provided in hard copy to students and parents upon request. Key provisions of this policy should also be included in the *Positive Climate and Discipline Code of Student Conduct*.

Revised 4/12/16

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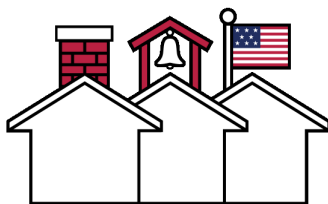
F.S. 120.569, 120.57, 1002.20, 1003.02, 1003.32, 1006.07, 1006.09

F.A.C. chapter 28-106

18 U.S.C. Section 921

20 U.S.C. 8921

Last Modified by Brenda Davis on October 11, 2018



|         |                                        |
|---------|----------------------------------------|
| Book    | Policy Manual                          |
| Section | Special Release -School Safety Revised |
| Title   | Copy of EMERGENCY REMOVAL OF STUDENTS  |
| Number  | *po5610.01 LTM 9/26/18                 |
| Status  |                                        |
| Adopted | August 13, 2013                        |

#### 5610.01 - **EMERGENCY REMOVAL OF STUDENTS**

If a student's presence poses a continuing danger to persons or property, or an ongoing threat of disrupting the academic process taking place either in a classroom or elsewhere on school premises, then the Superintendent, principal, or assistant principal may remove the student from curricular activities or from the school premises. If the student's behavior involves unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, employees must disclose such information in accordance with Policy 8406 - Reports of Suspicious Activity and Potential Threats to Schools. A teacher may remove the student from curricular activities under the teacher's supervision, but not from the premises. If a teacher makes an emergency removal, the teacher will notify a building administrator of the circumstances surrounding the removal in writing, as soon as practicable. No prior notice or hearing is required for any removal under this policy. In all cases of normal disciplinary procedures where a student is removed from a curricular activity for less than one (1) school day and is not subject to further suspension or expulsion, the following due process requirements do not apply.

If the emergency removal exceeds one (1) school day, then a due process hearing will be held within three (3) school days after the removal is ordered. Written notice of the hearing and the reason for the removal and any intended disciplinary action will be given to the student as soon as practical prior to the hearing. If the student is subject to out-of-school suspension, the student will have the opportunity to appear at an informal hearing before the principal, assistant principal, Superintendent, or designee and has the right to challenge the reasons for the intended suspension or otherwise explain his/her actions. Within one (1) school day of the decision to suspend, written notification will be given to the parent(s)/guardian(s) or custodian of the student and Fiscal Officer of the School Board. This notice will include the reasons for the suspension, the right of the student or parent(s)/guardian(s) to appeal to the Board or its designee and the student's right to be represented in all appeal proceedings. If it is probable that the student may be subject to expulsion, the hearing will take place within three (3) school days and will be held in accordance with the procedures outlined in the Policy 5611 - Due Process Rights.

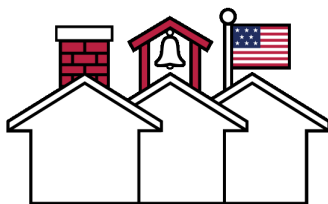
If the Superintendent or principal reinstates a student prior to the hearing for emergency removal, the teacher may request and will be given written reasons for the reinstatement. The teacher cannot refuse to reinstate the student.

In an emergency removal, a student can be kept from class until the matter of the misconduct is disposed of either by reinstatement, suspension, or expulsion.

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Legal F.S. 1006.07, 1006.09

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Book Policy Manual  
Section Vol. 18, No. 2 - REVISED  
Title Copy of IN-SCHOOL DISCIPLINE  
Number \*po5610.02 LTM 9/17/19  
Status  
Adopted August 13, 2013  
Last Revised April 12, 2016

5610.02 - **IN-SCHOOL DISCIPLINE**

It is the purpose of this policy to allow for an alternative to out-of-school suspension. ~~The availability of in-school discipline options is dependent upon the financial ability of the School Board to support them.~~

~~"In-school suspension" means the temporary removal of a student from the school's regular school program and placement in an alternative program under the supervision of Board personnel for a period not to exceed ten (10) school days.~~

In-school discipline includes detention, in-school restriction, Saturday School, in-school suspension, which is the temporary removal of a student from his/her regular class(es) and assigning the student to a location in the building under the supervision of School Board personnel for a period not to exceed ten (10) school days.

Students assigned to in-school suspension will be given credit for all classroom assignments completed provided the student submits the assignments upon return to his/her class.

In-school discipline will ~~only be offered~~ at the discretion of the Principal for offenses found in the Code of Student Conduct.

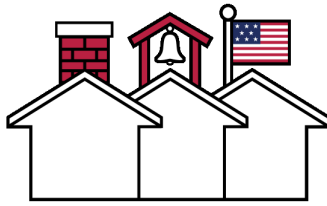
The Superintendent is to establish administrative procedures for the proper operation of such programs. As long as the in-school disciplinary alternatives are served entirely in the school setting, they will not require any notice, hearing, or appeal rights.

Revised 4/12/16

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|--------------|-----------------------------------------------------------------------------|
| Book         | Policy Manual                                                               |
| Section      | Vol. 18, No. 2 - REVISED                                                    |
| Title        | Copy of PURCHASING AND CONTRACTING FOR COMMODITIES AND CONTRACTUAL SERVICES |
| Number       | *po6320 JC/BD 09 20 18                                                      |
| Status       |                                                                             |
| Adopted      | August 13, 2013                                                             |
| Last Revised | November 22, 2016                                                           |

#### 6320 - **PURCHASING AND CONTRACTING FOR COMMODITIES AND CONTRACTUAL SERVICES**

Any School Board employee who has purchasing authority shall consider first the interests of the Board in all purchases and seek to obtain the maximum value for each dollar expended; not solicit or accept any gifts or gratuities from present or potential suppliers which might influence or appear to influence purchasing decisions; and refrain from any private business or professional activity that might present a conflict of interest in making purchasing decisions on behalf of the Board.

No person, unless authorized to do so under this policy, may make any purchase or enter into any contract involving the use of school funds. The Board will not approve expenditures for any unauthorized purchase or contract.

[Purchases may be made through an online procurement system, an electronic auction service, or other efficient procurement tool.](#)

#### **Scope**

This policy shall generally apply to the District's purchase of commodities and contractual services, except it shall not apply to:

- A. employment contracts;
- B. acquisition of architectural, engineering, landscape architectural, construction management at risk, registered surveying and mapping, or other services pursuant to Policy 6330 - Acquisition of Professional Architectural, Engineering, Landscape Architectural, or Land Surveying Services;
- C. acquisition of auditing services pursuant to F.S. 218.391;
- D. acquisition of professional consultant services, including but not limited to services of lawyers, accountants, financial consultants and other business or operational consultants, which shall be governed by Policy 6540 - Consultant Agreements;
- E. contracts which are exempted, in whole or in part, from this policy's requirements, as set forth below;
- F. proposals and agreements for public-private partnerships with private entities for qualifying projects pursuant to F.S. 287.05712.

#### **Definitions**

- A. "Competitive solicitation" means purchasing made through the issuance of an invitation to bid, request for proposals and invitation to negotiate. Competitive solicitations are not required for purchases made through the pool purchase provisions of F.S. 1006.27.
- B. "Invitation to bid" means a written or electronic solicitation for competitive sealed bids. The invitation to bid is used when the Board is capable of specifically defining the scope of work for which a contractual service is required or when the Board is

capable of establishing precise specifications defining the actual commodity or group of commodities required. A written solicitation includes a solicitation that is publicly posted.

- C. "Invitation to negotiate" means a written or electronically posted solicitation for competitive sealed replies to select one (1) or more vendors with which to commence negotiations for the procurement of commodities or contractual services. The invitation to negotiate is used when the Board determines that negotiations may be necessary for it to receive the best value. A written solicitation includes a solicitation that is publicly posted.
- D. "Proposer" means those vendors submitting bids or responses to a competitive solicitation.
- E. "Request for proposals" means a written or electronically posted solicitation for competitive sealed proposals. The request for proposals is used when it is not practicable for the Board to specifically define the scope of work for which the commodity, group of commodities, or contractual service is required and when the Board is requesting that a responsible vendor propose a commodity, group of commodities, or contractual service to meet the specifications of the solicitation document. A written solicitation includes a solicitation that is publicly posted.
- F. "Superintendent" means the "Superintendent or designee".
- G. "Request for Quotations" means an informal process to solicit three (3) or more price quotes on commodities or contractual services with standard specifications and valued under the threshold requiring formal competitive solicitations. Quotations may be obtained verbally or via facsimile or e-mail.
- H. A "Confirming Purchase Order" is a P.O. that released after goods and services have already been rendered. Confirming Purchase Orders are only authorized in the event of a declared emergency as define by this policy.

## **CONTRACT APPROVAL**

Contracts shall be approved and executed as follows:

### **A. Superintendent/Designee Authority**

The Superintendent or designee(s) are authorized to approve and execute contracts on behalf of the District involving expenditure of public funds in an amount no greater than the amount \$50,000.00 so long as the obligation created does not exceed the applicable appropriation within the District budget and the contract is otherwise in compliance with applicable District procedures, policies, and law. For purposes of this policy, any group of contracts/purchase orders to the same provider which are connected in terms of time, location and services such that a reasonable person would view them as a single contract shall be deemed a single contract. The Superintendent or his/her designee shall not divide the procurement of goods or contractual services so as to avoid the monetary cap imposed by this policy. Designations of contracting authority by the Superintendent shall be in writing and shall specify the maximum obligation permitted in an amount no greater than the amount \$50,000.00.

### **B. Emergency Purchases**

Notwithstanding the general limit on the Superintendent's authority to enter into contracts involving expenditure of public funds in an amount no greater than the amount of \$50,000.00 the Superintendent is authorized to approve or execute contracts on behalf of the District involving expenditure of public funds in an amount greater than \$50,000.00 when the Superintendent determines in writing that an immediate danger to the public health, safety, or welfare or other substantial loss to the School District requires emergency action. Such written documentation shall be provided to the Board within three (3) business days and reported at the next scheduled Board meeting.

All emergency purchases in an amount greater than \$50,000.00 shall be summarized and presented to the Superintendent who shall submit the matter to the Board for ratification. The Board minutes shall show the need to initiate emergency purchasing procedures and that regular purchasing procedures would cause a delay and be contrary to the public interest.

### **C. Board Approval**

Except as expressly provided herein, the Board shall approve and execute all contracts on behalf of the District involving expenditure of public funds in an amount greater than \$50,000.00.

- D. Before making any purchase of commodities or contractual services which the Superintendent is authorized by the Board to make or before recommending any purchase to the Board, the Superintendent shall, insofar as possible, propose standards and specifications. S/He shall see that the commodities or contractual services conform to those standards and specifications, and shall take such other steps as are necessary to see that the maximum value is being received for any money expended.

## **PURCHASE ORDER APPROVAL**



## A. Contracts

The approval of a contract in accordance with the above authorizes the Superintendent to approve and issue any purchase order required to fulfill the District's obligation under the approved contract without further action of the Board. The Superintendent shall inform the Board of the approval of all purchase orders in an amount no greater than the amount indicated in Category 2 of F.S. 287.017, as soon as reasonably possible by a written report issued to the Board at a public meeting. This section shall not be construed to require Board approval of purchase orders.

## B. Bids/Exceptions

The Superintendent is authorized to issue purchase orders in accordance with bids awarded pursuant to below and the annually approved recurring vendor list without further action of the Board so long as the obligation created does not exceed the applicable appropriation within the District budget.

### Standards and Specifications

Before making any purchase of commodities or contractual services which the Superintendent is authorized by the Board to make or before recommending any purchase to the Board, the Superintendent shall, insofar as possible, propose standards and specifications. S/He shall see that the commodities or contractual services conform to those standards and specifications, and shall take such other steps as are necessary to see that the maximum value is being received for any money expended.

### Pre-Purchasing Review of Available Purchasing Agreements and State Term Contracts for Nonacademic Commodities and Contractual Services

Before purchasing nonacademic commodities and contractual services, the Board authorizes the Superintendent to review the purchasing agreements and State term contracts available under F.S. 287.056 to determine whether it is in the Board's economic advantage to use the agreements and contracts.

Each bid specification for nonacademic commodities and contractual services must include a statement indicating that the purchasing agreements and State term contracts available under F.S. 287.056 have been reviewed. The Board may use the cooperative State purchasing programs managed through the regional consortium service organizations pursuant to F.S. 1001.451. This policy does not apply to services that are eligible for reimbursement under the Federal E-rate program administered by the Universal Service Administrative Company.

### Competitive Solicitation Requirements for Commodities and Contractual Services Other Than Construction Contracting

Except as authorized by law or policy, competitive solicitations shall be requested from three (3) or more sources for the purchase of any authorized commodities or contractual services in an amount greater than \$50,000.00.

#### Purchases of Commodities and Services up to and including \$5,000.00

Multiple quotes are not necessary; however, Purchasing may request informal quote solicitation if an opportunity to save money exists.

#### Purchases of Commodities and Services \$5,000.01 to \$50,000.00

Solicit a written price quote from three (3) different sources if possible. If deemed appropriate by the Director of Purchasing, the requirement to solicit three quotes can be waived. See the section of this policy entitled "**Exception to Competitive Bidding Requirements**" for specific examples of when it may be appropriate to waive competitive quote solicitation.

#### Nonacademic Commodities and Services

Before purchasing nonacademic commodities and contractual services, each district school board and Florida College System institution board of trustees shall review the purchasing agreements and state term contracts available under F.S. 287.056 to determine whether it is in the Board's or the board of trustees' economic advantage to use the agreements and contracts. Each bid specification for nonacademic commodities and contractual services must include a statement indicating that the purchasing agreements and state term contracts available under F.S. 287.056 have been reviewed. Each district school board may also use the cooperative State purchasing programs managed through the regional consortium service organizations pursuant to their authority under s. 1001.451.(3).

#### Purchases of Commodities and Services greater than \$50,000.00

The procurement of commodities or contractual services may not be divided so as to avoid this monetary threshold requirement.

**A. Bid Solicitation**

The Superintendent is authorized to issue invitations for bids.

**B. Bid Publication**

Notice of the invitation for bids or requests for proposals shall be published at least once in a newspaper of general circulation within the District, and may be otherwise issued electronically, direct delivery, or other means which are appropriate under the circumstances. The required bid return date is to be announced at the time of the bid offering and shall not be less than five (5) working days from the bid offering date.

**C. Bid Responses**

The invitations to bid must be responded to by three (3) or more qualified vendors/bidders. Exceptions must be approved by the Board.

**D. Bid Opening**

Bids will be opened in the office designated in the bid advertisement with the Superintendent's designee and at least one (1) other District employee present.

**E. Bid Rejection**

The Board may reject any or all bids and request new bids.

**F. Bid Award**

In acceptance of responses to invitations to bid, the Board may accept the proposal of the lowest responsive, responsible proposer. The Board may also choose to award contracts to the lowest responsive, responsible bidder as the primary awardee of a contract and to the next lowest responsive, responsible bidder(s) as alternate awardees, from whom commodities or contractual services would be purchased, should the primary awardee become unable to provide all of the commodities or contractual services required by the Board during the term of the contract. Nothing herein is meant to prevent multiple awards to the lowest responsive and responsible bidders, when such multiple awards are clearly stated in the bid solicitation documents.

For a bidder to be considered responsive, the proposal must respond to all bid specifications in all material respects and contain no irregularities or deviations from the bid specifications which would affect the amount of the bid or otherwise provide a competitive advantage.

For a bidder to be deemed responsible, the Board may request evidence from the bidder concerning:

1. the experience (type of product or service being purchased, etc.) of the bidder;
2. the financial condition;
3. the conduct and performance on previous contracts (with the District or other agencies);
4. the bidder's facilities;
5. management skills;
6. the ability to execute the contract properly;
7. a signed affidavit ensuring that neither the bidder nor any subcontractor has entered into an agreement with any labor organization regarding the public improvement project.

Award of a bid by the Board shall only represent an indication by the Board that a bid represents the lowest responsive bid from a responsible and responsive bidder meeting the requirements and criteria set forth in the invitation to bid. Award of a bid shall not create a binding obligation on the Board, and no obligation shall be created or imposed on the District until such time as the Board Chair/designee executes a contract.

**Identical/Tie Low Bids**

When identical low bids are received from an out-of-District vendor and a local vendor, the local vendor shall be recommended for award. The term "local vendor" means a vendor who has an established business presence in the District indicated by the following:

- A. has a physical business location within the District for at least six (6) months immediately prior to issuance of the competitive solicitation.
- B. provides customer access at the business location.
- C. holds any required business license through a jurisdiction in the District.
- D. employs one (1) full-time or two (2) part-time employees in the District, or if the business has no employees, is at least fifty percent (50%) owned by one (1) or more persons whose primary residence(s) is located within the District.

When two (2) or more local vendors present tie low bids on the same items, the company receiving the larger dollar award of the total bid shall be recommended for tie items.

In the event two (2) or more local vendors present exact tie low bids and the dollar award is not a criterion, the successful bidder shall be selected by applying the following criteria in order:

- A. drug-free workplace program in accordance with Florida law
- B. minority business enterprise (MBE) certified by the State of Florida Office of Supplier Diversity
- C. veteran business enterprise, certified by the State of Florida Department of Management Services
- D. by lot or other method the Board may select

When two (2) out-of-District vendors submit identical low bids, the criteria noted above shall be used to determine the successful bidder.

#### **Florida Vendor Preference**

If a competitive solicitation response for personal property is from a vendor whose principal place of business is outside of the State of Florida, then the preference requirements of F.S. 287.084 shall be applied by District staff or the selection committee in making the final recommendation for an award.

#### **Vendor Preference For Certified Veteran Business Enterprises**

As authorized by F.S. 295.187, "The Florida Veteran Business Enterprise Act", the Board shall provide a vendor preference in favor of certified veteran business enterprises.

The certification of a veteran business enterprise shall be granted by the Department of Management Services, with the assistance of the Department of Veterans' Affairs, as required by State law.

When two (2) or more bids, proposals or replies for procurement of commodities or contractual services, which are equal with respect to all relevant considerations, including price, quality, and service, are submitted and at least one (1) is from a certified veteran business enterprise, priority for award shall be given to the certified veteran business enterprise as defined by F.S. 295.187. In the event two (2) or more certified veteran business enterprises are entitled to the preference, then the award shall be given to the business having the smallest net worth.

To the extent that this provision is inconsistent with the provisions of this or any other Board policy, this provision shall prevail.

#### **Exception to Competitive Bidding Requirements**

Notwithstanding anything in this policy to the contrary, the Board may make certain purchases without the requirement for competitive solicitations, under the following conditions:

- A. In lieu of requesting competitive solicitations from three (3) or more sources, the Board may make purchases at or below the unit prices in contracts awarded by other Federal, State, city or county governmental agencies, other school boards, community colleges, or State university system cooperative bid agreements when the proposer awarded a contract by another entity will permit purchases by the Board at the same terms, conditions, and unit prices (or below such prices) awarded in such contract, and such purchases are to the economic advantage of the Board.
- B. The Superintendent is authorized to purchase commodities and contractual services where the total amount does not exceed \$50,000 and does not exceed the applicable appropriation in the budget.

C. Competitive solicitations are not required for pool purchases made as provided in F.S. 1006.27.

D. The State Board has waived the requirement for requesting competitive solicitations from three (3) or more sources for purchases by the Board of:

1. Professional services which shall include, without limitation, artistic services; academic program reviews; lectures by individuals; auditing services not subject to F.S. 218.391; legal services, including attorney, paralegal, expert witness, court reporting, appraisal or mediator services; and health services involving examination, diagnosis, treatment, prevention, medical consultation or administration; provided nothing herein shall be deemed to authorize the superintendent to acquire professional consultant services without Board approval as required by Board Policy 6540;
2. Educational services and any type of copyrighted materials including, without limitation, educational tests, textbooks, printed instructional materials, computer software, films, filmstrips, videotapes, DVDs, disc or tape recordings, digital recordings, or similar audio-visual materials, and for library and reference books, and printed library cards where such materials are purchased directly from the producer or publisher, the owner of the copyright, an exclusive agent within the state, a governmental agency or a recognized educational institution;
3. Commodities and contractual services when:

a. competitive solicitations have been requested in the manner prescribed by this policy; and

b. the Board has made a finding that no valid or acceptable firm proposal has been received within the prescribed time.

When such a finding has been officially made, the Board may enter into negotiations with suppliers of such commodities and contractual services and may execute contracts with such vendors under whatever terms and conditions as the Board determines to be in its best interests.

4. Commodities and contractual services when fewer than two (2) responsive proposals are received. The Board may then negotiate on the best terms and conditions or decide to reject all proposals. The Board will document the reasons that negotiating terms and conditions with the sole proposer is in the best interest of the District in lieu of re-soliciting proposals.

E. Information technology resources, whether by purchase, lease, lease with option to purchase, rental, or otherwise as defined in F.S. 282.0041(15), may be acquired by competitive solicitation or by direct negotiation and contract with a vendor or supplier, as best fits the needs of the District as determined by the Board.

F. Purchases of insurance, risk management programs, or contracting with third party administrators for insurance-related services may be through competitive solicitation or by direct negotiation and contract with a vendor or supplier.

G. Purchases of food products, required by the Board's food service program and other ancillary food operations, except milk from competitive bid requirements.

H. Purchase of milk is exempt from competitive bid requirements if:

1. the Board has made a finding that no valid or acceptable firm bid has been received within the prescribed time;
2. The Board has made a finding that an emergency situation exists.

The Board may then enter into negotiations with suppliers of milk and has the authority to execute contracts under whatever terms and conditions the Board determines to be in the best interest of the District.

I. The Board may dispense with requirements for competitive solicitation for the emergency purchase of commodities or contractual services when the Superintendent determines in writing that an immediate danger to the public health, safety, or welfare or other substantial loss to the District requires emergency action. After the Superintendent makes such a written determination, the Board may proceed with the procurement of commodities or contractual services necessitated by the immediate danger, without requesting competitive solicitations. However, such an emergency purchase shall be made by obtaining pricing information from at least two (2) prospective vendors, which must be retained in the contract file, unless the Superintendent determines in writing that the time required to obtain pricing information will increase the immediate danger to the public health, safety, or welfare or other substantial loss to the District.

J. Commodities or contractual services available only from a single source may be exempted from the competitive solicitation requirements. When the Board believes that commodities or contractual services are available only from a single source, the Board will electronically post a description of the commodities or contractual services sought for a period of at least seven (7)

business days. The description will include a request that prospective vendors provide information about their ability to supply the commodities or contractual services described. If it is determined in writing by the Board, after reviewing any information received from prospective vendors, that the commodities or contractual services are available only from a single source, the Board shall provide notice of its intended decision to enter a single source contract in the manner specified in Policy 6326 - Bid Protests, and may negotiate on the best terms and conditions with the single source vendor.

- K. The Board may make purchases of construction project materials directly from vendors, on behalf of the awarded construction contractor/manager, to take advantage of the District's "sales tax" exempt status.
- L. A contract for commodities or contractual services may be awarded without competitive solicitations if State or Federal law, a grant or a State or Federal agency contract prescribes with whom the Board must contract or if the rate of payment is established during the appropriations process.
- M. A contract for regulated utilities or government franchised services may be awarded without competitive solicitations.

## **Contract**

Each Board contract for services must include a provision that requires the contractor to comply with public records laws, specifically to:

- A. keep and maintain public records that ordinarily and necessarily would be required by the Board in order to perform the service under the contract;
- B. provide the public with access to its public records on the same terms and conditions as the Board would provide the records, and at a cost that does not exceed the cost provided in Policy 8310 - Public Records;
- C. ensure that any of its public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law;
- D. meet all requirements for retaining public record and, upon termination of the contract, transfer to the Board, at no cost, all public records in its possession and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements;

All records stored electronically must be provided to the Board in a format that is compatible with the Board's information technology systems.

- E. the contractor shall furnish a copy of any public records request or request for records in any way relating to the District, immediately upon receipt to the District's Director of Purchasing.

Each contract must also include the following statement, in substantially the following form, identifying the contact information of the District's custodian of public records in at least fourteen (14) point boldface type: "IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF F.S. CHAPTER 119 TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS, MRS. BRENDA DAVIS, AT PHONE - 772-564-3149, EMAIL - [brenda.davis@indianriverschools.org](mailto:brenda.davis@indianriverschools.org), OR MAIL: Mrs. Brenda Davis, SCHOOL DISTRICT OF INDIAN RIVER COUNTY, 6500 57th Street, Vero Beach, FL 32967."

## **Debarment**

The Director of Purchasing shall have the authority to debar a person/corporation, for cause, from consideration or award of further contracts. The debarment shall be for a period commensurate with the seriousness of the cause, generally not to exceed three (3) years. If suspension precedes a debarment, the suspension period shall not be considered in determining the debarment period. When the offense is willful or blatant, a longer term of debarment may be imposed, up to an indefinite period.

### **A. Cause of Debarment**

The term "debar" or "debarment" means to remove a vendor from bidding on District work. Causes for debarment include, but are not limited to the following:

1. conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or sub-contract, or in performance of such contract
2. conviction under State or Federal statutes for embezzlement, theft, forgery, bribery, falsification or destruction of records, or receiving stolen property, or any other offense indicating lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a vendor

3. conviction under State or Federal anti-trust statutes arising out of submission of bids or proposals
4. violation of contract provisions, including:
  - a. deliberate failure, without good cause, to perform in accordance with specifications or within the time limits provided in the contract(s); and
  - b. a recent record of failure to perform, or of unsatisfactory performance, in accordance with the terms of one (1) or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment
5. refutation of an offer by failure to provide bonds, insurance or other required certificates within the time period as specified in bid/RFP response
6. refusal to accept a purchase order, agreement, or contract, or to perform thereon, provided such order was issued timely and in conformance with the offer received
7. presence of principals or corporate officers in the business of concern who were principals within another business at the time when the other business was suspended within the last three (3) years under the provisions of this section
8. violation of the ethical standards set forth in State law
9. providing or offering to provide anything of value, including, but not limited to, a gift, loan, reward, promise of future employment, favor, or service to any employee to influence the award of contract or purchase items from a contractor
10. existence of unresolved disputes between the contractor and the District arising out of or relating to prior contracts between the District and the contractor, work performed by the contractor, or services or products delivered
11. any other cause the Director of Purchasing determines to be so serious and compelling as to affect credibility as a District vendor, including debarment by another governmental entity for any cause listed in this policy

**B. Notice of Recommended Decision**

The Director of Purchasing or designee shall issue a notice letter that advises the party that it is debarred or suspended. The letter shall:

1. state the reason(s) for the action taken; and
2. inform the vendor of its right to petition the Board for reconsideration.

**C. Right to Request a Hearing**

Any person who is dissatisfied or aggrieved with the notification of the determination to debar or suspend must, within ten (10) calendar days of such notification, appeal such determination to the Board.

**D. Hearing Date**

The Board shall schedule a hearing at which time the person shall be given the opportunity to demonstrate why the debarment/suspension by the Director of Purchasing should be overturned. All parties shall be given notice of the hearing date.

Revised 3/4/14  
 Revised 11/22/16

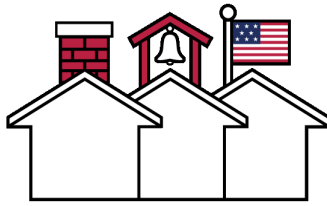
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Legal F.S. 119.0701, 255.05, 255.0516, 255.0518, 287.084, 287.087, 287.132, 287.133  
 F.S. 295.187, 1001.43, 1010.04, 1010.07(2), 1010.48  
 F.A.C. 6A-1.012, Purchasing Policies  
 F.A.C. 5P-1.003, Responsibilities for the School Food Service Program

Legal

F.S. 120.536, 120.54, 120.81, 1001.41, 1001.42(17), 1001.43, 1001.49, 1001.51

Last Modified by Brenda Davis on September 13, 2018



Book Policy Manual  
Section Special Release -School Safety Revised  
Title NEW/REVISED POLICY - SPEC. REL. - SCHOOL SAFETY - ENVIRONMENTAL HEALTH PROGRAM  
Number \*po7430.01 BD 9 26 18  
Status  
Adopted August 13, 2013

### **NEW/REVISED POLICY - SPEC. REL. - SCHOOL SAFETY**

#### **7430.01~~7440.01~~ - ENVIRONMENTAL HEALTH PROGRAM** ~~PROTECTION OF PERSONNEL AND PROPERTY~~

~~It shall be the responsibility of the School Board to provide safety and security for all students-employees of the Board.~~

#### **Environmental Health and Safety Program**

The Superintendent shall direct the development, implementation, and enforcement of an environmental health ~~and safety~~ program, compliant with applicable laws, ~~and~~ regulations, and Board policies designed to prevent injury and illness to employees, students, and the general public, and damage to property or the environment arising from the District's operations. ~~The program shall include, at a minimum, loss prevention, employee training, facility inspections, and corrective maintenance.~~

~~The principal or facility manager is responsible for the environmental health and safety program at their school or facility and for correction of "operation of plant" deficiencies within the time period specified.~~

#### **Fire Exit Drills**

~~Carefully planned and executed fire exit drills shall be conducted at the beginning of each semester, at times designated by the principal, following instruction of all classes regarding exits to be used in case of fire. At least one (1) fire exit drill shall be conducted every month school is in session. Any emergency evacuation drill (e.g., "crisis event"), completely performed, may be substituted for a required fire exit drill in a given month. All drills and all deficiencies affecting egress shall be documented in writing.~~

#### **Casualty, Sanitation, Fire Safety, and Other Inspections**

Inspections of all buildings including educational facilities, ancillary plants, and auxiliary facilities for casualty safety, and sanitation shall be conducted at least once during each fiscal year by the Board and once by the local fire official (for fire safety). Conditions that may affect environmental health and safety or impair operation of the plant will be reported, with recommendations for corrective action.

Each school cafeteria must post in a visible location and on the school website the school's semiannual sanitation certificate and a copy of its most recent sanitation inspection report.

Under the direction of the final official appointed by the Board, fire-safety inspections of each educational and ancillary plant located on property owned or leased by the Board, or other educational facilities operated by the Board, shall be made no sooner than one (1) year after issuance of a certificate of occupancy and annually thereafter. Such inspections shall be made by persons properly certified by the Division of State Fire Marshal to conduct fire-safety inspections in public educational and ancillary plants.

Pursuant to State law, a copy of the fire safety inspection report shall be submitted within ten (10) business days after the date of the inspection to the appropriate authority providing fire protection services to the school facility.



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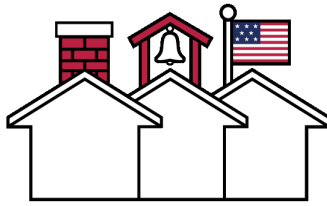
F.S. 1001.41

F.S. 1001.42

F.S. 1013.12

F.A.C. Chapter 69A-58

Last Modified by Brenda Davis on September 26, 2018



|         |                                        |
|---------|----------------------------------------|
| Book    | Policy Manual                          |
| Section | Special Release -School Safety Revised |
| Title   | Copy of PLANT SECURITY                 |
| Number  | *po7440 DPR 09 26 18                   |
| Status  |                                        |
| Adopted | August 13, 2013                        |

#### 7440 - **PLANT SECURITY**

School District buildings, facilities, and property are significant financial investments that must be protected. ~~Buildings constitute the greatest financial investment of the District. It is in the best interest of the School Board to protect the District's investment adequately.~~ The buildings and equipment owned by the Board shall be protected from theft and vandalism in order to maintain the optimum conditions for carrying out the educational programs.

The Superintendent shall develop and supervise a program for the security of the school buildings, school grounds, and school equipment pursuant to Florida law statute and rules of the State. Such a program may include but is not limited to: ~~video surveillance equipment, security alarm devices, or monitoring devices in appropriate public areas in and around the schools and other District facilities.~~

A. securing entries;

B. checkpoint construction;

C. lighting specifically designed for entry point security;

D. video surveillance equipment and security cameras;

E. automatic locks and locking devices;

F. electronic security systems;

G. fencing designed to prevent intruder entry into a building;

H. monitoring devices in appropriate public areas in and around the schools and other District facilities.

Every effort shall be made to apprehend those who knowingly cause serious physical harm to District property and to require such persons to rectify the damage or pay a fee to cover repair. ~~seizing such persons.~~

Appropriate authorities may be contacted in the case of serious offenses.

The Superintendent is authorized to install metal detectors and other security devices which would assist in the detection of guns and dangerous weapons in school buildings and/or on District property.

The Superintendent shall report to the Board each major case of vandalism and the extent of the damage.

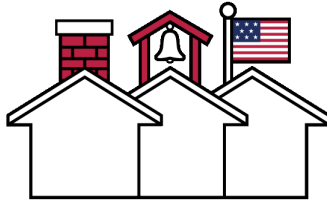
F.S. 1001.51, 119.011, 1001.41, 1003.31, 1003.10, 1013.33.

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F.S. 1001.51

Last Modified by Brenda Davis on September 26, 2018



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| Book    | Policy Manual                                                                     |
| Section | Special Release -School Safety Revised                                            |
| Title   | DELETE POLICY - SPEC. REL. - SCHOOL SAFETY - PROTECTION OF PERSONNEL AND PROPERTY |
| Number  | *po7440.01 BD 09 26 18                                                            |
| Status  |                                                                                   |
| Adopted | August 13, 2013                                                                   |

### DELETE POLICY - SPEC. REL. - SCHOOL SAFETY

#### ~~7440.01~~ **PROTECTION OF PERSONNEL AND PROPERTY**

~~It shall be the responsibility of the School Board to provide safety and security for all students and employees of the Board.~~

##### A. Environmental Health and Safety Program

~~The Superintendent shall direct the development, implementation, and enforcement of an environmental health and safety program, compliant with applicable laws and regulations, designed to prevent injury and illness to employees, students, and the general public, and damage to property or the environment arising from the District's operations. The program shall include, at a minimum, loss prevention, employee training, facility inspections, and corrective maintenance.~~

~~The principal or facility manager is responsible for the environmental health and safety program at their school or facility and for correction of "operation of plant" deficiencies within the time period specified.~~

##### B. Fire Exit Drills

~~Carefully planned and executed fire exit drills shall be conducted at the beginning of each semester, at times designated by the principal, following instruction of all classes regarding exits to be used in case of fire. At least one (1) fire exit drill shall be conducted every month school is in session. Any emergency evacuation drill (e.g., "crisis event"), completely performed, may be substituted for a required fire exit drill in a given month. All drills and all deficiencies affecting egress shall be documented in writing.~~

##### C. Casualty, Sanitation, Fire Safety, and Other Inspections

~~Inspections of all buildings including educational facilities, ancillary plants, and auxiliary facilities for casualty safety, and sanitation shall be conducted at least once during each fiscal year by the Board and once by the local fire official (for fire safety). Conditions that may affect environmental health and safety or impair operation of the plant will be reported, with recommendations for corrective action.~~

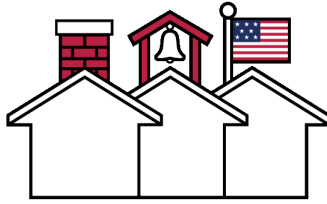
~~Each school cafeteria must post in a visible location and on the school website the school's semiannual sanitation certificate and a copy of its most recent sanitation inspection report.~~

~~Under the direction of the final official appointed by the Board, fire safety inspections of each educational and ancillary plant located on property owned or leased by the Board, or other educational facilities operated by the Board, shall be made no sooner than one (1) year after issuance of a certificate of occupancy and annually thereafter. Such inspections shall be made by persons properly certified by the Division of State Fire Marshal to conduct fire safety inspections in public educational and ancillary plants.~~

~~Pursuant to State law, a copy of the fire safety inspection report shall be submitted within ten (10) business days after the date of the inspection to the appropriate authority providing fire protection services to the school facility.~~

Legal                    F.S. 1001.41  
                              F.S. 1001.42  
                              F.S. 1013.12  
                              F.A.C. 69A-58.004

Last Modified by Brenda Davis on September 26, 2018



|         |                                |
|---------|--------------------------------|
| Book    | Policy Manual                  |
| Section | Vol. 18, No. 2 - REVISED       |
| Title   | Copy of INFORMATION MANAGEMENT |
| Number  | *po8315 BD 10 10 18            |
| Status  |                                |
| Adopted | August 13, 2013                |

### 8315 - **INFORMATION MANAGEMENT**

The School Board recognizes its responsibility, in certain circumstances, to maintain information created, maintained or otherwise stored by the District outside the "Records Retention Schedule" in AP 8310A. In such situations, a ~~"Litigation Hold"~~ litigation hold procedure will be utilized to identify and preserve information relevant to a specific matter. All paper documents and electronically stored information (ESI) subject to a litigation hold shall be handled in accordance with the requirements of AP 8315. ~~"Information" includes both paper documents and electronically stored information ("ESI"). When implementing the "Litigation Hold," the District will identify individuals in possession or custody of paper documents, ESI and electronic media containing ESI, and inform them of their obligation to preserve the documents and ESI outside the "Records Retention Schedule" in AP 8310A. The District will also identify third parties with custody or control over paper documents, ESI, or electronic media storing ESI, and request them to preserve that information.~~ All information falling within a litigation hold, ~~"Litigation Hold,"~~ which is under the control of the District, must be preserved in a readily accessible form and cannot be disposed of under the ~~"Records Retention and Disposal" procedures requirements of AP 8310E.~~ Failure to comply with a Litigation Hold notice may result in disciplinary action, up to and including possible termination.

~~Instances where the Board must maintain information outside the "Records Retention Schedule" in AP 8310A include:~~

- ~~A. when the Board has specific information and/or written notice from an individual, parent or student of an intent to file an appeal of student discipline to State court;~~
- ~~B. when the Board has specific information and/or written notice that litigation is imminent even though the litigation has not yet been filed in Federal or State court;~~
- ~~C. when the Board is served with litigation, including, but not limited to, notice of a lawsuit in Federal or State court, or notice of a student disciplinary appeal to State court;~~
- ~~D. when the Board receives specific information and/or written notification from an employee, labor union, or other person of an intent to file a claim against the Board, its members, employees or agents at an administrative agency such as the Equal Employment Opportunity Commission, Florida Employment Relations Commission, U.S. Department of Education Office for Civil Rights, State Personnel Board of Review, or a Civil Service Commission regarding a claim against the Board, its members, employees or agents;~~
- ~~E. when the Board receives specific information and/or written notification from an administrative agency such as the Equal Employment Opportunity Commission, Florida Employment Relations Commission, U.S. Department of Education Office for Civil Rights, State Personnel Board of Review, or a Civil Service Commission regarding a claim against the Board, its members, employees or agents;~~
- ~~F. when the Board receives written notification from a third party requesting that the Board maintain information that could be at issue in litigation or potential litigation against that third party;~~
- ~~G. when the Superintendent recommends the termination of an employee to the Board pursuant to a labor contract;~~
- ~~H. when the Board explores, contemplates or initiates litigation.~~

### **Definitions**

"Documents" includes, but is not limited to, writings, drawings, graphs, charts, photographs, blueprints, sound recordings, images and other data or data compilations stored in any medium from which information can be obtained or translated if necessary.

"ESI" includes, but is not limited to, writings, drawings, graphs, charts, photographs, blueprints, sound recordings, images and other data or data compilations stored in any electronic media from which information can be obtained or translated if necessary. It includes, but is not limited to, e-mails, e-mail attachments, instant messages, word processing files, spreadsheets, pictures, application program and data files, databases, data files, metadata, system files, electronic calendar appointments, scheduling program files, TIFF files, PDF files, MPG files, JPG files, GIF files, network share files, internal websites, external websites, newsgroups, directories, security and access information, legacy data, audio recordings, voice mails, phone logs, faxes, internet histories, caches, cookies or logs of activity on computer systems that may have been used to process or store electronic data.

"Electronic media" includes, but is not limited to, hard drives (including portable hard disk drives "HDD's"), floppy drives, disaster recovery media, and storage media (including DVD's, CD's, floppy discs, Zip discs/drives, Jazz discs/drives, USB memory drives, jump disc/drives, flash discs/drives, keychain discs/drives, thumb discs/drives, smart cards, micro-film, backup tapes, cassette tapes, cartridges, etc.), accessed, used and/or stored on/in/through the following locations: networks and servers; laptop and desktop work computers; home and personal computers; other computer systems; backup computers or servers; archives; wireless communication device as defined in Bylaw 0100~~personal digital assistants ("PDAs" including Palm, Blackberry, cellular phone, tablet PC, etc.)~~; pagers; firewalls; audit trails and logs, printers; copiers; scanners; digital cameras; photographic devices; and video cameras and devices. Electronic media shall also include any item containing or maintaining ESI that is obtained by the District for Board member or employee usage or that an employee uses for such purpose (even if privately owned by the Board member or employee) from the date this policy is adopted into the future.

### **Initiation and Removal of a "Litigation Hold"**

The Board or the Superintendent may initiate a "Litigation Hold" under this policy. If the Superintendent initiates a "Litigation Hold," s/he or the Board's legal counsel will notify the Board of the reason the "Litigation Hold" was instituted and its scope. When implementing a "Litigation Hold," the Board or Superintendent may utilize an Electronically Stored Information Team ("ESI Team"). The Board's legal counsel shall be involved in implementation of the "Litigation Hold Procedure" outlined in AP 8315.

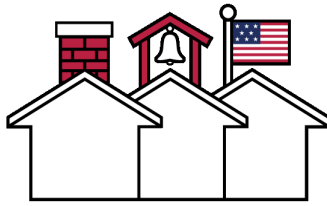
A "Litigation Hold" shall remain in place until removed by the Board or the Superintendent. A "Litigation Hold" may be removed when the litigation or administrative agency matter has been resolved or can no longer be initiated. Any information maintained under this policy shall fall back under the "Records Retention Schedule" in AP 8310A once the "Litigation Hold" is removed.

The Superintendent shall develop administrative procedures outlining the procedures to be followed by Board members and employees when initiating and implementing a "Litigation Hold." This policy and its related administrative procedures shall be posted and distributed in the manner described in AP 8315.

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Legal Federal Rules of Civil Procedures 34, 37f

Last Modified by Brenda Davis on October 10, 2018



|         |                                        |
|---------|----------------------------------------|
| Book    | Policy Manual                          |
| Section | Special Release -School Safety Revised |
| Title   | SCHOOL SAFETY AND SECURITY             |
| Number  | *po8405 dpr 09-27-2018                 |
| Status  |                                        |
| Adopted | August 13, 2013                        |

#### 8405 - **SCHOOL SAFETY AND SECURITY**

The School Board is committed to maintaining a safe and drug-free environment in all of the District's schools. The Board believes that school crime and violence are multifaceted problems that need to be addressed in a manner that utilizes all available resources in the community through a coordinated effort of School District personnel, law enforcement agencies, and families. The Board further believes that school administrators and local law enforcement officials must work together to provide for the safety and welfare of students while they are at school or a school-related event or are on their way to and from school. The Board also believes that the first step in addressing school crime and violence is to assess the extent and nature of the problem(s), and then plan and implement strategies that promote school safety and minimize the likelihood of school crime and violence. To that end, the Superintendent shall develop an Emergency Management Plan with input from representatives of the local law enforcement agencies; the local Fire Marshall(s) or his/her designee(s); representative(s) from emergency medical services; building administrators; School Resource Officer(s); and/or other District employees.

Thereafter, the Superintendent shall convene a meeting annually for the purpose of reviewing the Emergency Management Plan, and making modifications as deemed necessary and proper; identifying additional training that might be needed; and discussing any other such related matters as may be deemed to be necessary by the participants. Participants in this meeting shall include the Superintendent; representatives of the local law enforcement agencies; the local Fire Marshall(s) or his/her designee(s); representative(s) from emergency medical services; building administrators; representative(s) from the local emergency management service agency; School Resource Officer(s); and/or other District employees.

The Superintendent, in conjunction with the School Safety Specialist, shall develop a School Safety and security Plan with input from representatives of the local law enforcement agencies; the local Fire Marshall(s) or his/her designee(s); representative(s) from emergency medical services; teacher(s); student(s); building administrator(s); parents and staff.

#### School Safety Specialist

The Superintendent is responsible for designating a school administrator to serve as the District's School Safety Specialist. The School Safety Specialist is responsible for the supervision and oversight for all school safety and security personnel, policies, and procedures in the District. The School Safety Specialist's responsibilities include, but are not limited to, the following:

A. reviewing policies and procedures for compliance with Florida law and applicable rules;

B. providing necessary training and resources to students and staff in matters relating to youth mental health awareness and assistance; emergency procedures, including active shooter training; and school safety and security;

C. serving as the District liaison with local public safety agencies and national, state, and community agencies and organizations in matters of school safety and security;

D. conducting a school security risk assessment in accordance with Florida law at each District school using the school security risk assessment tool developed by the Office of Safe Schools;



E. coordinating with appropriate public safety agencies, as defined in F.S. 365.161, that are designated as first responders to a school's campus to conduct a tour of such campus once every three (3) years and to provide recommendations related to school safety;

Any changes related to school safety, emergency issues, and recommendations provided by the public safety agencies will be considered as part of the recommendations by the School Safety Specialist to the Board;

F. providing, or arranging for the provision of, youth mental health awareness and assistance training to all school personnel as set forth in F.S. 1012.584;

The training program shall include, but is not limited to, the following:

1. an overview of mental illnesses and substance abuse disorders and the need to reduce the stigma of mental illness;
2. information on the potential risk factors and warning signs of emotional disturbance, mental illness, or substance use disorders, including, but not limited to, depression, anxiety, psychosis, eating disorders, and self-injury, as well as common treatments for those conditions and how to access those risks; and
3. information on how to engage at risk students with skills, resources, and knowledge required to assess the situation, and how to identify and encourage the student to use appropriate professional help and other support strategies, including, but not limited to, peer, social, or self-help care.

The District's School Safety Specialist shall earn, or designate one (1) or individuals to earn, certification as a youth mental health awareness and assistance trainer as set forth in F.S. 1012.584.

#### Recommendations of the School Safety Specialist

Based on the findings of the school security risk assessment, the School Safety Specialist must provide recommendations to the Superintendent which identify strategies and activities that is submitted to the Board for implement in order to improve school safety and security. Annually, the Board will review the school risk assessment findings and the recommendations of the School Safety Specialist at a publicly noticed Board meeting to provide the public an opportunity to hear the Board members discuss and take action. The School Safety and Security Plan is however, confidential and is not subject to review or release as a public record.

The School Safety Specialist shall report the school security risk assessment findings and the Board's action(s) to the Office of Safe Schools no later than thirty (30) days after the Board meeting.

As a part of the School Safety and Security Plan, the Board shall verify that it has procedures in place for keeping schools safe and drug-free that include (see also, Form 8330 F15 entitled checklist of policies and guidelines addressing no child left behind act of 2001):

A. safety and security best practices;

B. appropriate and effective school discipline policies that prohibit disorderly conduct, the illegal possession of weapons and the illegal use, possession, distribution, and sale of tobacco, alcohol, and other drugs by students;

C. security procedures at school and while students are on the way to and from school;

D. prevention activities that are designed to maintain safe, disciplined and drug-free environments;

E. a code of conduct or policy for all students that clearly states the responsibilities of students, teachers, and administrators in maintaining a classroom environment that:

1. allows a teacher to communicate effectively to all students in the class;

2. allows all students in the class the opportunity to learn;

allows a teacher to communicate effectively to all students in the class;

- has consequences that are fair, and developmentally appropriate;
- considers the student and the circumstances of the situation; and
- is enforced accordingly.

**Safety and Security Best Practices**

The Superintendent shall develop administrative procedures for the prevention of violence on school grounds, including the assessment and intervention with individuals whose behavior poses a threat to the safety of the school community.

**Persistently Dangerous Schools**

The Board has set forth the rules with regard to expected behavior in Policy 5500 - Student Conduct and has established the consequences for violating the policy on student conduct in Policy 5600 - Student Discipline. The Board recognizes that not only Federal, but also State law requires that the District report annually incidents which meet the statutory definition of violent criminal offenses that occur in a school, on school grounds, on a school conveyance, or at a school-sponsored activity, as well as those incidents that would be a Gun-Free Schools Act violation. It is further understood that the Florida Department of Education will then use the data for the offenses identified in the Department's Unsafe School Choice Option Policy to determine whether or not a school is considered "persistently dangerous".

Pursuant to the Board's stated intent to provide a safe school environment, school administrators are expected to respond appropriately to any and all violations of the Student Code of Conduct, especially those of a serious, violent nature. In any year where the number of reportable incidents of violent criminal offenses in any school exceed the threshold number established in State law, the Superintendent shall

discuss this at the annual meeting for the purpose of reviewing the *School Safety and Security Plan* so that a plan of corrective action can be developed and implemented in an effort to reduce the number of these incidents in the subsequent year.

convene a meeting of the building administrator, representative(s) of the local law enforcement **agencies**, and any other individuals deemed appropriate for the purpose of developing a plan of corrective action that can be implemented in an effort to reduce the number of these incidents in the subsequent year. \_\_\_\_\_

The Superintendent shall make a report to the Board about this plan of corrective action and shall recommend approval and adoption of it.

In the unexpected event that the number of reportable incidents in three (3) consecutive school years exceeds the statutory threshold and the school is identified as persistently dangerous, the Superintendent shall offer parents and eligible students the opportunity to transfer to another school within the District that serves the same grades. If there is another school within the District serving the same grades, the transfer shall be completed in a timely manner. If there is not another school within the District that serves the same grades, then parents and eligible students will be advised that, although Federal and State law provides for an opportunity to transfer, they will be unable to do so.

In addition, the Superintendent shall

discuss this at the annual meeting for the purpose of reviewing the *School Safety and Security Plan* so that a plan of corrective action can be developed and implemented in an effort to reduce the number of these incidents in the subsequent year.

convene a meeting of the building administrator, representative(s) of the local law enforcement **agencies**, and any other individuals deemed appropriate for the purpose of developing a plan of corrective action that can be implemented in an effort to reduce the number of these incidents in the subsequent year. \_\_\_\_\_

If a school in a neighboring district is identified as persistently dangerous and there is not another school or public school academy in that district, the District will admit students from that school in accordance with Board Policy 5113.

**Victims of Violent Crime**

The Board further recognizes that, despite the diligent efforts of school administrators and staff to provide a safe school environment, an individual student may be a victim of a violent crime in a school, on school grounds, on a school conveyance, or at a school-sponsored activity. In accordance with Federal and State laws the parents or the eligible student shall be offered the opportunity to transfer to another school within the District that serves the same grades. If there is another school serving the same grades, the transfer shall be completed in a timely manner. If there is not

another school serving the same grades, the parents or eligible student will be advised that, although they have the right to transfer, they will be unable to do so.

## **Threat Assessment Teams**

The primary purpose of a threat assessment is to minimize the risk of violence at schools. Threat assessment teams are responsible for the coordination of resources and assessment and intervention with individuals whose behavior may pose a threat to the safety of school staff or students consistent with the model policies developed by the Office of Safe Schools.

### **A. Location and Membership**

1. Threat assessment teams are located at each school in the District and composed of individuals with expertise in counseling, instruction, school administration, and law enforcement.
2. The Board authorizes the Superintendent to create procedures for the purpose of:
  - a. identifying team participants by position and role;
  - b. designating the individuals (by position) who are responsible for gathering and investigating information; and
  - c. identifying the steps and procedures to be followed from initiation to conclusion of the threat assessment inquiry or investigation.

### **B. Responsibilities and Activities of Threat Assessment Teams**

The responsibilities and activities of threat assessment teams include, but are not limited to, the following:

1. identification of individuals in the school community to whom threatening behavior should be reported and provide guidance to students, faculty, and staff regarding recognition of threatening or aberrant behavior that may represent a threat to the community, school, or self;
2. consult with law enforcement when a student exhibits a pattern of behavior, based upon previous acts or the severity of an act, that would pose a threat to school safety;\_
3. consult with law enforcement when a student commits more than one (1) misdemeanor to determine if the act should be reported to law enforcement;
4. if a preliminary determination is made by the threat assessment team that a student poses a threat of violence or physical harm to himself/herself or others, the threat assessment team will report its determination to the Superintendent;

The Superintendent shall immediately attempt to notify the student's parent or legal guardian. However, nothing in this paragraph shall preclude District personnel from acting immediately to address an imminent threat.

5. if a preliminary determination is made by the threat assessment team that a student poses a threat of violence to himself/herself or others or exhibits significantly disruptive behavior or need for assistance, the threat assessment team may obtain criminal history record information as provided in F.S. 985.047;

Members of the threat assessment team may not disclose any criminal history record information obtained pursuant to this paragraph or otherwise use any record of an individual beyond the purpose for which such disclosure was made to the threat assessment team.

6. create procedures related to engaging behavioral health crisis resources.

### **C. Sharing of Information**

The District and other agencies and individuals that provide services to students experiencing, or at risk of, an

emotional disturbance or a mental illness and any service or support provider contracting with such agencies may share with each other records or information that are confidential or exempt from disclosure under F.S. Chapter 119 if the records or information are reasonably necessary to ensure access to appropriate services for the student or to ensure the safety of the student or others.

**D. Immediate Mental Health or Substance Abuse Crisis**

If an immediate mental health or substance abuse crisis is suspected, school personnel shall follow policies established by the threat assessment team to engage behavioral health crisis resources. Behavioral health crisis resources, including, but not limited to, mobile crisis teams and school resource officers trained in crisis intervention shall provide emergency intervention and assessment, make recommendations, and refer the student for appropriate services. Onsite school personnel shall report all such situations and actions taken to the threat assessment team, which shall contact the other agencies involved with the student and any known service providers to share information and coordinate any necessary follow-up actions.

Each threat assessment team shall report quantitative data on its activities to the Office of Safe Schools.

~~A. The Superintendent shall make a report to the Board about this review and recommend the approval and adoption of any proposed revisions or additions to the Emergency Management Plan.~~

~~B. As a part of the Emergency Management Plan, the Board shall verify that it has procedures in place for keeping schools safe and drug free that include (see also, Form 8330-F15 entitled Checklist of Policies and Guidelines Addressing No Child Left Behind Act of 2001):~~

- ~~A. appropriate and effective school discipline policies that prohibit disorderly conduct, the illegal possession of weapons and the illegal use, possession, distribution, and sale of tobacco, alcohol, and other drugs by students;~~
- ~~B. security procedures at school and while students are on the way to and from school;~~
- ~~C. prevention activities that are designed to maintain safe, disciplined and drug free environments;~~
- ~~D. a code of conduct or policy for all students that clearly states the responsibilities of students, teachers, and administrators in maintaining a classroom environment that:
  - ~~1. allows a teacher to communicate effectively to all students in the class;~~
  - ~~2. allows all students in the class the opportunity to learn;~~
  - ~~3. has consequences that are fair, and developmentally appropriate;~~
  - ~~4. considers the student and the circumstances of the situation; and~~
  - ~~5. is enforced accordingly.~~~~

**~~Persistently Dangerous Schools~~**

~~The Board recognizes that not only Federal, but also State law requires that the District report annually incidents which meet the statutory definition of violent criminal offenses that occur in a school, on school grounds, on a school conveyance, or at a school sponsored activity, as well as those incidents that would be a Gun Free Schools Act violation. It is further understood that the Florida Department of Education will then use the data for the offenses identified in the Department's Unsafe School Choice Option Policy to determine whether or not a school is considered "persistently dangerous".~~

~~In the unexpected event that the number of reportable incidents in three (3) consecutive school years exceed the statutory threshold and the school is identified as persistently dangerous, the Superintendent shall offer parents and eligible students the opportunity to transfer to another school within the District that serves the same grades. If there is another school within the District serving the same grades, the transfer shall be completed in a timely manner. If there is not another school within the District that serves the same grades, then parents and eligible students will be advised that, although Federal and State law provides for an opportunity to transfer, they will be unable to do so.~~

~~If a school in a neighboring district is identified as persistently dangerous and there is not another school or public school academy in that district, the District will admit students from that school in accordance with Board Policy 5113.~~

**~~Victims of Violent Crime~~**

~~The Board further recognizes that, despite the diligent efforts of school administrators and staff to provide a safe school environment, an individual student may be a victim of a violent crime in a school, on school grounds, on a school conveyance, or at a school sponsored activity. In accordance with Federal and State law the parents or the eligible student shall be offered the opportunity to transfer to another school within the District that serves the same grades. If there is another school serving the same grades, the transfer shall be completed in a timely manner. If there is not another school serving the same grades, the parents or eligible student will be advised that, although they have the right to transfer, they will be unable to do so.~~

- All school personnel who receive training pursuant to F.S. 1012.584 shall be notified of the mental health services that are available in the District.

- Student Crime Watch Program

- The Board shall implement a Student Crime Watch Program to promote responsibility among students and improve school safety. Through a Board resolution, the Board will require each school principal to distribute information (including a reference to Policy 8406) at their respective schools notifying students and the community as to how they can anonymously relay information concerning unsafe and potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, to appropriate public safety agencies and school officials.

- **Implementation**

- The Superintendent shall develop administrative procedures as needed to enable proper implementation of this policy.

- F.S. 1006.07

F.S. 1006.13

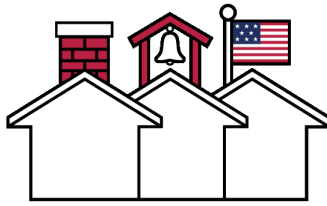
F.S. 1006.1493

Office of Safe School Security Risk Assessment Tool

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Legal Florida DOE Unsafe School Choice Option Policy, May 2003  
Florida DOE Unsafe School Choice Option Policy Technical Assistance Paper, May 2003

Last Modified by Brenda Davis on September 28, 2018



Book Policy Manual  
Section Special Release -School Safety Revised  
Title NEW POLICY - SPEC. REL. - SCHOOL SAFETY - REPORTS OF SUSPICIOUS ACTIVITY AND POTENTIAL THREATS TO SCHOOLS  
Number \*po8406 JT 09 26 18  
Status

### **NEW POLICY - SPEC. REL. - SCHOOL SAFETY**

#### **8406 - REPORTS OF SUSPICIOUS ACTIVITY AND POTENTIAL THREATS TO SCHOOLS**

It is vitally important that local public safety agencies and school officials be made aware of potential threats to schools as quickly as possible. All employees shall, and students and members of the community are strongly encouraged, to promptly make reports concerning unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, to local public safety agencies and/or school officials. The following is a non-exhaustive list of mechanisms to disclose such information by:

- A. contacting local law enforcement agencies, including Indian River County Sheriff's Office, City of Vero Beach Police Department, City of Sebastian Police Department, City of Fellsmere Police Department;
- B. utilizing the Florida Department of Education's mobile suspicious reporting tool ("FortifyFL");
- C. contacting the District's School Safety Specialist as follows:
  - 1. in person at 6500 57th Street, Vero Beach, FL 32967;
  - 2. via-telephone at 772-564-3000;
  - 3. via-email at jon.teske@indianriverschools.org;
- D. calling 9-1-1.
- E. Indian River County Sheriff's' Office School Tips Hotline 772-978-6000 or schooltips@ircsheriff.org.

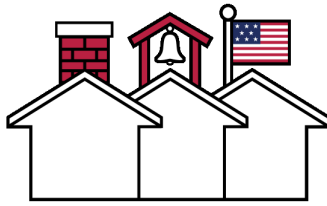
In addition, employees must also report unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, to the Superintendent.

The identity of the reporting party and any other information received by school officials through the Florida Department of Education's mobile suspicious reporting tool is confidential and exempt under Florida's Public Records Act.

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Legal F.S. 119.07  
F.S. 943.082  
F.S. 1006.07

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Title NEW POLICY - SPEC. REL. - SCHOOL SAFETY - SAFE-SCHOOL OFFICERS  
Number \*po8407 dpr 09-20-2018  
Status

**NEW POLICY - SPEC. REL. - SCHOOL SAFETY**

**\*8407 - SAFE-SCHOOL OFFICERS**

For the protection and safety of students, school personnel, visitors, and property, the District shall partner with local law enforcement agencies to establish or assign one or more safe-school officers at each school in the District.

**School Resource Officers (SRO)**

The School Board will enter into cooperative agreements with law enforcement agencies for the provision of school resource officers. School resource officers must be certified law enforcement officers as defined in F.S. 943.10(1) and employed by a law enforcement agency as defined in F.S. 943.10(4). School resource officers shall:

- A. undergo criminal background checks, drug testing, and a psychological evaluation;
- B. abide by Board policies and consult with and coordinate activities through school principals; and
- C. complete mental health crisis intervention training using a curriculum developed by a national organization with expertise in mental health crisis intervention. Such training must be designed to improve school resource officers' knowledge and skills as first responders to incidents involving students with emotional disturbance or mental illness, including de-escalation skills to ensure student and officer safety.

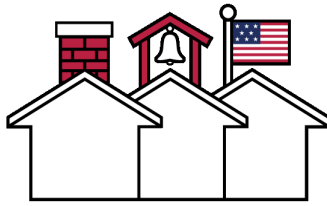
With respect to matters relating to employment, school resource officers shall be responsible to their law enforcement agency, subject to agreements between the Board and law enforcement agency. Activities conducted by school resource officers which are part of the regular instructional program of schools shall be under the direction of school principals.

The powers and duties of law enforcement officers shall continue throughout school resource officers' tenure.

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Legal F.S. 30.15  
F.S. 1006.12

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Title CRISIS EVENT INTERVENTION AND RESPONSE  
Number \*po8410 dpr 09-26-2018  
Status  
Adopted August 13, 2013

#### 8410 - **CRISIS EVENT INTERVENTION AND RESPONSE**

The School Board believes that the employees, and students of the District, ~~as well as~~ and visitors, are entitled to function in a safe school environment. In this regard, the Board has adopted policies related to conduct in the school setting as well as ~~those that address the need for crisis intervention before, during, and following a critical incident event.~~ standards for responding to crisis situations, developing school safety plans, and providing effective intervention for students who may show warning signs that relate to violence or other threatening behaviors.

The Superintendent shall promulgate administrative procedures for responding to the need of an individual or group of individuals in the District who are experiencing stress as the result of a critical incident event or personal crisis that impacts the mental health of an individual or the educational environment.

The crisis response actions, on the part of Student Services staff, may be limited to one school or may include a number of schools, requiring a more comprehensive intervention strategy coordinated by the District. The comprehensive intervention strategy may include community resources as well as District resources. At the school level, the school-based Student Services staff coordinate the intervention response with the principal. When the event requires additional resources, the school-based Student Services staff will coordinate activities with the Director of Student Services or designee.

Each school will have an intervention plan that:

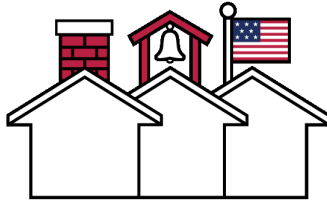
- A. provides an effective intervention for students who may show warning signs that relate to violence or other troubling behaviors;
- B. provides a process that screens all threats, when the threatening party is known, and determines the level of concern and action required;
- C. requires employees to report unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, in accordance with Policy 8406;
- D. is dynamic and interactive with other Student Services staff and community-based organizations to support the needs of students and staff during stressful events.

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Legal F.S. 1001.43, 1006.07

Last Modified by Brenda Davis on September 27, 2018





|              |                                        |
|--------------|----------------------------------------|
| Book         | Policy Manual                          |
| Section      | Special Release -School Safety Revised |
| Title        | EMERGENCY EVACUATION OF SCHOOLS        |
| Number       | *po8420 dpr 09-24-2018                 |
| Status       |                                        |
| Adopted      | August 13, 2013                        |
| Last Revised | March 4, 2014                          |

#### 8420 - **EMERGENCY EVACUATION OF SCHOOLS**

The School Board recognizes that its responsibility for the safety of students and staff requires emergency management and emergency preparedness procedures for all public schools in the District, including emergency notification procedures for life-threatening emergencies, including, but not limited, [active shooter](#), fires; natural disasters; bomb threats; weapon-use and hostage situations; hazardous materials or toxic chemical spills; weather emergencies, including hurricanes, tornadoes, and severe storms; and exposure as a result of a manmade emergency and that such emergencies are best met by preparedness and planning.

Pursuant to Policy 8405 - School Safety and Security, the Superintendent shall develop, and revise as necessary, a School Safety Plan to provide for the safety and welfare of the students and staff, as well as a system of emergency preparedness and accompanying procedures that provide for the following:

- A. the health and safety of students and staff are safeguarded;
- B. a collaborative effort with community emergency responders;
- C. the time necessary for instructional purposes is not unduly diverted;
- D. minimum disruption to the educational program occurs;
- E. students are helped to learn self-reliance and trained to respond sensibly to emergency situations;
- F. a system supported by ongoing training that will include practical application and appropriate "drills" as required by F.S. 1001.42;
- G. evacuation drills should represent actual emergencies, including, but not limited to firearm, natural disasters, and bomb threats;
- H. [drills for active shooter and hostage situations shall be conducted at least as often as other emergency drills](#);
- I. floor plans of each school must be provided to all community emergency responders in support of evacuation procedures;
- J. a listing of the commonly used alarm system response for specific types of emergencies and verification by each school that drills have been provided as required by law and fire protection codes;
- K. assignment of staff responsibilities.

All threats to the safety of District facilities, students and staff shall be identified by appropriate personnel and responded to promptly in accordance with the plan for emergency preparedness. Any aspect of the emergency preparedness plan and/or

procedures that are included in the School Safety Plan shall remain confidential and exempt from public records disclosure in accordance with State law.

The school crisis/threat assessment teams will conduct a test of the functionality and coverage capacity of all emergency communication systems to determine, if adequate signal strength is available in all areas of school campuses, and that the District identify the individual(s) responsible for contacting primary emergency response agencies (Senate Bill 7026).

The School Safety Specialist, as part of the development of the emergency preparedness plan and procedures, shall further review and implement Board Policy 7440.

List of Emergency Response Agencies:

The emergency response agencies that are responsible for notifying the District for each type of emergency areas follows:

A. Fires:

1. Indian River County Fire Rescue

B. Natural Disasters:

1. Indian River County Department of Emergency Services

C. Bomb Threats:

1. Indian River County Sheriff's Office

2. Sebastian Police Department

3. Fellsmere Police Department

4. Vero Beach Police Department

D. Weapon-Use and Hostage Situations:

1. Indian River County Sheriff's Office

2. Sebastian Police Department

3. Fellsmere Police Department

4. Vero Beach Police Department

E. Hazardous Materials or Toxic Chemical Spills:

1. Indian River County Department of Emergency Services

2. Florida State Police

3. Indian River County Sheriff's Office

F. Weather Emergencies, Including Hurricanes, Tornadoes, and Severe Storms:

1. Indian River County Department of Emergency Services

The Superintendent shall develop administrative procedures for the implementation of this policy.

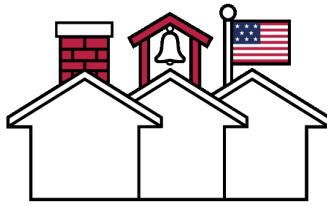
Revised 3/4/14

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F.S. 1001.43, 1006.07, 1013.13

Last Modified by Brenda Davis on September 27, 2018



Book Policy Manual  
Section Vol. 18, No. 2 - REVISED  
Title NEW POLICY - VOL. 19, NO. 1 - MODEL POLICY ON RELIGIOUS EXPRESSION IN PUBLIC SCHOOLS  
Number \*po8805 BD 9 26 18  
Status

### **NEW POLICY - VOL. 19, NO. 1**

#### **8805 - MODEL POLICY ON RELIGIOUS EXPRESSION IN PUBLIC SCHOOLS**

It is the policy of the School District that the District will not discriminate against a student, parent, or school personnel on the basis of a religious viewpoint or religious expression.

#### **Student Expression of Religious Viewpoints**

- A. The School District will treat a student's voluntary expression of a religious viewpoint on an otherwise permissible subject in the same manner that a School District treats a student's voluntary expression of a secular viewpoint.
- B. A student may express his/her religious beliefs in coursework, artwork, and other written and oral assignments free from discrimination. A student's homework and classroom assignments shall be evaluated, regardless of their religious content, based on expected academic standards relating to the course curriculum and requirements.
- C. A student may not be penalized or rewarded based on the religious content of his/her work if the coursework, artwork, or other written or oral assignments require a student's viewpoint to be expressed.

#### **Religious Clothing, Jewelry, and Accessories**

A student may wear clothing, accessories, and jewelry that display a religious message or symbol in the same manner and to the same extent that secular types of clothing, accessories, and jewelry that display messages or symbols are permitted to be worn.

#### **Students Engaging in Religious Activities and Expression at School**

- A. A student may pray or engage in religious activities or religious expression before, during, and after the school day in the same manner and to the same extent that a student may engage in secular activities or expression.
- B. A student may organize prayer groups, religion clubs, and other religious gatherings before, during, and after the school day in the same manner and to the same extent that a student is permitted to organize secular activities and groups.

#### **Employees Engaging in Religious Activities and Expression at School**

- A. The School District may not prevent school personnel from participating in religious activities on school grounds that are initiated by students at reasonable times before or after the school day if such activities are voluntary and do not conflict with the responsibilities or assignments of such personnel.
- B. The School District must comply with the Federal requirements in Title VII of the Civil Rights Act of 1964, which prohibits an employer from discriminating against an employee on the basis of religion.

#### **Equal Access to School Facilities**

- A. The School District shall give religious groups access to the same school facilities for assembling as given to secular groups without discrimination based on the religious content of the group's expression.

- B. A group that meets for prayer or other religious speech may advertise or announce its meetings in the same manner and to the same extent that a secular group may advertise or announce its meetings.

**Limited Public Forum Required for Student Speakers**

The School District is required to establish a limited public forum for student speakers at any school event where a student is to speak publicly. Where student speakers are permitted, the District must:

- A. provide the forum in a manner that does not discriminate against a student's voluntary expression of a religious viewpoint on an otherwise permissible subject;
- B. provide a method based on neutral criteria for the selection of student speakers at school events, activities, and graduation ceremonies;
- C. ensure that a student speaker does not engage in obscene, vulgar, offensively lewd, or indecent speech; and
- D. state in oral or written form that the student's speech does not reflect the endorsement, sponsorship, position, or expression of the School District. The School District must deliver this required disclaimer at all graduation events and at any other event where a student speaks publicly.

Student expression of a religious viewpoint on an otherwise permissible subject may not be excluded from the limited public forum.

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F.S. 1002.206

Last Modified by Brenda Davis on September 26, 2018

Subject: VOL. 18, NO. 2

# FLORIDA LOCAL UPDATE

VOLUME 18, NUMBER 2

May 2018

This update includes proposed revisions to eighteen (18) current policy templates, the addition of one (1) new policy template, the deletion of three (3) administrative procedures, revisions to two (2) current policy templates, and the addition of one (1) administrative procedure. This update is the result of our ongoing work with clients during the 2017-2018 school year and our ongoing review of Federal and State Law, the Florida Administrative Code, the Code of Federal Regulations, and other regulations by Federal and State agencies, as well as our analysis of applicable court decisions and Attorney General's opinions.

Training will be provided by BoardDocs and NEOLA staff and support will be available to those working on this platform prospectively.

## Bylaws and Policies

**Policy 1122 - Nondiscrimination and Equal Employment Opportunity (REVISED)**

**Policy 2260 - Nondiscrimination and Access to Equal Educational Opportunity (REVISED)**

**Policy 3122 - Nondiscrimination and Equal Employment Opportunity (REVISED)**

**Policy 4122 - Nondiscrimination and Equal Employment Opportunity (REVISED)**

**Policy 1362 - Anti-Harassment (REVISED)**

**Policy 3362 - Anti-Harassment (REVISED)**

**Policy 4362 - Anti-Harassment (REVISED)**

**Policy 5517 - Anti-Harassment (REVISED)**

**Policy 5517.02 - Sexual Violence (REVISED)**

**Policy 5517.03 - Dating Violence and Abuse (REVISED)**

We have learned that the United States Department of Education's Office for Civil Rights expects to see policy language mandating that school districts retain records and materials gathered during the course of investigations of harassment. The revised policy now includes a section addressing the Board's responsibility to

maintain investigatory records. Boards should already be maintaining such records as a matter of practice.

The Superintendent should recommend adoption of these policies, and the Board should take such action so that its policies are legally correct.

#### **Policy 2623 - Student Assessment (REVISED)**

We revised Policy 2623 to include provisions addressing alternative assessments available to students with significant cognitive disabilities (the Florida Standards Assessments (FSAA) - Performance Task and the FSAA - datafolio assessments).

The Superintendent should recommend adoption of this policy, and the Board should take such action so that its policies are legally correct.

#### **Policy 4162 - Drug and Alcohol Testing of CDL License Holders and Other Employees Who Perform Safety Sensitive Functions (REVISED)**

The revisions to Policy 4162 include a requirement that the Superintendent establish a program mandating that bus drivers, CDL license holders, and any staff member performing safety sensitive functions be tested for the presence of certain controlled substances. The proposed revisions also include the replacement of "opiates" with "opioids" on the list of controlled substances.

We have also added provisions addressing when employees who perform safety-sensitive functions may return to work after having been removed from their duties (i.e. return-to-duty testing).

The Superintendent should recommend adoption of this policy, and the Board should take such action so that its policies are legally correct.

#### **Policy 5120 - Assignment Within District (REVISED)**

Policy 5120 is revised to make clear that the Board must adhere to formal rule-making requirements when creating or revising school attendance boundaries.

The Superintendent should recommend adoption of this policy, and the Board should take such action so that its policies are legally correct.

### **Policy 5225 - Absences for Religious Holidays (REVISED)**

Policy 5225 is revised to update the list of religious holidays for which absences will be excused during the 2018-2019 school year.

The Superintendent should recommend adoption of this policy, and the Board should take such action so that its policies are legally correct.

### **Policy 5610 - Renewal, Out-of-School Suspension, Disciplinary Placement, and Expulsion of Students (REVISED)**

Revisions to this policy are the result of a recent case in Florida which held that disciplinary placement in an alternative school is similar to an expulsion and, therefore, students recommended for disciplinary placement in an alternative school are entitled to the same due process as students recommended for expulsion. See, S.J. v. Thomas, Case No. 1D16-3635, 2017 WL 6458980 (Fla. 1DCA Dec. 19, 2017). We have included a definition of "disciplinary placement" to identify what types of disciplinary placements should be treated the same as expulsions for purposes of due process. Other minor revisions to the policy are simply to clarify certain procedural issues. For example, the term "hearing officer" has been replaced with "presiding officer".

The Superintendent should recommend adoption of this policy, and the Board should take such action so that its policies are legally correct.

### **Policy 5610.02 - In-School Discipline (REVISED)**

Policy 5610.02 was revised to better describe the progressive discipline options that the District might choose to use in lieu of out-of-school suspension.

The Superintendent should recommend adoption of this policy, and the Board should take such action so that this policy describes the options authorized by the Board in lieu of out-of-school suspension.

### **Policy 6320 - Purchasing and Contracting for Commodities and Contractual Services (REVISED)**

The revisions to this policy include the following: (1) adding a statement clarifying that purchases can be made through an online procurement system, an electronic auction service, or other efficient procurement tools; (2) adding provisions regarding certain pre-purchasing review requirements; and (3) adding a statement requiring that all contracts contain certain language mandated under Chapter 119, Florida Statutes (i.e. Florida's Public Records Act).

The Superintendent should recommend adoption of this policy, and the Board should take such action so that its policies are legally correct.

### **Policy 7530.02 - Staff and School Officials Use of Wireless Communication Devices (NEW)**

This is a new policy designed to address staff and school official use of wireless communication devices for business-related purposes (regardless of whether the WCD is provided by the Board or privately owned by the employee). The policy contains provisions related to safe and appropriate use of WCDs, confidentiality of information contained on WCDs, privacy, and archiving.

The Superintendent should recommend adoption of this policy, and the Board should take such action so that its policies are legally correct.

### **Policy 8315 - Information Management (REVISED)**

The revisions to this policy are related to the Board's responsibilities with respect to litigation holds. Due to the rapidly changing nature of technology and litigation requirements, we decided that it was more appropriate to have a separate administrative procedure addressing litigation holds. As such, we transferred substantial portions of this policy and incorporated it into a newly administrative procedure - AP 8315 (Litigation Hold Procedure). The remaining provisions of this policy still address the Board's legal requirements with respect to litigation holds, but it now gives further flexibility for the Superintendent to develop and revise appropriate internal procedures for initiating and responding to litigation holds through AP 8315.



The Superintendent should recommend adoption of this policy, and the Board should take such action so that its policies are legally correct.

## **Administrative Procedures**

**AP 1421A - Important Notice of Employees Right to Documentation of Health Coverage (DELETED)**

**AP 3421A - Important Notice of Employees Right to Documentation of Health Coverage (DELETED)**

**AP 4421A - Important Notice of Employees Right to Documentation of Health Coverage (DELETED)**

These administrative procedures have been marked for deletion as they are no longer applicable as a result of the Affordable Care Act.

**AP 5610 - Removal, Suspension, Disciplinary Placement and Expulsion (REVISED)**

AP 5610 was revised to include references to "disciplinary placements" in light of the revisions to Policy 5610 (see above). Various provisions related to the disciplinary placement and expulsion process were also revised, including clarifying that students have the right to request an informal or formal administrative hearing. Notice provisions were also revised to meet due process requirements in relation to disciplinary placement and expulsion hearings. Finally, unnecessary language was deleted from the procedure.

The provisions related to the ability of students to receive credit for schoolwork completed during in-school suspension was deleted from this procedure and added to Policy 5610 and Policy 5610.02, as well as AP 5610.02. Other minor changes were made involving certain rights pertaining to students with disabilities.

**AP 5610.02 - In-School Discipline (REVISED)**

This administrative procedure was revised to provide direction for administrators with regard to utilizing the options to out-of-school suspension that are authorized by Policy 5610.02. There are minor revisions that involve certain rights pertaining to students with disabilities.

## AP 8315 - Litigation Hold Procedure (NEW)

As addressed in the section above regarding revisions to Policy 8315, we created a new, stand-alone administrative procedure strictly addressing litigation holds.

# **School Safety Policies, Internal School Accounts Policies, and Anticipated Release of Volume 19 Number 1**

We are still in the process of thoroughly reviewing all of our school safety policy and administrative procedure templates in light of the passage of Senate Bill No. 7026. We anticipate releasing a special update containing revisions, as necessary, to these policies and procedures no later than July 2018. Additionally, we are working on updates to policies 6610v1 and 6610v2 and procedures 6610a and 6610b regarding internal school accounts in light of the 2017 Red Book. However, in order to timely address the other policies addressed through this update, particularly in light of recent OCR activity, we have elected to release the Volume 18 Number 2 update without proposed revisions to the 6610 series. We anticipate releasing revisions to these policies and procedures in July 2018 contemporaneous with the release of our school safety updates.

We anticipate releasing the Volume 19 Number 1 update in September of 2019.

### Cross References

Vol. 18, No. 2, May 2018 - Policy Disposition Sheet

po1122 - REVISED POLICY - VOL. 18, NO. 2 - NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

po1362 - REVISED POLICY - VOL. 18, NO. 2 - ANTI-HARASSMENT

po2260 - REVISED POLICY - VOL. 18, NO. 2 - NONDISCRIMINATION AND ACCESS TO EQUAL EDUCATIONAL OPPORTUNITY

po2623 - REVISED POLICY - VOL. 18, NO. 2 - STUDENT ASSESSMENT

po3122 - REVISED POLICY - VOL. 18, NO. 2 - NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

po3362 - REVISED POLICY - VOL. 18, NO. 2 - ANTI-HARASSMENT

po4122 - REVISED POLICY - VOL. 18, NO. 2 - NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

po4162 - REVISED POLICY - VOL. 18, NO. 2 - DRUG AND ALCOHOL TESTING OF CDL LICENSE HOLDERS AND OTHER EMPLOYEES WHO PERFORM SAFETY SENSITIVE FUNCTIONS

po4362 - REVISED POLICY - VOL. 18, NO. 2 - ANTI-HARASSMENT  
po5120 - REVISED POLICY - VOL. 18, NO. 2 - ASSIGNMENT WITHIN DISTRICT  
po5225 - REVISED POLICY - VOL. 18, NO. 2 - ABSENCES FOR RELIGIOUS HOLIDAYS  
po5517 - REVISED POLICY - VOL. 18, NO. 2 - ANTI-HARASSMENT  
po5517.02 - REVISED POLICY - VOL. 18, NO. 2 - SEXUAL VIOLENCE  
po5517.03 - REVISED POLICY - VOL. 18, NO. 2 - DATING VIOLENCE AND ABUSE  
po5610 - REVISED POLICY - VOL. 18, NO. 2 - REMOVAL, OUT-OF-SCHOOL SUSPENSION,  
DISCIPLINARY PLACEMENT, AND EXPULSION OF STUDENTS  
po5610.02 - REVISED POLICY - VOL. 18, NO. 2 - IN-SCHOOL DISCIPLINE  
po6320 - REVISED POLICY - VOL. 18, NO. 2 - PURCHASING AND CONTRACTING FOR  
COMMODITIES AND CONTRACTUAL SERVICES  
po7530.02 - NEW POLICY - VOL. 18, NO. 2 - STAFF AND SCHOOL OFFICIALS USE OF  
WIRELESS COMMUNICATION DEVICES  
po8315 - REVISED POLICY - INFORMATION MANAGEMENT

Subject: SPECIAL RELEASE - MARCH 2018 - SOCIAL MEDIA  
**FLORIDA OVERVIEW AND COMMENTS**

**SPECIAL UPDATE - MARCH 2018 - SOCIAL MEDIA**

The use, and too often misuse, of social media has become pervasive in our society and among the students who attend our schools. As a result of numerous requests from clients in the six (6) states served by Neola, a team of twenty-two (22) individuals comprised of lawyers, IT experts, and Neola staffers was convened and worked for months to draft a stand-alone social media policy and an accompanying procedure (Policy 7544 and ap 7544). The purpose of the policy and procedure is to provide Districts with a policy that authorizes the Superintendent to establish controls that govern the use of social media in the District.

Although regulating an employee's personal use of social media is possible only in the narrowest of circumstances, establishing rules about employees' use of social media as it relates to the business of the District is something that schools can and, in Neola's judgment, should do.

In addition to the new policy and procedure on the use of social media that are the centerpiece of this collection, the social media policy team determined that revisions to four (4) existing policies were also necessary.

A comprehensive definition of "social media" was added to Bylaw 0100 Definitions and the definition of "apps and services" was revised.

Revisions are proposed for Policy 7540 Technology to replace the previous definition of "social media" with a reference to the new definition in Bylaw 0100 and to replace previous language about the use of social media with references to new Policy 7544 which addresses that topic.

Policy 7540.02 Web Content, Apps, and Services was revised to include an optional section through which the Board can authorize one-way communication with constituents via web content, apps, and services. Additional revisions are proposed for Policy 7540.02 to address the continuing issue of ADA compliance of District websites, web content, apps, and services.

Lastly, revisions are proposed for Policy 7540.04 Staff Technology Acceptable Use and Safety so that the

language allows Districts to reference the new social media policy and procedure if and when it is adopted.

Due to the widespread use of social media, Districts must carefully consider the options in these new materials and revised policies to prepare policies that the Superintendent can recommend for the Board to consider for adoption.

As this is a special release, consultation with your Neola Associate is not provided routinely; however, consultation may be requested and will be provided at the established additional per hour cost.

Neola will digitally publish the documents the District adopts upon notification by email to [production@neola.com](mailto:production@neola.com) of that adoption.

It should be understood that the revised versions of policies 0100, 7540, 7540.02, and 7540.04 are the versions that Neola will warrant going forward.

### **District-Specific Material**

Although the proposed new and revised policies included in this collection have been thoughtfully prepared and reviewed by Neola's legal counsel for statutory compliance, it is the responsibility of each District to decide which policies and the specific language to include in its own unique policy collection. If the District makes changes, or substitutes in its entirety policies or other materials of the District's own drafting, those materials should be reviewed by the District's legal counsel to verify compliance. Neola does not review District-specific edits to update materials or District-specific policies for statutory compliance.

If the District chooses to adopt a new policy or guideline or incorporate Districtspecific material into an existing policy or guideline other than what has been proposed by Neola, then the District agrees to hold Neola harmless for those Districtspecific edits and acknowledges that Neola's warranty for legal challenges to that District-specific language in that policy or guideline will not be in effect. In addition, Neola retains ownership of the text from the original policy template that remains in a policy to which District-specific material has been added. Districtspecific materials include the following:

- A. Materials from the District's existing materials that the District requests be incorporated during the

drafting process;

B. New materials that the District develops in their entirety and exclusive of Neola; and

C. Revisions or deletions that substantively depart from Neola's templates.

Further, Neola does not recommend the use or incorporation of District-specific materials. Neola will, at the request of the District, incorporate District-specific materials into the licensed materials, with the implicit understanding that the District bears all risks associated with the District's decision to request that such District-specific materials be incorporated. Neola reserves the right to, but is not obligated to, advise the District to seek its own legal review of District-specific materials.

This special release includes:

**Bylaw 0100 – Definitions (Revised)**

**Policy 7540 – Technology (Revised)**

**Policy 7540.02 – Web Content, Apps, and Services (Replacement)**

**Policy 7540.04 – Staff Technology Acceptable Use and Safety (Revised)**

**Policy 7544 – Use of Social Media (New)**

**AP 7544 – Use of Social Media (New)**

**Form 7544 F1 – Parent Authorization for an Employee's Personal Use of Social Media with a Student Based on A Social Relationship (New)**

**Form 7544 F2 – Employee Certification to Permit Personal Use of Social Media With a Student Based on A Social Relationship (New)**

If you have questions about any of these special release materials, contact your Neola Associate. All production related materials and questions should be directed to the Coshocton Office at 632 Main Street, Coshocton, Ohio 43812 (phone: 800407 5815, fax: 740 622-2557). Billing and other questions should be directed to the Stow Office at 3914 Clock Pointe Trail, Suite 103, Stow, Ohio 44224 (phone: 330-926-0514, fax: 330 926 0525).

Cross References

SPECIAL UPDATE - MARCH 2018 - SOCIAL MEDIA - Policy Disposition Sheet

po0100 - REVISED POLICY - SPECIAL UPDATE - MARCH 2018 - SOCIAL MEDIA - DEFINITIONS

po7540 - REVISED POLICY - SPECIAL UPDATE - MARCH 2018 - SOCIAL MEDIA - TECHNOLOGY  
po7540.02 - REPLACEMENT POLICY - SPECIAL UPDATE - MARCH 2018 - SOCIAL MEDIA - WEB  
CONTENT, APPS, AND SERVICES  
po7540.04 - REVISED POLICY - SPECIAL UPDATE - MARCH 2018 - SOCIAL MEDIA - STAFF  
TECHNOLOGY ACCEPTABLE USE AND SAFETY  
po7544 - NEW POLICY - SPECIAL UPDATE - MARCH 2018 - SOCIAL MEDIA - USE OF SOCIAL  
MEDIA

Subject: Special Release - School Safety

# **SPECIAL RELEASE School Safety June 2018**

## **OVERVIEW AND COMMENTS**

In the wake of the tragedy at Marjory Stoneman Douglas High School in Parkland, Florida, the Florida Legislature passed legislation designed to improve the safety of students, staff and the community in Florida's schools. Known as the "Marjory Stoneman Douglas High School Public Safety Act," Senate Bill No. 7026 includes numerous provisions requiring updates to policy templates. To implement the requirements of the Act, we are publishing this Special Release. This Special Release includes proposed revisions to ten (10) current policy templates, the replacement of one (1) policy, the deletion of one (1) policy, and the addition of two (2) new policies. The Superintendent should recommend adoption of these policies, and the Board should take such action so that its policies are legally correct.

## **POLICIES**

### **Policy 1213 - Student Supervision and Welfare (Revised)**

### **Policy 3213 - Student Supervision and Welfare (Revised)**

### **Policy 4213 - Student Supervision and Welfare (Revised)**

These policies were revised to eliminate the standards of care as options; instead, all standards of care are now required policy provisions. Additionally, we have added a requirement that employees report unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities to the Superintendent and local safety agencies and/or school officials in accordance with new Policy 8406 - Reports of Suspicious and Potential Threats to Schools. We also inserted "abandonment" at the end of the policy to clarify that employees must report suspected child abandonment in addition to abuse and neglect.

### **Policy 5112 - Entrance Requirements (Revised)**

The revisions to this policy include provisions related to the requirement that students disclose prior expulsions, arrests resulting in a charge, juvenile justice actions, and referrals to mental health services at the time of



enrollment. Of note, the requirement that students disclose referrals to mental health services is a product of Senate Bill 7026. Importantly, if students disclose any of this information at the time of enrollment, District staff will need to review the Student Code of Conduct, Policy 5500 and Policy 5610 to address disciplinary placement issues.

### **Policy 5500 - Student Conduct (Revised)**

Revisions to Policy 5500 related to Senate Bill 7026 include the following: (1) a requirement that students to be referred to mental health services when committing certain specified offenses; (2) a new reference to "threats of unsafe and potentially harmful, dangerous, violent, or criminal activities" as the types of acts that pose a threat to school safety; and (3) a provision stating that the Student Code of Conduct shall contain provisions for the assignment of violent or disruptive students to an alternative educational program and/or referral of such students to mental health services identified by the District.

Aside from safety-related revisions, we also modified language permitting the Superintendent to request that the Board reconsider the automatic one (1) year expulsion requirement for certain specified offenses by allowing such students to be assigned to a disciplinary program or second chance school. In light of the decision in S.J. v. Thomas, Case No. 1D16-3635, 2017 WL 6458980 (Fla. 1DCA Dec. 19, 2017) and the Vol. 18, No. 2 update to Policy 5610, we have concerns that if the Superintendent elects to request that the Board modify an expulsion, the impacted student would potentially have additional due process hearing rights. As such, through the revision to Policy 5500 in this special update, we clarified that the Superintendent may not make a request to modify an expulsion unless the student and/or his/her parents agree in writing to accept the Superintendent's recommendation.

### **Policy 5610.01 - Emergency Removal of Students (Revised)**

We inserted a provision restating (see revisions to Policy 1213/Policy 3213/Policy 4213) the requirement that employees disclose in accordance with new Policy 8406 (Reports of Suspicious and Potential Threats to Schools) whether a student's behavior involves unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities. Since this policy addresses the emergency removal of students, we felt it was important to reiterate this requirement.

**Policy 7430.01 - Environmental Health Program (New/Revised)**

**Policy 7440 - Plant Security (Revised)**

**Policy 7440.01 - Protection of Personnel and Property (Delete)**

Policy 7440.01 includes several provisions related to school safety, certain drills, and environmental health. In light of the revisions to other policies herein, we felt it more appropriate to create a standalone policy for environmental health (new Policy 7430.01) rather than entangling it with safety and security issues. New Policy 7430.01 retains most of the language from deleted Policy 7440.01 related to environmental health. The safety and security language from deleted Policy 7440.01 is addressed in Policy 8405 - School Safety and Security.

Regarding Policy 7440, we inserted several optional provisions related to certain actions that may be taken to secure school buildings, school grounds, and school equipment.

**Policy 8405 - School Safety and Security (Revised)**

It is critically important that all Districts carefully review the substantial revisions to Policy 8405. Policy 8405 includes new provisions related to the District's School Safety Specialist, recommendations of the School Safety Specialist, the development of safety and security best practices, threat assessment teams, referrals to mental health services, and a student crime watch program. All of these revisions are related to Senate Bill 7026.

**Policy 8406 - Reports of Suspicious Activity and Potential Threats to Schools (New)**

Senate Bill 7026 includes provisions creating new Florida Statute Section 943.082 (School Safety Awareness Program). The statutory provisions require the Department of Education to develop a mobile suspicious reporting tool that allows students and the community to relay information anonymously concerning unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, to appropriate public safety agencies and school officials. The tool is named "FortifyFL."

In order to further address school safety and security, we decided to create a new policy requiring employees, and strongly encouraging students and members of the community, to promptly report unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, to appropriate public safety agencies and school officials. We also provided a list of how this information can be reported, including a

reference to the FortifyFL mobile suspicious reporting tool. Of note, employees are required to disclose these behaviors to the Superintendent (see also revisions to Policy 1213/Policy 3213/Policy 4213).

### **Policy 8407 - Safe-School Officers (New)**

Senate Bill 7026 requires the District to establish or assign one or more safe-school officers at each school in the District. The Board is permitted to select more than one type of safe-school officer to meet its statutory requirement (School Resource Officers, Commissioned School Safety Officers, and/or School Guardians). This new policy enables the Board to identify what types of safe-school officers it will utilize in the District.

### **Policy 8410 - Crisis Event Intervention and Response (Revised)**

Aside from minor, clerical revisions, we inserted a requirement that each school have a counseling plan requiring employees to report unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, in accordance with new Policy 8406.

### **Policy 8420 - Emergency Management, Emergency Preparedness, and Emergency Response Agencies (Revised)**

The revisions to Policy 8420 include mandatory requirements for the District to conduct active shooter and hostage situations at least as often as other emergency drills, that the District establish a schedule to test the functionality and coverage capacity of all emergency communication systems to determine if adequate signal strength is available in all areas of school campuses, and that the District identify the individual(s) responsible for contacting primary emergency response agencies. All of these revisions are related to Senate Bill 7026.

#### **Cross References**

SPECIAL UPDATE - SCHOOL SAFETY - Policy Disposition Sheet

po1213 - REVISED POLICY - SPEC. REL. - SCHOOL SAFETY - STUDENT SUPERVISION AND WELFARE

po3213 - REVISED POLICY - SPEC. REL. - SCHOOL SAFETY - STUDENT SUPERVISION AND WELFARE

po4213 - REVISED POLICY - SPEC. REL. - SCHOOL SAFETY - STUDENT SUPERVISION AND WELFARE

po5112 - REVISED POLICY - SPEC. REL. - SCHOOL SAFETY - ENTRANCE REQUIREMENTS

po5500 - REVISED POLICY - SPEC. REL. - SCHOOL SAFETY - STUDENT CONDUCT  
po5610.01 - REVISED POLICY - SPEC. REL. - SCHOOL SAFETY - EMERGENCY REMOVAL OF STUDENTS  
po7430.01 - NEW/REVISED POLICY - SPEC. REL. - SCHOOL SAFETY - ENVIRONMENTAL HEALTH PROGRAM  
po7440 - REVISED POLICY - SPEC. REL. - SCHOOL SAFETY - PLANT SECURITY  
po7440.01 - DELETE POLICY - SPEC. REL. - SCHOOL SAFETY - PROTECTION OF PERSONNEL AND PROPERTY  
po8405 - REVISED POLICY - SPEC. REL. - SCHOOL SAFETY - SCHOOL SAFETY AND SECURITY  
po8406 - NEW POLICY - SPEC. REL. - SCHOOL SAFETY - REPORTS OF SUSPICIOUS ACTIVITY AND POTENTIAL THREATS TO SCHOOLS  
po8407 - NEW POLICY - SPEC. REL. - SCHOOL SAFETY - SAFE-SCHOOL OFFICERS  
po8410 - REVISED POLICY - SPEC. REL. - SCHOOL SAFETY - CRISIS EVENT INTERVENTION AND RESPONSE  
po8420 - REVISED POLICY - SPEC. REL. - SCHOOL SAFETY - EMERGENCY MANAGEMENT, EMERGENCY PREPAREDNESS, AND EMERGENCY RESPONSE AGENCIES 6.24.18

**Requisition To Be Board Approved for a Purchase Exceeding \$50,000**

| No. | Cost Center | Req. No. and Date | School/Dept.         | Authority for Issuance of Purchase Order                                                                                        | Vendor                                          | Dollar Amount | Description                             |
|-----|-------------|-------------------|----------------------|---------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|---------------|-----------------------------------------|
| 1.  | 0291        | 00128<br>11.27.18 | Sebastian River High | School Board Policy #6320<br>Exception to Competitive Bidding<br>Requirements, D. 2. Fund: General<br>0291.00.100.5109.7300.086 | International<br>Baccalaureate North<br>America | \$60,279.00   | Annual registration<br>and subject fees |

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**FLORIDA DEPARTMENT OF EDUCATION  
 FINANCIAL MANAGEMENT SECTION  
 AMENDMENT TO DISTRICT SCHOOL BUDGET FY 2018-2019**

**SCHOOL DISTRICT OF INDIAN RIVER COUNTY  
 AMENDMENT No. 1 - Special Revenue - Other  
 Special Revenue - Other**

| <b>ESTIMATED REVENUE</b>                                  |              |                |            |            |                |
|-----------------------------------------------------------|--------------|----------------|------------|------------|----------------|
|                                                           | Revenue Code | Present Budget | Increase   | Decrease   | Revised Budget |
| Vocational Education Acts                                 | 3201         | 179,281.50     |            |            | 179,281.50     |
| Workforce Innovation & Opportunity Act                    | 3221         | 154,327.21     |            |            | 154,327.21     |
| Other Workforce Innovation & Opportunity Programs         | 3224         | 0.00           | 293,124.49 |            | 293,124.49     |
| Teacher/Principal Train/Recruit (Title II)                | 3225         | 627,460.78     |            |            | 627,460.78     |
| Individuals with Disabilities Education Act (IDEA)        | 3230         | 3,996,117.43   |            |            | 3,996,117.43   |
| Elementary & Secondary Education Act (Title I & Title IV) | 3240         | 5,695,832.01   |            | 11,006.65  | 5,684,825.36   |
| 21st Century Schools                                      | 3242         | 404,967.81     |            | 51,768.22  | 353,199.59     |
| Federal Through State                                     | 3280         | 40,372.00      |            | 15,839.00  | 24,533.00      |
| Emergency Immigrant Education Program (Title III)         | 3293         | 114,435.98     | 683.78     |            | 115,119.76     |
| <b>Totals</b>                                             |              | 11,212,794.72  | 293,808.27 | 78,613.87  | 11,427,989.12  |
| <b>APPROPRIATIONS</b>                                     |              |                |            |            |                |
|                                                           | Function     | Present Budget | Increase   | Decrease   | Revised Budget |
| Instructional Services                                    | 5000         | 5,691,729.96   | 176,357.58 |            | 5,868,087.54   |
| Pupil Personnel Services                                  | 6100         | 1,228,773.34   |            | 46,716.13  | 1,182,057.21   |
| Instructional & Curriculum Development                    | 6300         | 2,235,981.04   |            | 93,164.78  | 2,142,816.26   |
| Instructional Staff Training                              | 6400         | 1,008,092.72   | 96,286.31  |            | 1,104,379.03   |
| General Administration                                    | 7200         | 543,101.21     |            | 37,733.28  | 505,367.93     |
| Central Services                                          | 7700         | 1,160.00       | 5,000.00   |            | 6,160.00       |
| Transportation Services                                   | 7800         | 134,480.68     | 148,117.02 |            | 282,597.70     |
| Community Services                                        | 9100         | 369,475.77     |            | 32,952.32  | 336,523.45     |
| <b>Totals</b>                                             |              | 11,212,794.72  | 425,760.91 | 210,566.51 | 11,427,989.12  |

Adopted By Board: \_\_\_\_\_

\_\_\_\_\_  
 District Superintendent's Signature

**AMENDMENT No. 1 - Special Revenue - Other**

**ESTIMATED REVENUES:**

Total estimated revenues increased by \$215,194.40 for the months of July 1, 2018 through September 30, 2018.

**Revenue Code 3224 - Other WIOA Programs**

\$ 293,124.49 - WBLE 2018-2019: Increase estimated revenue for 2018-2019 Work Based Learning Experience Contract

\$ 293,124.49

**Revenue Code 3240 - Title I & Title IV**

\$ (11,006.65) - Title I -Migrant 2017-2018: Decrease estimated revenue for grant close out

\$ (11,006.65)

**Revenue Code 3242 - 21st. Century**

\$ (49,617.07) - 21st Century-SES/TEC 2017-2018: Decrease estimated revenue for grant close out

\$ (2,151.15) - 21st Century-PIE 2017-2018: Decrease estimated revenue for grant close out

\$ (51,768.22)

**Revenue Code 3280 - Federal Through Local**

\$ 4,500.00 - FDLRS 2018-2019: Increase estimated revenue for initial budget to fund future training in 2018-2019

\$ 47.00 - Carl Perkins Post Secondary 2018-2019: Increase estimated revenue per the FLDOE approved Project Award Notification dated 7/20/18

\$ (20,386.00) - SEDNET 2018-2019: Decreased estimated revenue due to grant not being utilized in 2018-2019

\$ (15,839.00)

**Revenue Code 3293 - Title III**

\$ 683.78 - Title III-English Language Acquisition 2018-2019: Increase estimated revenue per the FLDOE approved Project Award Notification dated 9/28/18

\$ 683.78

\$ 215,194.40 Total net change in estimated revenue for the period May 1, 2018 - June 30, 2018

**APPROPRIATIONS:**

Appropriation changes reflect the amendment to functions for the grants amended to the estimated revenue listed above and for function shifts to cover grant expenditures through September 30, 2018.



**FLORIDA DEPARTMENT OF EDUCATION  
 FINANCIAL MANAGEMENT SECTION  
 AMENDMENT TO DISTRICT SCHOOL BUDGET FY 2018-2019**

**SCHOOL DISTRICT OF INDIAN RIVER COUNTY  
 AMENDMENT No. 1 July 2018 - September 2018  
 Capital Projects - Consolidated**

| <b>ESTIMATED REVENUE</b>         |                 |                |            |            |                |
|----------------------------------|-----------------|----------------|------------|------------|----------------|
|                                  | Function        | Present Budget | Increase   | Decrease   | Revised Budget |
| CO & DS Distributed              | 3321            | 110,013.00     | 0.00       | 0.00       | 110,013.00     |
| PECO Funds                       | 3391            | 316,196.00     | 0.00       | 0.00       | 316,196.00     |
| Charter School Capital Outlay    | 3397            | 1,212,914.00   | 2,020.00   | 0.00       | 1,214,934.00   |
| Miscellaneous State Source       | 3399            | 9,005.00       | 0.00       | 0.00       | 9,005.00       |
| Local Capital Improvement Tax    | 3413            | 27,041,817.00  | 0.00       | 0.00       | 27,041,817.00  |
| Interest on Investments          | 3431            | 32,158.00      | 20,991.64  | 0.00       | 53,149.64      |
| Impact Fees                      | 3496            | 1,100,000.00   | 0.00       | 0.00       | 1,100,000.00   |
| Fund Equity                      | 2700            | 13,022,316.21  | 0.00       | 0.00       | 13,022,316.21  |
| <b>Totals</b>                    |                 | 42,844,419.21  | 23,011.64  | 0.00       | 42,867,430.85  |
| <b>APPROPRIATIONS</b>            |                 |                |            |            |                |
|                                  | Function/Object | Present Budget | Increase   | Decrease   | Revised Budget |
| Buildings & Fixed Equipment      | 7400 - 630      | 4,343,129.81   | 20,991.64  | 0.00       | 4,364,121.45   |
| Furniture / Fixtures / Equipment | 7400 - 640      | 1,113,931.25   | 740.16     | 0.00       | 1,114,671.41   |
| Motor Vehicles                   | 7400 - 650      | 1,100,318.62   | 0.00       | 0.00       | 1,100,318.62   |
| Improvements Other Than Bldgs.   | 7400 - 670      | 2,225,054.21   | 131,404.19 | 0.00       | 2,356,458.40   |
| Remodeling & Renovations         | 7400 - 680      | 17,683,356.32  | 0.00       | 132,144.35 | 17,551,211.97  |
| Transfer to General Fund         | 9700 - 910      | 5,012,914.00   | 2,020.00   | 0.00       | 5,014,934.00   |
| Transfer to Debt Service Fund    | 9700 - 920      | 11,365,715.00  | 0.00       | 0.00       | 11,365,715.00  |
| Restricted Fund Balance          | 2700            | 0.00           | 0.00       | 0.00       | 0.00           |
| <b>Totals</b>                    |                 | 42,844,419.21  | 155,155.99 | 132,144.35 | 42,867,430.85  |

Adopted By Board: \_\_\_\_\_

\_\_\_\_\_  
 District Superintendent's Signature

FLORIDA DEPARTMENT OF EDUCATION  
 FINANCIAL MANAGEMENT SECTION  
 AMENDMENT TO DISTRICT SCHOOL BUDGET FY 2018-2019

SCHOOL DISTRICT OF INDIAN RIVER COUNTY  
 AMENDMENT No. 1 July 2018 - September 2018  
 Capital Projects - Public Education Capital Outlay (PECO)

| <b>ESTIMATED REVENUE</b>       |                 |                |          |          |                |
|--------------------------------|-----------------|----------------|----------|----------|----------------|
|                                | Function        | Present Budget | Increase | Decrease | Revised Budget |
| PECO Funds                     | 3391            | 316,196.00     | 0.00     | 0.00     | 316,196.00     |
| Fund Equity                    | 2700            | 44,885.97      | 0.00     | 0.00     | 44,885.97      |
| <b>Totals</b>                  |                 | 361,081.97     | 0.00     | 0.00     | 361,081.97     |
| <b>APPROPRIATIONS</b>          |                 |                |          |          |                |
|                                | Function/Object | Present Budget | Increase | Decrease | Revised Budget |
| Improvements Other Than Bldgs. | 7400 - 670      | 19,020.25      | 0.00     | 0.00     | 19,020.25      |
| Remodeling & Renovations       | 7400 - 680      | 342,061.72     | 0.00     | 0.00     | 342,061.72     |
| <b>Totals</b>                  |                 | 361,081.97     | 0.00     | 0.00     | 361,081.97     |

Adopted By Board: \_\_\_\_\_

\_\_\_\_\_  
 District Superintendent's Signature

FLORIDA DEPARTMENT OF EDUCATION  
 FINANCIAL MANAGEMENT SECTION  
 AMENDMENT TO DISTRICT SCHOOL BUDGET FY 2018-2019

SCHOOL DISTRICT OF INDIAN RIVER COUNTY  
 AMENDMENT No. 1 July 2018 - September 2018  
 Capital Projects - Capital Outlay and Debt Service (CO/DS)

| <b>ESTIMATED REVENUE</b>       |                 |                |          |          |                |
|--------------------------------|-----------------|----------------|----------|----------|----------------|
|                                | Function        | Present Budget | Increase | Decrease | Revised Budget |
| CO & DS Distributed            | 3321            | 110,013.00     | 0.00     | 0.00     | 110,013.00     |
| Fund Equity                    | 2700            | 154,557.66     | 0.00     | 0.00     | 154,557.66     |
| <b>Totals</b>                  |                 | 264,570.66     | 0.00     | 0.00     | 264,570.66     |
| <b>APPROPRIATIONS</b>          |                 |                |          |          |                |
|                                | Function/Object | Present Budget | Increase | Decrease | Revised Budget |
| Improvements Other Than Bldgs. | 7400 - 670      | 10,127.14      | 0.00     | 0.00     | 10,127.14      |
| Remodeling & Renovations       | 7400 - 680      | 254,443.52     | 0.00     | 0.00     | 254,443.52     |
| <b>Totals</b>                  |                 | 264,570.66     | 0.00     | 0.00     | 264,570.66     |

Adopted By Board: \_\_\_\_\_

\_\_\_\_\_  
 District Superintendent's Signature

FLORIDA DEPARTMENT OF EDUCATION  
 FINANCIAL MANAGEMENT SECTION  
 AMENDMENT TO DISTRICT SCHOOL BUDGET FY 2018-2019

SCHOOL DISTRICT OF INDIAN RIVER COUNTY  
 AMENDMENT No. 1 July 2018 - September 2018  
 Capital Projects - Local Capital Improvement Tax

| ESTIMATED REVENUE                |                 |                |            |            |                |
|----------------------------------|-----------------|----------------|------------|------------|----------------|
|                                  | Function        | Present Budget | Increase   | Decrease   | Revised Budget |
| Local Capital Improvement Tax    | 3413            | 27,041,817.00  | 0.00       | 0.00       | 27,041,817.00  |
| Interest on Investments          | 3431            | 32,158.00      | 0.00       | 0.00       | 32,158.00      |
| Fund Equity                      | 2700            | 9,523,388.57   | 0.00       | 0.00       | 9,523,388.57   |
| <b>Totals</b>                    |                 | 36,597,363.57  | 0.00       | 0.00       | 36,597,363.57  |
| APPROPRIATIONS                   |                 |                |            |            |                |
|                                  | Function/Object | Present Budget | Increase   | Decrease   | Revised Budget |
| Buildings & Fixed Equipment      | 7400 - 630      | 158,504.33     | 0.00       | 0.00       | 158,504.33     |
| Furniture / Fixtures / Equipment | 7400 - 640      | 1,096,835.96   | 740.16     | 0.00       | 1,097,576.12   |
| Motor Vehicles                   | 7400 - 650      | 1,100,318.62   | 0.00       | 0.00       | 1,100,318.62   |
| Improvements Other Than Bldgs.   | 7400 - 670      | 2,111,020.72   | 131,404.19 | 0.00       | 2,242,424.91   |
| Remodeling & Renovations         | 7400 - 680      | 16,964,968.94  | 0.00       | 132,144.35 | 16,832,824.59  |
| Transfer to General Fund         | 9700 - 910      | 3,800,000.00   | 0.00       | 0.00       | 3,800,000.00   |
| Transfer to Debt Service Fund    | 9700 - 920      | 11,365,715.00  | 0.00       | 0.00       | 11,365,715.00  |
| <b>Totals</b>                    |                 | 36,597,363.57  | 132,144.35 | 132,144.35 | 36,597,363.57  |

Adopted By Board: \_\_\_\_\_

\_\_\_\_\_  
 District Superintendent's Signature

**FLORIDA DEPARTMENT OF EDUCATION  
 FINANCIAL MANAGEMENT SECTION  
 AMENDMENT TO DISTRICT SCHOOL BUDGET FY 2018-2019**

**SCHOOL DISTRICT OF INDIAN RIVER COUNTY  
 AMENDMENT No. 1 July 2018 - September 2018  
 Capital Projects - Other Capital Funds**

| <b>ESTIMATED REVENUE</b>         |                 |                |           |          |                |
|----------------------------------|-----------------|----------------|-----------|----------|----------------|
|                                  | Function        | Present Budget | Increase  | Decrease | Revised Budget |
| Charter School Capital Outlay    | 3397            | 1,212,914.00   | 2,020.00  | 0.00     | 1,214,934.00   |
| Miscellaneous State Source       | 3399            | 9,005.00       | 0.00      | 0.00     | 9,005.00       |
| Interest on Investments          | 3431            | 0.00           | 20,991.64 | 0.00     | 20,991.64      |
| Impact Fees                      | 3496            | 1,100,000.00   | 0.00      | 0.00     | 1,100,000.00   |
| Fund Equity                      | 2700            | 3,299,484.01   | 0.00      | 0.00     | 3,299,484.01   |
| <b>Totals</b>                    |                 | 5,621,403.01   | 23,011.64 | 0.00     | 5,644,414.65   |
| <b>APPROPRIATIONS</b>            |                 |                |           |          |                |
|                                  | Function/Object | Present Budget | Increase  | Decrease | Revised Budget |
| Buildings & Fixed Equipment      | 7400 - 630      | 4,184,625.48   | 20,991.64 | 0.00     | 4,205,617.12   |
| Furniture / Fixtures / Equipment | 7400 - 640      | 17,095.29      | 0.00      | 0.00     | 17,095.29      |
| Improvements Other Than Bldgs.   | 7400 - 670      | 84,886.10      | 0.00      | 0.00     | 84,886.10      |
| Remodeling & Renovations         | 7400 - 680      | 121,882.14     | 0.00      | 0.00     | 121,882.14     |
| Transfer to General Fund         | 9700 - 910      | 1,212,914.00   | 2,020.00  | 0.00     | 1,214,934.00   |
| <b>Totals</b>                    |                 | 5,621,403.01   | 23,011.64 | 0.00     | 5,644,414.65   |

Adopted By Board: \_\_\_\_\_

\_\_\_\_\_  
 District Superintendent's Signature

## Capital Fund - Amendment # 1

### ESTIMATED REVENUES:

Total estimated revenues increased by \$ 23,011.64 for the months of July 2018 through September 2018.

#### **Function Code 3300 - State Sources:**

|    |          |                                                                                                |
|----|----------|------------------------------------------------------------------------------------------------|
| \$ | 2,020.00 | - Increase estimated revenue budget for Charter School Capital Outlay (PECO) DOE Recalculation |
| \$ | 2,020.00 | Net Increase estimated State Sources                                                           |

#### **Function Code 3400 - Local Sources:**

|    |           |                                                                 |
|----|-----------|-----------------------------------------------------------------|
| \$ | 20,991.64 | - Increase estimated revenue budget for Interest on Investments |
| \$ | 20,991.64 | Net Increase estimated Local Sources                            |

**\$ 23,011.64 Total Increase in Estimated Revenue**

### APPROPRIATIONS

Major Changes in the Appropriations budget are reflected as follows:

#### **Other Capital Funds:**

|    |           |                                                                                             |
|----|-----------|---------------------------------------------------------------------------------------------|
| \$ | 2,020.00  | - Increase appropriations budget for Charter School Capital Outlay (PECO) DOE Recalculation |
|    | 20,991.64 | - Increase appropriations budget for Interest on Impact Fees                                |
| \$ | 23,011.64 | Net increase in appropriations budget Other Capital Funds                                   |

**\$ 23,011.64 Total Increase in Budget Appropriations**

All other Fund changes in Appropriations are due to re-classing of objects codes with in projects during this period.

**FLORIDA DEPARTMENT OF EDUCATION  
 FINANCIAL MANAGEMENT SECTION  
 AMENDMENT TO SCHOOL DISTRICT BUDGET FY 2018-2019**

**SCHOOL DISTRICT OF INDIAN RIVER COUNTY  
 Amendment #1 - July 2018 - September 2018  
 Food Service**

| <b>ESTIMATED REVENUE</b>           |                 |                      |             |                  |                      |
|------------------------------------|-----------------|----------------------|-------------|------------------|----------------------|
|                                    | Function        | Beginning Budget     | Increase    | Decrease         | Revised Budget       |
| National School Lunch Act          | 3260            | 6,399,058.28         | 0.00        | 0.00             | 6,399,058.28         |
| USDA Donated Commodities           | 3265            | 533,017.00           | 0.00        | 0.00             | 533,017.00           |
| Summer Food Service Program        | 3267            | 260,500.00           | 0.00        | 0.00             | 260,500.00           |
| Fresh Fruit and Vegetables Program | 3268            | 59,800.00            | 0.00        | 26,700.00        | 33,100.00            |
| Food Service Supplement            | 3300            | 98,306.00            | 0.00        | 0.00             | 98,306.00            |
| Interest on Investments            | 3431            | 20,000.00            | 0.00        | 0.00             | 20,000.00            |
| Gifts, Grants, Bequests            | 3440            | 0.00                 | 0.00        | 0.00             | 0.00                 |
| Food Service Sales                 | 3450            | 1,600,999.10         | 0.00        | 0.00             | 1,600,999.10         |
| Food Service Sales - Other         | 3456            | 2,300.00             | 0.00        | 0.00             | 2,300.00             |
| Food Service Sales - Catering      | 3457            | 4,600.00             | 0.00        | 0.00             | 4,600.00             |
| Other Miscellaneous Local          | 3495            | 0.00                 | 0.00        | 0.00             | 0.00                 |
| Refunds-Prior Year Expense         | 3497            | 0.00                 | 0.00        | 0.00             | 0.00                 |
| Fund Equity                        | 2700            | 2,637,070.34         | 0.00        | 0.00             | 2,637,070.34         |
| <b>Totals</b>                      |                 | <b>11,615,650.72</b> | <b>0.00</b> | <b>26,700.00</b> | <b>11,588,950.72</b> |
| <b>APPROPRIATIONS</b>              |                 |                      |             |                  |                      |
|                                    | Function/Object | Beginning Budget     | Increase    | Decrease         | Revised Budget       |
| Salaries                           | 7600 - 100      | 3,174,518.17         | 0.00        | 0.00             | 3,174,518.17         |
| Employee Benefits                  | 7600 - 200      | 1,105,188.99         | 0.00        | 0.75             | 1,105,188.24         |
| Purchased Services                 | 7600 - 300      | 172,306.68           | 0.00        | 0.00             | 172,306.68           |
| Energy Services                    | 7600 - 400      | 268,699.76           | 0.00        | 0.00             | 268,699.76           |
| Materials and Supplies             | 7600 - 500      | 3,858,524.94         | 0.00        | 26,700.00        | 3,831,824.94         |
| Capital Outlay                     | 7600 - 600      | 960,660.98           | 0.00        | 0.00             | 960,660.98           |
| Other Expenses                     | 7600 - 700      | 308,662.89           | 0.00        | 0.00             | 308,662.89           |
| Transfers to General Fund          | 9700            | 0.00                 | 0.00        | 0.00             | 0.00                 |
| Budgeted Fund Balance              |                 | 1,767,088.31         | 0.75        | 0.00             | 1,767,089.06         |
| <b>Totals</b>                      |                 | <b>11,615,650.72</b> | <b>0.75</b> | <b>26,700.75</b> | <b>11,588,950.72</b> |

Adopted By Board: \_\_\_\_\_

\_\_\_\_\_  
 District Superintendent's Signature

# Food Service - Amendment #1

## ESTIMATED REVENUES:

Total estimated revenues decreased (\$26,700) for the months of July 2018 through September 2018

### **Object Code 3200 - Federal Through State Sources:**

|    |             |                                                                                                                   |
|----|-------------|-------------------------------------------------------------------------------------------------------------------|
| \$ | (26,700.00) | - Decrease estimated revenue budget for Fresh Fruit and Vegetable Program (FFVP) Indian River Academy Grant Ended |
| \$ | (26,700.00) |                                                                                                                   |

## APPROPRIATIONS:

Changes in the Appropriations budget are reflected as follows:

|    |             |                                                                                                                      |
|----|-------------|----------------------------------------------------------------------------------------------------------------------|
| \$ | (0.75)      | - Decrease appropriations budget for correction in Employee Benefits FRS adjustment                                  |
|    | (26,700.00) | - Decrease appropriations budget for Food Costs Fresh Fruit and Vegetable Program - Indian River Academy Grant Ended |
| \$ | (26,700.75) | Net decrease in Appropriations Budget                                                                                |

## BUDGETED FUND BALANCE:

There was an increase to budgeted Fund Balance of \$ .75 for the months of July 2018 through September 2018, as follows:

|    |      |                                         |
|----|------|-----------------------------------------|
| \$ | 0.75 | Increase to Budgeted Fund Balance -     |
| \$ | 0.75 | Total Increase to Budgeted Fund Balance |



**FLORIDA DEPARTMENT OF EDUCATION  
FINANCIAL MANAGEMENT SECTION  
AMENDMENT TO DISTRICT SCHOOL BUDGET**

**SCHOOL DISTRICT OF INDIAN RIVER COUNTY  
Amendment # 1 - July 2018 through September 2018  
General Fund**

| <b>ESTIMATED REVENUE</b>                |          |                  |            |            |                |
|-----------------------------------------|----------|------------------|------------|------------|----------------|
|                                         | Function | Beginning Budget | Increase   | Decrease   | Revised Budget |
| <b>Grand Totals</b>                     |          | 171,545,076.00   | 15,810.14  | 0.00       | 171,560,886.14 |
| Federal Direct Sources                  | 3100     | 125,000.00       | 0.00       | 0.00       | 125,000.00     |
| Federal Through State Sources           | 3200     | 300,000.00       | 0.00       | 0.00       | 300,000.00     |
| State Sources                           | 3300     | 47,238,337.20    | 0.00       | 0.00       | 47,238,337.20  |
| Local Sources                           | 3400     | 99,967,652.00    | 13,790.14  | 0.00       | 99,981,442.14  |
| Transfers                               | 3600     | 5,012,914.00     | 2,020.00   | 0.00       | 5,014,934.00   |
| Other Financing Sources                 | 3700     | 246,000.00       | 0.00       | 0.00       | 246,000.00     |
| Fund Equity                             | 2700     | 18,655,172.80    | 0.00       | 0.00       | 18,655,172.80  |
| <b>APPROPRIATIONS</b>                   |          |                  |            |            |                |
|                                         | Function | Beginning Budget | Increase   | Decrease   | Revised Budget |
| Instructional Services                  | 5000     | 102,661,765.63   | 52,953.92  | 0.00       | 102,714,719.55 |
| Pupil Personnel Services                | 6100     | 4,098,112.79     | 0.00       | 22,195.36  | 4,075,917.43   |
| Instructional Media Services            | 6200     | 1,808,858.63     | 5,464.40   | 0.00       | 1,814,323.03   |
| Instructional Curriculum Development    | 6300     | 4,422,633.61     | 0.00       | 399.44     | 4,422,234.17   |
| Instructional Staff Training            | 6400     | 1,570,310.56     | 4,886.64   | 0.00       | 1,575,197.20   |
| Instructional Related Technology        | 6500     | 7,906,742.16     | 0.00       | 44,361.34  | 7,862,380.82   |
| Board of Education                      | 7100     | 864,623.40       | 0.00       | 0.00       | 864,623.40     |
| General Administration                  | 7200     | 503,918.01       | 0.00       | 0.00       | 503,918.01     |
| School Administration                   | 7300     | 8,967,413.72     | 736.60     | 0.00       | 8,968,150.32   |
| Facilities Acquisition and Construction | 7400     | 802,734.18       | 25,985.00  | 0.00       | 828,719.18     |
| Fiscal Services                         | 7500     | 1,207,176.53     | 12,500.00  | 0.00       | 1,219,676.53   |
| Food Services                           | 7600     | 0.00             | 0.00       | 0.00       | 0.00           |
| Central Services                        | 7700     | 2,302,783.08     | 6,800.00   | 0.00       | 2,309,583.08   |
| Transportation Services                 | 7800     | 5,220,334.17     | 0.00       | 5,211.32   | 5,215,122.85   |
| Operation Services                      | 7900     | 13,032,252.06    | 12,383.30  | 0.00       | 13,044,635.36  |
| Maintenance Services                    | 8100     | 3,302,468.28     | 8,937.00   | 0.00       | 3,311,405.28   |
| Administrative Technology Services      | 8200     | 3,881,812.21     | 18,376.34  | 0.00       | 3,900,188.55   |
| Community Services                      | 9100     | 0.00             | 0.00       | 0.00       | 0.00           |
| Debt Services                           | 9200     | 0.00             | 0.00       | 0.00       | 0.00           |
| Transfers                               | 9700     | 891,287.05       | 0.00       | 0.00       | 891,287.05     |
| Budgeted Fund Balance                   |          | 8,099,849.93     | 0.00       | 61,045.60  | 8,038,804.33   |
| <b>Grand Totals</b>                     |          | 171,545,076.00   | 149,023.20 | 133,213.06 | 171,560,886.14 |

Adopted By Board:

\_\_\_\_\_  
District Superintendent's Signature

# General Fund - Amendment # 1

## ESTIMATED REVENUES

Total estimated revenues increased by \$15,810.14 in the months of July 2018 through September 2018

### **Object Code 3400 - Local Sources:**

|           |                  |                                                                     |
|-----------|------------------|---------------------------------------------------------------------|
| \$        | 11,000.00        | - Increase estimated revenue budget for HR Drug Testing - New Hires |
|           | 2,790.14         | - Increase estimated revenue budget for misc payroll reimbursements |
| <u>\$</u> | <u>13,790.14</u> |                                                                     |

### **Object Code 3600 - Transfers:**

|           |                 |                                                                                             |
|-----------|-----------------|---------------------------------------------------------------------------------------------|
| \$        | 2,020.00        | - Increase in budgeted transfer for State Charter School Capital Outlay funds recalculation |
| <u>\$</u> | <u>2,020.00</u> |                                                                                             |

## APPROPRIATIONS

Changes in the Appropriations budget changes are reflected as follows:

|           |                  |                                                                                                             |
|-----------|------------------|-------------------------------------------------------------------------------------------------------------|
| \$        | 12,500.00        | - Increase appropriations budget for Budget Audit                                                           |
|           | 2,020.00         | - Increase appropriations budget for State Charter School Capital Outlay                                    |
|           | 2,790.14         | - Increase appropriations budget for collection of internal accounts reimbursement - Various Schools        |
|           | 11,000.00        | - Increase appropriations budget HR Drug Testing New Hires                                                  |
|           | 30,000.00        | - Increase appropriations budget for Facility Use Rentals District-wide                                     |
|           | 8,937.00         | - Increase estimated budget for Hurricane IRMA - preparation, shelter and repairs                           |
|           | 9,500.00         | - Increase estimated budget for Storm Related Repairs 2018 Hurricane season                                 |
|           | 108.60           | - Increase appropriations budget for Textbooks remainder of 075 2018 funds - should have rolled in proj 075 |
| <u>\$</u> | <u>76,855.74</u> | Net increase in appropriations budget                                                                       |

## BUDGETED FUND BALANCE:

The Budgeted Fund Balance decreased by \$61,045.60 in the months of July 2018 through September 2018



Office of  
**INDIAN RIVER COUNTY  
ATTORNEY**

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Dylan Reingold, County Attorney  
William K. DeBraul, Deputy County Attorney  
Kate Pingolt Cotner, Assistant County Attorney

**MEMORANDUM**

**TO:** Board of County Commissioners  
**FROM:** Dylan Reingold, County Attorney  
**DATE:** November 30, 2018  
**SUBJECT:** Fiber Optic Agreements

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**BACKGROUND.**

On May 19, 2015, the School Board of Indian River County, the City of Vero Beach and Indian River County (the "Parties") entered into a Revised and Restated Joint Fiber Optics Project Interlocal Agreement (the "Consortium Agreement"), which governs how the Parties utilize and share fiber.

As the Indian River County Board of County Commissioners (the "Board") is aware, the closing for the sale of the City of Vero Beach electric utility to FPL is scheduled for December 17, 2018. As part of that sale, FPL needs to resolve issues relating to the fiber that is owned by and utilized by the Parties. Thus the Parties along with FPL have negotiated three agreements, 1) Substation License and Access Agreement, 2) Linear Facilities Pole Attachment Agreement, and 3) Fiber License Agreement, which addressing the issues. Additionally, the Parties have negotiated a First Amendment to the Consortium Agreement clarifying issues pertaining to which Party is responsible for payments to FPL under the Linear Facilities Pole Attachment Agreement,

Under the Substation License and Access Agreement, FPL will pay to remove the Parties' communication equipment from the substations, which will no longer be owned by the City of Vero Beach. FPL will be removing such equipment within five years. During that time period, the Parties will have access to the substations free of charge no more than two trips per month. Additionally, the Parties will not be required to pay any access fees required for work, which includes without limitation, resolving fiber outages and performing conductivity tests for fiber issues, to be performed on the fibers. Otherwise, the Parties will be required to pay \$100 per hour for access.

Under the Linear Facilities Pole Attachment Agreement, the Parties will not pay any fees for attachments to what will be FPL poles for five years. Beginning on January 1, 2024, the annual attachment fee will be \$16.93 per distribution pole per year, \$104.06 per transmission pole with under-built distribution and \$208.12 for OPGW attachments per transmission structure per year, such rate being effective on January 1, 2024. The

[https://sdirc-my.sharepoint.com/personal/nancy\\_esplen\\_indianriverschools\\_org/Documents/AGENDA's/2018 Meeting Agenda Folder/2018-12/2018-12-11-Business-Mtg/Fiber Optic Agreements.docx](https://sdirc-my.sharepoint.com/personal/nancy_esplen_indianriverschools_org/Documents/AGENDA's/2018 Meeting Agenda Folder/2018-12/2018-12-11-Business-Mtg/Fiber Optic Agreements.docx)

rate will be subject to an annual adjustment.

Finally, the Fiber License Agreement will allow FPL to license certain fiber optic strands previously used by the City of Vero Beach in the operation of its electric system. This will consist of: (a) not less than 24 fiber optic strands previously used by the City of Vero Beach for protection of the substations; and (b) not less than 20 fiber optic strands previously used by the City of Vero Beach for supervisory control and data acquisition (SCADA) functions necessary in the operation of the substations and other electric utility assets. Additionally, 2 spare fiber optic strands shall be reserved for FPL's use. FPL will pay a license fee of \$4.54 per fiber optic strand per mile per month, up to \$23,847.00 per month.

Since the ownership of the fiber routes that will be used by FPL is currently unknown, the Parties will be developing a route diagram, which will be included to the Fiber License Agreement. Thus, in the Fiber License Agreement, FPL and the Parties have agreed that they will work together once the survey is complete to resolve any operational issues, which include, but are not limited to, (i) operational repair; (ii) fiber outages; (iii) emergency repairs; and (iv) if reasonably necessary, the right of FPL to perform repair work under the reasonable supervision of the appropriate Party.

Finally, the First Amendment to the Consortium Agreement clarifies that any pole attachment fees, costs of corrections or other charges owed to FPL as set forth in the Linear Facilities Pole Attachment Agreement shall be paid by the Party or Parties who own the wireline that is attached to the FPL pole, pursuant to their percentage of fiber ownership, regardless of the percentage of the Parties' usage of the fiber.

### **RECOMMENDATION.**

The County Attorney's Office recommends that the Indian River County Board of County Commissioners approve the Substation License and Access Agreement, Linear Facilities Pole Attachment Agreement, Fiber License Agreement, and First Amendment to Revised and Restated Joint Fiber Optics Project Interlocal Agreement and authorize the chair to execute the documents. The County Attorney's Office also recommends that the County Attorney be authorized to make any non-substantive changes to these agreements prior to execution.

### **ATTACHMENTS.**

Substation License and Access Agreement  
Linear Facilities Pole Attachment Agreement  
Fiber License Agreement  
First Amendment to Revised and Restated Joint Fiber Optics Project Interlocal Agreement

**SUBSTATION LICENSE AND ACCESS AGREEMENT**

**THIS SUBSTATION LICENSE AND ACCESS AGREEMENT (“License”)**, is made this \_\_\_\_\_ day of [\_\_\_\_], 2018 (the “**Effective Date**”) by and between Florida Power & Light Company, a Florida corporation (“**Licensor**”), whose mailing address is 700 Universe Blvd., CRE/JB, Juno Beach, Florida 33408-0420, and City of Vero Beach, a municipal corporation organized and existing under the laws of the state of Florida, whose mailing address is 1053 20<sup>th</sup> Place, Vero Beach, Florida 32961 (the “**City**”), the School Board of Indian River County, Florida, whose mailing address is 6500 57<sup>th</sup> Street, Vero Beach, FL 32967 (the “**School Board**”) and Indian River County, a political subdivision of the State of Florida whose mailing address is 1801 27<sup>th</sup> Street, Building A, Vero Beach, FL 32960 (the “**County**” and together with the City and the School Board, collectively the “**Licensee**”). Licensor and Licensee each is called a “**Party**” and together are called the “**Parties**.”

**WITNESSETH**

WHEREAS, the Parties have entered into and are contemporaneously herewith consummating an Asset Purchase and Sale Agreement, dated \_\_\_\_\_, 2017 (the “**APA**”) in connection with Licensor’s acquisition of certain assets of Licensee. this License; and

WHEREAS, immediately prior to the date of this License, Licensee has used substations numbered 10- Central Beach; 11- South Beach; 20-County Line; 3-Mall Substation; 5- Piper Substation; 6- Gifford Substation; 7- West Substation; 8-South Substation; and 9- North Substation and the real property on which such Substations are located (collectively, the “**Existing Substations**” for the housing, operation, maintenance, repair and replacement of Licensee’s communication equipment which is unrelated to the operation, protection and control of the electric utility assets to be purchased by Licensor; and

WHEREAS Licensor intends to construct a new substation on real property which is the subject of the Substation Easement Agreement between the Parties (“**New Substation**”) (the Existing Substations together with the New Substation are referred to collectively as the “**Licensed Premises**”) and

WHEREAS, pursuant to the APA, Licensor will obtain title to, and easement for or a lease of the Licensed Premises; and

WHEREAS, pursuant to a Fiber License Agreement, dated the date hereof, between the Parties (the “**Fiber License Agreement**”) Licensee has licensed the use of certain fiber assets (the “**Fibers**”) to Licensor; and

WHEREAS, Licensee requires certain access to the Licensed Premises, and Licensor is willing to provide Licensee such access under the terms of this License;

WHEREAS, Licensor plans to relocate, under the terms of this License, the Communications Equipment, as defined below, and Licensor is willing for Licensee to do so;

**NOW, THEREFORE**, for good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows: :

## TERMS, CONDITIONS, AND PROVISIONS

**1. Use.** Licensee may use the Licensed Premises solely for: (a) the transmission and reception of telecommunication signals pursuant to all applicable rules and regulations including without limitation, the Federal Communications Commission (“FCC”); (b) perform no less than annual inspections, testing, and all necessary maintenance, relocation and restoration required in order that the Fibers may operate within certain required parameters; and (c) the construction, installation, operation, alteration, maintenance, repair, removal, and replacement of communication equipment including horizontal and vertical conduits, cables, wires, fibers, junction boxes, hangers, pull boxes and other appurtenant facilities and improvements owned or operated by Licensee or by Licensee together with Indian River County and the School Board of Indian River County, Florida under the Revised and Restated Joint Fiber Optics Project Interlocal Agreement, made as of May 19, 2015, singularly and collectively (collectively, the “**Communications Equipment**”) for the purpose of providing telecommunication services to or for the benefit of entities other than and in addition to Licensor, but not for any other purpose. Licensee and its authorized personnel and subcontractors may at any and all times, enter the Licensed Premises, including Licensor’s substation control structures at those structures where Licensee’s Communications Equipment is installed and/or for the specific purposes set forth above. Licensee shall, and shall ensure that its personnel and subcontractors, (i) only enter the Licensed Premises while being escorted by an FPL Transmission employee and (ii) at all times strictly comply with the instructions of such FPL Transmission employee. Licensee is the sole owner of substation 1, and nothing in this License will be deemed or construed as granting, acknowledging or conveying any interest in such substation to Licensor. However, operation of such substation is subject to the Substation Equipment Operating and Dismantling Agreement between the Parties and Licensor acknowledges and agrees that Licensee will continue to use the fiber optic system located at substation number 1 until such lines and system is modified, moved or relocated in accordance with the Substation Equipment Operating and Dismantling Agreement.

**2. Term.** This License shall continue in full force and effect until all of the following have occurred: (a) Licensor has relocated all Communications Equipment from the current location of such Communications Equipment to the locations approved by the parties as a part of the Change Plan, defined below, as to each parcel of the Licensed Premises and (b) the appropriate instrument or agreement is executed and delivered by Licensor permitting the Communication Equipment to remain at the location constructed in accordance with the Change Plan on a permanent basis as described in Section 5 (d) below, and (c). Licensee has accepted such relocated Communications Equipment. .

**3. Access Fees.** If access to the Licensed Premises, or any of them, is required by Licensee solely for the purpose of accessing the Licensee’s Communications Equipment, and for no other purpose, Licensee shall have the right during the first five years after the Effective Date to make entry free of charge no more than two (2) trips per month, each trip not to exceed ten (10) hours, including travel time between substations (“Monthly Allowed Access”). Licensee may visit more than one substation during a particular trip. Should Licensee exceed the Monthly Allowed Access, Licensee shall be charged the sum of One Hundred Dollars and 00/100 (\$100.00) per hour for each hour or partial hour access to any of the Licensed Premises is required (the “Access Fees”). Such Access Fees shall constitute an offset, on a dollar for dollar basis, against any one or more payments due to be made from Licensor to Licensee as License Fees pursuant to the terms of the Fiber License Agreement. Notwithstanding anything to the contrary herein, Licensee shall not be required to pay Access Fees if such access is required for work, which shall include without limitation, resolving Fiber outages and performing conductivity tests for Fiber issues, to be performed on the Fibers. Licensee agrees to pay the fees specified in this section 3 as to its access to

substation 1 to compensate Licensor for any Licensor personnel needed to accompany Licensee employees or contractor at the substation for safety reasons.

4. **Licensor's Rights**. Licensee agrees to never claim any interest or estate of any kind or extent whatsoever to or in the Licensed Premises by virtue of this License or the occupancy or use hereunder. Licensee's use of the Licensed Premises shall always be subordinate to Licensor's rights to and in the Licensed Premises, except as may be otherwise provided in the Fiber License Agreement. Licensor reserves the right to enter upon the Licensed Premises at any time and Licensee shall notify its employees, agents, contractors, subcontractors, licensees, and invitees accordingly. Licensor, its employees and contractors are not and shall not be responsible or liable for any injury, damage or loss to Licensee resulting from Licensor's use and/or Licensee's use of the Licensed Premises. Licensor may at its sole discretion, install and/or permit others to install facilities upon, over and/or under the surface of the Licensed Premises, provided that such installation shall not interfere with Licensee's ability to access the Fibers.

5. **Conditions and Restrictions On Use**.

(a) With respect to any work undertaken by Licensee in or around the Licensed Premises, Licensee shall at its sole cost and expense comply with all laws, rules, and regulations of all governmental authorities having jurisdiction over the Licensed Premises or use of the Licensed Premises. Licensee shall not within the Licensed Premises construct or erect any permanent or temporary building, structure, fixture, fence, shelter, attachment or improvement without prior written permission from Licensor. All work to be performed by Licensee upon the Licensed Premises shall be in accordance with detailed plans and specifications to be prepared by Licensee and submitted to Licensor for written approval thereof. Licensee shall not commence any such work until plans and specifications have been approved by Licensor. Licensee shall pay directly on its own behalf for all costs associated with construction and maintenance of all improvements and facilities that it constructs, operates and maintains upon the Licensed Premises. Licensee shall not cause or allow any waste of the Licensed Premises and shall not remove soil, import soil or alter the existing surface elevation of the Licensed Premises without first obtaining written permission of Licensor. Licensee shall pay for all utility and other services furnished to or for Licensee upon the Licensed Premises.

(b) Licensee shall not use the Licensed Premises in any manner which, in the sole opinion of Licensor, might interfere with Licensor's use of the Licensed Premises or might reasonably be expected to cause a hazardous condition to exist. Licensee acknowledges that electrical equipment and appurtenances including, but not limited to utility poles, overhead and underground wires, cables, circuits, insulators, transformers, guy wires, and guy wire anchors (collectively "**Licensor Facilities**"), are installed or may be installed over, upon and under the surface of the Licensed Premises by Licensor and by others and are conductors of high-voltage electricity. Licensee understands that contact with or disturbance of any of these Licensor Facilities may cause a condition hazardous to persons and/or property. Licensee shall exercise extraordinary precautions to prevent injury or damage to persons and/or property that could result from contact with or disturbance of Licensor Facilities. Licensee shall notify its employees, agents, contractors, subcontractors, licensees and invitees of the existence of Licensor Facilities when working in the vicinity of the Licensed Facilities.

(c) Licensee shall not cause or allow anything to exceed fourteen (14) feet in height above the surface of the Licensed Premises, nor allow any equipment capable of extending greater than fourteen (14) feet above the surface of the Licensed Premises to be brought upon the Licensed Premises, except that this provision shall not apply to equipment and items brought onto the Licensed Premises by Licensor or Licensor's employees, agents, and contractors. Licensee shall utilize effective dust control



measures to prevent contamination of high-voltage circuit insulators. In each and every location where an electrical circuit exists above the surface of the Licensed Premises, Licensee shall not allow to be planted in the ground within less than fifty (50) lateral feet of such circuit, any type of vegetation that is capable of growing to a height greater than fourteen (14) feet above the ground surface. Licensor shall have the right, but no form of obligation, to inspect the Licensed Premises to determine if Licensee is in compliance with all terms, conditions and provisions of this License.

(d) Within five (5) years after the Effective Date, Licensor shall remove all of Licensee's Communications Equipment from the relay vaults in each of the Licensed Premises and relocate such Communications Equipment in each case to an enclosure provided by Licensor in an area approved by Licensor and Licensee which does not require escorted access, and in such manner as Licensor shall determine in its sole but reasonable discretion ("**Change Plan**"). Licensor shall be responsible for the payment of all costs associated with the removal of Licensee's Communication Equipment from the relay vaults to a mutually agreeable area upon the Licensed Premises that does not require escorted access under the Plan. Licensor shall prepare a detailed design to accomplish the Change Plan and submit it to Licensee for review and approval, which will not be unreasonably withheld by Licensee. Upon Licensee's approval of the Change Plan, Licensor shall commence and complete such work in a safe manner consistent with generally accepted construction standards, in a good and workmanlike manner employing materials of good quality and in compliance with all applicable laws, approvals and authorizations. Licensee's approval of any portion of the Change Plan is not a representation that such Change Plan is in compliance with applicable legal requirements or that the Communications Equipment will not cause interference with other communications operations on or near the Licensed Premises, or that the Communications Equipment will function appropriately for Licensee's purposes following execution of the Change Plan. Licensor shall be solely responsible for performing all work under the Plan in a manner that does not unreasonably cause interference with or impair the function of the Communications Equipment for Licensee's purposes and, upon reasonable notice from Licensee, Licensor shall perform at its sole expense all work reasonably necessary to restore the functionality of the Communications Equipment or resolve any interference with the Communications Equipment.. In no event, however, shall Licensor, or any of Licensor's employees, agents, contractors, subcontractors or suppliers be liable for any indirect, consequential, incidental, or special damages, however caused and regardless of the theory of liability asserted (including negligence or tort) arising out of this License, or any work, facilities or equipment provided hereunder, even if Licensee has been informed of the possibility of such damages. As the Change Plan is completed for each parcel comprising the Licensed Premises, Licensor will grant an easement or other property right as may be reasonably necessary or expedient, and to the extent of Licensor's interest in the Licensed Premises, to permit the Communication Equipment to remain permanently at the new location as constructed in accordance with the Change Plan.

## **6. Environmental.**

(a) Licensee agrees that no hazardous substance, as the term is defined in Section 101 (14) of the Comprehensive Environmental Response Compensation and Liability Act ("**CERCLA**") (42 USC Section 9601 [14]), petroleum products, liquids or flammables shall be placed upon, under, transported across, or stored upon the Licensed Premises, which restricts, impairs, interferes with, or hinders the use of the Licensed Premises by Licensor or the exercise by Licensor of any of its rights thereto.

(b) After the Effective Date, Licensee may perform a Phase I and/or Phase II environmental site assessment as per ASTM criteria to investigate the existing environmental condition of the Licensed Premises that is the subject of this License. The performance or the failure to perform an environmental



site assessment does not relieve the Licensee from compliance with any other provision of this section. Licensee shall maintain copies of any local, state or federal permits, licenses or other authorizations required for any and all of its activities on the Licensed Premises and present copies of such permits, licenses or other authorizations to Licensors and to any local, state and federal governmental agency official that requests to see the same.

(c) Licensee shall not create or contribute to any Environmental Contamination, Unauthorized or Unpermitted Wetland Impacts, Unpermitted Groundwater Wells, Illegal Use of Ground or Surface Waters or any Other Environmental Impacts, (collectively, referred to as “**Environmental Conditions**”) as a result of its use of the Licensed Premises.

(1) Environmental Contamination is defined as any spilling or discharge of any chemical constituent by the Licensee to the environment that results in any pollution, seepage or contamination of the groundwater, surface water, soil, or any other environmental media, on or from the Licensed Premises, above the federal, state or local regulatory levels; including, (a) for groundwater: Chapters 62-777, Table I, 62-520, or 62-550 of the Florida Administrative Code (“**FAC**”); (b) for surface waters: Chapters 62-777, Table I, or 62-302 of the FAC; and (c) for soils: Chapters 62-777, FAC, Table II; or above natural background levels.

(2) Wetland Impacts are defined as activities impacting areas defined as “**wetland**” under the following: (a) federal law (for example, Section 404 of the Clean Water Act); (b) federal rules (for example, current approved Army Corps of Engineers (“**ACOE**”) Delineation Manual); (c) federal guidance; (d) state law (for example, Section 373.019(22), Florida Statutes); (e) state rules (for example, Chapter 62-340, FAC); (f) state guidance; (g) case law as formulated that further explains wetland jurisdictional criteria; or (h) local law (for example, Miami-Dade County Ordinances; (i) local guidance; or (j) local policy. Unauthorized or Unpermitted Wetland Impacts shall mean the failure to obtain all required federal, state and local permits to impact the wetland or undertaking any action or activity in violation of any such permits. Some examples of permits needed to impact the wetland are the Miami-Dade County Department of Environmental Resources Management Permits, the State of Florida Department of Environmental Protection or Water Management District Permits, and the Federal ACOE Permits.

(3) Unpermitted Groundwater Wells means the installation or the use of an existing groundwater well without obtaining the appropriate state and local permits for the well installation and/or well pumping for use of groundwater or surface water in the area.

(4) Illegal Use of Ground or Surface Waters means the withdrawal or use of either ground water or surface water without obtaining any required consumptive use or water use permits from the St. Johns River Water Management District (“**SJRWMD**”) or in violation of any consumptive use or water use permit issued by the SJRWMD.

(5) Other Environmental Impacts, include, but are not limited to; failure to apply pesticides consistent with labeling instructions; failure to dispose of pesticide containers as per label instructions; failure to have licensed and trained personnel applying pesticides; failure to properly manage pesticide mix/load sites to avoid pesticide release to soils or surface waters in quantities or concentrations other than that specified on the label application instructions; or any violations of Federal Insecticide, Fungicide, and Rodenticide Act, or its state law equivalent; or any violations of the Florida Department of Agriculture and Consumer Services rules or Best Management Practices for the activities contemplated by this License.

(d) If the Licensee causes any Environmental Conditions to occur because of the performance of activities contemplated by this License, Licensee shall notify Licensor immediately upon discovery. Licensee acknowledges that the failure to deliver such notification may cause Licensor to file a damage claim against Licensee and confers to Licensor the right to terminate this License as set forth in Section 8. Within seventy-two (72) hours of discovering such Environmental Conditions, Licensee shall, at its sole cost and expense, correct such condition or situation; provided that the Licensor retains the right to enter upon the Licensed Premises and correct any such condition or situation at any time. Any release notifications required to be submitted to federal, state or local regulatory agencies, because of the actions of Licensee pursuant to this License or any other notifications based on Environmental Conditions, shall be coordinated with Licensor.

(e) If Licensee, or its employees, contractors, subcontractors or anyone else working at the direction of the Licensee causes Environmental Conditions on the Licensed Premises, or causes contamination that originates on the Licensed Premises, the Licensee, on its own behalf and on behalf of its shareholders, officers, directors, employees, servants, agents, and affiliates, shall and hereby does forever hold harmless, indemnify, and release Licensor, and its parent, subsidiaries, shareholders, officers, directors, employees, servants, agents and affiliates (collectively “**Licensor Entities**”), not including Licensee which is part of Licensor Entities, of and from all claims, demands, costs, loss of services, compensation, actions or investigations on account of or in any way growing out of the Environmental Conditions, and from any and all known and unknown, foreseen and unforeseen damages, and the consequences thereof, resulting from the Environmental Conditions, including but not limited to, restoration of the site to the condition existing prior to the Environmental Conditions.

7. **Right to Cure.** Licensor, at its sole discretion, may remove or cause to be removed by it or by its employees, agents, contractors, subcontractors, licensees, and invitees, all objects, materials, debris, or structures that could create a condition hazardous to persons or property or interfere with Licensor’s use of its Licensed Premises or with Licensor Facilities. All costs expended by Licensor pursuant to this section which are caused by Licensee, its employees, agents, contractors, subcontractors, licensees, and invitees, are and shall be the sole obligation of Licensee, who shall reimburse Licensor upon demand. If any of Licensee’s activities or Licensee’s use of the Licensed Premises results in an interruption of electric utility service, then Licensee shall reimburse Licensor for all costs to restore electric utility service, not to exceed \$1 million.

8. **Default.** A party shall be in default under this License if such party fails to perform any obligation required under this License and such failure continues for more than thirty (30) days after written notice, provided that if the breach is of such a nature that it cannot be cured within thirty (30) days, then such party shall not be in default so long as it commences to cure within such period of time and thereafter diligently and continuously pursues such cure to completion. Upon the occurrence of a default, the non-defaulting party shall not have the right to terminate the License, but may seek any and all other remedies available at law and/or equity, including but not limited to an action for recovery of monetary damages or specific performance. Except as set forth to the contrary herein, any right or remedy of Licensor and Licensee shall be cumulative and without prejudice to any other right or remedy, whether contained herein or not.

9. **Surrender.** Upon termination or expiration of this License, Licensee shall vacate and leave the Licensed Premises in as good a condition as existed prior to the Effective Date excluding any change in conditions resulting from the work performed by Licensor under the Change Plan. No later than thirty (30) calendar days following the date upon which this License becomes expired, terminated or revoked,

Licensee shall remove all remaining personal property and improvements, if any, placed in areas requiring escorted access within the Licensed Premises by Licensee and shall repair and restore and save Licensor harmless from all damage caused by such removal. If all such personal property and improvements placed in areas requiring escorted access within the Licensed Premises by Licensee are not so removed by Licensee within the above prescribed thirty (30) day period, then Licensor shall have the right to take possession of and appropriate unto itself, without any payment or offset thereof, any remaining personal property and improvements placed in areas requiring escorted access within the Licensed Premises by Licensee or any other entity acting on Licensee's behalf, and/or Licensor shall have the right to effect removal of such personal property and improvements at Licensee's sole cost and expense, the amount of which Licensee agrees to reimburse to Licensor immediately upon Licensor's demand. It expressly understood and agreed by Licensor and Licensee that the surrender rights under the section of the Substation License Agreement do not apply to any Licensee personal property or improvements relocated to areas that do not require escorted access upon the Licensed Premises under the Change Plan.

**10. No Encumbrances.** Licensee expressly covenants and agrees that the Licensed Premises shall not be subject to any encumbrance by any mortgage, lien, financial instrument or other agreement outside of or in addition to this License, nor shall the Licensed Premises be liable to satisfy any indebtedness that may result from Licensee's operation or activity. Licensor expressly covenants and agrees that the Licensee's Communications Equipment shall not be subject to any encumbrance by any mortgage, lien, financial instrument or other agreement outside of or in addition to this License, nor shall the Licensee's Communications Equipment be liable to satisfy any indebtedness that may result from Licensor's operation or activity.

**11. Indemnity.** Each party (each an "Indemnifying Party") shall exercise its respective rights and privileges herein at its sole risk and agrees to indemnify and save harmless the other party (each an "Indemnified Party"), from all liability, loss, cost, and expense, including attorneys' fees, which may be sustained by the Indemnified Party, incurred by any person, natural or artificial, by reason of the death of or injury to any person or damage to any property arising from or in connection with the use of the Licensed Premises by such Indemnifying Party and its employees, agents, contractors, subcontractors, licensees, and invitees. Such Indemnifying Party agrees to defend, at its sole cost and expense, but at no cost and expense to the Indemnified Party, any and all suits or actions instituted against the Indemnified Party for the imposition of such liability, loss, cost, and expense arising from the use of the Licensed Premises by the Indemnifying Party and its employees, agents, contractors, subcontractors, licensees, and invitees. Notwithstanding the foregoing, Licensee's obligations under this Section 11 shall be subject to the limitations set forth and provided for in Section 768.28 of the Florida Statutes with respect to injury to or death of employees or agents of Licensor or property damage of Licensor or its employees or agents, in each case caused directly by employees of Licensee.

**12. Insurance.** During the Term, Licensor and Licensee shall maintain, at their respective sole cost and expense, a liability policy with minimum limits of \$1,000,000.00 for bodily injury or death of a person(s), and \$1,000,000.00 for property damage arising out of each single occurrence, and workers compensation coverage as mandated by the applicable laws of the State of Florida. Said policy shall be endorsed to insure against obligations assumed by Licensor or Licensee, respectively, in the indemnity herein. A certificate of insurance shall be furnished to Licensor and Licensee evidencing that said policy of insurance is in force and will not be cancelled or materially changed so as to affect the interests of Licensor or Licensee Entities, as the case may be, until ten (10) days advance written notice has been furnished to Licensor. Upon request, copies of said policy will be furnished to Licensor or Licensee, respectively. Notwithstanding anything to the contrary set forth herein, the Parties shall be permitted to elect to self-insure, provided the

limits and coverage under such self-insurance program is not less than the insurance that would otherwise be provided as set forth in this Section 12 above.

**13. No Transfer.** Licensee shall not, without the prior written consent of Licensor, allow any other entity or party to occupy or use the Licensed Premises or in any way transfer, assign, lease, sublease, license, sublicense or in any other manner, convey this License to any entity or party not specifically named herein by Licensor as a party to this License. Licensee shall not hypothecate this License, nor enter into any license, concession agreement, mortgage, contract or other agreement which conflicts with or is contradictory to the terms and provisions of this License.

**14. Holding Over.** If Licensee continues to occupy and/or use the Licensed Premises, or any part thereof, after expiration, termination or revocation of this License, then no tenancy, ownership or other legal interest in the Licensed Premises to the benefit of Licensee shall result therefrom, but such holding over shall be an unlawful detainer and all parties occupying and/or using the Licensed Premises shall be subject to immediate eviction and removal and Licensee shall upon demand pay to Licensor, as liquidated damages, a monthly sum equal to the monthly License Fees owed by Licensor to Licensee pursuant to the Fiber License Agreement for and during any and all period(s) which Licensee and/or its employees, agents, contractors, subcontractors, licensees, and invitees fail to vacate the Licensed Premises after the date upon which this License becomes expired, terminated, or revoked.

**15. Waiver of Jury Trial.** Licensee and Licensor knowingly, voluntarily and intentionally waive any and all right(s) they may have to a trial by jury with respect to any litigation based upon, or arising from, under, or in connection with this License, or any document contemplated to be executed in conjunction herewith, or any course of conduct, course of dealing, statement (whether oral or written) or action of Licensee or Licensor. In any and all litigation arising out of or in connection with enforcement of the terms, conditions or provisions of this License, the prevailing party in such litigation shall be entitled to recovery of each and all of its costs, including reasonable attorneys' fees.

**16. Applicable Law and Venue.** This License, including each and all of its terms, conditions and provisions, is governed by and interpreted according to the laws of the State of Florida. Venue for all legal matters arising out of, or in connection with this License are and shall be the courts of the State of Florida in Indian River County, Florida, which court shall have exclusive jurisdiction for such purpose. If any term, condition or provision, or any part thereof, is found by a Florida court to be unlawful, void or unenforceable, then that term, condition, provision or part thereof shall be deemed severable and will not affect the validity and enforceability of any of the remaining terms, conditions and provisions of this License.

**17. Time and Entire Agreement:** Time is of the essence, and no extension of time shall be deemed granted unless made in writing and executed by both Licensor and Licensee. This instrument constitutes the entire agreement between the parties hereto and relative to the License, and any agreement or representation which is not expressly set forth herein and covered hereby is null and void. All amendments, modifications, changes, alterations and supplements to this License must be in writing and executed by both Licensor and Licensee in order to be deemed valid and enforceable. If Licensor or Licensee fails or elects to not enforce the other party's breach of any term, condition or provision of this License, then Licensor's or Licensee's failure or election to not enforce the other party's breach shall not be deemed a waiver of the non-breaching party's right to enforce one or more subsequent breaches of the same or any other term, condition or provision of this License.

**18. Notices.** All notices associated with and related to this License shall be deemed to have been served upon the date and time received by Licensor or Licensee at the addresses set forth in the Preamble by: government postal service, private delivery service, electronic email or facsimile transmission. Either party may, at any time, designate in writing a substitute address for the address first written above, and thereafter notices shall be directed to such substituted address.

**19. Counterparts.** This License may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together shall constitute a single instrument.

***[Signature Pages Follow]***

**IN WITNESS WHEREOF**, Licensor and Licensee have caused this License to be signed and executed effective as of the Effective Date.

**Witnesses for Licensor:**

**Licensor:**

Florida Power & Light Company,  
a Florida corporation

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Witnesses for Licensee:**

**Licensee:**

City of Vero Beach, Florida, a municipal corporation

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ADMINISTRATIVE REVIEW**

(For Internal Use Only–Sec. 2-77 COVB Code)

Approved as to form and legal sufficiency:

Approved as conforming to municipal policy:

\_\_\_\_\_  
Wayne R. Coment  
City Attorney

\_\_\_\_\_  
James R. O’Connor  
City Manager

Approved as to technical requirements:

Approved as to technical requirements:

\_\_\_\_\_  
Ted Fletcher  
Director of Electric Utility Operations

\_\_\_\_\_  
Cynthia D. Lawson  
Director of Finance

Approved as to technical requirements:

\_\_\_\_\_  
Timothy J. McGarry  
Director of Planning and Development

***Indian River County Execution Page***

**IN WITNESS WHEREOF**, and intending to be legally bound hereby, the undersigned have caused this Agreement to be executed as of the Effective Date.

**ATTEST:**

**INDIAN RIVER COUNTY,**  
a political subdivision of the State of Florida

\_\_\_\_\_

By: \_\_\_\_\_

[SEAL]

*School Board of Indian River County, Florida Execution Page*

**IN WITNESS WHEREOF**, and intending to be legally bound hereby, the undersigned have caused this Agreement to be executed as of the Effective Date.

**ATTEST:**

**SCHOOL BOARD OF INDIAN RIVER COUNTY  
FLORIDA**

\_\_\_\_\_

By: \_\_\_\_\_

[SEAL]



EXHIBIT L-1

Form of Fiber License Agreement

**FIBER LICENSE AGREEMENT BETWEEN  
THE CITY OF VERO BEACH  
AND  
FLORIDA POWER & LIGHT COMPANY**

THIS FIBER LICENSE AGREEMENT (this “License Agreement”) is made this \_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the City of Vero Beach, Florida, a municipal corporation organized under the laws of the State of Florida (the “City”), the School Board of Indian River County, Florida, with an address of 6500 57<sup>th</sup> St., Vero Beach, FL 32967 (the “School Board”), and Indian River County, a political subdivision of the State of Florida with an address of 1801 27<sup>th</sup> street, Building A, Vero Beach, FL 32960 (the “County” and together with the School Board and City, the “LICENSOR”), with an address of 1053 20th Place, Vero Beach, Florida and Florida Power & Light Company, a Florida corporation (hereinafter “Licensee”), with a principal office at 700 Universe Boulevard, Juno Beach, Florida 33408. LICENSOR AND LICENSEE may individually be referred to herein as a “Party”, and together as the “Parties”.

**WITNESSETH**

WHEREAS, the Parties have entered into an Asset Purchase and Sale Agreement dated as of \_\_\_\_\_, 2017(the “APA”) in connection with Licensee’s acquisition of substantially all of the assets of LICENSOR’s electric system; and

WHEREAS, the APA requires that the Parties enter into and deliver this Agreement at the Closing, as defined in the APA;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I  
ADOPTION AND INCORPORATION OF RECITALS

The above recitals are true and correct and by this reference are incorporated herein and made a part of this License Agreement.

ARTICLE II  
DEFINITIONS

Each defined term shall have the meaning set forth in this Article II, except that all terms used herein and not defined herein shall have the meanings assigned to them in the APA. When used herein with initial or complete capitalization whether in the singular or in the plural, the following terms shall have the following meanings:

“Consortium” means the School Board of Indian River County, Indian River County, and LICENSOR, all of which are parties to the Interlocal Agreement.

“Fiber Acceptance Date” means the date that LICENSEE accepts or conditionally accepts the Licensor Fiber Optic Strands as set forth Article VII herein.

“Interlocal Agreement” means the Revised and Restated Joint Fiber Optics Project Interlocal Agreement, made as of May 19, 2015, by and among the School District of Indian River County, Indian River County, and LICENSOR, as such Agreement may be amended or superseded from time to time.

“Licensee Facilities” means any telecommunications equipment owned by LICENSEE, including the cables, conduit, bays, panels, jacks, ironworks, associated electronics, fiber optic termination equipment, regenerators, power sources and other related equipment owned by LICENSEE, but excluding the Licensor Fiber Optic Strands and Licensor Facilities.

“License Fee” means, as more particularly described in Article IV below, the amount paid by LICENSEE to LICENSOR for the license and privilege of using, directly, certain Licensor Fiber Optic Strands and, indirectly, certain other parts of the Licensor Facilities necessary to LICENSEE’S stated use in Section 4.4 hereof.

“Licensor Facilities” means the fiber optic strands and those facilities owned by LICENSOR, either individually or together with one or both other members of the Consortium, including equipment, cables, conduit, bays, panels, jacks, ironworks, associated electronics, fiber optic termination equipment, regenerators, power sources and other related equipment owned by LICENSOR, structures, rights-of-way and easements.

“Licensor Fiber Optic Strands” means all dark fiber optic strands owned by LICENSOR, either individually or together with one or both other members of the Consortium, and which may or may not be licensed to LICENSEE depending upon the terms of this License Agreement.

“Make-Ready Work” means the work necessary with respect to the Licensor Facilities in order to accommodate the relocations of the Licensor Fiber Optic Strands or the construction of new installations of Licensor Fiber Optic Strands.

“Relocation” means any adjustment, rearrangement or relocation of the Licensor Fiber Optic Strands licensed to LICENSEE.

“Splice” means a point where two separate sections of Fibers are physically connected.

“Term” means the initial five-year term of this License Agreement, and any extension term, as described in Article III of this Agreement.

### ARTICLE III TERM AND EXTENSION

This License Agreement shall commence on the date of this Agreement and shall continue for an initial term of five (5) years, unless earlier terminated as provided in this Agreement. Unless earlier terminated as provided in this Agreement, LICENSEE, at its sole option, may extend this License Agreement, after the initial term, for up to five (5) successive

five-year terms<sup>1</sup> by providing notice to LICENSOR not less than eighteen (18) months prior to expiration of the initial term or any extension term, as the case may be.

ARTICLE IV  
SCOPE OF LICENSE; AND LICENSE FEES

4.1 License of Fibers.

The routes with respect to which the Licensor Fiber Optic Strands are configured will be described in Exhibit A, Route Diagram, which will be included to this License Agreement when the survey of the Licensor Facilities and/or Fiber Optic Strands is complete and accepted by LICENSOR. Notwithstanding anything to the contrary in this License Agreement, LICENSOR and LICENSEE agree that they will work together once the survey is complete and accepted by LICENSOR to resolve any operational issues, which include, but are not limited to, (i) operational repair; (ii) fiber outages; (iii) emergency repairs; and (iv) if reasonably necessary, the right of LICENSEE to perform repair work under the reasonable supervision of LICENSOR. LICENSOR shall provide LICENSEE not less than one hundred twenty (120) days prior notice of any proposed changes in right-of-way configurations that affect, in any material respect, the license granted under this Agreement. All of the Licensor Fiber Optic Strands are, or, to the extent not yet installed, will be, engineered and constructed in substantial compliance with Exhibit B. The following Exhibits, attached hereto, are by this reference incorporated herein:

|           |                                      |
|-----------|--------------------------------------|
| Exhibit A | Route Diagram                        |
| Exhibit B | Fiber Specifications and connections |
| Exhibit C | Contact List and Outage Notice Form  |
| Exhibit D | Sample Notice of Acceptance          |

4.2 Number of Fibers, License Fee and Payment.<sup>2</sup>

LICENSOR hereby licenses to LICENSEE, and LICENSEE hereby licenses from LICENSOR, exclusive use of certain Licensor Fiber Optic Strands previously used by LICENSOR in the operation of its electric system, which specifically consist of: (a) not less than twenty-four (24) Licensor Fiber Optic Strands previously used by LICENSOR for protection of all existing substations; and (b) not less than twenty (20) Licensor Fiber Optic Strands previously used by LICENSOR for supervisory control and data acquisition (SCADA) functions necessary in the operation of the substations and other electric utility assets. LICENSEE shall have the exclusive use of such Licensor Fiber Optic Strands along routes as set forth in Exhibit A, Route Diagram, at a License Fee of Four and 54/100 Dollars (\$4.54) per Licensor Fiber Optic Strand per mile per month. Notwithstanding anything to the contrary herein: (a) in no event shall the maximum License Fee due and owing to LICENSOR for all Licensor Fiber Optic Strands exceed Twenty-Three Thousand Eight Hundred Forty-seven Dollars (\$23,847.00) per month; and (b) LICENSOR shall reserve not less than two (2) spare Licensor Fiber Optic Strands for LICENSEE's use solely as set forth in Section 4.4, and LICENSEE's use shall be rolled to such spare fibers should any activity undertaken by LICENSOR pursuant to this License Agreement cause an outage on, or any impairment of, the Licensor Fiber Optic Strands originally licensed to

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<sup>1</sup> Note to FPL: Is a 30 year term necessary?

<sup>2</sup> Note to FPL: Where did the License fee originate?

LICENSEE hereunder. Upon exercising any option to extend this License Agreement as more fully described in Article III above, LICENSEE shall have the right in its reasonable discretion to relinquish its license to any of the Licensor Fiber Optic Strands licensed to LICENSEE hereunder and which constitute the subject matter of this License Agreement, and the License Fee thereafter due and owing shall be reduced proportionately. The License Fee paid hereunder shall be inclusive of all charges, and shall begin on the Fiber Acceptance Date. LICENSEE shall pay the License Fee to LICENSOR for each calendar month within five days after the beginning of such calendar month. Payments for partial calendar months shall be pro-rated accordingly. Any amounts due and not paid in full when due shall be deemed delinquent and shall accrue interest at a rate equal to one percent (1%) per month.

#### 4.3 CPI Adjustment.

The License Fee shall be subject to an annual adjustment. The first adjustment shall occur as of the January 1 that next follows a full year of the initial five-year term. Subsequent adjustments shall occur as of January 1 of each subsequent calendar year during the Term. The adjustment shall be determined in accordance with the percentage change in index known as the “United States Bureau of Labor Statistics Consumer Price Index (CPI) For All Urban Consumers” (the “Index”) using the most recent October to October Reports by applying the following formula: (Current monthly License Fee) x (annual percentage increase (October to October) as reported in the most recent Index (or if the Index no longer is published, then as reported in its successor index). The adjustment for any calendar year shall not exceed five percent (5%). In no event shall the License Fee for any calendar year be less than the License Fee for the immediately preceding calendar year.

#### 4.4 Use.

LICENSEE shall use the Licensor Fiber Optic Strands solely for the protection, control and monitoring of LICENSEE’s electric transmission and distribution system that formerly was operated by LICENSOR. Nothing herein shall preclude LICENSEE from sub-licensing any excess fiber or capacity to third parties in accordance with all applicable laws and regulations, provided that LICENSEE submits a proposal for such sub-licensing and obtains the approval of LICENSOR as more fully described in Section 14 of the Interlocal Agreement. In case of such sub-licensing, LICENSEE shall remain primarily liable to LICENSOR under this License Agreement. In the case of such sub-licensing, LICENSEE shall remain bound by all of its covenants and obligations under this License Agreement, and shall be liable to LICENSOR for violation of its covenants and obligations contained in this License Agreement and any applicable laws and regulations. If LICENSEE chooses to sublicense to a third party then, in the event that LICENSOR knows of an outage, LICENSOR shall notify LICENSEE in accordance with Exhibit C, and LICENSEE shall be responsible for notifying all of its sub-licensees of such outage.

### ARTICLE V OWNERSHIP OF EXISTING FIBER OPTIC STRANDS

#### 5.1 Ownership.

The Licensor Fiber Optic Strands and cable, including jacket, structure, attachments and conduits and which constitute the Licensor Facilities along the designated route, shall at all times remain the sole and exclusive property of, and legal title shall be held by, LICENSOR. LICENSEE's license of the Licensor Fiber Optic Strands is a right of use only and neither such use nor payment to LICENSOR for such use shall create or vest in LICENSEE any easement or any ownership right in the Licensor Facilities or the Licensor Fiber Optic Strands.

## 5.2 LICENSEE's Equipment.

Notwithstanding any contrary provisions of this License Agreement, LICENSEE shall own all of the Licensee Facilities in the exercise of, or associated with, LICENSEE's use under Section 4.4 of this License Agreement.

## ARTICLE VI NEW INSTALLATIONS

### 6.1 Construction.

If, at any point during the Term, replacement of existing Licensor Fiber Optic Strands is required in any route identified in Exhibit A, as reasonably determined by LICENSOR or pursuant to the requirements of any governmental entity, LICENSOR shall construct such new fiber optic strands, at the sole cost and expense of LICENSOR, in accordance with the specifications in Exhibit B attached hereto including Make-Ready Work associated with such installations. Make-Ready Work shall include any and all improvements to the Licensor Facilities necessary to physically accommodate the given route identified in Exhibit A and to maintain electrical and operating safety standards and fiber circuit continuity. LICENSOR shall perform, or cause to be performed, any engineering, cable installation, splicing, material procurement, installation and testing required to complete the installation of the fiber optic strands using LICENSOR's specifications and subject to LICENSEE's approval, which shall not be unreasonably withheld or delayed. LICENSOR and LICENSEE shall each assign a project engineer as a point of contact for all necessary approvals and will assign construction inspectors for review of all construction activities to assure compliance with the approved design.

### 6.2 Connections.

In the event of a new installation of fiber optic cable, LICENSOR shall install Splices as agreed to by the Parties at specified locations along the routes. LICENSOR shall be responsible for its network electronics, fiber Splices, and the Licensor Facilities. LICENSEE shall be responsible for its network electronics, fiber Splices and Licensee Facilities.

### 6.3 Specifications and Documentation.

All permits required for LICENSOR's construction of new installations are the responsibility of LICENSOR. LICENSOR shall provide to LICENSEE as-built drawings on the newly-installed route, and relocation of any routes shall be documented on the as-built drawings and made part of this License Agreement. The newly-installed fiber optic strands shall be in substantial compliance with the performance standards and criteria set forth in Exhibit B. LICENSOR and LICENSEE may be present, observe and participate in the analysis and testing

of the fiber optic strands. Acceptance of newly-installed fiber optic strands shall be undertaken and shall be subject to the provisions of Article VII herein.

ARTICLE VII  
ACCEPTANCE

7.1 Acceptance of Licensor Fiber Optic Strands.

Upon completion of construction of the newly-installed replacement fiber optic strands, if any, and any LICENSEE Make-Ready Work, LICENSOR shall test the Licensor Fiber Optic Strands to insure that the new fiber optic strands meet or exceed the Licensor Fiber Optic Strand specifications outlined in Exhibit B. In the event the new fiber optic strands meet such specifications, LICENSOR shall notify LICENSEE in writing of the availability of the fiber optic strands (the "Fiber Notice"). Within five (5) Business Days of LICENSEE receiving the Fiber Notice, LICENSEE shall give LICENSOR notice of any failure of the fiber optic strands to satisfy any acceptance test, or to otherwise meet specifications.

7.2 Corrections.

If LICENSEE gives LICENSOR notice of any failure as described in Section 7.1, LICENSOR shall use its commercially reasonable efforts to correct such failure within five Business Days or such longer time as may be mutually agreed upon by the Parties whereupon LICENSEE and LICENSOR shall jointly conduct another acceptance test. This procedure shall be repeated until all new fiber optic strands are in substantial compliance with the performance standards and criteria set forth in Exhibit B.

7.3 Conditional Acceptance.

In the event a failure continues to be identified after the third round of testing pursuant to Section 7.2, LICENSEE may, at its option, conditionally accept the new fiber optic strands. LICENSOR shall have an obligation nonetheless to correct any such deficiencies within sixty (60)days of conditional acceptance.

7.4 Acceptance by Default.

If LICENSEE does not give LICENSOR notice of any such failure within five Business Days of LICENSEE receiving the Fiber Notice, it shall be deemed that LICENSEE has accepted the new fiber optic strands and they shall constitute Licensor Fiber Optic Strands.

7.5 Fiber Acceptance Date.

The date on which LICENSEE has accepted or conditionally accepted the new fiber optic strands will be considered the Fiber Acceptance Date.

ARTICLE VIII  
RELOCATION OF FIBER OPTIC CABLE;  
LICENSOR'S OBLIGATION TO MAINTAIN  
AND RESTORE FIBER OPTIC CABLE



8.1 Requests of LICENSOR or Third Party.

If relocation of any Licensor Facilities, including any Licensor Fiber Optic Strands licensed to LICENSEE hereunder, is required by LICENSOR or by a third party (e.g., the Department of Transportation) the relocation expenses of the LICENSOR Fiber Optic Strands (including engineering, materials, construction, and Make-Ready Work) shall be borne by LICENSOR except to the extent that LICENSOR may obtain reimbursement from a third party.

8.2 Requests of LICENSEE.

If relocation of any Licensor Facilities, including any Licensor Fiber Optic Strands licensed to LICENSEE hereunder, is required by LICENSEE and is not caused by a third party or LICENSOR, LICENSEE shall pay or reimburse LICENSOR for the total cost of such relocation, including engineering, material, construction and Make-Ready Work.

8.3 Avoidance of Interruptions.

During any relocation of the Licensor Facilities, LICENSOR and LICENSEE shall use good faith efforts to avoid interruption of or interference with the use by the other Party of such Licensor Facilities for the purposes herein described.

8.4 Duty to Maintain.

LICENSOR shall be responsible for the maintenance and restoration of the Licensor Fiber Optic Strands.

8.5 Maintenance of LICENSOR Fiber Optic Strands.

Maintenance and restoration provided by LICENSOR shall be limited to the Licensor Fiber Optic Strands. LICENSOR shall have no obligation to perform maintenance or restoration on any electronics or other equipment not owned by the Consortium or one or more members thereof.

ARTICLE IX  
COVENANTS

9.1 LICENSOR Covenants.

9.1.1 Notice of Unscheduled Outage.

In the event of any unscheduled outage, LICENSEE shall notify LICENSOR promptly and LICENSOR shall as soon as reasonably practicable perform an assessment of the outage. Upon completion of such assessment, LICENSOR shall notify LICENSEE, as soon as reasonably practicable and in the manner set forth in Exhibit C, of the results of such assessment and include in its notification to LICENSEE the nature and cause of the interruption, the extent of the repairs required, and the estimated time to restore, if known.

9.1.3 LICENSOR Restoration of Fiber.



LICENSOR shall use its commercially reasonable efforts to restore the provision of the Licensor Fiber Optic Strands and to restore the route segment and any splicing of the Licensor Fiber Optic Strands in a systematic and rotational manner, with the Licensor Fiber Optic Strands licensed to LICENSEE having equal priority to other fibers within the cable, to the extent permitted by the Interlocal Agreement and applicable law. LICENSOR further agrees that it shall use commercially reasonable efforts to dispatch repair technicians to the affected site after LICENSEE's notification of outage to LICENSOR and to use its reasonable efforts to keep the outage to less than four (4) hours from the time notification of the outage was received by LICENSOR. All permanent repair work shall be performed by LICENSOR during a maintenance window mutually agreed upon by the Parties.

#### 9.1.4 Credits.

In the event that an outage exceeds eight (8) hours, except in the case of a force majeure as defined in Section 19.0 below, LICENSOR shall extend to LICENSEE a credit equal to one day's License Fee for the strands affected (to be considered 1/30th of the then current monthly rate) for each consecutive eight (8) hour outage interval, or fraction thereof, in excess of the initial eight (8) hours. By way of example, an eight (8) hour outage = 1 day credit; an 10 hour outage = 1 day credit; and a 17 hour outage = 2 days credit). The credit shall apply whether or not LICENSEE dispatched repair technicians to the repair site, and shall constitute an offset against LICENSEE's payment of License Fees to LICENSOR.

#### 9.2 LICENSEE Covenants.

9.2.1 LICENSEE Responsibilities. LICENSEE shall be solely responsible, at its own expense, for the purchase, installation, operation, maintenance and repair of all LICENSEE equipment and Licensee Facilities required in connection with its use of the Licensor Fiber Optic Strands licensed to LICENSEE hereunder.

#### 9.2.2 Taxes Franchise Fees.

LICENSEE shall pay, when they become due, any and all taxes, assessments, and governmental charges of any kind whatsoever (whether sales tax, use tax, excise tax or other tax) lawfully levied or assessed and attributable to LICENSOR'S license to LICENSEE hereunder, LICENSEE's use of the Licensor Facilities or the Licensor Fiber Optic Strands licensed to LICENSEE hereunder, or any portion thereof, with regard to the licensing, operation or use of the Licensor Facilities or the Licensor Fiber Optic Strands. LICENSEE shall include with each month's License Fee, and in addition thereto, any and all sales or use tax amounts thereon. LICENSEE shall pay without apportionment any taxes levied on it that are based on LICENSEE's business profits. In addition, LICENSEE shall pay, or as appropriate, reimburse LICENSOR, without apportionment, for any ad valorem taxes, fees, assessments or other charges which are assessed against LICENSOR that arise from LICENSEE's use of the Licensor Facilities or Licensor Fiber Optic Strands licensed to LICENSEE hereunder or any portion thereof. LICENSOR shall be responsible for or pay any taxes, fees, or charges attributable to its ownership of the Licensor Facilities and Licensor Fiber Optic Strands, if any, when such taxes, fees, or charges are not based on or imposed by virtue of LICENSEE's use of any such facilities or its receipt of License Fees from LICENSEE under this License Agreement.

ARTICLE X  
COMPLIANCE WITH LAWS

10.0 By LICENSOR.

LICENSOR shall have and maintain in effect at all times, all necessary franchises, consents, rights-of-way, easements, permits and authorizations applicable to this License Agreement from Federal, State, County, City and other regional or local authorities, to construct, maintain, operate and use LICENSOR'S Facilities.

10.1 By LICENSEE.

LICENSEE shall have and maintain in effect at all times, all necessary franchises, consents, permits and authorizations applicable to this License Agreement from Federal, State, county, City and other regional or local authorities.

10.2 All Applicable Laws.

LICENSEE and LICENSOR each shall comply with all applicable federal, state and local laws and regulations, including those of the Federal Communications Commission and the Florida Public Service Commission.

ARTICLE XI  
NO CONSEQUENTIAL  
DAMAGES

Notwithstanding any other provisions of this License Agreement, and irrespective of any fault or negligence or gross negligence, no Party shall be liable to the other for any indirect, incidental, consequential exemplary, punitive or special damages (including damages for harm to business, lost revenues, lost savings or lost profits), regardless of the form of action, whether based on statute, contract, warranty or tort (including, without limitation, negligence of any kind whether active or passive and strict liability). Each Party hereby releases the other Party (and its respective parents, subsidiaries, and affiliated companies, and each of their respective agents, officers, employees, and representatives) from any claim or liability for any indirect, incidental, consequential, exemplary, punitive or special damages incurred as a result of or in connection with the performance or nonperformance of this License Agreement.

ARTICLE XII  
NO THIRD PARTY BENEFICIARIES

This License Agreement does not provide third parties (including, without limitation, customers of LICENSOR or of LICENSEE) with any remedy, claim, liability, reimbursement, cause of action or other right or privilege, except that the provisions hereof involving indemnification or limitation of liability of either Party shall also inure to the benefit of that Party's employees, officers, agents, affiliates.

ARTICLE XIII  
INDEMNITY, HOLD HARMLESS

### 13.1 LICENSEE Indemnity of LICENSOR.

LICENSEE shall indemnify, hold harmless and defend LICENSOR and their respective governing body members, directors, officers, employees and agents against any claim, action, loss, damage, injury liability, cost or expense, including, without limitation, reasonable attorneys' fees and court costs, arising out of injury to persons, including, without limitation, death or damage to property, caused by the negligence of LICENSEE, or its directors, officers, employees or agents, in connection with this License Agreement or any breach of this License Agreement by LICENSEE or its officers, employees or agents.

### 13.2 LICENSOR Indemnity of LICENSEE.

Subject to the limitations of section 768.28, Florida Statutes and subsequent amendments thereto, LICENSOR shall indemnify, defend and hold harmless LICENSEE, its affiliates, and respective directors, officers, employees and agents against any claim, action, loss, damage, injury, liability, cost or expense, including, without limitation, reasonable attorneys' fees and court costs, arising out of injury to persons, including, without limitation, death or damage to property, caused by the negligence of LICENSOR, its directors, officers, employees or agents in connection with this License Agreement.

### 13.3 Additional Remedies.

The remedies in this Article XIII shall be in addition to any other remedy available under this License Agreement, or at law or equity, and shall survive the termination or expiration of this License Agreement, with respect to any circumstance or event occurring before such termination; *provided however*, under no circumstances shall LICENSOR be liable for damages of any kind or nature, other than personal injury or death, to LICENSEE, its successors, assigns or sub-licensees in excess of one year's License Fees due under or with respect to this License Agreement. This Section 13.3 shall not be deemed a waiver of the liability limitations of section 768.28, Florida Statutes.

## ARTICLE XIV INSURANCE

14.1 LICENSOR understands that LICENSEE self-insures, and that LICENSEE has provided LICENSOR with a letter of such self-insurance. In the event that LICENSEE ceases to self-insure, then, during the Term:

(a) LICENSEE shall procure and maintain, at LICENSEE's sole cost and expense, commercial general liability insurance providing coverage which protects LICENSEE and LICENSOR from and against any and all claims and liabilities for bodily injury, death and property damage arising from operations, premises liability, and fire with respect to the Substation. Such insurance shall provide minimum coverage of \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate. LICENSEE shall be and remain liable for and pay all deductibles and other amounts not covered, paid or reimbursed under the insurance policies.

(b) LICENSEE shall procure and maintain, at LICENSEE's sole cost and expense, workers' compensation insurance and employers' liability insurance with coverage amounts with

a limit of (i) One Million Dollars (\$1,000,000) for bodily injury per accident, (ii) One Million Dollars (\$1,000,000) for bodily injury by disease per policy and (iii) One Million Dollars (\$1,000,000) for bodily injury by disease per employee .

(c) The certificates of insurance required herein for commercial general liability insurance, including, without limitation, all renewals, shall include LICENSOR as an additional insured, and provide for at least thirty (30) days advance notice to LICENSOR by the insurer prior to any non-renewal or cancellation. LICENSEE shall provide LICENSOR with a copy of certificates of insurance stating that the coverage as required herein is in full force and effect no later than the date of this Agreement. LICENSEE shall cause certificates of insurance or self-insured letter in conformance with the requirements hereof to be promptly provided to LICENSOR for each subsequent policy renewal.

(d) LICENSEE's insurance in all instances shall be primary and any insurance that may be maintained by LICENSOR shall be in excess of and shall not contribute with LICENSEE's insurance. All insurance policies shall be issued by a company or companies licensed to do business in the State of Florida.

(e) LICENSEE understands and acknowledges that the responsibility and obligation to provide and maintain insurance in the forms, types and coverages required herein are solely LICENSEE's responsibilities and obligations which continue during the Term.

(f) In the event that LICENSEE fails for any reason to procure or maintain insurance in the forms, types or coverages required and to name the LICENSOR as an additional insured on the certificates of insurance, LICENSEE shall cure such material breach within fifteen (15) calendar days after LICENSEE is given notice of such breach. Should LICENSEE fail to cure the breach within such period or such other time as may be agreed to by the Parties in writing, LICENSOR in LICENSOR's sole discretion may, but is not obligated to, secure replacement insurance coverage at LICENSEE's sole expense. Should LICENSOR elect to secure replacement insurance, LICENSEE shall thereafter reimburse LICENSOR within fifteen (15) calendar days of LICENSOR's providing to LICENSEE an invoice for the costs and premiums incurred by LICENSOR for the replacement insurance coverage, plus an administrative charge of ten percent (10%) or \$250.00, whichever is greater. LICENSEE shall continue to be responsible for the payment of all deductibles applicable to the insurance policies and all losses incurred with respect to any lapse in coverage. Should LICENSEE subsequently obtain the required insurance, LICENSEE shall remain responsible for and reimburse LICENSOR for all costs and expenses to LICENSOR for the insurance premiums incurred by LICENSOR and the administrative charges set forth in this Section 14.1(f).

(g) LICENSEE's obligations under this Article XIV shall survive the termination or expiration of this License Agreement.

## ARTICLE XV TERMINATION

### 15.1 Termination.

Except as may be provided elsewhere in this License Agreement, this License Agreement may be terminated prior to expiration of the Term as set forth in this Article XV:

15.2 By LICENSEE.

LICENSEE may terminate this License Agreement as follows:

15.2.1 Upon 60 days' Notice.

LICENSEE may terminate this License Agreement at any time after the initial five-year term, as described in Article III, with or without cause, upon providing LICENSOR with not less than sixty (60) days' notice. After five (5) days' prior notice to LICENSEE and upon the sixtieth (60th) day after notice of termination is given by LICENSEE under this Section, LICENSOR, at the sole discretion of LICENSOR, may disconnect the Licensor Fiber Optic Strands licensed to LICENSEE under this License Agreement without recourse to LICENSOR by LICENSEE and LICENSOR shall not be held liable by LICENSEE or LICENSEE's sub-licensees, if any, as a result of such disconnection.

15.2.2 If LICENSEE as Telecommunications Company.

By entering into this License Agreement, LICENSEE does not intend to, and shall not, be classified as a telecommunications company, telecommunications carrier, telecommunications service or any other telecommunications entity, or come under the jurisdiction or existing or future regulation of any state or Federal regulatory agency as a telecommunications company, including, without limitation, the Federal Communications Commission or the Florida Public Service Commission. If, however, a proceeding is commenced in which it is sought to classify LICENSEE as a telecommunications company, LICENSOR and LICENSEE shall cooperate with each other to determine whether and to what extent this License Agreement can be amended to remove that classification. If this License Agreement cannot be so amended or if there is no agreement as to such amendment, then LICENSEE may terminate this License Agreement immediately upon agency or court order approving such termination, or, at the sole discretion of LICENSEE, after five (5) days' prior notice to LICENSOR. If the proceeding described in this Section has been pending for not less than sixty (60) days. Upon such termination, LICENSOR may disconnect the Licensor Fiber Optic Strands licensed to LICENSEE under this License Agreement as provided in Section 15.2.1 above.

15.3 By LICENSOR.

LICENSOR may terminate this License Agreement as follows:

15.3.1 Default of LICENSEE.

Upon a default by LICENSEE under this Agreement including, without limitation, a payment default, LICENSOR shall be entitled to terminate this Agreement, by giving notice of termination to LICENSEE, if LICENSOR has previously given LICENSEE notice of such default and LICENSEE has not cured such default within thirty (30) days after notice of such default was given.

If LICENSOR terminates this License Agreement under this Section 15.3.1, LICENSOR shall have the right to disconnect the Licensor Fiber Optic Strands licensed to LICENSEE under this License Agreement without recourse to LICENSOR by LICENSEE. Furthermore LICENSOR shall not be liable to LICENSEE or LICENSEE's sub-licensees as a result of such disconnection.

15.3.2 If LICENSOR is Found to be a Telecommunications Company. By entering into this License Agreement, LICENSOR does not intend to, and shall not, be classified as a telecommunications company, telecommunications carrier, telecommunications service or any other telecommunications entity, or come under the existing or future jurisdiction or regulation of any State or Federal regulatory agency as a telecommunications company, including, without limitation, the Federal Communications Commission or the Florida Public Service Commission. If, however, a proceeding is commenced in which it is sought to classify LICENSOR as a telecommunications company, LICENSEE and LICENSOR shall cooperate with each other to determine whether and to what extent this License Agreement can be amended to remove that classification. If this License Agreement cannot be so amended or if there is no Agreement as to such amendment, then LICENSOR may terminate this License Agreement immediately upon agency or court order approving such termination, or at the sole discretion of LICENSOR, after five (5) days' prior notice to LICENSEE if the proceeding described in this Section has been pending for not less than sixty (60) days. Notwithstanding the preceding provisions of this Section 15.3.2, if LICENSOR becomes certified by the Florida Public Service Commission as a telecommunication company, this License Agreement shall remain in full force and effect.

#### ARTICLE XVI RESTRICTIONS AGAINST TRANSFER

No Party shall sell, assign, transfer, or otherwise alienate or dispose of this License Agreement or the privileges hereby granted, without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed.

#### ARTICLE XVII FAILURE TO ENFORCE PROVISIONS IS NOT A WAIVER

The consent by a Party to any act by the other Party shall not be deemed to imply consent or to constitute the waiver of a breach of any provision hereof or continuing waiver of any subsequent breach of the same or any other provision, nor shall any custom or practice which may arise between the Parties in the administration of any part of the provisions hereof be construed to waive or lessen the right of a Party to insist upon the performance by the other Party in strict accordance with the provisions hereof.

#### ARTICLE XIII SEVERABILITY

In the event that any provision of this License Agreement shall be held unconscionable, unenforceable, or void for any reason by any tribunal of competent jurisdiction, it is agreed that the provision in question shall be modified to eliminate the elements of concern to the tribunal and as modified shall be binding on the Parties. The remaining provisions of this License



Agreement shall not be affected by the action of any tribunal or modification of such provision, and shall remain in full force and effect.

ARTICLE XIX  
FORCE MAJEURE

Except as otherwise expressly provided herein, no Party shall be liable for any failure or delay in the performance of its obligations under this License Agreement due to causes not reasonably within its control, including, without limitation, acts of courts and regulatory agencies, superior governmental authority, acts of God, war, riot or insurrection, inability to obtain required construction permits, blockages, embargoes, sabotages, terrorism, epidemics, fires, floods, strikes, lockouts or other labor difficulties, provided such labor difficulties do not arise from inequitable labor practices. In the event of any failure or delay resulting from any of such causes, upon notice of such force majeure being given to the other Party, the time for performance hereunder shall be extended for a period of time reasonably necessary to overcome the effects of such delays. In the event any such failure or delay shall last for a period of more than one hundred eighty (180) days, then either Party may terminate this License Agreement forthwith, in whole or in part, by notice thereof to the other.

ARTICLE XX  
NOTICE

Except for notifications relating to construction, outages or maintenance which shall be as provided in Exhibit C attached hereto, any notice, request, instruction, demand, consent, or other communication required or permitted to be given under this License Agreement shall be in writing and shall be delivered either by hand or by certified mail, postage prepaid, and certified return receipt requested to the following address or such other address as the Parties may provide to each other in writing:

To LICENSEE: Florida Power & Light Company  
Attn: \_\_\_\_\_  
700 Universe Boulevard  
Juno Beach, Florida 33408

To LICENSEE: Florida Power & Light Company  
Attn: General Counsel  
700 Universe Boulevard  
Juno Beach, Florida 33408

To City: City Manager  
City of Vero Beach

1053 20<sup>th</sup> place  
Vero Beach, Florida 32960

With a Copy to:

Carlton Fields P.O. Box 3239,  
Tampa, Florida 33601

Attention: Nathaniel L. Doliner, Attorney at  
Law

(if by mail)

or

4221 West Boy Scout Boulevard  
Tampa, FL 33607

Attention: Nathaniel L. Doliner, Attorney at  
Law

(if by other than mail)

To County:

Indian River County  
1801 27th Street, Building A,  
Vero Beach, FL, 32960  
Attention: County Administrator

With a required copy to:

Indian River County  
1801 27th Street, Building A,  
Vero Beach, FL, 32960  
Attention: County Attorney

To School Board:

School Board of Indian River County  
6500 57th St.  
Vero Beach FL 32967  
Attention: Superintendent of Schools

With a required copy to:

Suzanne D. Agresta, Attorney at Law  
111 N. Orange Avenue, Suite 2000  
Orlando, FL 32801



ARTICLE XXI  
CHOICE OF LAW; VENUE; NO JURY TRIAL

21.1 This Agreement shall be governed by and construed in accordance with the laws of the State of Florida (without giving effect to conflict of law principles) as to all matters, including matters of validity, construction, effect, performance and remedies.

21.2 THE PARTIES HERETO AGREE THAT VENUE IN ANY AND ALL ACTIONS AND PROCEEDINGS RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT SHALL BE IN THE CIRCUIT COURT OF THE STATE OF FLORIDA IN INDIAN RIVER COUNTY, FLORIDA, WHICH COURT SHALL HAVE EXCLUSIVE JURISDICTION FOR SUCH PURPOSE AND THE PARTIES HERETO IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION OF SUCH COURT AND IRREVOCABLY WAIVE THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF ANY SUCH ACTION OR PROCEEDING. SERVICE OF PROCESS MAY BE MADE IN ANY MANNER RECOGNIZED BY SUCH COURT.

21.3 EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES HERETO TO ENTER INTO THIS AGREEMENT, AND SHALL SURVIVE THE CLOSING OR TERMINATION OF THIS AGREEMENT.

ARTICLE XXII  
ENTIRE AGREEMENT; AMENDMENTS

This License Agreement constitutes the entire Agreement between the Parties and supersedes all prior agreements, whether written or oral, with respect to the subject matter hereof. There are no representations, warranties, agreements or understandings (whether oral or written) between the Parties relating to the subject matter hereof which are not fully expressed herein. No provision of this License Agreement may be changed or amended except by written agreement signed by both Parties.

ARTICLE XXIII  
PARTIES BOUND

This License Agreement shall be binding upon the Parties hereto and their respective successors and permitted assigns.

ARTICLE XXIV  
CONSTRUCTION OF AGREEMENT

24.1. Ambiguities Not To Be Resolved Against Drafting Party.

Each Party and its counsel have reviewed this License Agreement. Accordingly, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the construction and interpretation hereof.

25.2 Captions.

The captions are inserted for convenience of reference only and shall have no effect on the construction or interpretation of this License Agreement.

25.3 Usage.

Unless the context otherwise requires, the word “including” shall mean “including, without limitation.” The fact that in certain instances in this Agreement, the phrase “including, without limitation” appears shall not affect the interpretation of the preceding sentence.

The terms “hereof”, “hereunder” and “herein” shall refer to this License Agreement as a whole.

*[Signature Pages Follow]*

***City of Vero Beach, Florida Execution Page***

The Parties hereto have caused these presents to be executed, by their respective officers thereunto duly authorized, on the day, month and year first above written.

**ATTEST:**

**LICENSOR: CITY OF VERO BEACH**

Sign: \_\_\_\_\_

Sign: \_\_\_\_\_

Print: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Approved as to form  
and legal sufficiency

Approved as conforming to  
municipal policy:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
City Manager

**[SEAL]**

**ADMINISTRATIVE REVIEW**

(For Internal Use Only—Sec. 2-77 COVB Code)

Approved as to form and legal sufficiency:  
policy:

Approved as conforming to municipal  
policy:

\_\_\_\_\_  
Wayne R. Coment  
City Attorney

\_\_\_\_\_  
James R. O'Connor  
City Manager

Approved as to technical requirements:  
requirements:

Approved as to technical  
requirements:

\_\_\_\_\_  
Ted Fletcher  
Director of Electric Utility Operations

\_\_\_\_\_  
Cynthia D. Lawson  
Director of Finance

Approved as to technical requirements:

\_\_\_\_\_  
Timothy J. McGarry  
Director of Planning and Development

[Signature Page to Dark Fiber License Agreement]

***Indian River County Execution Page***

The Parties hereto have caused these presents to be executed, by their respective officers thereunto duly authorized, on the day, month and year first above written.

**ATTEST:**

**INDIAN RIVER COUNTY,**  
a political subdivision of the State of Florida

\_\_\_\_\_

By: \_\_\_\_\_

[SEAL]

***School Board of Indian River County, Florida Execution Page***

The Parties hereto have caused these presents to be executed, by their respective officers thereunto duly authorized, on the day, month and year first above written.

**ATTEST:**

**SCHOOL BOARD OF INDIAN RIVER  
COUNTY FLORIDA**

\_\_\_\_\_

By: \_\_\_\_\_

[SEAL]

**ATTEST:**

Sign: \_\_\_\_\_

Print: \_\_\_\_\_

Title: Secretary

**LICENSEE**

Sign: \_\_\_\_\_

Print: \_\_\_\_\_

Title: President

**EXHIBIT “A”  
ROUTE DIAGRAM**

[PLEASE INSERT]

**EXHIBIT “B”  
FIBER SPECIFICATIONS AND CONNECTION DETAILS**

**FIBER:**

All Fiber will meet or exceed the Corning SMF-28, dual 1310/1550 window optical glass specifications:

Maximum attenuation for 1310 nm systems will be .35 dB/km

Maximum attenuation for 1550 nm systems will be .25 dB/km

**SPAN SPECIFICATIONS:**

Discontinuities (known as steps, Splices, or attenuation non-uniformities) shall be measured with an Optical Time Domain Reflectometer (OTDR) to determine the loss for the localized attenuation.

No Fiber shall show a point discontinuity greater than 1.0 dB. However, a Fiber Span that includes a discontinuity in excess of specifications may still be considered acceptable, with mutual agreement of LICENSOR and LICENSEE, provided said Fiber still meets LICENSEE’s overall attenuation and dispersion specifications.

Performance levels will be maintained as accepted through the duration of the Agreement.

**GENERAL CONSTRUCTION:**

| <b>OPTICAL SYSTEM LOSS TABLE</b> |                             |                              |                                |                               |                               |
|----------------------------------|-----------------------------|------------------------------|--------------------------------|-------------------------------|-------------------------------|
| WAVE<br>LENGTH<br>NM             | MAXIMUM<br>FIBER<br>Loss/KM | MAXIMUM<br>CONNECTOR<br>Loss | AVERAGE<br>Loss PER<br>SECTION | MAXIMUM<br>Loss PER<br>SPLICE | AVERAGE<br>Loss PER<br>SPLICE |
| 1310                             | .35dB                       | .5 dB                        | .06 dB                         | .2 dB                         | .06 dB                        |
| 1550                             | .25 dB                      | .5 dB                        | .06 dB                         | .2 dB                         | .06 dB                        |

The Fiber will be constructed in accordance with sound commercial practices. The National Electric Safety Code will be followed in every case except where local regulations are more stringent, in which case local regulations shall govern.

Optical and span test data, including OTDR traces, will be submitted by LICENSOR to LICENSEE at an agreed upon schedule.



## EXHIBIT “C”

### NOTICES

#### Notifications to FPL:

All notifications relating to construction, outage, or maintenance should be relayed to Licensee through this number:

[PLEASE PROVIDE.]

#### Notifications to Vero Beach:

All notifications relating to construction, outage, or maintenance should be relayed to the LICENSOR through this number:

[PLEASE PROVIDE.]

#### Notifications to Indian River Coutny:

All notifications relating to construction, outage, or maintenance should be relayed to the LICENSOR through this number:

Public Works Director  
1801 27<sup>th</sup> Street, Building A  
Vero Beach, FL 32960  
772-226-1379  
772-226-1234

#### Notifications to the School Board of Indian River County:

All notifications relating to construction, outage, or maintenance should be relayed to the LICENSOR through this number:

[PLEASE PROVIDE.]

**EXHIBIT “D”**

**SAMPLE NOTICE OF ACCEPTANCE**

Date:

To [Person Specified in Article 20]

Re: Notice of Acceptance of Licensed Fibers

Dear [Person Specified in Article 20]:

Our technician tested the licensed fibers, today, and confirmed that they meet the Performance Specifications required by our Agreement. Accordingly, today, we accepted the Licensed Fibers as operational.

In accordance with our Agreement, I have enclosed, herewith, the first installment of the License Fee (\$\_\_\_\_\_.\_\_).

Sincerely yours,

\_\_\_\_\_  
By:

cc: [Person Specified in Article 20]

**CONFIDENTIAL  
LINEAR FACILITIES POLE ATTACHMENT AGREEMENT**

**BY AND AMONG**

**CITY OF VERO BEACH, FLORIDA,  
INDIAN RIVER COUNTY, FLORIDA,  
SCHOOL BOARD OF INDIAN RIVER COUNTY, FLORIDA  
AND  
FLORIDA POWER & LIGHT COMPANY**

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**LINEAR FACILITIES POLE ATTACHMENT AGREEMENT BETWEEN  
CITY OF VERO BEACH, FLORIDA,  
INDIAN RIVER COUNTY, FLORIDA,  
SCHOOL BOARD OF INDIAN RIVER COUNTY, FLORIDA  
AND  
FLORIDA POWER & LIGHT COMPANY**

THIS AGREEMENT (this “**Agreement**”), made this \_\_\_\_\_ day of December 2018 (the “**Effective Date**”), by and among the CITY OF VERO BEACH, FLORIDA, a municipal corporation organized under the laws of the State of Florida (“**COVB**”), the SCHOOL BOARD OF INDIAN RIVER COUNTY, and INDIAN RIVER COUNTY, a political subdivision of the State of Florida (such three parties being hereinafter collectively referred to as “**Licensee**”) and FLORIDA POWER & LIGHT COMPANY, a corporation organized and existing under the laws of Florida (hereinafter referred to as “**FPL**”) with its principal place of business in Miami-Dade and Palm Beach Counties, Florida.

**WITNESSETH:**

WHEREAS, COVB has entered into an Asset Purchase and Sale Agreement with FPL dated as of October 24, 2017, as amended, pursuant to which FPL is purchasing from COVB certain electric utility assets and certain associated liabilities used in the electric utility business operated by COVB (the “**Sale Transaction**”);

WHEREAS, Licensee owns a fiber optic system used for communications among Licensee entities, which fiber optic system has been attached to the electric utility poles owned by COVB and which poles will be sold to FPL in the Sale Transaction;

WHEREAS, entry into this Agreement among Licensee and FPL is a condition to closing the Sale Transaction;

WHEREAS Licensee desires to keep the cables, wires and appliances that comprise the fiber optic system attached to the poles being sold to FPL in the Sale Transaction, and to construct New Attachments (as hereinafter defined), if necessary, for the maintenance of the System (as hereinafter defined);

WHEREAS FPL is willing to permit, to the extent it may lawfully do so, the continued attachment of the System, as defined below, to the poles where the System is currently attached as of the Effective Date and to permit New Attachments pursuant to the terms and conditions set forth herein;

Per the Amendment to the Revised and Restated Joint Fiber Optics Project Interlocal Agreement between Licensee members, and except as otherwise provided in this Agreement, the owner of specified Attachments is responsible for all removal, relocation, upgrade, Make-Ready Work, or Rearrangement costs associated with this Agreement.; and

WHEREAS, COVB and FPL recognize that Indian River County undertook significant efforts to not only support the Sale Transaction, but also assist in making the Sale Transaction happen;

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

## **ARTICLE I DEFINITIONS**

1.1 “Attachment” means the physical attachment of the System consisting of Licensee’s optical ground wire (“OPGW”) or Licensee’s wirelines, and the supporting hardware or devices required to attach the System to FPL poles.

1.2 “Communication Space” means the space on an FPL pole located within the “communication worker safety zone”, as such term is defined in the NESC.

1.3 “Existing Attachments” means the Attachments that are attached to COVB’s electric poles immediately prior to the Effective Date.

1.4 “FPL Distribution Facilities” means equipment used by FPL in the distribution of electric power, including, but not limited to, manholes, conduits, poles, wires, cables, system protection equipment or other appurtenances, and associated equipment.

1.5 “FPL Facilities” means FPL Distribution Facilities and FPL Transmission Facilities.

1.6 “FPL Transmission Facilities” means equipment used by FPL in the transmission of electric power, including, but not limited to, manholes, conduits, poles, wires, cables, system protection equipment or other appurtenances, and associated equipment.

1.7 “Intermediate Pole Attachment” means the attachment of a New Attachment to a new intermediate pole installed by FPL within an existing pole line in order to accommodate the service requirements of FPL or Other Users.

1.8 “Lump Sum” means the dollar amount, reasonably estimated by FPL, associated with work to be performed by FPL of the costs of construction and all FPL out-of-pocket overhead associated with the required construction.

1.9 “Make-Ready Work” means the work necessary to prepare FPL Facilities and the facilities of Other Users for any New Attachments on one or more FPL poles or pole lines in compliance with the NESC and additional requirements of FPL including, but not limited to, pole inspections, engineering and drafting time, permits and construction.

1.10 “NESC” means the National Electrical Safety Code.

1.11 “New Attachments” means any Attachments constructed after the Effective Date.

1.12 “OPGW” has the meaning set forth in the definition of Attachments.

1.13 “Other Users” means licensees, other than Licensee, the facilities of which are attached to applicable FPL poles pursuant to a joint use or other agreement.



1.14 "Rearrangement" means any activity or work, after the Make-Ready Work, that is necessary when there is a change in the FPL Facilities or FPL service requirements or to ensure that Licensee's Attachments do not adversely affect FPL's Facilities or service or that of Other Users previously attached. "Rearrangement" includes but is not limited to Transfer, relocation, adjustment, conversion, permanent or temporary support, protection, design or redesign, abandonment, and removal or reconstruction of the System.

1.15 "Supply Space" means the space on the pole located above the Communication Space.

1.16 "System" means Licensee's fiber optic system, and shall include, without limitation, the cable, fibers within cables, hardware and supporting devices required by Licensee to attach to FPL poles as specified in Section 2.2 and any part thereof.

1.17 "Transfer" means solely the work of removing a portion of the System from an FPL pole and re-attaching that portion of the System to a replacement FPL pole within the existing FPL pole alignment at the same time that FPL transfers or relocates FPL Facilities from one FPL pole to another FPL pole.

1.18 "Wireline" means fiber optic cable and casing.

## **ARTICLE II**

### **TERM AND RIGHT TO ATTACH**

2.1 Term. This Agreement is for an initial term of six (6) years commencing with the date first written above and ending on midnight immediately preceding the six (6) year anniversary of such date. The term of this Agreement, provided Licensee is not in default under the terms of this Agreement, shall be continuously self-renewing for additional, consecutive five (5) year terms unless either party provides written notice to the other party no later than one hundred eighty (180) days prior to the expiration of the then-effective term that it wishes to terminate this Agreement for any or no cause. Individual permits issued under this Agreement may automatically expire as provided in Exhibit A attached hereto.

2.2 Existing Attachments. FPL agrees that the Existing Attachments are permitted to continue in the locations that exist on the Effective Date.

2.3 Permission to Attach to FPL Distribution Poles.

(a) Pole. Except as provided in Section 3.1(a): (i) Licensee may attach New Attachments to the System only to existing or future FPL poles on which FPL Distribution Facilities have been installed; and (ii) Licensee may not attach New Attachments for its System to FPL poles that are used solely for transmission or street lighting purposes.

(b) Tension Limit. No New Attachment will be permitted which results in more than 200 lbs. of unguyed tension on any given FPL Pole.

(c) Pole Height Limit. No New Attachment will be permitted which requires FPL to install a new pole with a height of more than fifty feet (50'), and FPL will not perform Make-Ready Work for the purpose of installing such a pole; *provided however*, Licensee may apply for a permit to attach to an FPL pole, as provided in Section 2.3(a)

above, which is more than fifty feet (50') in height if such pole was installed to meet FPL's own service requirements.

(d) Permission to Attach to FPL Transmission Poles.

Licensee may attach its Wireline in New Attachments to FPL transmission poles with distribution underbuilt as provided herein. Wireline in New Attachments to transmission poles with distribution underbuilt shall be permitted only in the Communications Space. In applying for New Attachments, Licensee shall follow the procedures in the FPL Permit Application Process Manual for Wireline Attachments to Transmission Poles. Existing Attachments in the Communications Space shall be rearranged at Licensee's expense should they be found to be in violation of any of the standards defined in Section 3.5.

(e) Inspection.

Prior to applying for permission to attach any New Attachments to any FPL pole(s), Licensee shall inspect the pole(s) to which it wishes to attach the New Attachments and shall prepare a windloading study and calculations according to FPL requirements. If any pole or poles of FPL must be reworked or are inadequate to support the additional facilities in accordance with the specifications in Article III below, Licensee will request Make-Ready Work by indicating the necessary changes on Exhibit A.

2.4 Florida Power & Light Company Permit. After inspection and prior to attaching any New Attachment to any FPL pole, Licensee shall apply for and receive a written permit in the form of Exhibit A. Licensee shall attach its windloading calculations and pole and mid-span clearance measurements to its permit application. FPL may deny a permit for New Attachments if, in the sole judgment of FPL, such attachment will interfere with FPL's system integrity or service requirements, including economic, safety, reliability and engineering requirements. No New Attachments shall be permitted except as provided in this Article II above.

### **ARTICLE III** **ATTACHMENT AND MAINTENANCE**

3.1 Attachments of OPGW to Transmission Poles.

(a) OPGW. No New Attachments will be allowed in the Supply Space unless such New Attachments will be attached to Existing Attachments in the Supply Space. Licensee shall not perform any work on OPGW which is attached to FPL transmission poles. All such work, including the installation of New Attachments, maintenance, Rearrangement or the removal of any portion of System, in connection with the installation of such New Attachments, shall be performed by FPL at Licensee's expense, as provided in Section 3.8 and Article IV below.

(b) NESC and FPL Requirements. All FPL Attachment-related work on the System shall be performed in accordance with the requirements and specifications of the NESC, latest edition, or any applicable amendments, revisions or subsequent editions of the NESC, as well as any additional requirements of FPL.

3.2 Attachments to Distribution Poles and Transmission Poles with Distribution Underbuilt. Licensee, at its own expense, shall make and maintain its Attachments to distribution poles and to transmission poles with distribution underbuilt in a safe condition and in thorough repair, both in a manner suitable to FPL and so that the Attachments do not conflict with the use of the poles by FPL or Other Users, or interfere with the working use of facilities thereon or which may from time-to-time be placed thereon by FPL or Other Users. Licensee shall exercise special precautions to avoid damage to the FPL Facilities and to attachments of Other Users on the FPL poles and shall promptly report to FPL any damage caused by Licensee.

3.3 Licensee's Duty to Warn. Licensee covenants, acknowledges and agrees that it has a responsibility to instruct, remind and warn its employees, agents, contractors and invitees that the FPL Facilities and appurtenances installed or to be installed by FPL are charged with high voltage electricity and to instruct and inform such persons as to safety and precautionary measures which they must use when working on or near FPL property and other FPL facilities. Licensee also covenants and agrees to notify all Other Users, the facilities of which are attached to FPL poles, if the System produces RF emissions at such poles. FPL inspects its poles on a routine basis. Poles requiring replacement are tagged by FPL for future replacement. Licensee acknowledges that these tags and FPL's pole tagging convention exist and that the form of the tags utilized by FPL may change from time to time. Licensee agrees to familiarize itself, its employees, contractors, subcontractors and agents with FPL's pole tagging conventions as provided by FPL to Licensee and any modifications to that convention, including the form of tag utilized. Licensee further covenants, acknowledges and agrees that it has a responsibility to instruct, remind and warn its employees, agents, contractors and invitees to observe, recognize and report to such individual's superiors the pole's replacement status prior to performing any work or installation on or around an FPL pole.

3.4 Licensee's Permits. Licensee, at its own expense, shall obtain all necessary permits or authorization from local, state and federal agencies or property owners with respect to the System.

3.5 Standards.

(a) NESC and FPL Requirements. Except as provided in Section 3.1(a), Licensee agrees to install, construct and maintain its New Attachments with its own licensed electrician or by an approved licensed electrical contractor paid under a contract executed by Licensee all in accordance with the requirements and specifications of the NESC, latest edition, or any applicable amendments, revisions or subsequent editions of the NESC, latest edition, as well as any additional construction requirements of FPL. If any such New Attachments are found to have been installed in violation of the NESC, latest edition, or FPL requirements, Licensee shall immediately make all corrections at Licensee's expense, including Rearrangement of the System.

(b) Installation of Attachments. Licensee agrees and understands that the installation, construction and maintenance of New Attachments within fifteen feet (15') of FPL's primary conductors (defined herein as all conductors with voltage potentials exceeding 750V) shall be subject to the approval of FPL within its sole and absolute discretion. Licensee's New Attachment on each pole shall be restricted to one foot (1') of pole space. This space allocation shall be located one foot (1') above the highest Other User cable attachment. The one foot (1') space allocation shall extend six inches

(6") above and below Licensee's main cable attachment point. A schematic drawing is included in Exhibit A.

(c) Other Requirements. In addition, all installation work will be done in accordance with local rules, regulations, statutes and ordinances. All New Attachments shall conform to requirements of and be subject to rights under any other joint use or attachment agreements now in effect between FPL and Other Users. Licensee shall insure compliance with clearances from facilities of all Other Users attached to the FPL pole and obtain consent from such Other Users, as necessary. Licensee agrees to participate in FPL's notification and scheduling processes for FPL pole transfers and permitting of attachments.

(d) Marking of Cable. Licensee agrees to install at least one identification tag somewhere on the cable and close to the FPL pole so that it can be easily identified from the ground and distinguished from other similar cables on the pole. The identification tag shall be installed at every first, fifth, last and street crossing mainline Attachment. Identification tags shall be placed on New Attachments at the time of attachment. Existing Attachments shall be tagged prior to January 1, 2024. In the event the name of Licensee changes in a way that renders the identification tag obsolete or useless as a means of immediate identification, Licensee shall replace its identification tags within six (6) months after the name change.

(e) Licensee's Notice of Attachment. Within thirty-one (31) days after attaching any New Attachments to FPL's Poles, Licensee shall provide FPL with Notice of Attachment in the form of Exhibit B attached hereto.

### 3.6 Rearrangement, Transfer or Intermediate Pole Attachment.

(a) Timing. When any of the following is necessary:

- (i) a Rearrangement of an Attachment on an existing FPL pole;
- (ii) a Transfer of an Attachment to a replacement FPL pole; or
- (iii) a Transfer of an Attachment to an intermediate FPL pole;

Licensee will perform the Rearrangement or Transfer of the Attachment, as required, within forty-five (45) days of notification by Licensee to FPL. Licensee will participate in FPL's notification process and conform to FPL's scheduling in order to accomplish this.

(b) Rearrangement, Transfer or Intermediate Pole Attachment by FPL. With the exception noted below or in Section 3.1(a), the Rearrangement, Transfer or Intermediate Pole Attachment with respect to the System, or any part thereof, is the sole responsibility of Licensee. This work may be performed by FPL or its contractor when and at the time that FPL relocates FPL Facilities, replaces an existing pole or installs an intermediate pole within an existing pole line used by Licensee. All such work shall be at the sole discretion of FPL and based on NESC and additional requirements of FPL. All hardware, cable, material and equipment required for the Rearrangement or Transfer of the System, or applicable portion thereof, shall be provided by Licensee. The Rearrangement shall be at the expense of Licensee as stated in Article IV.

(c) Exception. All work performed in the Power Supply Space and on the OPGW will be performed by FPL, performance of such work shall be at the sole discretion of FPL and based on NESC and additional requirements of FPL. All such work, including New Attachments, maintenance, Rearrangement or Transfer of the System, or applicable portion thereof, shall be performed by FPL at Licensee's expense, as provided in Section 3.8 and Article IV below.

(d) Rearrangement or Transfer by Licensee. If FPL decides not to do a Rearrangement or Transfer the System, or applicable portion thereof, then Licensee, subject to Article IV, at its own expense and within ninety (90) working days after written notice from FPL, shall rearrange or remove the applicable portion of the System placed on any pole or pole line, transfer it to a substituted pole or poles, relocate it, or perform any other work in connection with that portion of the System that may be required by FPL.

(e) Failure of Licensee to Rearrange or Transfer; Emergency Situations. Provided, however, that after ninety (90) days' written notice from FPL, if Licensee fails to Rearrange or Transfer the System, or applicable portion thereof, or at any time without notice in case of emergency, FPL may rearrange the System, or applicable portion thereof, Transfer it to a substituted pole or poles, relocate it or perform any other work in connection with System, or such portion, that may be required in the maintenance, replacement, removal or relocation of FPL poles, the portion of the System thereon or which may be placed thereon, or for the service needs of FPL, and Licensee shall, on demand, reimburse FPL for the expense thereby incurred. Nothing in this Subsection shall relieve Licensee from maintaining adequate work forces readily at hand to handle the Rearrangement, repair, service and maintenance of the System, or applicable portion thereof, where the condition of the System, or applicable portion thereof, is hindering FPL's operations.

(f) Hold Harmless and Indemnify Against Delay Claims. Notwithstanding the foregoing, Licensee shall be solely responsible for the scheduling and coordinating directly with all Other Users of all relocations required as part of any project of Licensee. FPL shall not be responsible for scheduling the relocation of Licensee's Attachments or other attachments to FPL's poles when such relocation is caused by any project of Licensee. Licensee shall indemnify and hold harmless FPL from any loss or liability incurred by or claimed by Licensee's contractor arising from or related to the failure of FPL to timely relocate a FPL pole if Licensee has not timely removed its Attachment from the FPL pole. Such obligation to hold harmless and indemnify FPL shall be subject to the limitations set forth in section 768.28, Florida Statutes, as may be applicable.

(g) Notwithstanding anything in this Section 3.6 to the contrary, there shall not be any Rearrangement or Transfer of any Attachment:

(i) that is in the Supply Space to a location within the Communications Space if such Attachment, as relocated or transferred, will be connected to any other Attachment within the Supply Space; or

(ii) that is in the Communications Space to a location within the Supply Space if such Attachment, as relocated, will be connected to any other Attachment within the Communication Space.



3.7 FPL Inspection. FPL reserves the right to inspect each New Attachment on FPL poles and in the vicinity of its lines or appliances and to make surveys every five (5) years, or more frequently as conditions warrant, of the entire System on FPL's poles. Such inspections or surveys made, or not, shall not relieve Licensee of any responsibility, obligation or liability assumed under this Agreement. All direct and overhead costs associated with these inspections shall be paid by Licensee as stated in Article IV. In addition, if any violations are found, Licensee shall make all corrections at Licensee's expense, including Rearrangement of the Facilities.

3.8 FPL Work. FPL shall perform all work on the System in the Power Supply Space. FPL's responsibilities for performing such work is set forth in Exhibit C attached hereto.

3.9 Rearrangement, Transfer and Intermediate Pole Attachment of OPGW on Transmission Poles.

(a) Timing. Whenever it is necessary for FPL to do a Rearrangement of an Attachment on an existing FPL pole, Transfer such Attachment to a replacement FPL pole or to an Intermediate Pole Attachment, Licensee shall perform all of its obligations as set forth in Exhibit C, the Fiber Optic Service Level Guidelines, or any subsequent written agreement between FPL and Licensee to allow FPL to do a Rearrangement, Transfer or Intermediate Pole Attachment, as the case may be, within forty five (45) days after notice is given to Licensee in writing. Licensee will participate in FPL's notification process and conform to FPL's scheduling in order to accomplish this.

(b) Failure of Licensee to Meet its Obligations to Facilitate the Rearrangement or Transfer by FPL; Emergency Situations. If after ninety (90) days' written notice from FPL, Licensee fails to meet its obligations as set forth in Exhibit C, the Fiber Optic Service Guidelines, or any subsequent written agreement between FPL and Licensee to facilitate FPL's Rearrangement or Transfer of the System, or any applicable portion thereof, or at any time without notice in cases of emergency, FPL at the sole option of FPL may do a Rearrangement of the applicable portion of the System, Transfer the applicable portion of the System to substituted poles, relocate the applicable portion of the System or perform any other work in connection with the System that may be required in the maintenance, replacement, removal or relocation of FPL poles, the FPL Facilities or attachments thereon or which may be placed thereon, or for the service needs of FPL, and Licensee on written demand shall reimburse FPL for the expense thereby incurred. Nothing in this Section 3.9(b) shall impose any duty on FPL or relieve Licensee from maintaining adequate work forces readily at hand to handle Licensee's obligations as set forth in Exhibit C, the Fiber Optic Service Level Guidelines or any subsequent written agreement between FPL and Licensee where the condition of the System is hindering FPL's operations or from liability for failure to allow FPL to perform the timely removal of its Attachment from FPL poles or from its obligations under this Agreement. Notwithstanding anything in this Section 3.9 to the contrary, there shall not be any Rearrangement or Transfer of any Attachment:

(i) that is in the Supply Space to a location within the Communications Space if such Attachment, as relocated or transferred, will be connected to any other Attachment within the Supply Space; or

(ii) that is in the Communications Space to a location within the Supply Space if such Attachment, as relocated, will be connected to any other Attachment within the Communications Space.

3.10 System in the Power Supply Space. Whenever Licensee determines that the entire portion of the System that is located in the Supply Space needs to be replaced, Licensee will locate the replacement portion of the System in the Communication Space on distribution poles or transmission poles with distribution underbuilt. The replacement portion of the System must be approved by FPL. Notwithstanding anything to the contrary in this Agreement, in the event that Licensee gives not less than 90 days' notice to FPL that Licensee no longer will be using the entire portion of the System located in the Supply Space: (a) Licensee shall not be obligated to pay to FPL any fees or expenses with respect to such portion of the System after the date on which Licensee ceases to use such portion of the System; and (b) whenever, following the date described in Section 3.10(a), FPL wishes to remove such portion of the System, the cost of removal of such portion of the System shall be borne entirely by FPL.

3.11 Radio Frequency ("RF") Exposure. FPL's poles routinely have attachments that emit RF radiation. The owners of the RF emitting devices are responsible for the operation of those devices. Licensee is required to familiarize itself, instruct and warn their employees, agents, contractors and subcontractors who are working around these devices, prior to performing any work or installation on or around any FPL pole. Attachment of RF emitting devices is limited to one measured and FPL-approved output device per pole. Licensee may not attach antennas or other RF emitting devices to a pole if it already has an antenna or RF emitting device installed by FPL or a third-party.

#### **ARTICLE IV**

### **MAKE-READY COSTS, LICENSE AND TRANSFER FEES, AND BILLING**

#### 4.1 Make-Ready Costs for New Attachments.

(a) Lump Sum for Make-Ready Work. If Licensee has indicated that Make-Ready Work is necessary to accommodate New Attachments on any FPL pole, FPL or FPL's contractor will provide Licensee with an estimate of the cost of the Make-Ready Work. The estimate shall include the increased cost of larger or stronger poles, the remaining life value of poles removed, the cost of removal less any salvage recovery and the expense of transferring FPL's Facilities from the old to the new poles and overhead costs, less any credit for betterment. If Licensee still desires to make the New Attachments, it shall return Exhibit A marked to so indicate, together with an advance payment of the Lump Sum for the entire estimated cost of the Make-Ready Work.

(b) Reimbursement for Make-Ready Work. When Licensee's New Attachments can be accommodated on existing poles of FPL by rearranging FPL's Facilities or attachments of Other Users thereon, Licensee will compensate FPL and Other Users, if any, for the full expense incurred in completing such Make-Ready Work or Rearrangements, as provided in Section 4.6 below.

(c) Additional Support. Any strengthening of poles (e.g., guying) required to accommodate any New Attachments shall be provided by and at the expense of Licensee and to the satisfaction of FPL. Licensee shall not set intermediate poles under or in close proximity to FPL's Facilities. Licensee, however, may request FPL to set

such intermediate poles as Licensee may desire, and FPL shall have the option to accept or reject such request. If such request is granted, Licensee shall reimburse FPL for all direct and overhead costs associated with installing and attaching the New Attachments to such pole or poles. FPL shall perform such work on transmission poles.

(d) Reimbursement of Licensees for Any Rearrangement Made by Licensees. If Licensee wishes to be reimbursed by any Other User, new or existing, benefiting from a Rearrangement or Make-Ready Work which was paid for by Licensee, it is Licensee's responsibility to pursue reimbursement directly with the Other User. FPL will not be responsible for notification, monitoring, billing or collection of reimbursement for any New Attachments or modifications made to poles where Licensee paid Make-Ready Work costs.

#### 4.2 Attachment Fees.

(a) Annual Attachment Fee. Licensee will be charged an annual attachment fee, payable in semi-annual installments in advance, beginning on January 1, 2024. Subject to annual adjustment as set forth in Section 4.2(b) below, the annual Attachment fee of \$16.93 per distribution pole per year, \$104.06 per transmission pole with under-built distribution per year and \$208.12 for OPGW attachments per transmission structure per year, such rate being effective on January 1, 2024. The annual rate shall apply to all Attachments existing as of the effective date of that rate, regardless of the date of Attachment. Upon confirmation of the Existing Attachments, Licensee and FPL shall update Exhibit D attached hereto to detail such Existing Attachments.

(b) Fee Adjustment. On the first day of January of each calendar year starting in 2024 that this Agreement is in effect, the annual fee shall be adjusted in accordance with the most current pole cost data compiled by FPL. FPL shall bill semi-annually in advance for the semi-annual installments of the annual fee. The payment of the Attachment fee hereunder shall include such pro rata amount as may be due for the increased Attachments or change in use to FPL poles since the previous billing date. An Attachment or change in use of an Attachment to any FPL pole without notification of Attachment or change in use or FPL's authorization shall be deemed to have been made on the Effective Date or the date of the last survey, whichever is later. FPL's acceptance of payment for unauthorized Attachment shall not constitute a waiver of any other rights or remedies under this Agreement or at law. Payment shall be made within forty-five (45) days of the date of invoice and under the terms and conditions provided in Section 4.7.

(c) Essential Service Attachments. Licensee shall not pay an Attachment fee for those Attachments exclusively dedicated for the operation and maintenance of traffic signals or essential community services such as emergency communications. Licensee is obligated to notify FPL promptly, and report the number of Attachments impacted, if any applicable portion of the System is used for any other purpose. The number of Attachments dedicated for the operation and maintenance of traffic signals or essential community services shall be set forth on Exhibit D when updated by Licensee and FPL after the Effective Date.



(d) Unauthorized Attachments. A New Attachment to an FPL pole without notification of New Attachment or FPL's authorization (each, an "Unauthorized Attachment") shall be deemed to have been made on the Effective Date or the date of the last survey, whichever is later. If the Unauthorized Attachment is identified by survey, the "last survey" shall mean the survey immediately prior to the survey which identified the Unauthorized Attachment. FPL's acceptance of payment for Unauthorized Attachments shall not constitute a waiver of any other rights or remedies under this Agreement or at law. Any Unauthorized Attachment to a transmission pole without distribution underbuilt shall be immediately removed by FPL at the sole cost of Licensee and with no liability or consequences therefore accruing to FPL.

(e) Unauthorized Attachment Fee. Licensee shall pay FPL an Unauthorized Attachment fee in the amount of 2 and 1/2 times the pole attachment rate to distribution poles and 1 and 1/2 times the pole attachment rate to transmission poles (each, an "Unauthorized Attachment Fee") for the year in which the Unauthorized Attachment was discovered. This Unauthorized Attachment Fee shall be paid from the date of discovery back to the date of the last physical survey for any Attachment to FPL Poles. If an Unauthorized Attachment is identified by survey, the "last survey" shall mean the survey immediately prior to the survey which identified the Unauthorized Attachment. FPL's acceptance of the payment of the Unauthorized Attachment Fee or consent to waive payment of all or a part of the Unauthorized Attachment Fee shall not constitute a waiver of any of FPL's other rights or remedies under this Agreement or at law. Licensee shall have the burden of proving that an Attachment is an authorized Attachment by providing FPL with a copy of the FPL Attachment Permit. Any Unauthorized Attachment to a distribution pole may be removed at the discretion of FPL and at the sole cost of Licensee. Any Unauthorized Attachment to a transmission pole without distribution underbuilt shall be immediately removed by FPL at the sole cost of Licensee and with no liability or consequences therefore accruing to FPL.

#### 4.3 Transfer and Intermediate Pole Attachment Fees.

(a) Distribution Transfer Fee. Subject to Section 4.4, Licensee shall pay FPL the total actual cost incurred by FPL for each portion of the System that has been removed or Transferred as stated in Section 3.6 by FPL ("Rearrangement, Transfer or Intermediate Pole Attachment").

(b) Transmission Pole OPGW Transfer Fee. Subject to Section 4.4, Licensee shall reimburse FPL for the total actual cost incurred by FPL in transferring OPGW in accordance with the terms of this Agreement.

#### 4.4 Rearrangement Cost.

(a) Licensee's Cost for Distribution and Transmission Poles with Distribution Underbuilt. If FPL does a Rearrangement of its poles or pole line or changes the existing pole line alignment and as a consequence thereof does a Rearrangement of all or the applicable portion of the System to FPL's relocated pole line, the fee for Transfer does not apply and Licensee shall pay the direct and indirect costs of such Rearrangement. If the Rearrangement is necessitated by a third party that is not considered an attaching entity and the Rearrangement is not reimbursable by such third party, Licensee is responsible for the Rearrangement of the System, or applicable

portion thereof, at its own expense. If such Rearrangement is reimbursable by the third party, Licensee is responsible for dealing directly with and obtaining its own reimbursement from such third party. Additionally, Licensee is responsible for coordinating the Rearrangement of its Attachments with the Rearrangement schedule of the third party. FPL will not be responsible for delay claims caused by failure of Licensee to meet the Rearrangement schedule of a third party. Payment for Rearrangement work will be made by Licensee as stated in Sections 4.6 and 4.7 below.

(b) Licensee's Option to Purchase. If, however, FPL gives Licensee ninety (90) days written notice of its intent to abandon a pole or pole line containing poles with Attachments of Licensee, and if only Attachments remain on the pole and if Licensee has obtained all necessary permits or easements from the fee owner, Licensee shall have the option to purchase the pole from FPL.

#### 4.5 All Other Services Necessary to Maintain Licensee's OPGW System.

The Licensee shall reimburse FPL for all other necessary and/or requested services required by the Existing Attachments or New Attachments to transmission poles the total actual cost incurred by FPL.

#### 4.6 Billing.

(a) Make-Ready Work and Rearrangement Work. Licensee agrees to pay FPL in advance the full Lump Sum amount for Make-Ready Work and Rearrangements. This Lump Sum amount is non-refundable; *provided however*, if this Agreement is terminated, Licensee shall be responsible for the costs actually incurred by FPL and any additional cost incurred by FPL to restore FPL's facilities to complete operational capability and FPL shall refund the balance.

(b) Inspecting, etc. In addition, to the above charges, FPL shall bill Licensee for actual costs incurred for inspections, surveys, expenses and other charges (excluding Attachment fees and the Lump Sum payment) under this Agreement, as incurred. Payment shall be made within thirty (30) days of the date of invoice and under the terms and conditions provided in Section 4.7, below.

4.7 Payment and Charges. All payments and charges to be paid by Licensee under this Agreement shall be made pursuant to the Local Government Prompt Payment Act, Chapter 218, Part VII, Florida Statutes.

4.8 Limitation. The provisions of this Article IV shall be subject to and limited by the provisions of the last sentence of Section 3.10.

## **ARTICLE V** **REMOVAL**

5.1 Notice. Licensee, after prior written notice to FPL, may remove its Attachments in the Communications Space from any distribution pole or transmission pole with distribution underbuilt and shall give FPL written notice, in the form of Exhibit B, of actual removal within fifteen (15) working days after removal. Licensee shall exercise care and take precautions to avoid damage to the FPL Facilities and to the attachments of Other Users and

shall immediately report any damage to FPL and to the Other Users of the damaged facilities. FPL, at Licensee's cost, shall be responsible for removing any portion of the System in the Supply Space and OPGW from transmission poles.

5.2 Immediate Removal. Upon written notice that the use of an FPL pole is forbidden or unauthorized by state, county, or municipal authorities or upon any final administrative or judicial decision that Licensee has no right to attach to any FPL pole without consent of the real property owner, the permit covering the use of the FPL pole shall immediately terminate and Licensee shall remove the applicable portion of its System from the affected FPL pole. Licensee shall hold harmless, defend and indemnify FPL against all liabilities arising from or associated with Licensee's failure to obtain the necessary permits, if any, from the owner of the real property or government authorities. Such obligation to hold harmless and indemnify FPL shall be subject to the limitations set forth in section 768.28, Florida Statutes, as may be applicable. The termination rights under this Agreement shall not be affected by this Section.

5.3 Licensee's Expense. All removals of any applicable portion of the System from FPL poles shall be at the sole expense of Licensee. Any corrections or Rearrangement required by FPL or others as a result of Licensee's removal shall be at the sole expense of Licensee.

5.4 Abandonment. If FPL desires, or, at any time is required to abandon any pole(s), it shall give Licensee notice in writing of its intent to do so at least thirty (30) days prior to the date on which it intends to abandon such pole(s). If, at the expiration of such period, or upon removal of FPL's Facilities, whichever occurs later, Licensee shall not have removed all of its Attachments therefrom, and if the Attachments remain on the pole(s), such pole(s) shall then become the property of Licensee, and Licensee shall: (a) obtain necessary permits or rights of way from the land owner and (b) indemnify and save harmless FPL from all obligation, liability, damages, costs, expenses or charges incurred thereafter arising from the presence or condition of such pole(s), or any Attachments thereon. FPL shall not have further responsibility or liability for such pole. Such obligation to hold harmless and indemnify FPL shall be subject to the limitations set forth in section 768.28, Florida Statutes, as may be applicable.

5.5 Limitation. The provisions of this Article V shall be subject to and limited by the provisions of the last sentence of Section 3.10.

## **ARTICLE VI**

### **RESERVATION OF RIGHTS, LIMITATION OF LIABILITY AND INSURANCE**

6.1 Reservation of Rights and Release by Licensee. Except as otherwise provided in this Agreement, FPL reserves to itself, its successors and permitted assigns, the right to maintain its poles and to operate the FPL Facilities thereon in such manner as will best enable it to fulfill its own service requirements and in accordance with the NESC and any applicable amendments, revisions or subsequent editions to NESC and such specifications particularly applying to FPL hereinbefore referred to. FPL shall not be liable to Licensee for any interruption to service of Licensee or for interference with the operation of the System arising in any manner out of the use of FPL's poles by Licensee, FPL, or Other Users except to the extent caused by FPL's negligence or willful, wanton or intentional misconduct of FPL, its employees, officers or directors. Licensee hereby releases and waives all rights against FPL

for such interruptions or interference, except to the extent due to or caused by the negligence of FPL or willful, wanton or intentional misconduct of FPL, its employees, officers or directors.

## 6.2 No Consequential Damages.

In no event shall either Licensee or FPL be liable to the other for any indirect, special incidental or consequential damages, including lost profits, regardless of whether informed of the same.

## 6.3 Indemnification.

Except for FPL's gross negligence or intentional misconduct, Licensee shall exercise its privileges hereunder at its own sole risk and, in consideration of this Agreement, except for FPL's gross negligence or intentional misconduct, shall release, indemnify, protect, defend and save harmless FPL, its parent, subsidiaries, affiliates and their respective officers, directors, agents and employees (FPL Entities) from and against any and all claims and demands whatsoever including court costs and reasonable attorney's fees by reason of damage to property and injury or death to persons, including payments made under any Workers' Compensation Law or under any plan for employees' disability and death benefits, which may arise out of or be caused, by Licensee's negligence resulting in connection with or by the erection, maintenance, presence, use, transfer or removal of Attachments. Such obligation to hold harmless and indemnify FPL shall be subject to the limitations set forth in section 768.28, Florida Statutes, as may be applicable.

## 6.4 Insurance.

(a) By Licensee. If Licensee utilizes its own personnel and automobile equipment in the performance of this Agreement, the following shall apply:

Licensee shall obtain liability insurance as of the date of this Agreement and maintain during the term of this Agreement insurance which shall be amended or endorsed to include FPL, its parent, subsidiaries and affiliates and their respective officers, directors and employees as Additional Insureds to protect them against any and all claims, demands, actions, judgments, cost, expenses and liabilities of every nature, including attorney fees, which may result directly or indirectly under the terms of the above indemnification. The limit applying to this Agreement shall equal the highest limit applicable to any other exposure covered under the policy. The policy(ies) shall be endorsed to be primary to any insurance maintained by FPL, its parent, subsidiaries or affiliates. As a minimum, the coverages shall include the following:

(i) Workers' Compensation Insurance for statutory obligations imposed by Workers' Compensation or Occupational Disease Laws, including, where applicable, the United States Longshoremen's and Harbor Workers' Act, the Federal Employers' Liability Act and Jones Act. Employers' Liability Insurance shall be provided with a limit of one million dollars (\$1,000,000) per accident.

(ii) Commercial General Liability Insurance, including Broad Form Contractual Liability, with the following minimum limits of liability; Bodily Injury Liability and Property Damage Liability - One million dollars (\$1,000,000)

combined single limit and three million dollars (\$3,000,000) occurrence aggregate.

(iii) Commercial Automobile Liability Insurance with the following limits of liability, which shall apply to all owned, non-owned, leased and hired automobiles used by Licensee in the performance of the Work: Bodily Injury Liability and Property Damage Liability - one million dollars (\$1,000,000) combined single limit and three million dollars (\$3,000,000) occurrence aggregate.

(b) Duration. In the event that any policy furnished by Licensee provides for coverage on a "claims made" basis, the retroactive date of the policy shall be the same as the Effective Date. Furthermore, for all policies furnished on a "claims made basis," Licensee's providing of such coverage shall survive the termination of this Agreement until the expiration of the maximum statutory period of limitations in the State of Florida for actions based in contract or in tort. If coverage is on an "occurrence" basis, such insurance shall be maintained by Licensee during the entire term of this Agreement.

(c) Form. Licensee shall procure and maintain at its own expense the above minimum insurance coverage and shall provide evidence of the minimum insurance coverage by providing an ACORD or other Certificate of Insurance on forms and with insurance companies acceptable to the Risk Management Department of Florida Power & Light Company, before any work under the contract begins.

(d) Self-Insurance. Notwithstanding the foregoing, Licensee at its option may self-insure the above insurance requirements after providing FPL with a written statement that Licensee intends to self-insure, together with a letter of assets, financial statements and any other documentation reasonably necessary to satisfy FPL that Licensee has the financial capability to self-insure.

6.5 Contractor Indemnification. Licensee further agrees to include, in substantially the following form, the following indemnification in all contracts with contractors who perform construction or maintenance work on or around the System:

“The Contractor hereby agrees to release, indemnify, defend, save and hold harmless Licensee and Florida Power & Light Company, its parent, subsidiaries, affiliates and their respective officers, directors and employees (hereafter referred to as the “FPL Entities”) and other owners of equipment attached to the Pole from all claims, actions, causes of action, damages, demands, liabilities, costs and expenses, including attorney fees and court costs through any appellate process and administrative process, arising from or in connection with the performance of the described work by Contractor, its subcontractor, agents or employees, except to the extent a court of competent jurisdiction finally determines that any such bodily injury (including death) or property damage covered by this provision was caused by the gross negligence or willful, wanton or intentional misconduct of FPL, its employees, officers or directors. Contractor’s indemnity per occurrence shall not exceed the sum of Three Million Dollars (\$3,000,000.00) for claims arising from a single occurrence. If Contractor is insured for liability with limits in excess of Three Million Dollars (\$3,000,000.00), Contractor’s indemnity obligation shall extend up to but shall not exceed the higher limits of that insurance. The limits of



Contractor's indemnity obligation under this section shall not apply to or limit Contractor's responsibility for attorneys' fees and costs. The selection of counsel by Contractor or by its insurer to represent and defend the FPL Entities shall be subject to the prior written approval of FPL which approval will not be unreasonably withheld. Contractor and/or its insurer shall not, without the prior written consent of FPL, which consent will not be unreasonably withheld, enter into the settlement or compromise of any claim brought against FPL which is the subject of indemnification under this Agreement."

6.6 Disclaimer of Warranties. Licensee covenants, represents and warrants that Licensee is solely responsible for making its own determination as to the suitability of FPL's Facilities (including poles) for Licensee's intended purpose. LICENSEE ACKNOWLEDGES THAT FPL HAS NOT MADE ANY REPRESENTATION OR WARRANTY, EXPRESS, IMPLIED OR AT COMMON LAW OR OTHERWISE RELATING TO ANY DISTRIBUTION POLE OR OTHER FPL FACILITIES, INCLUDING WITHOUT LIMITATION, THE CONDITION OF ANY POLE OR FPL FACILITIES AND ANY IMPLIED OR EXPRESSED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, CONFORMITY TO MODELS OR SAMPLES OF MATERIALS, ENVIRONMENTAL CONDITION, OR GEOLOGIC CONDITION. IN FURTHERANCE OF THE FOREGOING, FPL EXPRESSLY DISCLAIMS AND NEGATES, AND LICENSEE HEREBY WAIVES: (a) ANY IMPLIED OR EXPRESSED WARRANTY OF MERCHANTABILITY, (b) ANY IMPLIED OR EXPRESSED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, (c) ANY IMPLIED OR EXPRESSED WARRANTY OF FITNESS TO MODELS OR SAMPLES OF MATERIALS, (d) ANY CLAIM FOR DAMAGES BECAUSE OF ANY LATENT OR PATENT DEFECTS OR OTHER DEFECTS, WHETHER KNOWN OR UNKNOWN, AND (e) ANY AND ALL IMPLIED WARRANTIES EXISTING UNDER APPLICABLE LAW. FPL AND LICENSEE AGREE THAT THE DISCLAIMERS OF CERTAIN WARRANTIES CONTAINED IN THIS SECTION ARE CONSPICUOUS DISCLAIMERS.

6.7 Contractor Insurance. Licensee agrees to require its Contractors to obtain insurance to cover the indemnity set forth in Section 6.5, and to designate FPL as an additional insured and to endorse the policy to be primary to any insurance obtained by FPL, its parent, subsidiaries or affiliates. Licensee further agrees to verify with its Contractors that such insurance is in full force and effect.

## **ARTICLE VII MISCELLANEOUS PROVISIONS**

7.1 Breach. If Licensee fails to comply with any of the provisions of this Agreement or defaults in any of its obligations under this Agreement, including but not limited to safety, violation of the NESC or FPL requirements, and failure to pay, and fails within thirty (30) days after written notice from FPL (or immediately upon notice of a safety violation) to correct such default or non-compliance, FPL may at its option terminate this Agreement in whole or part.

7.2 Non-waiver. Failure to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.

7.3 Non-Exclusive Right. Nothing in this Agreement shall be construed to confer on Licensee an exclusive right to place Attachments on FPL's poles in the area covered by this Agreement, and it is expressly understood that FPL has the unconditional right to permit Other Users to place Attachments on the same poles, other than any poles abandoned by FPL and purchased by Licensee, in the area covered in this Agreement and supplements thereto.

7.4 No Property Right. No use, however extended, of FPL's poles, under this Agreement, shall create or vest in Licensee any ownership or property rights in such poles, but Licensee's rights therein shall be and remain a mere license. Nothing herein contained shall be construed to compel FPL to maintain any of such poles for a period longer than demanded by FPL's own service requirements. FPL reserves the right to deny to Licensee a license as to any New Attachments if FPL determines such New Attachments will interfere with the integrity of FPL's system or service requirements, including considerations of economy and safety.

7.5 Assignment. Licensee shall not assign or transfer the privileges hereby granted without the prior written consent of FPL which consent shall not be unreasonably withheld; provided, however, that any one or more of the members of Licensee may freely assign its or their rights and delegate its or their duties under this Agreement, in whole or in part, to either or both of the remaining members of Licensee.

7.6 Successors and Assigns. Subject to the provisions of Sections 7.4 and 7.5 above, this Agreement shall extend to and bind the successors and permitted assigns of the parties hereto.

7.7 Notice Under this Agreement. All notices, communications and deliveries required or permitted under this Agreement shall be in writing and shall be delivered personally, sent by overnight commercial air courier (such as Federal Express), or mailed, certified or registered, postage prepaid, return receipt requested, to the parties at the addresses hereinafter set forth:

If to Licensee:

**City of Vero Beach  
1053 20th Place  
Vero Beach, FL 32960  
Attention: City Manager**

with copy to:

City of Vero Beach  
1053 20th Place  
Vero Beach, FL 32960  
Attention: City Attorney

**Indian River County  
1801 27th Street, Building A,  
Vero Beach, FL, 32960  
Attention: County Administrator**

with copy to:

Indian River County  
1801 27th Street, Building A,  
Vero Beach, FL, 32960  
Attention: County Attorney

**School Board of Indian River County  
6500 57th St.  
Vero Beach FL 32967  
Attention: Superintendent of Schools**

with copy to:

Suzanne D. Agresta, Attorney at Law  
111 N. Orange Avenue, Suite 2000  
Orlando, FL 32801

If to FPL:

**Florida Power & Light Company  
700 Universe Boulevard EMT/JB  
Juno Beach, FL 33408  
Attention: EMT Contracts Department**

with copy to:

Florida Power & Light Company  
700 Universe Boulevard JB/Law  
Juno Beach, FL 33408  
Attention: General Counsel

A notice delivered personally or by courier, under the terms of this Section, will be deemed given when received. A notice sent by mail will be deemed given five (5) days after mailing in accordance with this Section. Either party may change the address for notices under this Section, or the individual or officer to whom such notices are to be given, by giving notice of such change in accordance with the provisions of this Section.

7.8 Severability. Should any part of any Section or provision of this Agreement be determined by a court of competent jurisdiction to be illegal, unenforceable or in conflict with any applicable law, the validity enforceability of the remaining Sections or provisions shall not be impaired.

7.9 Applicable Law; Venue; No Jury Trial. The validity, interpretation and enforcement of this Attachment Agreement shall be governed by the laws of Florida without regard to conflict of law applications.



THE PARTIES HERETO AGREE THAT VENUE IN ANY AND ALL ACTIONS AND PROCEEDINGS RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT SHALL BE IN THE CIRCUIT COURT OF THE STATE OF FLORIDA IN INDIAN RIVER COUNTY, FLORIDA, WHICH COURT SHALL HAVE EXCLUSIVE JURISDICTION FOR SUCH PURPOSE AND THE PARTIES HERETO IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION OF SUCH COURT AND IRREVOCABLY WAIVE THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF ANY SUCH ACTION OR PROCEEDING. SERVICE OF PROCESS MAY BE MADE IN ANY MANNER RECOGNIZED BY SUCH COURT.

EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES HERETO TO ENTER INTO THIS AGREEMENT, AND SHALL SURVIVE THE CLOSING OR TERMINATION OF THIS AGREEMENT.

7.10 Amendment; Modification. This Agreement may not be amended, modified or supplement, except by written agreement of FPL and Licensee.

7.11 Entire Agreement. This Agreement, including the Exhibits hereto, embody the entire agreement and understanding of FPL and Licensee in respect of the subject matter of this Agreement and supersede all previous oral and written agreements and understandings and all contemporaneous oral negotiations, negotiations, representations, warranties, commitments and understandings relating to the subject matter of this Agreement.

*[Signatures appear on the following pages]*

The Parties have caused this Agreement to be duly executed the day and year first above written.

**LICENSOR:**

**FLORIDA POWER & LIGHT COMPANY**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**LICENSEE:**

ATTEST:

**CITY OF VERO BEACH, FLORIDA**

\_\_\_\_\_  
Tammy K. Bursick  
City Clerk

\_\_\_\_\_  
Harry Howle III  
Mayor

(City Seal)

**ADMINISTRATIVE REVIEW**

(For Internal Use Only—Sec. 2-77 COVB Code)

Reviewed and approved as to form and legal sufficiency (exclusive of final exhibits, schedules, and attachments):      Approved as conforming to municipal policy:

\_\_\_\_\_  
Wayne R. Coment  
City Attorney

\_\_\_\_\_  
James R. O'Connor  
City Manager

ATTEST: Jeffrey R. Smith, Clerk of Circuit Court and Comptroller

**BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY**

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
\_\_\_\_\_, Chairman

Approved by BCC: \_\_\_\_\_, 2018.

Approved:

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Jason E. Brown, County Administrator

\_\_\_\_\_  
Dylan Reingold, County Attorney

**THE SCHOOL BOARD OF INDIAN RIVER COUNTY**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Chairman

Dated: \_\_\_\_\_

Attest:

By: \_\_\_\_\_  
Mark J. Rendell, Ed.D., Superintendent

**EXHIBIT A**  
**WIRELINE ATTACHMENT APPLICATION AND PERMIT**

**[Solely for Wireline Attachments that will not be attached or connected in any way to Existing Attachments in the Supply Space]**

|                                         |                |               |                                  |
|-----------------------------------------|----------------|---------------|----------------------------------|
| Governmental Entity                     |                |               |                                  |
| TYPE OF APPLICATION<br>(Check One)      | New _____      | Foreign _____ | Date submitted by Licensee _____ |
| <input type="checkbox"/> Make-Ready     |                |               |                                  |
| <input type="checkbox"/> Non Make-Ready | Existing _____ | Removal _____ | Date received by FPL _____       |

**I. APPLICATION**

In accordance with the terms of the Linear Facilities Pole Attachment Agreement dated December \_\_\_\_, 2018, by and among the City of Vero Beach, the School Board of Indian River County, and Indian River County and Florida Power & Light Company (the "Agreement"), application is hereby made for permit to make Attachment to the following poles.

Location City: \_\_\_\_\_ County: \_\_\_\_\_, Florida

Pole Numbers \_\_\_\_\_ Pole Locations (Indicate which poles require Make-Ready Work) \_\_\_\_\_

Terms not defined in this Application shall be as defined in the Agreement.

The undersigned entity certifies that the attachments shall be in compliance with the latest edition of the National Electric Safety Code and FPL requirements.

Licensee: \_\_\_\_\_

By:

|              |        |
|--------------|--------|
| _____        | _____  |
| NAME (PRINT) | PHONE  |
| _____        | _____  |
| SIGNATURE    | FAX    |
| _____        | _____  |
| TITLE        | E-MAIL |

**II. PERMIT**

**Estimated Make-Ready Cost**

Permit Granted \_\_\_\_\_, \_\_\_\_\_  
 (Subject to your approval of Make-Ready Work Cost)

\$ \_\_\_\_\_ Payable in advance.

Permit Denied \_\_\_\_\_, \_\_\_\_\_

Permit Number \_\_\_\_\_  
 Total Previous Poles \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Corresponding Permits \_\_\_\_\_

**III. GENERAL CONDITIONS**

1. A "Make-Ready Work" permit will automatically expire if Attachments are not made and completed within 60 days after notification in writing to Licensee by FPL that Make-Ready Work has been completed.
2. A "Non Make-Ready" permit will automatically expire if attachments are not made and completed within 60 days after date of approval and is subject to field conditions and facilities on each pole at the time attachment is made. Licensee shall be required to bear any and all "Make-Ready Work" cost necessitated by previous Attachments.
3. If permit is granted under Section II above, this permit automatically expires, as to the affected poles 30 days after written notice to Licensee that FPL intends to abandon a particular pole line. Within 30 days after such notice, Licensee shall either remove its attachments from those poles or obtain all necessary permits and easements, at the discretion of FPL, arrange to purchase such poles from FPL.

**(OVER)**

## Attachment Criteria – Communication Space

**NON JOINT USE POLE**

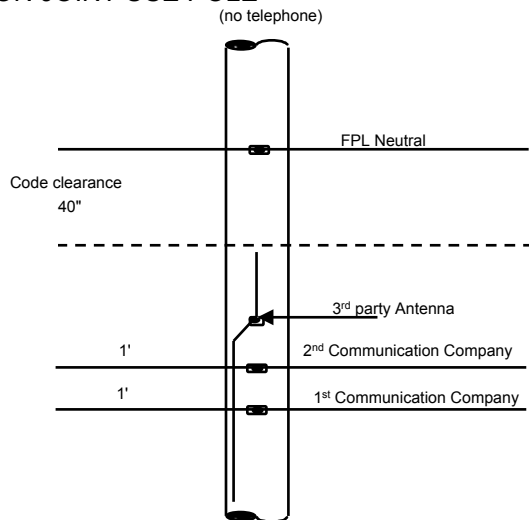


Fig. 1

**JOINT USE POLE**

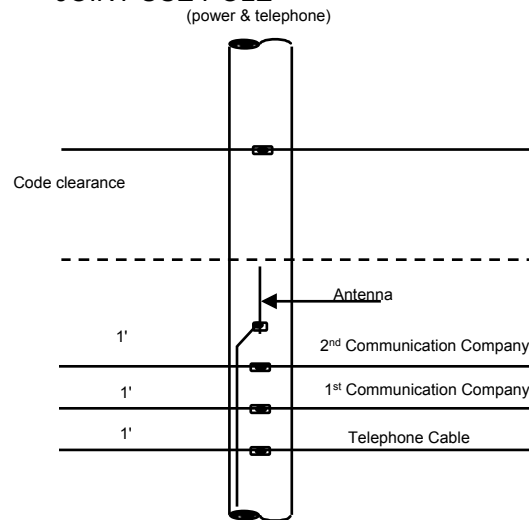


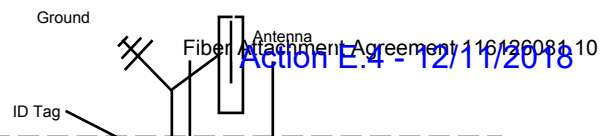
Fig. 2

The 1<sup>st</sup> cable attachment will be located at a height providing minimum clearance over roads, obstacles, etc.  
 All additional cable or antenna attachments will be located 1' above the highest existing communication cable, with antenna highest.  
 The antenna attachment will be a minimum of 1' above highest cable.  
 Only one antenna attachment permitted per pole.

The 1<sup>st</sup> cable attachment will be located 1' above telephone's highest cable Attachment  
 The 2<sup>nd</sup> cable Attachment will be located 1' above the existing  
 The antenna Attachment will be a minimum of 1' above highest communication cable. Only one antenna Attachment permitted per pole.

- NOTE: No cable or antenna Attachment placed in the Communication Space will compromise the 40" NESC code clearance space.
- NOTE: By signing this document, applicant acknowledges that FPL tags poles for replacement and that the form of the tags utilized by FPL may change from time to time and that Applicant, its employees, contractors, subcontractors and agents are familiar with FPL's pole tagging convention and any modifications to that convention, including the form of tag utilized, prior to performing any work or installation on or around any FPL pole.
- NOTE: Applicant also acknowledges that FPL's poles routinely have attachments that emit RF radiation. Licensee is required to familiarize itself, instruct and warn their employees, agents, contractors and subcontractors who are working around these devices, prior to performing any work or installation on or around any FPL pole.

## Space Allocation



Antenna

Fig. 3

#### POLE ATTACHMENT LOCATION

Attachment is limited to the Communication Space.

All main cable attachments shall be located either on the same side of the pole as FPL's neutral or on one common adjacent side.

No main line cable attachments shall be located on the side of the pole opposite FPL's neutral.

All electrical connections must be made off the pole.

No more than two risers will be allowed per pole. Keep in mind, FPL's electric service to Licensee may be one of these risers.

Fig. 4

#### IDENTIFICATION TAG

Each separate attachment shall be identified in accordance with guidelines developed by the FUCC or FPL.

Each company shall register their unique ID tag with the FUCC's Joint Use Subcommittee or FPL.

Antenna ID tags shall be installed at every pole attachment.

Cable ID tags shall be installed at the first and last pole Attachment as well as every fifth pole Attachment and at every street intersection.

## EXHIBIT B NOTIFICATION OF ATTACHMENT/REMOVAL

\_\_\_\_\_ Governmental Entity

In accordance with the terms of the Linear Facilities Pole Attachment Agreement dated December \_\_\_\_, 2018, by and among the City of Vero Beach, the School Board of Indian River County, and Indian River County and Florida Power & Light Company (the "Agreement"), please (add to) or (delete from) your records the following poles to which (Attachments) or (removals) were made during this calendar month.

Attachment   
Removal

Terms not defined in this Notification shall be as defined in the Agreement.

City \_\_\_\_\_, County \_\_\_\_\_, Florida

| Pole Numbers | Date Added | Date Deleted | Permit Number | Pole Locations (Number of Poles) |
|--------------|------------|--------------|---------------|----------------------------------|
|              |            |              |               |                                  |

Total Attachment this Notice:  
Added \_\_\_\_\_

Removed \_\_\_\_\_  
Total Previous Attachments \_\_\_\_\_  
Total Attachments to Date \_\_\_\_\_

**Company**

**Licensee:** \_\_\_\_\_

By: \_\_\_\_\_  
Name (Print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_ Ext. \_\_\_\_\_  
Phone

\_\_\_\_\_  
Fax

\_\_\_\_\_  
E-Mail

**Florida Power & Light**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date Received \_\_\_\_\_

Notice Number: \_\_\_\_\_

Form 1710B (Non-Stocked)



## EXHIBIT C

### FIBER OPTIC SERVICE LEVEL GUIDELINES

Terms not defined in these Guidelines shall be as defined, if defined, in the Linear Facilities Pole Attachment Agreement dated December \_\_\_\_, 2018, by and among the City of Vero Beach, the School Board of Indian River County, and Indian River County and Florida Power & Light Company (the "Agreement").

FPL Transmission/Substation Operations shall provide to Licensee specific services relating to the restoration of and scheduled work related activities on the System located in the FPL substations and OPGW cables attached to FPL transmission poles and in the Supply Space on FPL transmission poles.

Transmission/Substation Operations:

The safety of employees and the integrity of the FPL electric system shall have priority over the services that FPL agrees to provide to Licensee. Notwithstanding the forgoing, the Transmission/Substation Operations unit of FPL shall provide the following services to Licensee 24 hours per day, 7 days per week.

The Transmission/Substation Operations unit of FPL shall be responsible for scheduled work and restoration of unscheduled outages on OPGW cables attached to transmission poles, 24 hours per day, 7 days per week. Emergency restorations may be either temporary or permanent in nature.

Transmission/Substation Operations shall respond to all confirmed fiber breaks immediately upon notice by Licensee to Transmission/Substation Operations.

An outage on the fiber optic network for which Transmission will provide restoration services is defined as the failure of one or more optical fibers to provide an optical link that meets the requirements of the equipment connected to the fibers.

Transmission/Substation Operations shall assign a coordinator and dispatch the appropriate resources to the damaged area and provide restoration service once this area is determined and communicated by Licensee.

#### **FPL's Responsibilities for Unscheduled Outages:**

- Designate a Transmission/Substation Operation coordinator for each break.
- Dispatch appropriate resources
- Upon arrival at the site of the damaged fiber optic facility, Transmission/Substation Operations personnel shall help Licensee personnel determine the precise location of the damage.
- With Licensee coordinator, jointly make the decision whether a permanent or temporary repair is needed considering that personnel safety and the integrity of the power transmission system take priority.
- Assist in determining the safest cable repair alternative.
- Insure appropriate equipment is at the restoration site.

- Obtain and hold transmission & distribution line clearances (as required).
- Get damaged cable into position for splicing to temporary cable.
- Make the restoration area safe for the general public.
- Install permanent fiber optic cable and associated hardware if temporary repair is not possible.
- Restore the restoration area from any damaged fiber or materials used during outage.
- Maintain and provide an accurate and up to date Transmission/Substation Operations escalation list to Licensee.
- Re-attach replacement cable in the same manner as the affected cable was attached, in accordance with the Agreement.
- Design permanent restoration fiber optic cable installation
- Provide invoice to Licensee

### **Temporary Repairs:**

Licensee and Transmission/Substation Operations will jointly make the decision whether a temporary or permanent restoration is needed giving consideration that personnel safety and the integrity of the Transmission system take priority.

In the case where emergency restoration is not possible due to line outage constraints or power system reliability issues, a temporary or a permanent repair shall be started immediately upon removal of constraints.

Licensee will be invoiced for these repairs.

### **Permanent Repairs:**

Permanent repairs shall be performed following temporary repairs and shall be completed within a mutually agreeable maintenance window.

In the case where temporary repairs cannot be performed due to traffic or railroad crossings, a permanent repair shall start immediately.

In the case where emergency restoration is not possible due to safety or line outage constraints or power system reliability issues, a temporary or a permanent repair shall be started immediately upon removal of constraints.

Licensee will be invoiced for these repairs.

### **FPL's Responsibilities for Scheduled Work**

FPL, shall be responsible for scheduled work related activities, which include but are not limited to, all routine, ordinary maintenance and repairs in order to maintain the quality and integrity of the fiber optic cable, attachments, enclosures, etc. throughout the OPGW network.

FPL shall perform the following work activities upon notice by Licensee:

- Design projects to repair any defective or damaged fiber optic cable, fiber optic attachments, conduits, hand holes, splice boxes, and all other related fiber optic cable equipment.

- Upon Licensee request, design and construct replacement facilities for existing OPGW attachments.
- Perform permanent fiber optic cable placement after emergency temporary Restoration.
- Assist in accessing or provide access information to remote transmission sites, e.g. transmission right-of-way., wetlands, etc.
- Provide amphibious vehicles, all-terrain vehicles and or boats to access the work sites for scheduled work on transmission facilities.

### **Licensee Access to FPL Substations**

Until Licensee has fully relocated the applicable portion of the System out of the FPL substations, FPL shall provide access to Licensee into all Transmission and Distribution substations or any other FPL Facility where Licensee has telecommunication facilities.

This access shall be subject to the terms and conditions of the Substation Access and License Agreement executed between FPL and Licensee.

### **Licensee Responsibilities**

Licensee shall provide the following, 24 hours per day, 7 days per week:

- Provide a point of contact for FPL to report trouble and unscheduled outages on FPL SCADA and Relay systems utilizing Licensee's optical fibers
- An emergency fiber optic restoration outage coordinator
- Coordination functions of emergency and non-emergency splicing, cable preparations, fiber enclosures, testing activities
- Communication between Licensee's users and any third party seeking network information.
- Maintain an adequate supply of spare OPGW and attachment hardware for repair of unscheduled outages.

Licensee shall assume responsibility for maintaining all network documentation. During emergency restorations, Licensee and Transmission/Substation Operations will jointly make the decision whether a temporary or permanent restoration is needed considering that personnel safety and the integrity of the power transmission system take priority.

Licensee will respond to all fiber optic outage notifications immediately and will confirm that an actual fiber break has occurred before contacting Transmission/Substation Operations.

Licensee shall locate the trouble area and communicate location of trouble to the Transmission/Substation Operations Duty Supervisor and the splicing restoration crew assigned to the area.

Licensee shall physically locate the troubled area with the assistance of the Transmission/Substation Operations crew when they arrive on site, and perform all optical fiber testing required to locate the problem. In the case where temporary splicing can be done, Licensee shall be responsible for coordinating splicing crews and splicing materials needed to restore the fiber.

## **Licensee Responsibilities for Unscheduled Outages**

- Assign an outage coordinator to communicate and manage all restoration activities.
- Notify the Area Transmission Duty Supervisor and splicing crew of the fiber break.
- Assign Licensee field representative to coordinate with Transmission crews.
- Communicate with Transmission/Substation Operation on the restoration type.
- Locate fiber optic damage.
- With the Transmission/Substation Operations Coordinator, jointly make the decision whether a permanent or temporary repair is needed considering that personnel safety and the integrity of the Power Transmission system take priority.
- Communicate with the FPL and affected customers on the restoration status.
- Determine the material required to make the chosen repair.
- Coordinate the timely delivery of material to job site.
- Coordinate splicing crews, testing and splicing materials.
- Insure that all replacement cable and splices meet the requirements of the specifications of Licensee prior to installation. All fibers in a cable that has been repaired shall be tested for compliance and the results documented.
- Activate Licensee fiber equipment/verify proper operation of light path.
- Protect the temporary fiber optic cable until final restoration complete.
- Document all as installed.
- Document the restoration effort.

## **Licensee Responsibilities for Scheduled Work**

Licensee shall coordinate and support the following activities related to Scheduled Work:

- Fiber optic cable reel testing.
- Non-emergency fiber optic reel storage and transferring.
- Coordinate the timely delivery of material to job site.
- Fiber optic cable prepping, enclosure setup and splicing.
- Fiber optic testing and acceptance.
- Insure that all replacement cable and splices meet the requirements of the specifications of Licensee prior to installation. All fibers in a cable that has been repaired shall be tested for compliance and the results documented.
- Update network documentation.
- Obtain fiber network outage windows for line/pole relocations.

## **Term of This Exhibit C**

This Exhibit C may be revised or replaced by some other mechanism at any time upon the written consent of both Licensee and FPL. This Exhibit shall be effective for an initial term of two (2) years commencing with the Effective Date and ending on midnight immediately preceding the two (2) year anniversary of the Effective Date. Following the (2) year anniversary, if not replaced, this Exhibit will continue to be in force until terminated. From this point, either party may terminate this Exhibit C for any or no cause with ninety (90) days' notice; however, some agreeable level of service guidelines must be put in place if the System remains in the FPL Supply Space.

**Exhibit D**

[TO BE UPDATED POST-EFFECTIVE DATE]

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**FIRST AMENDMENT TO REVISED AND RESTATED JOINT FIBER OPTICS PROJECT  
INTERLOCAL AGREEMENT**

This First Amendment to Revised and Restated Joint Fiber Optics Project Interlocal Agreement is entered into this \_\_\_ day of December, 2018, by and among the School Board of Indian River County, Florida (“School District”), Indian River County (“County”), and the City of Vero Beach (“City”). The School District, County and City are also referred to individually herein as a “Member” and collectively as “Members.”

WHEREAS, in 2015, the City, School Board and County entered into the Revised and Restated Joint Fiber Optics Project Interlocal Agreement, recorded in Book 2901, Page 1151 of the Public Records of Indian River County (“Consortium Agreement”); and

WHEREAS, the City is selling its electric utility to Florida Power and Light Company (“FPL”);

WHEREAS, as part of the sale, the Members are entering into the Linear Facilities Pole Attachment Agreement Between City of Vero Beach, Florida, Indian River County, Florida, School [Board District](#) of Indian River County, Florida, and Florida Power & Light Company (“Pole Attachment Agreement”); and

WHEREAS, the Members wish to clarify the responsibilities under the Pole Attachment Agreement;

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Members agree as follows:

Section 1. The above recitals are true and correct.

Section 2. Any pole attachment fees, costs of corrections or other charges owed to FPL as set forth in the Pole Attachment Agreement shall be paid by the Members who own the Wireline, as that term is defined in the Pole Attachment Agreement, that is attached to the FPL pole, pursuant to their percentage of fiber ownership, regardless of the percentage of Member usage of the fiber.

Section 3. All other terms of the Consortium Agreement shall remain in full force and effect.

SCHOOL ~~BOARD~~DISTRICT OF INDIAN RIVER COUNTY

SCHOOL BOARD OF INDIAN  
RIVER COUNTY, FLORIDA

By: \_\_\_\_\_  
Laura Zorc  
Chairman

Attest:

By: \_\_\_\_\_  
Superintendent

Dated this \_\_\_\_ day of December, 2018



INDIAN RIVER COUNTY

INDIAN RIVER COUNTY  
BOARD OF COUNTY COMMISSIONERS

ATTEST: Jeffrey R. Smith, Clerk of  
Court and Comptroller

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Bob Solari, Chairman

BCC approved: \_\_\_\_\_

Approved as to form and legal  
Sufficiency:

By: \_\_\_\_\_  
Dylan Reingold  
County Attorney

CITY OF VERO BEACH

ATTEST:

City of Vero Beach

\_\_\_\_\_  
Tammy K. Bursick  
City Clerk

\_\_\_\_\_  
Harry Howle III  
Mayor

Dated this \_\_\_\_\_ day of December, 2018

Approved as to form and  
legal sufficiency:

Approved as conforming to  
municipal policy:

\_\_\_\_\_  
Wayne R. Coment  
City Attorney

\_\_\_\_\_  
James R. O'Connor  
City Manager

Approved as to technical requirements:

\_\_\_\_\_  
Ted Fletcher  
Electric T & D Director

## OWNER/ CONTRACTOR CONSTRUCTION AGREEMENT (LUMP SUM)

THIS AGREEMENT is dated and will be effective on the **11th day of December, 2018**, by and between the School Board of Indian River County, an entity existing under the laws of the state of Florida, (hereinafter called OWNER) and **Kerns Construction & Property Management Corp.** (hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

### ARTICLE 1 - WORK

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

#### **SINGLE POINT OF ENTRY – SEBASTIAN ELEMENTARY** **For The School Board of Indian River County Project No.** **SDIRC # 03-0-2019JC**

Single Point of Entry on the Sebastian Elementary School campus (Located at 400 Sebastian Boulevard in Sebastian, Florida). The Work shall consist of creating a new single point of entry into the administration offices at Sebastian Elementary, as well as all other required work as detailed in the plans and specifications, schedule of values of the Contractor as approved in writing by the ARCHITECT, together with this Contract and the General Conditions of Contract 1997 AIA General Conditions 201 and by this reference incorporated herein, (collectively referred to as "Contract Documents").

### ARTICLE 2 – ARCHITECT

The Project has been designed by **Song & Associates, Inc.**, who is hereinafter called Architect and who is to act as OWNER's representative. The Architect shall assume all duties and responsibilities and have the rights and authority to act as the Architect as specified in the Contract Documents in connection with completion of the Work and in accordance with the Contract Documents. The Owner may, without liability to the Contractor, unilaterally amend this Article from time to time by designating a different person or organization to act as its Architect and so advising the Contractor in writing, at which time the person or organization so designated shall be the Architect for purposes of this Contract.

### ARTICLE 3 - CONTRACT TIME

- 3.1 Work shall be substantially completed within 134 calendar days (or by **April 30, 2019**) from the date the Notice to Proceed is issued by Owner.

The work shall be ready for Final Completion within 31 calendar days (or by May 31, 2019) from the date of Substantial Completion.

- 3.2 LIQUIDATED DAMAGES. Time is of the essence in the performance of the Work. The Owner and Contractor agree that the losses suffered by Owner if Substantial Completion of the Work is not achieved, are not ascertainable at this time. Contractor acknowledges and agrees that, since time is of the essence, the Owner will suffer financial and other losses if Substantial Completion of the Work is not achieved within the Contract Time, as the Contract Time may be adjusted pursuant to the terms of the Contract Documents. Should the Contractor fail to achieve Substantial Completion of the Work within the Contract Time, Owner shall be entitled to assess, as liquidated damages but not as a penalty, the sum of \$500.00 for each calendar day thereafter until Substantial Completion is achieved and \$250.00 for each calendar day thereafter until Final Completion is achieved. Should the Contractor achieve Substantial Completion of the Work within the Contract Time but fail to achieve Final Completion of the Work within the Contract Time, Owner shall be entitled to assess, as liquidated damages but not as a penalty, the sum of \$250.00 for each calendar day thereafter until Final Completion of the Work is achieved. Contractor hereby expressly waives and relinquishes any right which it may have to seek to characterize the above noted liquidated damages as a penalty, which the parties agree represents a fair and reasonable estimate of the Owner's actual damages at the time of contracting if Contractor fails to achieve Substantial Completion or Final Completion of the Work within the Contract Time. Further, the parties acknowledge that it would be extremely difficult, if not impossible, to ascertain Owner's actual damages with any degree of certainty in the event Contractor fails to achieve either Substantial Completion or Final Completion of the Work within the Contract Time. Owner has paid to Contractor out of the first payment hereunder, the consideration of \$10.00 as consideration for this provision.
- 3.3 No extension of time shall be granted for delays resulting from normal weather conditions prevailing in the area as defined by the average of the last five (5) years of weather recorded by the Architect and in accordance with the Contract Documents. The time during which the Contractor is delayed in the performance of the Work by acts or omission of the Owner or Architect or any other unforeseeable conditions or events that could not have reasonably been predicted shall be added to the time for completion of the Work. A change in Contract Time may only be authorized by a written Change Order.
- 3.4 The date of commencement of the Work is the date established in a Notice to Proceed. If there is no Notice to Proceed, it shall be the date of the Owner-Contractor Agreement or such other date as may be established



therein. The Contractor shall not mobilize, commence Work or store materials or equipment on site until: (1) written Notice to Proceed is issued or until the Contractor otherwise receives the Owner's written consent and; (2) all bonds and Certificates of Insurance have been executed, delivered to and accepted by the Owner and; (3) Contractor has delivered to Owner his as-planned schedule, original job cost estimate, list of Subcontractors and corporate resolution designating his representative.

- 3.5 The Date of Substantial Completion of the Work is the Date certified by the Architect and the Owner when the Work is sufficiently complete, in accordance with the Contract Documents, so the Owner can fully occupy and utilize the Work for the use for which it is intended, with all of the Project's parts and systems operable as required by the Contract Documents. Only incidental corrective work and any final cleaning beyond that needed for the Owner's full use may remain for final completion.
- 3.6 The date of Final Completion of the Work is the date certified by the Owner and Architect when the Work is totally complete, to include all items listed on the inspection report following substantial completion inspection, in accordance with the Contract Documents and the Owner may fully occupy and utilize all of the Work for the use for which it is intended.

#### **ARTICLE 4 - CONTRACT PRICE**

- 4.1 OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents, subject to adjustment as provided therein, in current funds as follows:

The Contractor's price(s) in the Bid Form is in the amount of \$179,000.00. The Owner will include a \$20,000.00 contingency, for a total contract amount of \$199,000.00. Any contingency remaining at the closeout or completion of the project will be retained by the Owner.

#### **ARTICLE 5 - PAYMENT PROCEDURES**

CONTRACTOR shall submit Applications for Payment in accordance with the Contract Documents, AIA Form G702. Applications for Payment will be approved by Architect, then forwarded to the Owner for payment as provided in the Contract Documents.

- 5.1. PROGRESS PAYMENTS. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR'S Applications for Payment as recommended by Architect. All progress payments will be on the basis of the progress of the Work measured by the schedule of values established in the Contract Documents.

The OWNER agrees to make payments within 25 business days providing the CONTRACTOR processes the invoice and delivers same to the Facilities Division Bookkeeping Department as the single agent/point of contact, by the 20<sup>th</sup> of the preceding month. The OWNER will not withhold payment without proper and adequate justification.

### **General Requirements**

5.1.1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as Architect shall determine, or OWNER may withhold, in accordance with the Contract Documents.

90% of Work completed.

0% of materials and equipment not incorporated in the Work.

5.1.2. Upon Substantial Completion payment may be made in an amount sufficient to increase total payments to CONTRACTOR to 95% of the Contract Price, less such amounts, as Architect shall determine, or OWNER may withhold, in accordance with the Contract Documents.

5.1.3. When the Architect determines that the Work or designated portion thereof as defined in the Contract Documents is substantially complete, the Architect shall issue a Certification of Substantial Completion which establishes: the date of substantial completion; the "Substantial Completion Punch List", which establishes a single list providing feedback to the Contractor on non-conforming work, or work requiring further quality adjustments and must be developed within 30 calendar days of the date of substantial completion and delivered to Contractor within 5 calendar days thereafter; the date the Contractor will have completed all items on the Substantial Completion Punch List, and such other items as the Architect and Owner deem appropriate. The Certificate of Substantial Completion shall be executed by the Architect, Contractor and Owner. The Contractor will promptly engage in completing the Substantial Completion Punch List within 10 days of its issuance.

5.2. FINAL PAYMENT. Final payment of the Contract Sum will be made after the Architect certifies that the Work is complete, Owner's representatives complete their final acceptance report, the School District's Building Official completes the final inspection and a "certificate of occupancy" is issued. . Final Payment to the contractor requires School Board approval in

accordance with Florida Statute 1013.50. It is understood and agreed, that final payment will not be withheld if a certificate of final inspection is issued by the Owner's Uniform Building Code Inspector, or if any other government agency refuses to give final acceptance for any reason other than the failure of the Contractor to complete the Work in accordance with the Contract Documents. Further, neither final payment nor any remaining Retainage shall be paid to the Contractor until the Architect has received an affidavit in a form sufficient to the Owner that all indebtedness in connection with the performance of the Work for which the Owner or the Owner's property may be held liable or encumbered, have been fully paid or otherwise satisfied; a certification in a form acceptable to the Owner which establishes that all required insurance will remain in full force and effect after final payment and will not be cancelled or allowed to expire until at least 30 days prior written notice has been provided to the Owner; consent of the surety to final payment; and any other certifications reasonably required by the Owner establishing full payment or satisfaction of any obligations. In the event the Contractor fails to furnish such certifications as the Owner reasonably requires to satisfy the Owner that there are no outstanding liens, the Owner may require the Contractor as a condition of final payment and at the Contractor's expense, to furnish a bond in a form and amount satisfactory to the Owner to indemnify the Owner against such liens or claims. The one year warranty period for the work will begin upon Final Completion. Warranty will be for all workmanship, material, and equipment except for Owner insured damages.

- 5.3 CHANGE ORDERS. No change in the Contract Sum or Time may be made except by a duly authorized and executed written Change Order. If the Change in or addition to the Work will result in an increase in the Contract Sum, the Owner shall have the right to require the performance thereof on a lump sum basis, a unit price basis or a time and material basis, all as hereinafter more particularly described (the right of the Owner as aforesaid shall apply with respect to each such Change in the Work). Any such Change Order shall be substantiated by complete itemized statements showing quantities and unit prices for material, labor (including all applicable fringe benefits), equipment, markup for overhead and profit, and other items of cost. Costs of labor (including all applicable fringe benefits) and materials shall be actual costs to the subcontractor. All duly authorized and executed Change Orders shall become a part of the Contract Documents as described in Article 8.



## **ARTICLE 6 – OWNERS PROJECT REPRESENTATIVE**

- 6.1 The Owner's Project Representative who shall act as OWNER'S PROJECT MANAGER is Richard Huff who is a School District employee. The Owner's Project Manager has the authority to approve matters contemplated in this Agreement where the monetary impact is within the Owner approved Contingency.

## **ARTICLE 7 - CONTRACTOR'S REPRESENTATIONS**

In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

- 7.1 CONTRACTOR has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions, laws, rules, regulations, codes, ordinances that in any manner may affect cost, progress, performance, or furnishing of the Work. Contractor fully understands the intent and purpose of the project and agrees to maximize Owner's fulfillment and needs.
- 7.2. CONTRACTOR IS AT RISK. Contractor has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground and Concealed Facilities internal or contiguous to the site and assumes responsibility for the accurate location of said Facilities. No additional examinations, investigations, explorations, tests, reports, studies or similar information or data in respect of said facilities are or will be required of OWNER by CONTRACTOR in order to perform and furnish the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents. Only at Owner's discretion will Owner expend funds or resources to the project in the repair, preservation, or reuse of these existing facilities that are outside of the project scope or included in the Contract Documents.
- 7.3. CONTRACTOR has given ARCHITECT written notice of all conflicts, errors or discrepancies that it has discovered in the Contract Documents and the written resolution thereof by ARCHITECT is acceptable to CONTRACTOR.

## **ARTICLE 8 - CONTRACT DOCUMENTS**

The Contract Documents, which comprise the entire Agreement between OWNER and CONTRACTOR concerning the Work, consist of the following:

- 8.1 This Agreement consisting of 36 pages.



- 8.2 Performance Bond and Payment Bond in accordance with F.S. 255.01 et. seq. consisting of N/A pages (plus Power of Attorney Forms as applicable).
- 8.3 Notice of Award
- 8.4 General Conditions consisting of (Itemization Attached)
- 8.5 Supplementary Conditions consisting of N/A
- 8.6 Drawings to be prepared and provided by **Song + Associates, Inc.**
- 8.7 Specifications to be prepared and provided by **Song + Associates, Inc.**
- 8.8 Addenda numbers 1 to 1, inclusive.
- 8.9 CONTRACTOR'S Bid.
- 8.10 The following which may be delivered or issued after the Effective Date of the Agreement are not attached hereto, which shall be all Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to the Contract Documents.
- 8.11 The documents listed under Article 8 above are attached to this Agreement (except as expressly noted otherwise above).
- 8.12 Anything shown on the drawings and not mentioned in the specifications or mentioned in the specifications and not shown on the drawings shall have the same effect as if shown or mentioned respectively in both. Technical specifications take priority over general specifications and detail drawings take precedence over general drawings. Any work shown on one drawing shall be construed to be shown in all drawings and the Contractor will coordinate the work and the drawings. If any portion of the Contract Documents shall be in conflict with any other portion, the various documents comprising the Contract Documents shall govern in the following order of precedence: The Owner- Contractor Agreement; Modifications; Addenda; any Supplementary Conditions; the General Conditions; the Specifications; the Drawings; as between schedules and information given on Drawings, the schedules shall govern; as between figures given on Drawings and the scaled measurements, the figures shall govern; as between large-scale Drawings and small scale Drawings, the larger scale shall govern. Any such conflict or inconsistency between or in the drawings shall be submitted to the Design Consultant whose decision thereon shall be final and conclusive.
- 8.13 The provisions of this Contract cannot be amended, modified, varied or waived by the Owner or its agents or representatives in any respect except by a Modification approved and executed by the School Board of Indian

River County. The Contractor is hereby given notice that no person or entity has authority to orally waive, or to release the Contractor from any of the Contractor's duties or to alter obligations under or arising out of this Contract. Any waiver, approval or consent granted by Modification to the Contractor shall be limited to those matters specifically and expressly stated thereby to be waived, approved or consented to and shall not relieve the Contractor of the obligation to obtain any future waiver, approval or consent.

This Agreement and the Construction Documents incorporated herein by reference constitute the entire Agreement between the parties with respect to the matters covered by this Agreement. All prior negotiations, representations and agreements not incorporated in this Agreement are cancelled. This Agreement can be modified or amended only by a written document duly executed by the parties or their duly appointed representative.

## **ARTICLE 9 – ARCHITECT**

- 9.1 Should errors, omissions, or conflicts in the Drawings, Specifications, or other Contract Documents prepared by the Architect be discovered, the Architect will prepare such amendments or supplementary documents and provide consultation as may be required.
- 9.2 The Architect will visit the site at intervals appropriate to the stage of construction to familiarize itself generally with the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. On the basis of such on-site observations, the Architect and his consulting engineers shall endeavor to guard the Owner against defects and deficiencies in the Work of the Contractor. Contractor shall not be relieved from any of the obligations of the Contract Documents as a result of the Architect's failure to detect any defective or deficient Work of the Contractor or others working by, through or under the Contractor.
- 9.3 The Architect shall at all times have access to the work wherever it is in preparation or progress. The Contractor shall provide safe facilities for such access so the Architect may perform his functions under the Contract Documents.
- 9.4 All interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents. The Architect's decisions in matters relating to artistic effect will be final if consistent with the intent of the Contract Documents.

- 9.5 The Architect has the authority to condemn or reject work on behalf of the Owner when, in its opinion, the work does not conform to the requirements of the Contract Documents. Whenever, in the Architect's reasonable opinion, it is considered necessary or advisable for the implementation of the intent of the Contract Documents, the Architect will have the authority to require special inspection or testing of the work in accordance with the provisions of the Contract Documents whether or not such work be then fabricated, installed or completed.
- 9.6 The Architect will conduct inspections to determine the dates of Substantial Completion and Final Completion, and will issue a final Certificate for Payment. The Architect shall be solely responsible for issuance of Certificates of Substantial and Final Completion.

#### **ARTICLE 10 – MISCELLANEOUS**

- 10.1 Terms used in this Agreement, which are defined in Article 1 of the General Conditions, will have the meanings indicated in the General Conditions.
- 10.2 If the Contract Documents, laws, rules, regulations or orders of any State or Federal authority having jurisdiction require any portion of the Work to be inspected, tested, or approved, the Contractor shall give the Owner and Architect timely notice of its readiness so they may observe such inspection, testing or approval. The Contractor shall bear all costs of such inspections, tests or approvals conducted by public authorities. Unless otherwise provided, the Owner shall bear all costs of other inspections, tests or approvals. The Contractor shall pay for all utilities required for testing of installed equipment of all of his work and the work of each Subcontractor.
- 10.3 Contractor shall include all subcontractors as insureds under its policies or shall be responsible for verifying and maintaining the Certificates provided by each subcontractor. Subcontractors shall be subject to all of the requirements stated herein. The Owner reserves the right to request copies of subcontractor's Certificates at any time. If Contractor does not verify subcontractors' insurance as described above, Owner has the right to withhold payments to the Contractor until the requirements have been met.
- 10.3.1 The Contractor shall deliver the required bonds and proofs of insurance to the Owner prior to the commencement of any Work, and in no event any later than 10 days after the execution of this Agreement.
- 10.3.2 The Contractor shall, throughout the performance of its services under this Agreement and throughout the term of this Agreement maintain and provide to the Owner the insurance coverages listed in



this Article. The insurance policies shall be issued and underwritten by a licensed insurer, licensed as such in the State of Florida. The Contractor shall provide insurance that may not be reduced, terminated, or cancelled unless 30 days prior written notice thereof is furnished to the Owner. Certificates of insurance and copies of all policies (if required by the Owner) shall be furnished to the Owner within 10 days after the execution of this Agreement. In the event of any cancellation or reduction in insurance coverage, the Contractor shall obtain substitute coverage, without any lapse of coverage whatsoever. The insurance policies shall name the Owner, the Owner's representatives, and the officers, directors, agents, employees and assigns of the Owner as additional insured (except for the professional liability and worker's compensation insurance).

10.3.3 The Owner may, in its sole discretion, procure and pay for the required Builders Risk insurance for the Project. In the event Owner elects to procure and pay for the Builders Risk insurance for the Project, the Contractor shall cooperate with Owner and provide any requested information for the procurement of the Builders Risk insurance.

10.3.4 The insurance required from the Contractor in this Article shall include all major divisions of coverage, and shall be on a commercial general basis including premises and operations (including X-C-U), Independent Contractor Hired Products and Completed Operations, and Owned, Non-owned, and Hired Motor Vehicles. Such insurance shall be written for not less than any limits of liability required by law or others set forth in the Contract Documents, whichever is greater. All insurance shall be written on an occurrence basis, unless the Owner approves in writing coverage on a claims-made basis. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the work until date of final payment and termination of any coverage required to be maintained after final payment.

10.3.5 The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending limits of coverage.

10.3.6 Liability insurance shall include all major divisions of coverage and be on a comprehensive basis including:

1. Premises Operation (including X-C-U as applicable)
2. Independent Contractor's Hired
3. Products and Completed Operations

4. Personal Injury Liability
5. Contractor liability including the provision for Contractor's obligation of indemnification and hold harmless
6. Owned, non-owned and hired motor vehicles
7. Broad Form Property Damage including Completed Operations

10.3.7 The insurance required by this Article shall be written for not less than the following, or greater if required by law.

1. Workers' Compensation:
  - (a) State: As required by Chapter 440, Florida Statutes
  - (b) Applicable Federal (e.g. Longshoremen's Statutory)
  - (c) Employer's Liability: \$500,000.00
2. Commercial General Liability (including Premises Operations; Independent Contractor Hired; Products and Completed Operations; Broad Form Property Damage):
  - (a) Bodily Injury:  
\$1,000,000.00 per incident or occurrence; with an annual general aggregate per policy of not less than \$2,000,000
  - (b) Property Damage:  
\$1,000,000.00 per incident or occurrence; with an annual general aggregate per policy of not less than \$2,000,000.
  - (c) Products and Completed Operations to be maintained for one year after final payment
  - (d) Property Damage Liability Insurance shall provide S, C or U Coverage as applicable
3. Contractual Liability:
  - (a) Bodily Injury:  
\$1,000,000.00 per incident or occurrence; with an annual general aggregate per policy of not less than \$2,000,000.
  - (b) Property Damage:  
\$1,000,000.00 per incident or occurrence; with an annual general aggregate per policy of not less than \$2,000,000.

4. Personal Injury, \$1,000,000.00 per claimant; with an annual general aggregate per policy of not less than \$2,000,000
  
5. Commercial Automobile Liability: The State of Florida has no-fault automobile insurance requirements. The Contractor shall be certain coverage is provided which conforms to any specific stipulation in the law.
  - (a) \$1,000,000.00 per incident or occurrence combined single limit for bodily injury and property damage; with an annual general aggregate per policy of not less than \$2,000,000.

10.3.8 The Contractor shall procure property insurance for any portion of the Work stored off Site or in transit, and the cost for such shall be borne by the Contractor.

10.3.9 Boiler and Machinery Insurance. The Contractor shall purchase and maintain boiler and machinery insurance if applicable to the Contract Documents. This insurance shall remain in full force and effect until final acceptance of the insured items by the Owner.

10.4.0 Performance and Payment Bonds. The Contractor shall furnish bonds covering the faithful performance of the Agreement and payment of any and all obligations arising under the Agreement as required by Florida law. Upon request, the Contractor shall furnish a copy to any person or entity requesting a copy. Such bonds shall be in conformance and compliance with sec. 255.05, Florida Statutes, and shall contain the information and provisions set forth in the referenced section. Pursuant to sec. 255.05, the Contractor shall record the performance and payment bonds in the public records of Indian River County, Florida. The Contractor shall provide the recorded copy of the bonds to the Owner.

10.4.1 Insurance as Additional Remedy. Compliance with the insurance requirements of this Agreement shall not limit the liability of the Contractor, its subcontractors, sub-subcontractors, material suppliers, employees, or agents to the Owner or others. Any remedy provided to the Owner, or the Owner's officers, employees, agents or assigns, by the insurance shall be in addition to and not in lieu of any other remedy available under the Agreement or otherwise.

10.4.2 No Waiver by Approval/Disapproval. Neither approval by the Owner nor failure to disapprove the insurance furnished by the Contractor shall



relieve the Contractor of its full responsibility to provide the insurance as required by this Agreement.

## **ARTICLE 11 – TERMINATION OF THE CONTRACT**

- 11.1 The Owner may, at any time upon ten (10) days' written notice to the Contractor, which notice shall specify that portion of the Work to be terminated and the date said termination is to take effect, terminate (without prejudice to any right or remedy of the Owner) the whole or any portion of the work for the convenience of the Owner. The Contractor's sole remedy, in the event of such termination, will be the allowable termination costs permitted by Article 11.3. Contractor shall include termination clauses identical to Article 11 in each of his Subcontracts.
- 11.2 The Owner may, upon ten (10) days' written notice to the Contractor and to the Contractor's surety, terminate (without prejudice to any right or remedy of the Owner or any subsequent buyer of any portion of the Work) the employment of the Contractor and his right to proceed either as to the whole or any portion of the Work required by the Contract Documents and may take possession of the Work and complete the Work by Contract or otherwise in any one of the following circumstances:
- 11.2.1 if the Contractor refuses or fails to prosecute the work or any separable part thereof with such diligence as will ensure the Substantial or Final Completion of the Work within the Contract Time or fails to complete the Work within said periods;
  - 11.2.2 if the Contractor is in material default in carrying out any provisions of the Contract;
  - 11.2.3 if the Contractor fails to supply a sufficient number of properly qualified and skilled workers or proper equipment or materials;
  - 11.2.4 if the Contractor fails to make prompt payment to Subcontractors or materialmen or for materials or labor;
  - 11.2.5 if the Contractor disregards laws, permits, ordinances, rules, the Lunsford Requirements, regulations or orders of any public authority having jurisdiction, or fails to follow the instructions of the Owner;
  - 11.2.6 if the Contractor violates any provisions of the Contract Documents;  
or

- 11.2.7 if the Contractor refuses or fails to properly schedule, plan, coordinate and execute the Work, as specified herein, so as to perform the Work within the specified Milestone and Completion dates, or to provide scheduling or related information, revisions and updates as required by the Contract Documents.
- 11.3 If the Owner terminates the whole or any portion of the Work pursuant to ARTICLE 11, then the Owner shall only be liable to the Contractor for those reasonable costs reimbursable to the Contractor as calculated by Owner in Owner's sole discretion, provided however, that if there is evidence that the Contractor would have sustained a loss on the entire Contract had it been completed an appropriate adjustment shall be made reducing the amount of the allowable termination payment to reflect the indicated amount of loss. Contractor shall submit any claim of reimbursable cost, as stated in this paragraph, within 10 days of receipt of Notice of Termination or such claims are waived, released and forever barred. Reasonable costs owed to the Contractor by the Owner may include supplies, services, or property accepted by the Owner. In arriving at any amount due the Contractor, there shall be deducted any claim the Owner may have against the Contractor, amounts determined to be necessary to protect the Owner against loss because of outstanding or potential liens or claims, and the price for any materials, supplies, or other things acquired by the Contractor and not otherwise recovered by or credited to the Owner. The total sum to be paid to the Contractor shall not exceed the Contract Sum as reduced by the amount of payments otherwise made or to be made for Work not terminated and as otherwise permitted by the Contract.
- 11.4 After receipt of a notice of termination from the Owner, the Contractor shall:
- 11.4.1 stop Work under the Contract on the date and to the extent specified in the notice of termination;
  - 11.4.2 place no further order or subcontracts for materials, services or facilities, except as may be necessary for completion of such portion of the work under the Contract as is not terminated;
  - 11.4.3 terminate all purchase orders and subcontracts to the extent that they relate to the performance of Work terminated by the notice of termination;
  - 11.4.4 at the option of the Owner, assign to the Owner in the manner, at the times and to the extent directed by the Owner, all of the rights in the subcontracts so terminated, in which case the Owner shall have the right, at his discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;



- 11.4.5 settle all outstanding liabilities and all claims arising out of such termination or orders and subcontracts;
  - 11.4.6 complete performance of such part of the Work as shall not have been terminated by the notice of termination; and
  - 11.4.7 take such action as may be necessary for the protection and preservation of the property related to the Contract which is in the possession of the Contractor and in which the Owner has or may acquire an interest.
- 11.5 In the event the provisions of this Agreement are determined by a Court of competent jurisdiction to be illegal or unenforceable, then such unenforceable or unlawful provision shall be excised from this Agreement, and the remainder of this Agreement shall continue in full force and effect. Notwithstanding the foregoing, if the result of the deletion of such provision will materially and adversely affect the rights of a party, such party may elect, at its option, to terminate this Agreement in its entirety.

## **ARTICLE 12 – CONTRACTOR**

- 12.1 The Contractor shall carefully study and compare the Contract Documents and shall at once report to the Owner and Architect any error, inconsistency or omission he may discover in the Contract Documents, including any requirement which may be contrary to any law, ordinance, rule, regulation or order of any public authority bearing on the performance of the Work. If the Contractor has reported in writing an error, inconsistency or omission, has promptly stopped the affected work until otherwise instructed, and has otherwise followed the instructions of the Owner, the Contractor shall not be liable to the Owner for any damage resulting from any such errors, inconsistencies or omissions in the Contract Documents. The Contractor shall perform no portion of the Work at any time without first possessing approved Shop Drawings, Product Data or Samples for such portion of the Work.
- 12.2 The Contractor and his Subcontractors shall keep at the site of the Work at least one copy of the approved drawings and specifications and shall at all times give the Owner, the Architect, inspectors, as well as other representatives of the Owner access thereto.
- 12.3 The Contractor shall supervise, coordinate and direct the Work, using his best skill and attention. He shall be solely responsible for and have control over all construction means, methods, techniques, sequences and procedures of construction and for coordinating all portions of the Work under the Contract.

- 12.4 It shall be the responsibility of the Contractor to coordinate the work, to maintain a progress schedule, and to notify the Owner and the Architect of any changes in the approved progress schedule.
- 12.5 The Contractor shall be responsible to the Owner for the acts and omissions of his employees, Subcontractors and sub-Subcontractors, suppliers, their agents and employees, and other persons performing any of the Work and for their compliance with each and every requirement of the Contract Documents, in the same manner as if they were directly employed by the Contractor.
- 12.6 The Contractor understands and agrees that the Owner and Architect will not be responsible for and will not have control or charge of construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, and they will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. The Owner, and Architect will not be responsible for or have control or charge over the acts or omissions of the Contractor, Subcontractors, or any of their agents or employees, or any other persons performing any of the Work.
- 12.7 The Contractor shall employ no plant, equipment, materials, methods or persons to which the Owner and Architect have a reasonable objection.
- 12.8 Background Check. The Contractor agrees to comply with all requirements of sections 1012.32 and 1012.465, Florida Statutes, and, except as provided in sections 1012.467 or 1012.468 and consistent with District policy, all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, shall successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes and the School Board. This background screening will be conducted by the School Board in advance of the Contractor or its personnel or subcontractors providing any services under the conditions described in the previous sentence. The Contractor shall bear the cost of acquiring the background screening required by section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to the Contractor and its personnel. The parties agree that the failure of the Contractor to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling the School Board to terminate immediately with no further responsibilities or duties to perform under this Agreement. The Contractor agrees to indemnify and hold harmless the School Board, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting



from Contractor's failure to comply with requirements of this section or with sections 1012.32 and 1012.465, Florida Statutes.

- 12.9 The Contractor warrants to the Owner and the Architect that all materials and equipment furnished under this Contract will be new, unless otherwise specified, and that all workmanship will be of the best, first class quality, free from faults and defects and in conformance with the Contract Documents and all other warranties and guaranties specified therein. Where no standard is specified for such workmanship or materials, they shall be the best of their respective kinds. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the Owner or Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials, workmanship and equipment. The warranties set forth in this paragraph and elsewhere in the Contract Documents shall survive Final Completion of the Work.
- 12.10 If, within one year after the Date of Final Completion of the Work or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be defective, not in accordance with the Contract Documents, or not in accordance with the guarantees and warranties specified in the Contract Documents, the Contractor or its Surety shall correct it within five (5) working days or such other period as mutually agreed, after receipt of a written notice from the Owner to do so. The Owner shall give such notice with reasonable promptness after discovery of the condition.
- 12.11 If at any time latent deficiencies in the Work are discovered, the Contractor will be liable for replacement or correction of such Work and any damages which Owner has incurred related thereto, regardless of the time limit of any guarantee or warranty, up to the time limit of the applicable statute of repose.
- 12.12 If the Contractor fails to correct defective or nonconforming Work as required, or if the Contractor fails to remove defective or nonconforming Work from the site, as required, the Owner may elect to either correct such Work or remove and store materials and equipment at the expense of the Contractor. If the Contractor does not pay the cost of such removal and storage within ten (10) days thereafter, the Owner may upon ten (10) additional days' written notice sell such Work at auction or at private sale and shall account for the net proceeds thereof, after deducting all the costs that should have been borne by the Contractor, including compensation for the Architect's additional services made necessary thereby. If such proceeds of sale do not cover all costs which the Contractor should have borne, the difference shall be charged to the Contractor and an appropriate

Change Order shall be issued. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

- 12.13 The Contractor shall prepare and submit to the Owner for the Owner's review and approval an as-planned progress schedule for the Work. The Contractor shall furnish such manpower, materials, facilities and equipment and shall work such hours, including night shifts, overtime operations and Sundays and holidays, as may be necessary to ensure the performance of the Work within the Milestone and Completion dates specified. If it becomes apparent to the Owner or Architect that the Work will not be completed within required Milestone or Completion dates, the Contractor agrees to undertake some or all of the following actions, at no additional cost to the Owner, in order to ensure that the Contractor will comply with all Milestone and Completion date requirements:
- 12.13.1 increase manpower, materials, crafts, equipment and facilities to accelerate performance of the Work;
  - 12.13.2 increase the number of working hours per shift, shifts per working day, working days per week, or any combination of the foregoing; and
  - 12.13.3 reschedule activities to achieve maximum practical concurrence of accomplishment of activities.
- 12.14 In undertaking the actions required under paragraph 12.13, Contractor shall prepare a Recovery Schedule and comply with the requirements thereof. If the schedule recovery actions taken by the contractor are not satisfactory, the Owner or Architect may direct the Contractor to take any and all actions necessary to ensure completion within the required Milestone and Completion dates (which shall be at Contractor's sole expense), without additional cost to the Owner. In such event, the Contractor shall continue to assume responsibility for his performance and for completion within the required dates.
- 12.15 The Contractor shall be responsible for taking all steps necessary to ascertain the nature and location of the Work and the general and local conditions which can affect the Work or the cost thereof. Failure by the Contractor to fully acquaint himself with conditions which may affect the Work, including, but not limited to conditions relating to access, transportation, handling, storage of materials, availability of labor, water, roads, weather, topographic and subsurface conditions, Separate Prime Contractor conditions and schedules, applicable provisions of law, and the character and availability of equipment and facilities needed prior to and during the execution of the Work, shall not relieve the Contractor of his



responsibilities under the Contract Documents and shall not constitute a basis for an adjustment in the Contract Sum or the Contract Time under any circumstances. The Owner assumes no responsibility for any understanding or representation about conditions affecting the Work made by any of its officers, employees, representatives, or agents prior to the execution of the Contract, unless such understandings or representations are expressly stated in the Contract Documents.

### **ARTICLE 13 - INDEMNIFICATION**

- 13.1 The parties agree that 1% of the total compensation paid to the CONTRACTOR for performance of this Agreement shall represent the specific consideration for the CONTRACTOR'S indemnification of the OWNER as is set forth in the General Conditions and Contract Document.
- 13.2 It is the specific intent of the parties hereto that the indemnification below complies with Florida Statute 725.06 (Chapter 725). It is further the specific intent and agreement of the parties that all of the Contract Documents on this Project are hereby amended to include the foregoing indemnification and the "Specific Consideration" therefore.
- 13.3 CONTRACTOR shall indemnify and hold harmless the OWNER, their officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the CONTRACTOR and persons employed or utilized by the CONTRACTOR in the performance of this construction contract. Regardless of the foregoing the indemnification herein shall be the greater of the CONTRACTORS insurance coverage for such claim or One million dollars, whichever is greater.
- 13.4 The Owner shall be liable only to the extent of its interest in the Project, and no officer, director, partner, agent or employee of the Owner shall ever be personally or individually liable with respect to this Agreement or the Work. Any subcontract entered into by the Contractor shall include the foregoing limitation, which shall be effective in the event the Owner ever succeeds to the Contractor's rights and obligations under a subcontract.

### **ARTICLE 14 – OWNER DIRECT PURCHASE PROGRAM**

- 14.1 The Owner shall appoint the Contractor as the Owner's authorized representative with respect to any matter arising out of the purchase orders

under this program. The Contractor will cooperate fully with the Owner with respect to the implementation of a tax exempt direct material/equipment purchase program involving the direct purchase of various construction materials, supplies and equipment that is currently part of this Contract. The Owner shall obtain, with the assistance of the Contractor, the proper authorization from the State of Florida in the form of a Technical Assistance Advisement (TAA).

The Owner Direct Purchase Program is attached hereto as **Exhibit "A,"** controls the Direct Purchase Program for the Project. The Direct Purchase Program will be operated in accordance with the following provisions:

- 14.1.(a) The Owner will issue its own purchase orders directly to the third party vendor or supplier of material and equipment purchased under the Direct Purchase Program. The purchase order will be accompanied by the Owner's Exemption Certificate which includes its name, address, and the exemption number with issuance and expiration date.
- 14.1.(b) All material and equipment purchased under the Direct Purchase Program is sold directly to the Owner and is directly invoiced by the vendor or supplier.
- 14.1.(c) The Owner takes title and possession of all materials and equipment purchased under the Direct Purchase Program from the vendor or seller before they are incorporated into the Project.
- 14.1.(d) The Owner assumes all risk of loss on all material and equipment purchased under the Direct Purchase Program. The Contractor cannot be held liable for damage or loss to the material or equipment.
- 14.1.(e) The Owner is responsible for and pays the premiums on all insurance and/or bonding on materials or equipment purchased under the Direct Purchase Program. The Contractor does not share any economic benefits of proceeds from bond or insurance covering risk of damage or loss of the material or equipment.
- 14.1.(f) The Owner makes direct payment to the third party vendor or seller for all purchases from its own funds or accounts for all purchases under the Direct Purchase Program.
- 14.2 The Owner agrees to process its purchase orders so that the progress of construction is not jeopardized. Should the Owner fail to process the purchase orders within a time frame so as not to delay the construction, the Contractor shall, at its sole discretion, void the Owner purchase order and



purchase the item direct thereby waiving any rights the Owner may have for a direct purchase tax savings. Should the items included in the purchase order represent any materials, supplies or equipment that is part of a subcontractor's scope of Work, any terms and conditions that the subcontractor deems to be warranted to protect their interest, shall also be included and/or substituted. Vendors and suppliers must be approved by the Owner prior to the processing of purchase orders.

- 14.3 The items being purchased shall be purchased from the vendors and suppliers selected by the Contractor and/or the subcontractor for prices negotiated by the Contractor and/or subcontractor.
- 14.4 The Contractor is responsible for establishing an accounting system that will adequately track and monitor the direct purchases made by the Owner. The determination of the adequacy of the accounting system shall be mutually agreed upon between the Contractor and the Owner. The system developed by the Contractor shall track and monitor that materials purchased (and shall adequately identify the same), costs, tax savings, and such other charts of accounts or information as may be reasonable requested by the Owner. The Contractor shall submit a monthly accounting report of this information with the Contractor's application for payment.
- 14.5 The Contractor shall provide all rough drafts of purchase orders to the Owner for processing in such time and sequence that the Work will not be impeded or delayed in any manner. Notwithstanding anything in this Article 10.3 to the contrary, the Contractor remains fully responsible under its Contract with the Owner, and the implementation of this direct purchase program shall not be used in any manner by the Contractor to justify any delay unless such delay is a direct result of the Owner's failure to comply with the terms of the Direct Owner Purchase Program through no fault of the Contractor. Should a delay be incurred that is not the result of the Owner's failure, as stated above, the Contractor shall be held accountable for such a delay. The Contractor, for \$10.00 and other valuable consideration, the adequacy of receipt of which is hereby acknowledged and deemed to be sufficient, does hereby release, waive and hold harmless the Owner from and against any claim for damages, acceleration damages, or any other matter, claim or damage that may arise from or be related to in any way the Owner's Direct Purchase Program to the extent stated herein.
- 14.6 The Contractor shall be responsible for all purchases in the same manner as if the Contractor had purchased the items, inclusive of managing the warranties for the Owner. The Contractor shall cooperate with the Owner and take all action necessary to assure that all warranties with respect to any materials or equipment which may be available from any vendor are passed-through to the Owner.

- 14.7 Modification of the Contract Sum will be made by one (1) change order (or additional change orders in the sole discretion of the Owner) prior to final payment unless the Contract period crosses the Owner's fiscal year, in which case, one (1) change order will occur for each fiscal year, one prior to the close of the first year, and the other during the second fiscal year.
- 14.8 The Contractor and its surety hereby agree that the performance bond penal amount shall be unaffected by any direct purchase deductive change order which is made pursuant to this program.
- 14.9 The Contractor agrees that its builder's risk insurance coverage amount shall be unaffected by any direct purchase deductive change order implemented pursuant to this program.
- 14.10 Payment shall be directly made by the Owner to the vendor for any Direct Purchases.
- 14.11 To the extent authorized under Florida law, Owner agrees to indemnify and hold harmless Contractor, its subcontractors and suppliers of and from any claims, liability, or responsibility to the State of Florida for any action the State may take against any of them for the payment of any sales or use taxes as a result of Owner's direct purchase of such materials, supplies or equipment.
- 14.12 The Owner shall have the sole option to require the vendor to include a supply bond in the amount of 100% of the purchase order price. The bond shall be from a qualified surety company authorized to do business in the State of Florida and acceptable to the Owner and Contractor. The cost of the supply bond shall be included in Contractor's GMP.
- 14.13 The Owner agrees to make payments by the 15th of the month providing the Contractor processes the invoices and delivers same to the Facilities Division by the 20th of the preceding month.
- 14.14 Owner shall not withhold retainage on any payments made to the vendor.

#### **ARTICLE 15 – TERMS**

- 15.1 Limitation of Liability. The Owner shall be liable only to the extent of its interest in the Project, and no officer, director, partner, agent or employee of the Owner shall ever be personally or individually liable with respect to this Agreement or the Work. Any subcontract entered into by the Contractor shall include the foregoing limitation, which shall be effective in the event the



Owner ever succeeds to the Contractor's rights and obligations under a subcontract.

- 15.2 Unless the context of this Agreement otherwise clearly requires, references to the plural include the singular, references to the singular include the plural, the term "including" is not limiting, and the terms "hereof", "herein", "hereunder", and similar terms in the Contract Documents refer to the Contract Documents as a whole and not to any particular provision thereof, unless stated otherwise.
- 15.3 Gender. Unless the context clearly indicates to the contrary, pronouns having a neuter, masculine or feminine gender shall be deemed to include the others.
- 15.4 Entire Agreement. This Agreement and the Construction Documents incorporated herein by reference constitute the entire Agreement between the parties with respect to the matters covered by this Agreement. All prior negotiations, representations and agreements not incorporated in this Agreement are cancelled. This Agreement can be modified or amended only by a written document duly executed by the parties or their duly appointed representative.
- 15.5 Binding Effect. Each and all of the covenants, terms, provisions and agreements contained in this Agreement shall be binding upon and inure to the benefits of the parties and their respective assigns, successors, subsidiaries, affiliates, holding companies and legal representatives, as allowed in this Agreement.
- 15.6 Notices. All notices shall be in writing, and may be served by (a) depositing the same in the United States mail addressed to the party to be notified, postpaid, and registered or certified with return receipt requested, (b) by delivering the same in person to such party, (i) personal delivery, or (ii) overnight courier, or (c) by facsimile transmission provided that a copy is sent on the same day, by 5 p.m., by either of the methods described in (a) or (b). Notice deposited in the mail shall be deemed to have been given on the third day next following the date postmarked on the envelope containing such notice, or when actually received, whichever is earlier. Notice given in any manner shall be effective only if and when received by the party to be notified. All notices to be given to the parties shall be sent to or delivered at the addresses or facsimile numbers set forth below:

If to Owner: Facilities Planning & Construction  
The School District of Indian River County, Florida  
6055 62<sup>nd</sup> Avenue  
Vero Beach, FL 32967  
Telephone: 772-564-5019

Contractor: Kerns Construction & Property Management Corp.  
Mr. Daniel Muschweck  
1217 Delaware Avenue  
Fort Pierce, FL 34950  
Telephone: 772-985-5015

By giving the other party at least 15 days written notice, each party shall have the right to change its address and specify as its new address any other address in the United States of America.

- 15.7 Waiver. No consent or waiver, express or implied, by either party to this Agreement to or of any breach or default by another in the performance of any obligations shall be deemed or construed to be consent or waiver to or of any other breach or default by that party. Except as otherwise provided in this Agreement, failure on the part of any party to complain of any act or failure to act by another party or to declare the other party in default, irrespective of how long such failure continues, shall not constitute a waiver of the rights of that party.
- 15.8 Captions. The headings used for the various portions of this Agreement and the Construction Documents are inserted only as a matter of convenience, and for reference, and in no way define, limit or describe the scope or the intent of this Agreement, any section of this Agreement, or any section of the Contract Documents.
- 15.9 Severability. In the event the provisions of this Agreement are determined by a Court of competent jurisdiction to be illegal or unenforceable, then such unenforceable or unlawful provision shall be excised from this Agreement, and the remainder of this Agreement shall continue in full force and effect. Notwithstanding the foregoing, if the result of the deletion of such provision will materially and adversely affect the rights of a party, such party may elect, at its option, to terminate this Agreement in its entirety.
- 15.10 Cumulative Remedies. All rights, powers, remedies, benefits, and privileges are available under any provision of this Agreement to any party, is in addition to and cumulative of any and all rights, powers, remedies, benefits and privileges available to such party under all other provisions of this Agreement, at law or in equity.

- 15.11 Approval. Whenever any review or approval is required by any party, such party agrees that such review or approval will be promptly and expeditiously prosecuted to conclusion.
- 15.12 Further Assurances. The parties agree to execute any and all further instruments and documents, and take all such action as may be reasonably required by any party to effectuate the terms and provisions of this Agreement and the transactions contemplated in this Agreement.
- 15.13 No Partnership or Joint Venture. It is understood and agreed that nothing contained in this Agreement shall be deemed or construed as creating a partnership or joint venture between the parties or any third party, or cause any party to be responsible in any way for the debts and obligations of the other party.
- 15.14 No Construction Against Drafter. Each of the parties have been represented by legal counsel who have had ample opportunity to, and have, participated in the drafting of this Agreement. Therefore, this Agreement shall not be construed more favorably or unfavorably against any party.
- 15.15 Third Party Beneficiary. This Agreement has been made and entered into for the sole protection and benefit of the Owner, and its respective successors, and no other person or entity shall have any right or action under this Agreement.
- 15.16 No Assignments. This Agreement is for the personal services of the Contractor, and may not be assigned by the Contractor in any fashion, whether by operation of law or by conveyance of any type, including without limitation, transfer of stock in the Contractor, without the prior written consent of the Owner, which consent the Owner may withhold in its sole discretion.
- 15.17 Force Majeure. With regard to the performance under this Agreement, a party shall not be deemed to be in default of this Agreement, or have failed to comply with any term or conditions if, for reasons beyond the parties reasonable control, including without limitation acts of God, natural disaster, labor unrest, war, declared or undeclared, the existence of injunctions or requirements for obtaining licenses, easements, permits or other compliance with applicable laws, rules and regulations, such performance is not reasonably possible within such time periods, then the time for such performance shall be extended until removal of such reasons beyond the parties reasonable control, provided that the party commences such performance as soon as reasonably possible and diligently pursues such performance.



- 15.18 Governing Law and Venue. This Agreement shall be governed and construed under the laws of the State of Florida. Except for a suit in federal court, Indian River County, Florida shall be the proper place of venue for all suits to enforce this Agreement. Any legal proceeding arising out of or in connection with this Agreement shall be brought in the Circuit Courts of Indian River County, Florida, or if appropriate, the United States District Court for the Southern District of Florida. Notwithstanding any other provision of the Contract Documents, the Owner does not agree to, nor shall the parties, arbitrate in any matter whatsoever any issue arising out of this Agreement, the Contract Documents or the performance thereof. The Owner does not agree to pay attorneys' fees to the prevailing party in connection with a dispute arising out of this Agreement or the Contract Documents.
- 15.19 Waiver of Jury Trial. The parties expressly waive the right to a jury trial.
- 15.20 Dispute Resolution. Prior to initiating any litigation arising out of the Agreement, the parties to submit the dispute to non-binding mediation by a mediator who is certified in Florida in an effort to resolve disputes in an expedient manner. Each party shall bear their own attorneys' fees, and the cost of the mediator shall be split between the parties.
- 15.21 Right to Enter this Agreement. Each party warrants and represents, with respect to itself, that neither the execution of this Agreement nor the performance of its obligations under this Agreement shall violate any legal requirement, result in or constitute a breach or default under any indenture, contract, or other commitment or restriction to which it is a party or by which it is bound. Each party also warrants and represents, with respect to itself, that the execution of this Agreement and the performances and obligations under this Agreement shall not require any consent, vote, or approval which has not been obtained, or at the appropriate time shall not have been given or obtained. Each party agrees that it has or will continue to have throughout the term of this Agreement the full right and authority to enter into this Agreement and to perform its obligation under this Agreement. Upon written request, each party agrees to supply the other party with evidence of its full right and authority.
- 15.22 Conduct While on School Property. The Contractor acknowledges that its employees and agents must behave in an appropriate manner while on the premises of any school facility and shall at all times conduct themselves in a manner consistent with School Board policies and subject to the administrator or designee. It will be considered a breach of this Agreement for any agent or employee of the Contractor to behave in a manner which is inconsistent with good conduct or decorum, or to behave in any manner which will disrupt the educational program or constitute any level of threat to safety, health, and well-being of any student or employee of the School

Board. The Contractor agrees to immediately remove any agent or employee if directed to do so by the building administrator or designee.

15.25 Owner Transfer of Interest. If the Owner conveys its interest in the Project to a third party, any rights which the Owner may have against the Contractor arising from this Agreement shall automatically transfer to such third party without the necessity of a written document or consent from the Contractor.

15.26 Public Entity Crime Information Statement and Debarment – Section 287.133(2)(a) of the Florida Statutes states: “A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.”

By signing this Agreement, Contractor certifies, to the best of its knowledge and belief, that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by a federal department or agency.
- (b) Have not, within a five-year period preceding the issuance of RFQ **SDIRC # 03-0-2019JC** been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.
- (c) Are not presently indicted or otherwise criminally charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in the preceding paragraph (b).
- (d) Have not within a five-year period preceding the issuance of RFQ **SDIRC # 03-0-2019JC** had one or more public transactions (federal, state or local) terminated for cause or default.

Contractor agrees to notify School Board within 30 days after the occurrence of any of the events, actions, debarments, proposals, declarations, exclusions, convictions, judgments, indictments, informations, or terminations as described in paragraphs (a) – (d) above, with respect to Contractor or its principals.

15.28 No Waiver of Sovereign Immunity. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable.

15.29 Non-Discrimination. The parties shall not discriminate against any employee or participant in the performance of the duties, responsibilities and obligations under this agreement because of race, color, religion, gender, age, marital status, disability, political or religious beliefs, national or ethnic origin.

15.30 Compliance with Federal Grant Requirements. If made applicable by the use of federal grant funds in the Project or any other requirement as set out below, Contractor and its subcontractors shall comply with the following enactments, rules, regulations and orders:

Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees).

Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 3145) as supplemented in Department of Labor regulations (29 CFR part 3).

Davis-Bacon Act (40 U.S.C. 3141 et seq.) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of \$2000 awarded by grantees and subgrantees when required by Federal grant program legislation).

Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 701 et seq.) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers).



All applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 7606), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000).

Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

#### **ARTICLE 16 - PROJECT SIGNAGE**

CONTRACTOR shall furnish and erect 1 signs at the Project site as directed by the PROJECT MANAGER. CONTRACTOR may install signage at the site subject to approval by the PROJECT MANAGER.



IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement. One counterpart each has been delivered to OWNER, CONTRACTOR, and the ARCHITECT. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or by the ARCHITECT on their behalf.

OWNER: **SCHOOL BOARD OF INDIAN RIVER COUNTY**

CONTRACTOR: **KERNS CONSTRUCTION & PROPERTY MANAGEMENT CORP.**

By \_\_\_\_\_  
School Board Chairman

By Daniel Muschweck  
Daniel L. Muschweck, President

Attest: \_\_\_\_\_  
Superintendent  
(SEAL)

Attest: [Signature]  
ANTHONY RAKE, VICE PRESIDENT  
(CORPORATE SEAL)

Address for giving notices  
\_\_\_\_\_  
\_\_\_\_\_

Address for giving notices  
540 NW University Blvd., Suite 204  
Port St. Lucie, FL 34986

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

License No. CGC 059365

Agent for service of process:

\_\_\_\_\_  
School Dist. Attorney

\_\_\_\_\_  
(If CONTRACTOR is a corporation, attach evidence of authority to sign.)

**SINGLE POINT OF ENTRY – SEBASTIAN ELEMENTARY**  
For The School Board of Indian River County Project No. SDIRC # 03-0-2019JC

## Exhibit A

### Owner Direct Material/Equipment Purchase Program

1. The Subcontractor has included Florida State Sales and other applicable taxes in his bid for material, supplies and equipment. The Owner, being exempt from sales tax, reserves the right to make direct purchases of various construction equipment, materials or supplies included in the Subcontractor's bid and/or contract, substantially in accordance with the form of Purchase Order attached herewith.

Any equipment, materials or supplies directly purchased by the Owner that are included in the Subcontractor's contract shall be referred to as Owner-Purchased Materials and the responsibilities of both Owner and Subcontractor relating to such Owner-Purchased Materials shall be governed by the terms and conditions of the procedures. The Owner will own and hold full title to all Owner-Purchased Materials.

2. Material suppliers shall be selected by the Subcontractor awarded the subcontract.

The Subcontractor has included the price for all construction materials in his bid. Owner Purchasing of construction materials, if selected, will be administered on a deductive Change Order basis.

3. Subcontractor shall provide Contractor a list of all intended suppliers, vendors, and material men for consideration as Owner-Purchased Materials. This list shall be submitted at the same time as the preliminary schedule of values. The Subcontractor shall submit a description of the materials to be supplied, estimated quantities and prices.

4. Upon request from Contractor, and in a timely manner, Subcontractor shall prepare a standard Purchase Order Requisition Form in a form acceptable to the Owner and the Contractor, to specifically identify the materials which Owner had, at its sole option, elected to purchase directly. The Purchase Order Requisition Form shall include:

A. The name, address, telephone number and contact person for the material supplier.

B. Manufacturer or brand, model or specification number of the item.

- C. Quantity needed as estimated by the Subcontractor.
- D. The price quoted by the supplier for the materials identified therein.
- E. Any sales tax associated, with such quote.
- F. Delivery dates as established by Subcontractor.

Subcontractor shall include reference to any terms and conditions which have been negotiated with the vendors; i.e., payment terms, warranties, retainage, etc.

Such Purchase Order Requisition Forms are to be submitted to Contractor's designated representative no less than fifteen (15) days prior to the need for ordering such Owner-Purchased Materials, in order to provide sufficient time for Owner review and approval and to assure that, such Directly Purchased Materials may be directly purchased by Owner and delivered to the Project site so as to avoid any delay to the Project.

- 5. After receipt of the Purchase Order Requisition Form, Owner shall prepare its Purchase Orders for equipment, materials or supplies which the Owner chooses to purchase directly. Pursuant to the Purchase Order, the vendor will provide the required quantities of material at the price established in the vendor's quote to the Subcontractor, less any sales tax associated with such price. Promptly upon receipt of each Purchase Order, Subcontractor shall verify the terms and conditions of the Purchase Order prior to its issuance to supplier and in a manner to assure proper and timely delivery of items. Owners Purchasing Director or his designated representative shall be the approving authority for the Owner on Purchase Orders in conjunction with Owner-Purchased Materials. The Purchase Order shall require that the supplier provide the required shipping and handling insurance. The Purchase Order shall also require the delivery of the Owner-Purchased Materials on the delivery dates provided by the Subcontractor in the Purchase Order Requisition Form and shall indicate F.O.B. jobsite.
- 6. In conjunction with the execution of the Purchase Orders by the suppliers, the Subcontractor shall execute and deliver to the Owner, through the Contractor, one or more deductive Change Orders, referencing the full value of all Owner-Purchased Materials to be provided by each supplier from whom the Owner elected to purchase material directly, plus all sales tax savings associated with such materials in Subcontractor's bid to Contractor.



7. All shop drawings and submittals shall be made by the Subcontractor in accordance with the Project Specifications.
8. Subcontractor shall be fully responsible for all matters relating to the receipt of materials furnished by Owner in accordance with these Procedures, including, but not limited to, verifying correct quantities, verifying documentation of orders in a timely manner, coordinating purchases, providing and obtaining all warranties and guarantees required by the Contract Documents, inspection and acceptance of the goods at the time of delivery, and loss, or damage to equipment and materials following acceptance of items by the Owner due to the negligence of the Subcontractor. The Subcontractor shall coordinate delivery schedules, sequence of delivery, loading orientation, and other arrangements normally required by the Subcontractor for the particular materials furnished. The Subcontractor agrees to indemnify and hold harmless the Owner from any and all claims of whatever nature resulting from non-payment of goods to suppliers arising from the actions or directions of Subcontractor. Owner purchased materials shall be stored at the construction site.
9. As Owner-Purchased Materials are delivered to the jobsite, the Subcontractor and the Contractor, as County's Representative, shall visually inspect all shipments from the suppliers, and approve the vendor's invoice of material delivered. The Subcontractor shall assure that each delivery of Owner-Purchased materials is accompanied by adequate to identify the Purchase Order against which the purchase is made. This documentation may consist of a delivery ticket and an invoice from the supplier conforming to the Purchase Order, together with such additional information as the Owner or Contractor may require. The Contractor, as Owner's Representative, shall verify in writing to the Owner the accuracy of the delivery ticket. The Subcontractor will then forward the invoice to the Owner through the Contractor for payment. The invoice shall be thereupon furnished to the Finance Department for processing and payment in the manner as all other Osceola School District invoices are processed. The Owner shall have the right to assign personnel to verify and audit the accuracy of all Director Purchase Documents.
10. The Subcontractor shall insure that Owner-Purchased Materials conform to the Specifications, and determine prior to incorporation into the work if such materials are patently defective, and whether such materials are identical to the material ordered and match the description on the bill of lading. If the Subcontractor discovers defective or non-conformities in the Owner-Purchased Material upon such visual inspection, the Subcontractor shall not utilize such non-conforming or defective materials in the work and instead shall promptly notify the vendor of the defective or non-conforming condition

in order to pursue repair or replacement of those materials without any undue delay or interruption to the Project. Additionally, the Subcontractor shall notify the Owner, through the Contractor, of such occurrence. If the Subcontractor fails to perform such inspection and otherwise incorporated Owner-Purchased Materials, the condition of which it either knew or should have known by performance of an inspection, Subcontractor shall be responsible for all damages to County resulting from Subcontractor's incorporation of such materials into the Project, including liquidated or delay damages. In the event that materials furnished are found to be defective or no-conforming, the Subcontractor shall promptly take action to remedy the defect or non-conformance so as not to delay the work.

11. The Subcontractor shall maintain records of all Owner-Purchased Materials it incorporates into the work from the stock of Owner-Purchased Materials in its possession. The Subcontractor shall account monthly to the Owner, through the Contractor, for any Owner-Purchased Materials delivered into the Subcontractor's possession, including portions of all such materials which have been incorporated into the work.
12. The Subcontractor, as the Owner's agent, shall be responsible for obtaining and managing all warranties and guarantees for all material and products as required by the Contract Documents. All repair, maintenance or damage-repair calls shall be forwarded to the Subcontractor for resolution with the appropriate supplier or vendor.
13. Notwithstanding the transfer of Owner-Purchased Materials by the Owner to the Subcontractor's possession, the Owner shall retain title to any and all Owner-Purchased Materials.
14. The transfer of possession of Owner-Purchased Materials from the Owner to the Subcontractor shall constitute a bailment for the mutual benefit of the Owner and the Subcontractor. The Owner shall be considered the bailor and the Subcontractor the bailee of the Owner-Purchased Materials. Owner-Purchased Materials shall be considered returned to the Owner for the purposes of its bailment at such time as they are incorporated into the Project or consumed in the process of completing the Project. All Owner-Purchased Materials shall be stored at the construction site.
15. The insurance purchased and maintained by the Contractor shall be sufficient to protect against any loss of or damage to Owner-Purchased Equipment, Materials or Supplies. Such insurance shall cover the full value of any Owner-Purchased Materials not yet incorporated into the Project from the time the Owner first takes title. The Owner shall be named as an Additional Insured Party on such policies of insurance. The Owner will bear the costs of all Payment and Performance Bonds and Owner's Insurance



including Builder's Risk Insurance as a reimbursable expense to the Contractor. The Owner as an additional named insured on the Contractor's Builder's Risk Insurance and, in the event of damage or destruction to the Owner-Purchased Materials, the Owner will receive all proceeds derived from all claims against insurers or others to pay for repair or reconstruction as a result of damage or destruction.

16. The Owner shall in no way be liable for interruption or delay in the Project, for any defects or other problems with the Project, or for any extra costs or time resulting from delay in the delivery of, or defects in, Owner-Purchased Materials when such delay is a result of the failure of the Subcontractor's performance.
17. On a monthly basis, Subcontractor shall be required to review invoices submitted by all suppliers of Owner-Purchased Materials delivered to the Project site during that month and either concur or object to the Owner's issuance of payment to the suppliers, based upon Subcontractor's records of material delivered to the site and any defects in such materials.
18. In order to arrange for the prompt payment to the supplier, the Subcontractor shall provide to the Owner, through the Contractor, a list indicating the acceptance of the goods or materials in accordance with the established monthly Payment Request Schedule. The list shall include a copy of the applicable Purchase Order, invoices, delivery tickets, written acceptance of the delivered items, and such other documentation as may be reasonably required by the Owner. Upon receipt and verification of the appropriate documentation, the Owner shall prepare a check drawn to the supplier based upon the receipt of data provided. This check will be released, delivered, and remitted directly to the supplier. The Subcontractor agrees to assist the Owner to immediately obtain a partial or final release of lien waiver as appropriate.
19. The Owner's direct purchase of equipment, materials or supplies, as provided herein does not relieve the Contractor or any Subcontractor of any obligation required pursuant to the contract or subcontract pertaining to the performance of work, except as to the Owner's obligation to make direct payments to such vendors and may reduce the bonds to the extent permitted by Section 255.05, F.S.

**ADDENDUM TO VENDOR'S AGREEMENT**  
**BETWEEN**  
**THE SCHOOL BOARD OF INDIAN RIVER COUNTY, FLORIDA**  
**AND KERNS CONSTRUCTION & PROPERTY MANAGEMENT CORP.**

This Addendum is incorporated within the VENDOR'S Agreement between THE SCHOOL BOARD OF INDIAN RIVER COUNTY, FLORIDA (hereafter referred to as "SCHOOL BOARD") and **Kerns Construction & Property Management Corp.** (hereafter referred to as "VENDOR").

In order to conduct the scope of work covered by the VENDOR'S Agreement, the VENDOR has requested access to various SCHOOL BOARD documents ("SCHOOL BOARD Records") including, without limitation, certain documents that contain information relating to the security systems for property owned or leased by SCHOOL BOARD or that depict the internal layout and structural elements of SCHOOL BOARD-owned or leased buildings. All of VENDOR'S records and notes regarding the work performed under the VENDOR'S Agreement shall be referred to herein as "VENDOR'S Documents."

The VENDOR hereby acknowledges that the SCHOOL BOARD Records and VENDOR'S Documents are public records. Pursuant to Section 119.0701, Florida Statutes, VENDOR shall keep and maintain all public records required to perform the services required under this Agreement. The VENDOR acknowledges that VENDOR shall not release any SCHOOL BOARD Records or any VENDOR'S Documents to anyone other than SCHOOL BOARD'S Superintendent of Schools or to the designee of said Superintendent.

The VENDOR hereby acknowledges that some or all of SCHOOL BOARD Records and of VENDOR'S Documents are confidential and exempt from public inspection under state law and VENDOR acknowledges VENDOR'S duty and obligation to preserve the confidential and exempt nature of such materials. Specifically, Section 119.071(3)(b)1, Florida Statutes, states in pertinent part as follows: "Building plans, blueprints, schematic drawings, and diagrams... which depict the internal layout and structural elements of a building... or other structure owned or operated by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution [the provisions commonly referred to as the public records laws]." In addition, Section 281.301(1), Florida Statutes, states in pertinent part as follows: "Information relating to the security systems for any property owned by or leased to the state or any of its political subdivisions... including all records, information,... schematic diagrams... are confidential and exempt from ss. 119.07(1) and 286.011 and other laws and rules requiring public access or disclosure."

VENDOR shall immediately notify SCHOOL BOARD'S custodian of public records of any request received by VENDOR from any third person for the inspection or copying of public records. The VENDOR shall not directly deliver any public records to any third person, but rather shall immediately provide SCHOOL BOARD'S custodian of public records with copies of any public records that have been requested by any third party. VENDOR shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the VENDOR'S Agreement's term and following completion of the VENDOR'S Agreement if VENDOR does not transfer the public records to SCHOOL BOARD. Upon completion of the VENDOR'S Agreement, VENDOR shall transfer, at no cost, to SCHOOL BOARD all public records in possession of VENDOR required to perform the services under the VENDOR'S Agreement. Upon VENDOR'S transfer to SCHOOL BOARD of all public records upon completion of the services required under the Agreement, VENDOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If VENDOR keeps and maintains any public records upon completion of the VENDOR'S Agreement with SCHOOL BOARD, VENDOR shall meet all applicable requirements for retaining public records and preserving any applicable confidentiality or exemptions. All records stored electronically must be provided to SCHOOL BOARD, upon request from SCHOOL



BOARD's custodian of public records, in a format that is compatible with SCHOOL BOARD's information technology systems.

**IF THE VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, THE VENDOR SHALL CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: [Brenda.davis@indianriverschools.org](mailto:Brenda.davis@indianriverschools.org).**

The VENDOR agrees to comply with the foregoing requirements governing the custody of and access to public records and to confidential and exempt information under applicable law.

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**Approval to Award SDIRC 03-0-2019JC Invitation to Bid (ITB) for a Single Point of Entry at Sebastian Elementary to Kerns Construction and Property Management, Inc. - Mr. Teske**

The purpose and intent of this Invitation to Bid was to secure a firm price to create a single point of entry into the administrative offices at Sebastian Elementary as per specifications and drawings provided by Song + Associates Architects. The cost to the District is \$199,00 (Bid amount of \$179,000 and owner added contingency of \$20,000). The Purchasing Department recommends award to Kerns Construction and Property Management, Inc. as the lowest and best responsive and responsible bidder meeting specifications, terms and conditions. Please see attached backup. Superintendent approves recommendation.

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## **OWNER/ CONTRACTOR CONSTRUCTION AGREEMENT (LUMP SUM)**

THIS AGREEMENT is dated and will be effective on the **11th day of December, 2018**, by and between the School Board of Indian River County, an entity existing under the laws of the state of Florida, (hereinafter called OWNER) and **Kerns Construction & Property Management Corp.** (hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

### **ARTICLE 1 - WORK**

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

#### **SINGLE POINT OF ENTRY – PELICAN ISLAND ELEMENTARY** **For The School Board of Indian River County Project No.** **SDIRC # 02-0-2019JC**

Single Point of Entry on the Pelican Island Elementary School campus (Located at 1355 Schumann Drive in Sebastian, Florida). The Work shall consist of creating a new single point of entry into the administration offices at Pelican Island Elementary, as well as all other required work as detailed in the plans and specifications, schedule of values of the Contractor as approved in writing by the ARCHITECT, together with this Contract and the General Conditions of Contract 1997 AIA General Conditions 201 and by this reference incorporated herein, (collectively referred to as "Contract Documents").

### **ARTICLE 2 – ARCHITECT**

The Project has been designed by **Song & Associates, Inc.**, who is hereinafter called Architect and who is to act as OWNER's representative. The Architect shall assume all duties and responsibilities and have the rights and authority to act as the Architect as specified in the Contract Documents in connection with completion of the Work and in accordance with the Contract Documents. The Owner may, without liability to the Contractor, unilaterally amend this Article from time to time by designating a different person or organization to act as its Architect and so advising the Contractor in writing, at which time the person or organization so designated shall be the Architect for purposes of this Contract.

### **ARTICLE 3 - CONTRACT TIME**

3.1 Work shall be substantially completed within 134 calendar days (or by **April 30, 2019**) from the date the Notice to Proceed is issued by Owner.

The work shall be ready for Final Completion within 31 calendar days (or by May 31, 2019) from the date of Substantial Completion.

- 3.2 LIQUIDATED DAMAGES. Time is of the essence in the performance of the Work. The Owner and Contractor agree that the losses suffered by Owner if Substantial Completion of the Work is not achieved, are not ascertainable at this time. Contractor acknowledges and agrees that, since time is of the essence, the Owner will suffer financial and other losses if Substantial Completion of the Work is not achieved within the Contract Time, as the Contract Time may be adjusted pursuant to the terms of the Contract Documents. Should the Contractor fail to achieve Substantial Completion of the Work within the Contract Time, Owner shall be entitled to assess, as liquidated damages but not as a penalty, the sum of \$500.00 for each calendar day thereafter until Substantial Completion is achieved and \$250.00 for each calendar day thereafter until Final Completion is achieved. Should the Contractor achieve Substantial Completion of the Work within the Contract Time but fail to achieve Final Completion of the Work within the Contract Time, Owner shall be entitled to assess, as liquidated damages but not as a penalty, the sum of \$250.00 for each calendar day thereafter until Final Completion of the Work is achieved. Contractor hereby expressly waives and relinquishes any right which it may have to seek to characterize the above noted liquidated damages as a penalty, which the parties agree represents a fair and reasonable estimate of the Owner's actual damages at the time of contracting if Contractor fails to achieve Substantial Completion or Final Completion of the Work within the Contract Time. Further, the parties acknowledge that it would be extremely difficult, if not impossible, to ascertain Owner's actual damages with any degree of certainty in the event Contractor fails to achieve either Substantial Completion or Final Completion of the Work within the Contract Time. Owner has paid to Contractor out of the first payment hereunder, the consideration of \$10.00 as consideration for this provision.
- 3.3 No extension of time shall be granted for delays resulting from normal weather conditions prevailing in the area as defined by the average of the last five (5) years of weather recorded by the Architect and in accordance with the Contract Documents. The time during which the Contractor is delayed in the performance of the Work by acts or omission of the Owner or Architect or any other unforeseeable conditions or events that could not have reasonably been predicted shall be added to the time for completion of the Work. A change in Contract Time may only be authorized by a written Change Order.
- 3.4 The date of commencement of the Work is the date established in a Notice to Proceed. If there is no Notice to Proceed, it shall be the date of the Owner-Contractor Agreement or such other date as may be established



therein. The Contractor shall not mobilize, commence Work or store materials or equipment on site until: (1) written Notice to Proceed is issued or until the Contractor otherwise receives the Owner's written consent and; (2) all bonds and Certificates of Insurance have been executed, delivered to and accepted by the Owner and; (3) Contractor has delivered to Owner his as-planned schedule, original job cost estimate, list of Subcontractors and corporate resolution designating his representative.

- 3.5 The Date of Substantial Completion of the Work is the Date certified by the Architect and the Owner when the Work is sufficiently complete, in accordance with the Contract Documents, so the Owner can fully occupy and utilize the Work for the use for which it is intended, with all of the Project's parts and systems operable as required by the Contract Documents. Only incidental corrective work and any final cleaning beyond that needed for the Owner's full use may remain for final completion.
- 3.6 The date of Final Completion of the Work is the date certified by the Owner and Architect when the Work is totally complete, to include all items listed on the inspection report following substantial completion inspection, in accordance with the Contract Documents and the Owner may fully occupy and utilize all of the Work for the use for which it is intended.

#### **ARTICLE 4 - CONTRACT PRICE**

- 4.1 OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents, subject to adjustment as provided therein, in current funds as follows:

The Contractor's price(s) in the Bid Form is in the amount of \$179,500.00. The Owner will include a \$20,000.00 contingency, for a total contract amount of \$199,500.00. Any contingency remaining at the closeout or completion of the project will be retained by the Owner.

#### **ARTICLE 5 - PAYMENT PROCEDURES**

CONTRACTOR shall submit Applications for Payment in accordance with the Contract Documents, AIA Form G702. Applications for Payment will be approved by Architect, then forwarded to the Owner for payment as provided in the Contract Documents.

- 5.1. PROGRESS PAYMENTS. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR'S Applications for Payment as recommended by Architect. All progress payments will be on the basis of the progress of the Work measured by the schedule of values established in the Contract Documents.



The OWNER agrees to make payments within 25 business days providing the CONTRACTOR processes the invoice and delivers same to the Facilities Division Bookkeeping Department as the single agent/point of contact, by the 20<sup>th</sup> of the preceding month. The OWNER will not withhold payment without proper and adequate justification.

### **General Requirements**

5.1.1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as Architect shall determine, or OWNER may withhold, in accordance with the Contract Documents.

90% of Work completed.

0% of materials and equipment not incorporated in the Work.

5.1.2. Upon Substantial Completion payment may be made in an amount sufficient to increase total payments to CONTRACTOR to 95% of the Contract Price, less such amounts, as Architect shall determine, or OWNER may withhold, in accordance with the Contract Documents.

5.1.3. When the Architect determines that the Work or designated portion thereof as defined in the Contract Documents is substantially complete, the Architect shall issue a Certification of Substantial Completion which establishes: the date of substantial completion; the "Substantial Completion Punch List", which establishes a single list providing feedback to the Contractor on non-conforming work, or work requiring further quality adjustments and must be developed within 30 calendar days of the date of substantial completion and delivered to Contractor within 5 calendar days thereafter; the date the Contractor will have completed all items on the Substantial Completion Punch List, and such other items as the Architect and Owner deem appropriate. The Certificate of Substantial Completion shall be executed by the Architect, Contractor and Owner. The Contractor will promptly engage in completing the Substantial Completion Punch List within 10 days of its issuance.

5.2. FINAL PAYMENT. Final payment of the Contract Sum will be made after the Architect certifies that the Work is complete, Owner's representatives complete their final acceptance report, the School District's Building Official completes the final inspection and a "certificate of occupancy" is issued. . Final Payment to the contractor requires School Board approval in

accordance with Florida Statute 1013.50. It is understood and agreed, that final payment will not be withheld if a certificate of final inspection is issued by the Owner's Uniform Building Code Inspector, or if any other government agency refuses to give final acceptance for any reason other than the failure of the Contractor to complete the Work in accordance with the Contract Documents. Further, neither final payment nor any remaining Retainage shall be paid to the Contractor until the Architect has received an affidavit in a form sufficient to the Owner that all indebtedness in connection with the performance of the Work for which the Owner or the Owner's property may be held liable or encumbered, have been fully paid or otherwise satisfied; a certification in a form acceptable to the Owner which establishes that all required insurance will remain in full force and effect after final payment and will not be cancelled or allowed to expire until at least 30 days prior written notice has been provided to the Owner; consent of the surety to final payment; and any other certifications reasonably required by the Owner establishing full payment or satisfaction of any obligations. In the event the Contractor fails to furnish such certifications as the Owner reasonably requires to satisfy the Owner that there are no outstanding liens, the Owner may require the Contractor as a condition of final payment and at the Contractor's expense, to furnish a bond in a form and amount satisfactory to the Owner to indemnify the Owner against such liens or claims. The one year warranty period for the work will begin upon Final Completion. Warranty will be for all workmanship, material, and equipment except for Owner insured damages.

- 5.3 CHANGE ORDERS. No change in the Contract Sum or Time may be made except by a duly authorized and executed written Change Order. If the Change in or addition to the Work will result in an increase in the Contract Sum, the Owner shall have the right to require the performance thereof on a lump sum basis, a unit price basis or a time and material basis, all as hereinafter more particularly described (the right of the Owner as aforesaid shall apply with respect to each such Change in the Work). Any such Change Order shall be substantiated by complete itemized statements showing quantities and unit prices for material, labor (including all applicable fringe benefits), equipment, markup for overhead and profit, and other items of cost. Costs of labor (including all applicable fringe benefits) and materials shall be actual costs to the subcontractor. All duly authorized and executed Change Orders shall become a part of the Contract Documents as described in Article 8.

## **ARTICLE 6 – OWNERS PROJECT REPRESENTATIVE**

- 6.1 The Owner's Project Representative who shall act as OWNER'S PROJECT MANAGER is Richard Huff who is a School District employee. The Owner's Project Manager has the authority to approve matters contemplated in this Agreement where the monetary impact is within the Owner approved Contingency.

#### **ARTICLE 7 - CONTRACTOR'S REPRESENTATIONS**

In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

- 7.1 CONTRACTOR has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions, laws, rules, regulations, codes, ordinances that in any manner may affect cost, progress, performance, or furnishing of the Work. Contractor fully understands the intent and purpose of the project and agrees to maximize Owner's fulfillment and needs.
- 7.2. CONTRACTOR IS AT RISK. Contractor has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground and Concealed Facilities internal or contiguous to the site and assumes responsibility for the accurate location of said Facilities. No additional examinations, investigations, explorations, tests, reports, studies or similar information or data in respect of said facilities are or will be required of OWNER by CONTRACTOR in order to perform and furnish the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents. Only at Owner's discretion will Owner expend funds or resources to the project in the repair, preservation, or reuse of these existing facilities that are outside of the project scope or included in the Contract Documents.
- 7.3. CONTRACTOR has given ARCHITECT written notice of all conflicts, errors or discrepancies that it has discovered in the Contract Documents and the written resolution thereof by ARCHITECT is acceptable to CONTRACTOR.

#### **ARTICLE 8 - CONTRACT DOCUMENTS**

The Contract Documents, which comprise the entire Agreement between OWNER and CONTRACTOR concerning the Work, consist of the following:

- 8.1 This Agreement consisting of 36 pages.
- 8.2 Performance Bond and Payment Bond in accordance with F.S. 255.01 et. seq. consisting of N/A pages (plus Power of Attorney Forms as applicable).



- 8.3 Notice of Award
- 8.4 General Conditions consisting of (Itemization Attached)
- 8.5 Supplementary Conditions consisting of N/A
- 8.6 Drawings to be prepared and provided by Song + Associates, Inc.
- 8.7 Specifications to be prepared and provided by Song + Associates, Inc.
- 8.8 Addenda numbers 1 to 1, inclusive.
- 8.9 CONTRACTOR'S Bid.
- 8.10 The following which may be delivered or issued after the Effective Date of the Agreement are not attached hereto, which shall be all Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to the Contract Documents.
- 8.11 The documents listed under Article 8 above are attached to this Agreement (except as expressly noted otherwise above).
- 8.12 Anything shown on the drawings and not mentioned in the specifications or mentioned in the specifications and not shown on the drawings shall have the same effect as if shown or mentioned respectively in both. Technical specifications take priority over general specifications and detail drawings take precedence over general drawings. Any work shown on one drawing shall be construed to be shown in all drawings and the Contractor will coordinate the work and the drawings. If any portion of the Contract Documents shall be in conflict with any other portion, the various documents comprising the Contract Documents shall govern in the following order of precedence: The Owner- Contractor Agreement; Modifications; Addenda; any Supplementary Conditions; the General Conditions; the Specifications; the Drawings; as between schedules and information given on Drawings, the schedules shall govern; as between figures given on Drawings and the scaled measurements, the figures shall govern; as between large-scale Drawings and small scale Drawings, the larger scale shall govern. Any such conflict or inconsistency between or in the drawings shall be submitted to the Design Consultant whose decision thereon shall be final and conclusive.
- 8.13 The provisions of this Contract cannot be amended, modified, varied or waived by the Owner or its agents or representatives in any respect except by a Modification approved and executed by the School Board of Indian River County. The Contractor is hereby given notice that no person or entity has authority to orally waive, or to release the Contractor from any of the

Contractor's duties or to alter obligations under or arising out of this Contract. Any waiver, approval or consent granted by Modification to the Contractor shall be limited to those matters specifically and expressly stated thereby to be waived, approved or consented to and shall not relieve the Contractor of the obligation to obtain any future waiver, approval or consent.

This Agreement and the Construction Documents incorporated herein by reference constitute the entire Agreement between the parties with respect to the matters covered by this Agreement. All prior negotiations, representations and agreements not incorporated in this Agreement are cancelled. This Agreement can be modified or amended only by a written document duly executed by the parties or their duly appointed representative.

## **ARTICLE 9 – ARCHITECT**

- 9.1 Should errors, omissions, or conflicts in the Drawings, Specifications, or other Contract Documents prepared by the Architect be discovered, the Architect will prepare such amendments or supplementary documents and provide consultation as may be required.
- 9.2 The Architect will visit the site at intervals appropriate to the stage of construction to familiarize itself generally with the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. On the basis of such on-site observations, the Architect and his consulting engineers shall endeavor to guard the Owner against defects and deficiencies in the Work of the Contractor. Contractor shall not be relieved from any of the obligations of the Contract Documents as a result of the Architect's failure to detect any defective or deficient Work of the Contractor or others working by, through or under the Contractor.
- 9.3 The Architect shall at all times have access to the work wherever it is in preparation or progress. The Contractor shall provide safe facilities for such access so the Architect may perform his functions under the Contract Documents.
- 9.4 All interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents. The Architect's decisions in matters relating to artistic effect will be final if consistent with the intent of the Contract Documents.

- 9.5 The Architect has the authority to condemn or reject work on behalf of the Owner when, in its opinion, the work does not conform to the requirements of the Contract Documents. Whenever, in the Architect's reasonable opinion, it is considered necessary or advisable for the implementation of the intent of the Contract Documents, the Architect will have the authority to require special inspection or testing of the work in accordance with the provisions of the Contract Documents whether or not such work be then fabricated, installed or completed.
- 9.6 The Architect will conduct inspections to determine the dates of Substantial Completion and Final Completion, and will issue a final Certificate for Payment. The Architect shall be solely responsible for issuance of Certificates of Substantial and Final Completion.

#### **ARTICLE 10 – MISCELLANEOUS**

- 10.1 Terms used in this Agreement, which are defined in Article 1 of the General Conditions, will have the meanings indicated in the General Conditions.
- 10.2 If the Contract Documents, laws, rules, regulations or orders of any State or Federal authority having jurisdiction require any portion of the Work to be inspected, tested, or approved, the Contractor shall give the Owner and Architect timely notice of its readiness so they may observe such inspection, testing or approval. The Contractor shall bear all costs of such inspections, tests or approvals conducted by public authorities. Unless otherwise provided, the Owner shall bear all costs of other inspections, tests or approvals. The Contractor shall pay for all utilities required for testing of installed equipment of all of his work and the work of each Subcontractor.
- 10.3 Contractor shall include all subcontractors as insureds under its policies or shall be responsible for verifying and maintaining the Certificates provided by each subcontractor. Subcontractors shall be subject to all of the requirements stated herein. The Owner reserves the right to request copies of subcontractor's Certificates at any time. If Contractor does not verify subcontractors' insurance as described above, Owner has the right to withhold payments to the Contractor until the requirements have been met.
- 10.3.1 The Contractor shall deliver the required bonds and proofs of insurance to the Owner prior to the commencement of any Work, and in no event any later than 10 days after the execution of this Agreement.
- 10.3.2 The Contractor shall, throughout the performance of its services under this Agreement and throughout the term of this Agreement maintain and provide to the Owner the insurance coverages listed in this Article. The insurance policies shall be issued and underwritten



by a licensed insurer, licensed as such in the State of Florida. The Contractor shall provide insurance that may not be reduced, terminated, or cancelled unless 30 days prior written notice thereof is furnished to the Owner. Certificates of insurance and copies of all policies (if required by the Owner) shall be furnished to the Owner within 10 days after the execution of this Agreement. In the event of any cancellation or reduction in insurance coverage, the Contractor shall obtain substitute coverage, without any lapse of coverage whatsoever. The insurance policies shall name the Owner, the Owner's representatives, and the officers, directors, agents, employees and assigns of the Owner as additional insured (except for the professional liability and worker's compensation insurance).

10.3.3 The Owner may, in its sole discretion, procure and pay for the required Builders Risk insurance for the Project. In the event Owner elects to procure and pay for the Builders Risk insurance for the Project, the Contractor shall cooperate with Owner and provide any requested information for the procurement of the Builders Risk insurance.

10.3.4 The insurance required from the Contractor in this Article shall include all major divisions of coverage, and shall be on a commercial general basis including premises and operations (including X-C-U), Independent Contractor Hired Products and Completed Operations, and Owned, Non-owned, and Hired Motor Vehicles. Such insurance shall be written for not less than any limits of liability required by law or others set forth in the Contract Documents, whichever is greater. All insurance shall be written on an occurrence basis, unless the Owner approves in writing coverage on a claims-made basis. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the work until date of final payment and termination of any coverage required to be maintained after final payment.

10.3.5 The Contractor shall furnish to the Owner copies of any endorsements that are subsequently issued amending limits of coverage.

10.3.6 Liability insurance shall include all major divisions of coverage and be on a comprehensive basis including:

1. Premises Operation (including X-C-U as applicable)
2. Independent Contractor's Hired
3. Products and Completed Operations
4. Personal Injury Liability



5. Contractor liability including the provision for Contractor's obligation of indemnification and hold harmless
6. Owned, non-owned and hired motor vehicles
7. Broad Form Property Damage including Completed Operations

10.3.7 The insurance required by this Article shall be written for not less than the following, or greater if required by law.

1. Workers' Compensation:
  - (a) State: As required by Chapter 440, Florida Statutes
  - (b) Applicable Federal (e.g. Longshoremen's Statutory)
  - (c) Employer's Liability: \$500,000.00
2. Commercial General Liability (including Premises Operations; Independent Contractor Hired; Products and Completed Operations; Broad Form Property Damage):
  - (a) Bodily Injury:  
\$1,000,000.00 per incident or occurrence; with an annual general aggregate per policy of not less than \$2,000,000
  - (b) Property Damage:  
\$1,000,000.00 per incident or occurrence; with an annual general aggregate per policy of not less than \$2,000,000.
  - (c) Products and Completed Operations to be maintained for one year after final payment
  - (d) Property Damage Liability Insurance shall provide S, C or U Coverage as applicable
3. Contractual Liability:
  - (a) Bodily Injury:  
\$1,000,000.00 per incident or occurrence; with an annual general aggregate per policy of not less than \$2,000,000.
  - (b) Property Damage:  
\$1,000,000.00 per incident or occurrence; with an annual general aggregate per policy of not less than \$2,000,000.
4. Personal Injury, \$1,000,000.00 per claimant; with an annual general aggregate per policy of not less than \$2,000,000

5. Commercial Automobile Liability: The State of Florida has no-fault automobile insurance requirements. The Contractor shall be certain coverage is provided which conforms to any specific stipulation in the law.
  - (a) \$1,000,000.00 per incident or occurrence combined single limit for bodily injury and property damage; with an annual general aggregate per policy of not less than \$2,000,000.

10.3.8 The Contractor shall procure property insurance for any portion of the Work stored off Site or in transit, and the cost for such shall be borne by the Contractor.

10.3.9 Boiler and Machinery Insurance. The Contractor shall purchase and maintain boiler and machinery insurance if applicable to the Contract Documents. This insurance shall remain in full force and effect until final acceptance of the insured items by the Owner.

10.4.0 Performance and Payment Bonds. The Contractor shall furnish bonds covering the faithful performance of the Agreement and payment of any and all obligations arising under the Agreement as required by Florida law. Upon request, the Contractor shall furnish a copy to any person or entity requesting a copy. Such bonds shall be in conformance and compliance with sec. 255.05, Florida Statutes, and shall contain the information and provisions set forth in the referenced section. Pursuant to sec. 255.05, the Contractor shall record the performance and payment bonds in the public records of Indian River County, Florida. The Contractor shall provide the recorded copy of the bonds to the Owner.

10.4.1 Insurance as Additional Remedy. Compliance with the insurance requirements of this Agreement shall not limit the liability of the Contractor, its subcontractors, sub-subcontractors, material suppliers, employees, or agents to the Owner or others. Any remedy provided to the Owner, or the Owner's officers, employees, agents or assigns, by the insurance shall be in addition to and not in lieu of any other remedy available under the Agreement or otherwise.

10.4.2 No Waiver by Approval/Disapproval. Neither approval by the Owner nor failure to disapprove the insurance furnished by the Contractor shall relieve the Contractor of its full responsibility to provide the insurance as required by this Agreement.

## ARTICLE 11 – TERMINATION OF THE CONTRACT

- 11.1 The Owner may, at any time upon ten (10) days' written notice to the Contractor, which notice shall specify that portion of the Work to be terminated and the date said termination is to take effect, terminate (without prejudice to any right or remedy of the Owner) the whole or any portion of the work for the convenience of the Owner. The Contractor's sole remedy, in the event of such termination, will be the allowable termination costs permitted by Article 11.3. Contractor shall include termination clauses identical to Article 11 in each of his Subcontracts.
- 11.2 The Owner may, upon ten (10) days' written notice to the Contractor and to the Contractor's surety, terminate (without prejudice to any right or remedy of the Owner or any subsequent buyer of any portion of the Work) the employment of the Contractor and his right to proceed either as to the whole or any portion of the Work required by the Contract Documents and may take possession of the Work and complete the Work by Contract or otherwise in any one of the following circumstances:
- 11.2.1 if the Contractor refuses or fails to prosecute the work or any separable part thereof with such diligence as will ensure the Substantial or Final Completion of the Work within the Contract Time or fails to complete the Work within said periods;
  - 11.2.2 if the Contractor is in material default in carrying out any provisions of the Contract;
  - 11.2.3 if the Contractor fails to supply a sufficient number of properly qualified and skilled workers or proper equipment or materials;
  - 11.2.4 if the Contractor fails to make prompt payment to Subcontractors or materialmen or for materials or labor;
  - 11.2.5 if the Contractor disregards laws, permits, ordinances, rules, the Lunsford Requirements, regulations or orders of any public authority having jurisdiction, or fails to follow the instructions of the Owner;
  - 11.2.6 if the Contractor violates any provisions of the Contract Documents;  
or
  - 11.2.7 if the Contractor refuses or fails to properly schedule, plan, coordinate and execute the Work, as specified herein, so as to perform the Work within the specified Milestone and Completion



dates, or to provide scheduling or related information, revisions and updates as required by the Contract Documents.

- 11.3 If the Owner terminates the whole or any portion of the Work pursuant to ARTICLE 11, then the Owner shall only be liable to the Contractor for those reasonable costs reimbursable to the Contractor as calculated by Owner in Owner's sole discretion, provided however, that if there is evidence that the Contractor would have sustained a loss on the entire Contract had it been completed an appropriate adjustment shall be made reducing the amount of the allowable termination payment to reflect the indicated amount of loss. Contractor shall submit any claim of reimbursable cost, as stated in this paragraph, within 10 days of receipt of Notice of Termination or such claims are waived, released and forever barred. Reasonable costs owed to the Contractor by the Owner may include supplies, services, or property accepted by the Owner. In arriving at any amount due the Contractor, there shall be deducted any claim the Owner may have against the Contractor, amounts determined to be necessary to protect the Owner against loss because of outstanding or potential liens or claims, and the price for any materials, supplies, or other things acquired by the Contractor and not otherwise recovered by or credited to the Owner. The total sum to be paid to the Contractor shall not exceed the Contract Sum as reduced by the amount of payments otherwise made or to be made for Work not terminated and as otherwise permitted by the Contract.
- 11.4 After receipt of a notice of termination from the Owner, the Contractor shall:
- 11.4.1 stop Work under the Contract on the date and to the extent specified in the notice of termination;
  - 11.4.2 place no further order or subcontracts for materials, services or facilities, except as may be necessary for completion of such portion of the work under the Contract as is not terminated;
  - 11.4.3 terminate all purchase orders and subcontracts to the extent that they relate to the performance of Work terminated by the notice of termination;
  - 11.4.4 at the option of the Owner, assign to the Owner in the manner, at the times and to the extent directed by the Owner, all of the rights in the subcontracts so terminated, in which case the Owner shall have the right, at his discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
  - 11.4.5 settle all outstanding liabilities and all claims arising out of such termination or orders and subcontracts;

11.4.6 complete performance of such part of the Work as shall not have been terminated by the notice of termination; and

11.4.7 take such action as may be necessary for the protection and preservation of the property related to the Contract which is in the possession of the Contractor and in which the Owner has or may acquire an interest.

11.5 In the event the provisions of this Agreement are determined by a Court of competent jurisdiction to be illegal or unenforceable, then such unenforceable or unlawful provision shall be excised from this Agreement, and the remainder of this Agreement shall continue in full force and effect. Notwithstanding the foregoing, if the result of the deletion of such provision will materially and adversely affect the rights of a party, such party may elect, at its option, to terminate this Agreement in its entirety.

## **ARTICLE 12 – CONTRACTOR**

12.1 The Contractor shall carefully study and compare the Contract Documents and shall at once report to the Owner and Architect any error, inconsistency or omission he may discover in the Contract Documents, including any requirement which may be contrary to any law, ordinance, rule, regulation or order of any public authority bearing on the performance of the Work. If the Contractor has reported in writing an error, inconsistency or omission, has promptly stopped the affected work until otherwise instructed, and has otherwise followed the instructions of the Owner, the Contractor shall not be liable to the Owner for any damage resulting from any such errors, inconsistencies or omissions in the Contract Documents. The Contractor shall perform no portion of the Work at any time without first possessing approved Shop Drawings, Product Data or Samples for such portion of the Work.

12.2 The Contractor and his Subcontractors shall keep at the site of the Work at least one copy of the approved drawings and specifications and shall at all times give the Owner, the Architect, inspectors, as well as other representatives of the Owner access thereto.

12.3 The Contractor shall supervise, coordinate and direct the Work, using his best skill and attention. He shall be solely responsible for and have control over all construction means, methods, techniques, sequences and procedures of construction and for coordinating all portions of the Work under the Contract.

12.4 It shall be the responsibility of the Contractor to coordinate the work, to maintain a progress schedule, and to notify the Owner and the Architect of any changes in the approved progress schedule.

- 12.5 The Contractor shall be responsible to the Owner for the acts and omissions of his employees, Subcontractors and sub-Subcontractors, suppliers, their agents and employees, and other persons performing any of the Work and for their compliance with each and every requirement of the Contract Documents, in the same manner as if they were directly employed by the Contractor.
- 12.6 The Contractor understands and agrees that the Owner and Architect will not be responsible for and will not have control or charge of construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, and they will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. The Owner, and Architect will not be responsible for or have control or charge over the acts or omissions of the Contractor, Subcontractors, or any of their agents or employees, or any other persons performing any of the Work.
- 12.7 The Contractor shall employ no plant, equipment, materials, methods or persons to which the Owner and Architect have a reasonable objection.
- 12.8 **Background Check.** The Contractor agrees to comply with all requirements of sections 1012.32 and 1012.465, Florida Statutes, and, except as provided in sections 1012.467 or 1012.468 and consistent with District policy, all of its personnel who (1) are to be permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds, shall successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes and the School Board. This background screening will be conducted by the School Board in advance of the Contractor or its personnel or subcontractors providing any services under the conditions described in the previous sentence. The Contractor shall bear the cost of acquiring the background screening required by section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to the Contractor and its personnel. The parties agree that the failure of the Contractor to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling the School Board to terminate immediately with no further responsibilities or duties to perform under this Agreement. The Contractor agrees to indemnify and hold harmless the School Board, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from Contractor's failure to comply with requirements of this section or with sections 1012.32 and 1012.465, Florida Statutes.



- 12.9 The Contractor warrants to the Owner and the Architect that all materials and equipment furnished under this Contract will be new, unless otherwise specified, and that all workmanship will be of the best, first class quality, free from faults and defects and in conformance with the Contract Documents and all other warranties and guaranties specified therein. Where no standard is specified for such workmanship or materials, they shall be the best of their respective kinds. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the Owner or Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials, workmanship and equipment. The warranties set forth in this paragraph and elsewhere in the Contract Documents shall survive Final Completion of the Work.
- 12.10 If, within one year after the Date of Final Completion of the Work or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be defective, not in accordance with the Contract Documents, or not in accordance with the guarantees and warranties specified in the Contract Documents, the Contractor or its Surety shall correct it within five (5) working days or such other period as mutually agreed, after receipt of a written notice from the Owner to do so. The Owner shall give such notice with reasonable promptness after discovery of the condition.
- 12.11 If at any time latent deficiencies in the Work are discovered, the Contractor will be liable for replacement or correction of such Work and any damages which Owner has incurred related thereto, regardless of the time limit of any guarantee or warranty, up to the time limit of the applicable statute of repose.
- 12.12 If the Contractor fails to correct defective or nonconforming Work as required, or if the Contractor fails to remove defective or nonconforming Work from the site, as required, the Owner may elect to either correct such Work or remove and store materials and equipment at the expense of the Contractor. If the Contractor does not pay the cost of such removal and storage within ten (10) days thereafter, the Owner may upon ten (10) additional days' written notice sell such Work at auction or at private sale and shall account for the net proceeds thereof, after deducting all the costs that should have been borne by the Contractor, including compensation for the Architect's additional services made necessary thereby. If such proceeds of sale do not cover all costs which the Contractor should have borne, the difference shall be charged to the Contractor and an appropriate Change Order shall be issued. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.



- 12.13 The Contractor shall prepare and submit to the Owner for the Owner's review and approval an as-planned progress schedule for the Work. The Contractor shall furnish such manpower, materials, facilities and equipment and shall work such hours, including night shifts, overtime operations and Sundays and holidays, as may be necessary to ensure the performance of the Work within the Milestone and Completion dates specified. If it becomes apparent to the Owner or Architect that the Work will not be completed within required Milestone or Completion dates, the Contractor agrees to undertake some or all of the following actions, at no additional cost to the Owner, in order to ensure that the Contractor will comply with all Milestone and Completion date requirements:
- 12.13.1 increase manpower, materials, crafts, equipment and facilities to accelerate performance of the Work;
  - 12.13.2 increase the number of working hours per shift, shifts per working day, working days per week, or any combination of the foregoing; and
  - 12.13.3 reschedule activities to achieve maximum practical concurrence of accomplishment of activities.
- 12.14 In undertaking the actions required under paragraph 12.13, Contractor shall prepare a Recovery Schedule and comply with the requirements thereof. If the schedule recovery actions taken by the contractor are not satisfactory, the Owner or Architect may direct the Contractor to take any and all actions necessary to ensure completion within the required Milestone and Completion dates (which shall be at Contractor's sole expense), without additional cost to the Owner. In such event, the Contractor shall continue to assume responsibility for his performance and for completion within the required dates.
- 12.15 The Contractor shall be responsible for taking all steps necessary to ascertain the nature and location of the Work and the general and local conditions which can affect the Work or the cost thereof. Failure by the Contractor to fully acquaint himself with conditions which may affect the Work, including, but not limited to conditions relating to access, transportation, handling, storage of materials, availability of labor, water, roads, weather, topographic and subsurface conditions, Separate Prime Contractor conditions and schedules, applicable provisions of law, and the character and availability of equipment and facilities needed prior to and during the execution of the Work, shall not relieve the Contractor of his responsibilities under the Contract Documents and shall not constitute a basis for an adjustment in the Contract Sum or the Contract Time under any circumstances. The Owner assumes no responsibility for any

understanding or representation about conditions affecting the Work made by any of its officers, employees, representatives, or agents prior to the execution of the Contract, unless such understandings or representations are expressly stated in the Contract Documents.

### **ARTICLE 13 - INDEMNIFICATION**

- 13.1 The parties agree that 1% of the total compensation paid to the CONTRACTOR for performance of this Agreement shall represent the specific consideration for the CONTRACTOR'S indemnification of the OWNER as is set forth in the General Conditions and Contract Document.
- 13.2 It is the specific intent of the parties hereto that the indemnification below complies with Florida Statute 725.06 (Chapter 725). It is further the specific intent and agreement of the parties that all of the Contract Documents on this Project are hereby amended to include the foregoing indemnification and the "Specific Consideration" therefore.
- 13.3 CONTRACTOR shall indemnify and hold harmless the OWNER, their officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the CONTRACTOR and persons employed or utilized by the CONTRACTOR in the performance of this construction contract. Regardless of the foregoing the indemnification herein shall be the greater of the CONTRACTORS insurance coverage for such claim or One million dollars, whichever is greater.
- 13.4 The Owner shall be liable only to the extent of its interest in the Project, and no officer, director, partner, agent or employee of the Owner shall ever be personally or individually liable with respect to this Agreement or the Work. Any subcontract entered into by the Contractor shall include the foregoing limitation, which shall be effective in the event the Owner ever succeeds to the Contractor's rights and obligations under a subcontract.

### **ARTICLE 14 – OWNER DIRECT PURCHASE PROGRAM**

- 14.1 The Owner shall appoint the Contractor as the Owner's authorized representative with respect to any matter arising out of the purchase orders under this program. The Contractor will cooperate fully with the Owner with respect to the implementation of a tax exempt direct material/equipment purchase program involving the direct purchase of various construction

materials, supplies and equipment that is currently part of this Contract. The Owner shall obtain, with the assistance of the Contractor, the proper authorization from the State of Florida in the form of a Technical Assistance Advisement (TAA).

The Owner Direct Purchase Program is attached hereto as **Exhibit “ A,”** controls the Direct Purchase Program for the Project. The Direct Purchase Program will be operated in accordance with the following provisions:

- 14.1.(a) The Owner will issue its own purchase orders directly to the third party vendor or supplier of material and equipment purchased under the Direct Purchase Program. The purchase order will be accompanied by the Owner's Exemption Certificate which includes its name, address, and the exemption number with issuance and expiration date.
- 14.1.(b) All material and equipment purchased under the Direct Purchase Program is sold directly to the Owner and is directly invoiced by the vendor or supplier.
- 14.1.(c) The Owner takes title and possession of all materials and equipment purchased under the Direct Purchase Program from the vendor or seller before they are incorporated into the Project.
- 14.1.(d) The Owner assumes all risk of loss on all material and equipment purchased under the Direct Purchase Program. The Contractor cannot be held liable for damage or loss to the material or equipment.
- 14.1.(e) The Owner is responsible for and pays the premiums on all insurance and/or bonding on materials or equipment purchased under the Direct Purchase Program. The Contractor does not share any economic benefits of proceeds from bond or insurance covering risk of damage or loss of the material or equipment.
- 14.1.(f) The Owner makes direct payment to the third party vendor or seller for all purchases from its own funds or accounts for all purchases under the Direct Purchase Program.
- 14.2 The Owner agrees to process its purchase orders so that the progress of construction is not jeopardized. Should the Owner fail to process the purchase orders within a time frame so as not to delay the construction, the Contractor shall, at its sole discretion, void the Owner purchase order and purchase the item direct thereby waiving any rights the Owner may have for a direct purchase tax savings. Should the items included in the purchase order represent any materials, supplies or equipment that is part of a



subcontractor's scope of Work, any terms and conditions that the subcontractor deems to be warranted to protect their interest, shall also be included and/or substituted. Vendors and suppliers must be approved by the Owner prior to the processing of purchase orders.

- 14.3 The items being purchased shall be purchased from the vendors and suppliers selected by the Contractor and/or the subcontractor for prices negotiated by the Contractor and/or subcontractor.
- 14.4 The Contractor is responsible for establishing an accounting system that will adequately track and monitor the direct purchases made by the Owner. The determination of the adequacy of the accounting system shall be mutually agreed upon between the Contractor and the Owner. The system developed by the Contractor shall track and monitor that materials purchased (and shall adequately identify the same), costs, tax savings, and such other charts of accounts or information as may be reasonable requested by the Owner. The Contractor shall submit a monthly accounting report of this information with the Contractor's application for payment.
- 14.5 The Contractor shall provide all rough drafts of purchase orders to the Owner for processing in such time and sequence that the Work will not be impeded or delayed in any manner. Notwithstanding anything in this Article 10.3 to the contrary, the Contractor remains fully responsible under its Contract with the Owner, and the implementation of this direct purchase program shall not be used in any manner by the Contractor to justify any delay unless such delay is a direct result of the Owner's failure to comply with the terms of the Direct Owner Purchase Program through no fault of the Contractor. Should a delay be incurred that is not the result of the Owner's failure, as stated above, the Contractor shall be held accountable for such a delay. The Contractor, for \$10.00 and other valuable consideration, the adequacy of receipt of which is hereby acknowledged and deemed to be sufficient, does hereby release, waive and hold harmless the Owner from and against any claim for damages, acceleration damages, or any other matter, claim or damage that may arise from or be related to in any way the Owner's Direct Purchase Program to the extent stated herein.
- 14.6 The Contractor shall be responsible for all purchases in the same manner as if the Contractor had purchased the items, inclusive of managing the warranties for the Owner. The Contractor shall cooperate with the Owner and take all action necessary to assure that all warranties with respect to any materials or equipment which may be available from any vendor are passed-through to the Owner.
- 14.7 Modification of the Contract Sum will made by on (1) change order (or additional change orders in the sole discretion of the Owner) prior to final payment unless the Contract period crosses the Owner's fiscal year, in

which case, one (1) change order will occur for each fiscal year, one prior to the close of the first year, and the other during the second fiscal year.

- 14.8 The Contractor and its surety hereby agree that the performance bond penal amount shall be unaffected by any direct purchase deductive change order which is made pursuant to this program.
- 14.9 The Contractor agrees that its builder's risk insurance coverage amount shall be unaffected by any direct purchase deductive change order implemented pursuant to this program.
- 14.10 Payment shall be directly made by the Owner to the vendor for any Direct Purchases.
- 14.11 To the extent authorized under Florida law, Owner agrees to indemnify and hold harmless Contractor, its subcontractors and suppliers of and from any claims, liability, or responsibility to the State of Florida for any action the State may take against any of them for the payment of any sales or use taxes as a result of Owner's direct purchase of such materials, supplies or equipment.
- 14.12 The Owner shall have the sole option to require the vendor to include a supply bond in the amount of 100% of the purchase order price. The bond shall be from a qualified surety company authorized to do business in the State of Florida and acceptable to the Owner and Contractor. The cost of the supply bond shall be included in Contractor's GMP.
- 14.13 The Owner agrees to make payments by the 15th of the month providing the Contractor processes the invoices and delivers same to the Facilities Division by the 20th of the preceding month.
- 14.14 Owner shall not withhold retainage on any payments made to the vendor.

## **ARTICLE 15 – TERMS**

- 15.1 Limitation of Liability. The Owner shall be liable only to the extent of its interest in the Project, and no officer, director, partner, agent or employee of the Owner shall ever be personally or individually liable with respect to this Agreement or the Work. Any subcontract entered into by the Contractor shall include the forgoing limitation, which shall be effective in the event the Owner ever succeeds to the Contractor's rights and obligations under a subcontract.

- 15.2 Unless the context of this Agreement otherwise clearly requires, references to the plural include the singular, references to the singular include the plural, the term “including” is not limiting, and the terms “hereof”, “herein”, “hereunder”, and similar terms in the Contract Documents refer to the Contract Documents as a whole and not to any particular provision thereof, unless stated otherwise.
- 15.3 Gender. Unless the context clearly indicates to the contrary, pronouns having a neuter, masculine or feminine gender shall be deemed to include the others.
- 15.4 Entire Agreement. This Agreement and the Construction Documents incorporated herein by reference constitute the entire Agreement between the parties with respect to the matters covered by this Agreement. All prior negotiations, representations and agreements not incorporated in this Agreement are cancelled. This Agreement can be modified or amended only by a written document duly executed by the parties or their duly appointed representative.
- 15.5 Binding Effect. Each and all of the covenants, terms, provisions and agreements contained in this Agreement shall be binding upon and inure to the benefits of the parties and their respective assigns, successors, subsidiaries, affiliates, holding companies and legal representatives, as allowed in this Agreement.
- 15.6 Notices. All notices shall be in writing, and may be served by (a) depositing the same in the United States mail addressed to the party to be notified, postpaid, and registered or certified with return receipt requested, (b) by delivering the same in person to such party, (i) personal delivery, or (ii) overnight courier, or (c) by facsimile transmission provided that a copy is sent on the same day, by 5 p.m., by either of the methods described in (a) or (b). Notice deposited in the mail shall be deemed to have been given on the third day next following the date postmarked on the envelope containing such notice, or when actually received, whichever is earlier. Notice given in any manner shall be effective only if and when received by the party to be notified. All notices to be given to the parties shall be sent to or delivered at the addresses or facsimile numbers set forth below:



If to Owner: Facilities Planning & Construction  
The School District of Indian River County, Florida  
6055 62<sup>nd</sup> Avenue  
Vero Beach, FL 32967  
Telephone: 772-564-5019

Contractor: Kerns Construction & Property Management Corp.  
Mr. Daniel Muschweck  
1217 Delaware Avenue  
Fort Pierce, FL 34950  
Telephone: 772-985-5015

By giving the other party at least 15 days written notice, each party shall have the right to change its address and specify as its new address any other address in the United States of America.

- 15.7 Waiver. No consent or waiver, express or implied, by either party to this Agreement to or of any breach or default by another in the performance of any obligations shall be deemed or construed to be consent or waiver to or of any other breach or default by that party. Except as otherwise provided in this Agreement, failure on the part of any party to complain of any act or failure to act by another party or to declare the other party in default, irrespective of how long such failure continues, shall not constitute a waiver of the rights of that party.
- 15.8 Captions. The headings used for the various portions of this Agreement and the Construction Documents are inserted only as a matter of convenience, and for reference, and in no way define, limit or describe the scope or the intent of this Agreement, any section of this Agreement, or any section of the Contract Documents.
- 15.9 Severability. In the event the provisions of this Agreement are determined by a Court of competent jurisdiction to be illegal or unenforceable, then such unenforceable or unlawful provision shall be excised from this Agreement, and the remainder of this Agreement shall continue in full force and effect. Notwithstanding the foregoing, if the result of the deletion of such provision will materially and adversely affect the rights of a party, such party may elect, at its option, to terminate this Agreement in its entirety.
- 15.10 Cumulative Remedies. All rights, powers, remedies, benefits, and privileges are available under any provision of this Agreement to any party, is in addition to and cumulative of any and all rights, powers, remedies, benefits and privileges available to such party under all other provisions of this Agreement, at law or in equity.



- 15.11 Approval. Whenever any review or approval is required by any party, such party agrees that such review or approval will be promptly and expeditiously prosecuted to conclusion.
- 15.12 Further Assurances. The parties agree to execute any and all further instruments and documents, and take all such action as may be reasonably required by any party to effectuate the terms and provisions of this Agreement and the transactions contemplated in this Agreement.
- 15.13 No Partnership or Joint Venture. It is understood and agreed that nothing contained in this Agreement shall be deemed or construed as creating a partnership or joint venture between the parties or any third party, or cause any party to be responsible in any way for the debts and obligations of the other party.
- 15.14 No Construction Against Drafter. Each of the parties have been represented by legal counsel who have had ample opportunity to, and have, participated in the drafting of this Agreement. Therefore, this Agreement shall not be construed more favorably or unfavorably against any party.
- 15.15 Third Party Beneficiary. This Agreement has been made and entered into for the sole protection and benefit of the Owner, and its respective successors, and no other person or entity shall have any right or action under this Agreement.
- 15.16 No Assignments. This Agreement is for the personal services of the Contractor, and may not be assigned by the Contractor in any fashion, whether by operation of law or by conveyance of any type, including without limitation, transfer of stock in the Contractor, without the prior written consent of the Owner, which consent the Owner may withhold in its sole discretion.
- 15.17 Force Majeure. With regard to the performance under this Agreement, a party shall not be deemed to be in default of this Agreement, or have failed to comply with any term or conditions if, for reasons beyond the parties reasonable control, including without limitation acts of God, natural disaster, labor unrest, war, declared or undeclared, the existence of injunctions or requirements for obtaining licenses, easements, permits or other compliance with applicable laws, rules and regulations, such performance is not reasonably possible within such time periods, then the time for such performance shall be extended until removal of such reasons beyond the parties reasonable control, provided that the party commences such performance as soon as reasonably possible and diligently pursues such performance.

- 15.18 Governing Law and Venue. This Agreement shall be governed and construed under the laws of the State of Florida. Except for a suit in federal court, Indian River County, Florida shall be the proper place of venue for all suits to enforce this Agreement. Any legal proceeding arising out of or in connection with this Agreement shall be brought in the Circuit Courts of Indian River County, Florida, or if appropriate, the United States District Court for the Southern District of Florida. Notwithstanding any other provision of the Contract Documents, the Owner does not agree to, nor shall the parties, arbitrate in any matter whatsoever any issue arising out of this Agreement, the Contract Documents or the performance thereof. The Owner does not agree to pay attorneys' fees to the prevailing party in connection with a dispute arising out of this Agreement or the Contract Documents.
- 15.19 Waiver of Jury Trial. The parties expressly waive the right to a jury trial.
- 15.20 Dispute Resolution. Prior to initiating any litigation arising out of the Agreement, the parties to submit the dispute to non-binding mediation by a mediator who is certified in Florida in an effort to resolve disputes in an expedient manner. Each party shall bear their own attorneys' fees, and the cost of the mediator shall be split between the parties.
- 15.21 Right to Enter this Agreement. Each party warrants and represents, with respect to itself, that neither the execution of this Agreement nor the performance of its obligations under this Agreement shall violate any legal requirement, result in or constitute a breach or default under any indenture, contract, or other commitment or restriction to which it is a party or by which it is bound. Each party also warrants and represents, with respect to itself, that the execution of this Agreement and the performances and obligations under this Agreement shall not require any consent, vote, or approval which has not been obtained, or at the appropriate time shall not have been given or obtained. Each party agrees that it has or will continue to have throughout the term of this Agreement the full right and authority to enter into this Agreement and to perform its obligation under this Agreement. Upon written request, each party agrees to supply the other party with evidence of its full right and authority.
- 15.22 Conduct While on School Property. The Contractor acknowledges that its employees and agents must behave in an appropriate manner while on the premises of any school facility and shall at all times conduct themselves in a manner consistent with School Board policies and subject to the administrator or designee. It will be considered a breach of this Agreement for any agent or employee of the Contractor to behave in a manner which is inconsistent with good conduct or decorum, or to behave in any manner which will disrupt the educational program or constitute any level of threat to safety, health, and well-being of any student or employee of the School



Board. The Contractor agrees to immediately remove any agent or employee if directed to do so by the building administrator or designee.

15.25 Owner Transfer of Interest. If the Owner conveys its interest in the Project to a third party, any rights which the Owner may have against the Contractor arising from this Agreement shall automatically transfer to such third party without the necessity of a written document or consent from the Contractor.

15.26 Public Entity Crime Information Statement and Debarment – Section 287.133(2)(a) of the Florida Statutes states: “A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.”

By signing this Agreement, Contractor certifies, to the best of its knowledge and belief, that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by a federal department or agency.
- (b) Have not, within a five-year period preceding the issuance of RFQ **SDIRC # 02-0-2019JC** been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.
- (c) Are not presently indicted or otherwise criminally charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in the preceding paragraph (b).
- (d) Have not within a five-year period preceding the issuance of RFQ **SDIRC # 02-0-2019JC** had one or more public transactions (federal, state or local) terminated for cause or default.

Contractor agrees to notify School Board within 30 days after the occurrence of any of the events, actions, debarments, proposals, declarations, exclusions, convictions, judgments, indictments, informations, or terminations as described in paragraphs (a) – (d) above, with respect to Contractor or its principals.

15.28 No Waiver of Sovereign Immunity. Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable.

15.29 Non-Discrimination. The parties shall not discriminate against any employee or participant in the performance of the duties, responsibilities and obligations under this agreement because of race, color, religion, gender, age, marital status, disability, political or religious beliefs, national or ethnic origin.

15.30 Compliance with Federal Grant Requirements. If made applicable by the use of federal grant funds in the Project or any other requirement as set out below, Contractor and its subcontractors shall comply with the following enactments, rules, regulations and orders:

Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees).

Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 3145) as supplemented in Department of Labor regulations (29 CFR part 3).

Davis-Bacon Act (40 U.S.C. 3141 et seq.) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of \$2000 awarded by grantees and subgrantees when required by Federal grant program legislation).

Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 701 et seq.) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers).

All applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 7606), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000).

Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

#### **ARTICLE 16 - PROJECT SIGNAGE**

CONTRACTOR shall furnish and erect 1 signs at the Project site as directed by the PROJECT MANAGER. CONTRACTOR may install signage at the site subject to approval by the PROJECT MANAGER.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement. One counterpart each has been delivered to OWNER, CONTRACTOR, and the ARCHITECT. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or by the ARCHITECT on their behalf.

OWNER: **SCHOOL BOARD OF INDIAN RIVER COUNTY**

CONTRACTOR: **KERNS CONSTRUCTION & PROPERTY MANAGEMENT CORP.**

By \_\_\_\_\_  
School Board Chairman

By Daniel Muschweck  
Daniel L. Muschweck, President

Attest: \_\_\_\_\_  
Superintendent  
(SEAL)

Attest:   
ANTHONY RAKE, VICE PRESIDENT  
(CORPORATE SEAL)

Address for giving notices  
\_\_\_\_\_  
\_\_\_\_\_

Address for giving notices  
540 NW University Blvd., Suite 204  
Port St. Lucie, FL 34986

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

License No. CGC 059365

Agent for service of process:

\_\_\_\_\_  
School Dist. Attorney

\_\_\_\_\_  
(If CONTRACTOR is a corporation, attach evidence of authority to sign.)

**SINGLE POINT OF ENTRY – PELICAN ISLAND ELEMENTARY**  
For The School Board of Indian River County Project No. SDIRC # 02-0-2019JC



## Exhibit A

### Owner Direct Material/Equipment Purchase Program

1. The Subcontractor has included Florida State Sales and other applicable taxes in his bid for material, supplies and equipment. The Owner, being exempt from sales tax, reserves the right to make direct purchases of various construction equipment, materials or supplies included in the Subcontractor's bid and/or contract, substantially in accordance with the form of Purchase Order attached herewith.

Any equipment, materials or supplies directly purchased by the Owner that are included in the Subcontractor's contract shall be referred to as Owner-Purchased Materials and the responsibilities of both Owner and Subcontractor relating to such Owner-Purchased Materials shall be governed by the terms and conditions of the procedures. The Owner will own and hold full title to all Owner-Purchased Materials.

2. Material suppliers shall be selected by the Subcontractor awarded the subcontract.

The Subcontractor has included the price for all construction materials in his bid. Owner Purchasing of construction materials, if selected, will be administered on a deductive Change Order basis.

3. Subcontractor shall provide Contractor a list of all intended suppliers, vendors, and material men for consideration as Owner-Purchased Materials. This list shall be submitted at the same time as the preliminary schedule of values. The Subcontractor shall submit a description of the materials to be supplied, estimated quantities and prices.

4. Upon request from Contractor, and in a timely manner, Subcontractor shall prepare a standard Purchase Order Requisition Form in a form acceptable to the Owner and the Contractor, to specifically identify the materials which Owner had, at its sole option, elected to purchase directly. The Purchase Order Requisition Form shall include:

- A. The name, address, telephone number and contact person for the material supplier.

- B. Manufacturer or brand, model or specification number of the item.

- C. Quantity needed as estimated by the Subcontractor.
- D. The price quoted by the supplier for the materials identified therein.
- E. Any sales tax associated, with such quote.
- F. Delivery dates as established by Subcontractor.

Subcontractor shall include reference to any terms and conditions which have been negotiated with the vendors; i.e., payment terms, warranties, retainage, etc.

Such Purchase Order Requisition Forms are to be submitted to Contractor's designated representative no less than fifteen (15) days prior to the need for ordering such Owner-Purchased Materials, in order to provide sufficient time for Owner review and approval and to assure that, such Directly Purchased Materials may be directly purchased by Owner and delivered to the Project site so as to avoid any delay to the Project.

- 5. After receipt of the Purchase Order Requisition Form, Owner shall prepare its Purchase Orders for equipment, materials or supplies which the Owner chooses to purchase directly. Pursuant to the Purchase Order, the vendor will provide the required quantities of material at the price established in the vendor's quote to the Subcontractor, less any sales tax associated with such price. Promptly upon receipt of each Purchase Order, Subcontractor shall verify the terms and conditions of the Purchase Order prior to its issuance to supplier and in a manner to assure proper and timely delivery of items. Owners Purchasing Director or his designated representative shall be the approving authority for the Owner on Purchase Orders in conjunction with Owner-Purchased Materials. The Purchase Order shall require that the supplier provide the required shipping and handling insurance. The Purchase Order shall also require the delivery of the Owner-Purchased Materials on the delivery dates provided by the Subcontractor in the Purchase Order Requisition Form and shall indicate F.O.B. jobsite.
- 6. In conjunction with the execution of the Purchase Orders by the suppliers, the Subcontractor shall execute and deliver to the Owner, through the Contractor, one or more deductive Change Orders, referencing the full value of all Owner-Purchased Materials to be provided by each supplier from whom the Owner elected to purchase material directly, plus all sales tax savings associated with such materials in Subcontractor's bid to Contractor.

7. All shop drawings and submittals shall be made by the Subcontractor in accordance with the Project Specifications.
8. Subcontractor shall be fully responsible for all matters relating to the receipt of materials furnished by Owner in accordance with these Procedures, including, but not limited to, verifying correct quantities, verifying documentation of orders in a timely manner, coordinating purchases, providing and obtaining all warranties and guarantees required by the Contract Documents, inspection and acceptance of the goods at the time of delivery, and loss, or damage to equipment and materials following acceptance of items by the Owner due to the negligence of the Subcontractor. The Subcontractor shall coordinate delivery schedules, sequence of delivery, loading orientation, and other arrangements normally required by the Subcontractor for the particular materials furnished. The Subcontractor agrees to indemnify and hold harmless the Owner from any and all claims of whatever nature resulting from non-payment of goods to suppliers arising from the actions or directions of Subcontractor. Owner purchased materials shall be stored at the construction site.
9. As Owner-Purchased Materials are delivered to the jobsite, the Subcontractor and the Contractor, as County's Representative, shall visually inspect all shipments from the suppliers, and approve the vendor's invoice of material delivered. The Subcontractor shall assure that each delivery of Owner-Purchased materials is accompanied by adequate to identify the Purchase Order against which the purchase is made. This documentation may consist of a delivery ticket and an invoice from the supplier conforming to the Purchase Order, together with such additional information as the Owner or Contractor may require. The Contractor, as Owner's Representative, shall verify in writing to the Owner the accuracy of the delivery ticket. The Subcontractor will then forward the invoice to the Owner through the Contractor for payment. The invoice shall be thereupon furnished to the Finance Department for processing and payment in the manner as all other Osceola School District invoices are processed. The Owner shall have the right to assign personnel to verify and audit the accuracy of all Director Purchase Documents.
10. The Subcontractor shall insure that Owner-Purchased Materials conform to the Specifications, and determine prior to incorporation into the work if such materials are patently defective, and whether such materials are identical to the material ordered and match the description on the bill of lading. If the Subcontractor discovers defective or non-conformities in the Owner-Purchased Material upon such visual inspection, the Subcontractor shall not utilize such non-conforming or defective materials in the work and instead shall promptly notify the vendor of the defective or non-conforming condition



in order to pursue repair or replacement of those materials without any undue delay or interruption to the Project. Additionally, the Subcontractor shall notify the Owner, through the Contractor, of such occurrence. If the Subcontractor fails to perform such inspection and otherwise incorporated Owner-Purchased Materials, the condition of which it either knew or should have known by performance of an inspection, Subcontractor shall be responsible for all damages to County resulting from Subcontractor's incorporation of such materials into the Project, including liquidated or delay damages. In the event that materials furnished are found to be defective or no-conforming, the Subcontractor shall promptly take action to remedy the defect or non-conformance so as not to delay the work.

11. The Subcontractor shall maintain records of all Owner-Purchased Materials it incorporates into the work from the stock of Owner-Purchased Materials in its possession. The Subcontractor shall account monthly to the Owner, through the Contractor, for any Owner-Purchased Materials delivered into the Subcontractor's possession, including portions of all such materials which have been incorporated into the work.
12. The Subcontractor, as the Owner's agent, shall be responsible for obtaining and managing all warranties and guarantees for all material and products as required by the Contract Documents. All repair, maintenance or damage-repair calls shall be forwarded to the Subcontractor for resolution with the appropriate supplier or vendor.
13. Notwithstanding the transfer of Owner-Purchased Materials by the Owner to the Subcontractor's possession, the Owner shall retain title to any and all Owner-Purchased Materials.
14. The transfer of possession of Owner-Purchased Materials from the Owner to the Subcontractor shall constitute a bailment for the mutual benefit of the Owner and the Subcontractor. The Owner shall be considered the bailor and the Subcontractor the bailee of the Owner-Purchased Materials. Owner-Purchased Materials shall be considered returned to the Owner for the purposes of its bailment at such time as they are incorporated into the Project or consumed in the process of completing the Project. All Owner-Purchased Materials shall be stored at the construction site.
15. The insurance purchased and maintained by the Contractor shall be sufficient to protect against any loss of or damage to Owner-Purchased Equipment, Materials or Supplies. Such insurance shall cover the full value of any Owner-Purchased Materials not yet incorporated into the Project from the time the Owner first takes title. The Owner shall be named as an Additional Insured Party on such policies of insurance. The Owner will bear the costs of all Payment and Performance Bonds and Owner's Insurance

including Builder's Risk Insurance as a reimbursable expense to the Contractor. The Owner as an additional named insured on the Contractor's Builder's Risk Insurance and, in the event of damage or destruction to the Owner-Purchased Materials, the Owner will receive all proceeds derived from all claims against insurers or others to pay for repair or reconstruction as a result of damage or destruction.

16. The Owner shall in no way be liable for interruption or delay in the Project, for any defects or other problems with the Project, or for any extra costs or time resulting from delay in the delivery of, or defects in, Owner-Purchased Materials when such delay is a result of the failure of the Subcontractor's performance.
17. On a monthly basis, Subcontractor shall be required to review invoices submitted by all suppliers of Owner-Purchased Materials delivered to the Project site during that month and either concur or object to the Owner's issuance of payment to the suppliers, based upon Subcontractor's records of material delivered to the site and any defects in such materials.
18. In order to arrange for the prompt payment to the supplier, the Subcontractor shall provide to the Owner, through the Contractor, a list indicating the acceptance of the goods or materials in accordance with the established monthly Payment Request Schedule. The list shall include a copy of the applicable Purchase Order, invoices, delivery tickets, written acceptance of the delivered items, and such other documentation as may be reasonably required by the Owner. Upon receipt and verification of the appropriate documentation, the Owner shall prepare a check drawn to the supplier based upon the receipt of data provided. This check will be released, delivered, and remitted directly to the supplier. The Subcontractor agrees to assist the Owner to immediately obtain a partial or final release of lien waiver as appropriate.
19. The Owner's direct purchase of equipment, materials or supplies, as provided herein does not relieve the Contractor or any Subcontractor of any obligation required pursuant to the contract or subcontract pertaining to the performance of work, except as to the Owner's obligation to make direct payments to such vendors and may reduce the bonds to the extent permitted by Section 255.05, F.S.



**ADDENDUM TO VENDOR'S AGREEMENT**  
**BETWEEN**  
**THE SCHOOL BOARD OF INDIAN RIVER COUNTY, FLORIDA**  
**AND KERNS CONSTRUCTION & PROPERTY MANAGEMENT CORP.**

This Addendum is incorporated within the VENDOR'S Agreement between THE SCHOOL BOARD OF INDIAN RIVER COUNTY, FLORIDA (hereafter referred to as "SCHOOL BOARD") and **Kerns Construction & Property Management Corp.** (hereafter referred to as "VENDOR").

In order to conduct the scope of work covered by the VENDOR'S Agreement, the VENDOR has requested access to various SCHOOL BOARD documents ("SCHOOL BOARD Records") including, without limitation, certain documents that contain information relating to the security systems for property owned or leased by SCHOOL BOARD or that depict the internal layout and structural elements of SCHOOL BOARD-owned or leased buildings. All of VENDOR'S records and notes regarding the work performed under the VENDOR'S Agreement shall be referred to herein as "VENDOR'S Documents."

The VENDOR hereby acknowledges that the SCHOOL BOARD Records and VENDOR'S Documents are public records. Pursuant to Section 119.0701, Florida Statutes, VENDOR shall keep and maintain all public records required to perform the services required under this Agreement. The VENDOR acknowledges that VENDOR shall not release any SCHOOL BOARD Records or any VENDOR'S Documents to anyone other than SCHOOL BOARD'S Superintendent of Schools or to the designee of said Superintendent.

The VENDOR hereby acknowledges that some or all of SCHOOL BOARD Records and of VENDOR'S Documents are confidential and exempt from public inspection under state law and VENDOR acknowledges VENDOR'S duty and obligation to preserve the confidential and exempt nature of such materials. Specifically, Section 119.071(3)(b)1, Florida Statutes, states in pertinent part as follows: "Building plans, blueprints, schematic drawings, and diagrams... which depict the internal layout and structural elements of a building... or other structure owned or operated by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution [the provisions commonly referred to as the public records laws]." In addition, Section 281.301(1), Florida Statutes, states in pertinent part as follows: "Information relating to the security systems for any property owned by or leased to the state or any of its political subdivisions... including all records, information,... schematic diagrams... are confidential and exempt from ss. 119.07(1) and 286.011 and other laws and rules requiring public access or disclosure."

VENDOR shall immediately notify SCHOOL BOARD'S custodian of public records of any request received by VENDOR from any third person for the inspection or copying of public records. The VENDOR shall not directly deliver any public records to any third person, but rather shall immediately provide SCHOOL BOARD'S custodian of public records with copies of any public records that have been requested by any third party. VENDOR shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the VENDOR'S Agreement's term and following completion of the VENDOR'S Agreement if VENDOR does not transfer the public records to SCHOOL BOARD. Upon completion of the VENDOR'S Agreement, VENDOR shall transfer, at no cost, to SCHOOL BOARD all public records in possession of VENDOR required to perform the services under the VENDOR'S Agreement. Upon VENDOR'S transfer to SCHOOL BOARD of all public records upon completion of the services required under the Agreement, VENDOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If VENDOR keeps and maintains any public records upon completion of the VENDOR'S Agreement with SCHOOL BOARD, VENDOR shall meet all applicable requirements for retaining public records and preserving any applicable confidentiality or exemptions. All records stored electronically must be provided to SCHOOL BOARD, upon request from SCHOOL



BOARD's custodian of public records, in a format that is compatible with SCHOOL BOARD's information technology systems.

**IF THE VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, THE VENDOR SHALL CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: [Brenda.davis@indianriverschools.org](mailto:Brenda.davis@indianriverschools.org).**

The VENDOR agrees to comply with the foregoing requirements governing the custody of and access to public records and to confidential and exempt information under applicable law.

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**Approval to Award SDIRC 02-0-2019JC Invitation to Bid (ITB) for a Single Point of Entry at Pelican Island Elementary to Kerns Construction and Property Management, Inc. - Mr. Teske**

The purpose and intent of this Invitation to Bid was to secure a firm price to create a single point of entry into the administrative offices at Pelican Island Elementary as per specifications and drawings provided by Song + Associates Architects. The cost to the District is \$199,500 (Bid amount of \$179,500 and owner added contingency of \$20,000).

Notice of ITB was placed in the Indian River Press Journal on October 14, 2018 and mailed to twenty-nine (29) vendors in our vendor data base. Bid documents were posted on Onvia DemandStar and the Purchasing Department's website. Five (5) bids, including two 'No Bids', were received by the due date of 2:00 p.m. on November 14, 2018 as follows:

*Legend: Primary Award \_\_\_\_\_*

| <b>Bidder</b>                                    | <b>Amount Bid</b>   |
|--------------------------------------------------|---------------------|
| Bill Bryant & Associates, Inc.                   | No Bid              |
| Pinnacle Construction of the Treasure Coast, LLC | No Bid              |
| Kerns Construction and Property Management, Inc. | <u>\$179,500.00</u> |
| Summit Construction of Vero Beach                | \$181,300.00        |
| Close Construction, LLC                          | \$228,274.00        |

The Purchasing Department recommends award to Kerns Construction and Property Management, Inc. as the lowest and best responsive and responsible bidder meeting specifications, terms and conditions.

Failure to file a protest with the time prescribed in Florida Statutes 120.57(3) or failure to post a bond or other security required by law within the time allowed for filing a bond shall constitute a waiver or proceedings under Chapter 120, Florida Statutes.

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**Application and Certificate for Payment**

|                                                                                                                  |                                                                                          |                                                                                                                                             |                                                                                                                                                                                                                       |
|------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>TO OWNER:</b><br>School Distric of Indian River<br>6055 62nd Avenue<br>Vero Beach, FL 32967                   | <b>PROJECT:</b><br>265 SDIRC TECH ED CENTER<br>4680 28TH Court<br>Vero Beach, FL 32967   | <b>APPLICATION NO:</b> 9<br><b>PERIOD TO:</b> 11/15/18<br><b>CONTRACT FOR:</b><br><b>CONTRACT DATE:</b> 10/24/17<br><b>PROJECT NOS:</b> / / | <b>Distribution to:</b><br><input checked="" type="checkbox"/> OWNER<br><input type="checkbox"/> ARCHITECT<br><input type="checkbox"/> CONTRACTOR<br><input type="checkbox"/> FIELD<br><input type="checkbox"/> OTHER |
| <b>FROM CONTRACTOR:</b><br>Summit Construction of Vero Beach<br>2837 Flight Safety Drive<br>Vero Beach, FL 32960 | <b>VIA ARCHITECT:</b><br>Donadio & Associates<br>609 17th Street<br>Vero Beach, FL 32960 |                                                                                                                                             |                                                                                                                                                                                                                       |



**CONTRACTOR'S APPLICATION FOR PAYMENT**

Application is made for payment, as shown below, in connection with the Contract. Continuation Sheet, AIA Document G703, is attached.

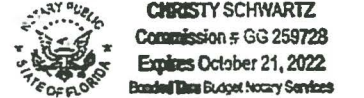
|                                                                   |                                                    |
|-------------------------------------------------------------------|----------------------------------------------------|
| 1. ORIGINAL CONTRACT SUM .....                                    | 1,600,100.00                                       |
| 2. Net change by Change Orders .....                              | -70,055.99                                         |
| 3. CONTRACT SUM TO DATE (Line 1 ± 2) .....                        | 1,530,044.01                                       |
| 4. TOTAL COMPLETED & STORED TO-DATE (Column G on G703) .....      | 1,530,044.01                                       |
| <b>5. RETAINAGE:</b>                                              |                                                    |
| a. <u>0</u> % of Completed Work<br>(Column D + E on G703)         | \$ _____                                           |
| b. <u>0</u> % of Stored Material<br>(Column F on G703)            | \$ _____                                           |
| Total Retainage (Lines 5a + 5b or Total in Column I of G703)..... | \$ 0.00                                            |
| 6. TOTAL EARNED LESS RETAINAGE .....                              | \$ 1,530,044.01<br>(Line 4 Less Line 5 Total)      |
| 7. LESS PREVIOUS CERTIFICATES FOR PAYMENT .....                   | \$ 1,370,695.92<br>(Line 6 from prior Certificate) |
| 8. CURRENT PAYMENT DUE .....                                      | \$ 159,348.09                                      |
| 9. BALANCE TO FINISH, INCLUDING RETAINAGE<br>(Line 3 less Line 6) | \$ 0.00                                            |

| CHANGE ORDER SUMMARY                               | ADDITIONS | DEDUCTIONS   |
|----------------------------------------------------|-----------|--------------|
| Total changes approved in previous months by Owner | \$ 0.00   | \$ 0.00      |
| Total approved this Month                          | \$ 0.00   | \$ 70,055.99 |
| <b>TOTALS</b>                                      | \$ 0.00   | \$ 70,055.99 |
| <b>NET CHANGES by Change Order</b>                 | \$        | 70,055.99    |

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

**CONTRACTOR:**  
By:   
State-of: FL  
County of: Indian River  
Subscribed and sworn to before me this 14 day of November 2018  
Notary Public:   
My Commission expires: \_\_\_\_\_

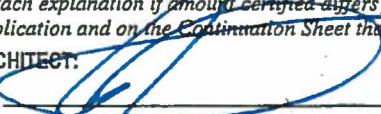
Date: 11/14/2018



**ARCHITECT'S CERTIFICATE FOR PAYMENT**

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED ..... \$ 159,348.09  
(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)

**ARCHITECT:**  
By:   
Date: 11/14/18

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract



# AIA DOCUMENT G701-2000

## Change Order

(Instructions on reverse side)

**PROJECT:**

(Name and address)

SDIRC Technical Ed. Center  
4680 28th Court  
Vero Beach, FL 32967

**TO CONTRACTOR:**

(Name and address)

Summit Construction of Vero Beach,  
2837 Flight Safety Drive  
Vero Beach, FL 32960

**CHANGE ORDER NUMBER:** 1

**DATE:** Nov. 13, 2018

**ARCHITECT'S PROJECT NUMBER:**

**CONTRACT DATE:** 10/24/17

**CONTRACT FOR:** SDIRC Technical Ed Center

OWNER

ARCHITECT

CONTRACTOR

FIELD

OTHER

**THE CONTRACT IS CHANGED AS FOLLOWS:**

(Include, where applicable, any un-disputed amount attributable to previously executed Construction Change Directives.)

Refund surplus balance of GMP back to Owner

The original (Contract Sum) (Guaranteed Maximum Price) was \$ 1,600,100.00

The net change by previously authorized Change Orders \$ 0.00

The (Contract Sum) (Guaranteed Maximum Price) prior to this Change Order was \$ 1,600,100.00

The (Contract Sum) (Guaranteed Maximum Price) will be (increased) (decreased)

(unchanged) by this Change Order in the amount of \$ (70,055.99)

The new (Contract Sum) (Guaranteed Maximum Price) including this Change Order will be \$ 1,530,044.01

The Contract Time will be (increased) (decreased) (unchanged) by zero ( 0 ) days.

The date of Substantial Completion as of the date of this Change Order therefore is 7/31/2018

**NOTE:** This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive for which the cost or time are in dispute as described in Subparagraph 7.3.8 of AIA Document A201.

Not valid until signed by the Architect, Contractor and Owner.

Donadio & Associates

ARCHITECT (Typed name)



(Signature)

ANTHONY DONADIO

BY

11/14/18  
DATE

Summit Construction

CONTRACTOR (Typed name)



(Signature)

William B. Schuh

BY

11/14/2018  
DATE

SDIRC

OWNER (Typed name)



(Signature)

Nicholas Westenberg

BY

11/14/2018  
DATE



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AIA DOCUMENT G701-2000  
CHANGE ORDER

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1

The American Institute of Architects  
1735 New York Avenue, N.W.  
Washington, D.C. 20006-5292



**THE SCHOOL BOARD OF INDIAN RIVER COUNTY, FLORIDA  
AGREEMENT FORM FOR CONTRACTED SERVICES**

**THIS AGREEMENT**, entered into this 11<sup>th</sup> day of December, 2018, by and between the School Board of Indian River County, Florida, a political subdivision of the State of Florida hereinafter referred to as the "**School Board**", and Stuart Fence Company, Inc. (Legal Name of Contracting Party/Organization) hereinafter referred to as the "**CONTRACTOR**", is as follows:

**1. SCOPE OF WORK**

Nature of Contracted Services: Project to include all material and labor for the VBHS Freshman Learning Center campus installation of perimeter/security fencing and gates.

Nature of Contracted Services: Furnish and install 1,650 LF of 6' high black vinyl coated commercial 6-gauge kk chain link fence with three 4' single gates, two 12' double gates, one 26' double gate, one 45' double gate, and ten 4' wide pre-hung panic gates from Merchant Metals. All posts set in concrete. Material to consist of all black 1 5/8" top rail, 2 1/2" schedule 40 line posts, 3" schedule 40 terminal posts, 4" & 6" schedule 40 gate posts and 6-gauge bottom tension wire. Total includes all materials, labor, and core drills for posts through concrete and/or asphalt, as per attached proposal dated November 8, 2018.

Anticipated Outcome of Contracted Services: Furnish and install 1,650 LF of 6' high black vinyl coated commercial 6-gauge kk chain link fence with three 4' single gates, two 12' double gates, one 26' double gate, one 45' double gate, and ten 4' wide pre-hung panic gates from Merchant Metals. All posts set in concrete. Material to consist of all black 1 5/8" top rail, 2 1/2" schedule 40 line posts, 3" schedule 40 terminal posts, 4" & 6" schedule 40 gate posts and 6-gauge bottom tension wire. Total includes all materials, labor, and core drills for posts through concrete and/or asphalt, as per attached proposal dated November 8, 2018.

Location of Contracted Service: VBHS Freshman Learning Center, 1507 19<sup>th</sup> Street, Vero Beach, FL 32960

Date(s)/Hours of Service: As needed – Scheduled TBD

**2. TERM OF AGREEMENT -**

The **Contractor** shall commence performance of the Agreement on the 12<sup>th</sup> day of December, 2018, and shall complete performance to the satisfaction of the Superintendent no later than the 30<sup>th</sup> day of April, 2019. The **School Board** reserves the right to terminate this Agreement without cause by giving ten (10) days written notice to the **Contractor**.

### 3. COMPENSATION

The **School Board** shall, upon completion of services by the **Contractor**, compensate the **Contractor** in an amount NOT TO EXCEED \$95,400.00 - (90,400.00 - Proposal Amount (attached), plus \$5,000.00 – Owner Added Contingency), which shall constitute the amount due under this Agreement. Agreements exceeding \$50,000 require **School Board** approval. The **Contractor** agrees to assume responsibility for all per diem and travel expenses, unless authorization to incur such expenses is granted by the **School Board** in advance of the expenditures being incurred. The **Contractor** shall be reimbursed for such approved expenditures as provided by §112.061 Florida Statutes, and School Board Policy 6550.

### 4. PAYMENT SCHEDULE

Payment will be generated by the **School Board's** Accounts Payable Department within forty-five (45) days after completion of services and receipt of invoice(s). Payment will be made as indicated below:

- Lump sum payment in the amount of \$ \_\_\_\_\_ upon completion of services and District-approved invoice
- Partial payments after District-approved invoice(s).
- See payment schedule hereto attached and incorporated into this Agreement.
- Payment of District-approved invoice(s).

### 5. REGULATIONS & ORDINANCES

The **Contractor** shall comply with all applicable laws, ordinances, codes, rules and regulations of federal, state and local governments being licensed, if required, for performance of any work under this Agreement.

### 6. GOVERNING LAW; VENUE

This Agreement shall be governed by, and construed in accordance with the laws of the State of Florida. In the event of litigation, venue for any claim shall lie exclusively in a court of competent jurisdiction in Indian River County. All parties shall be responsible for their own attorneys' fees.

### 7. INDEMNIFICATION / HOLD HARMLESS AGREEMENT

**Contractor** shall, in addition to any other obligation to indemnify the **School Board** of Indian River County, Florida, protect, defend, indemnify and hold harmless the School Board, its agents, officers, elected officials and employees from and against all claims, actions, liabilities, losses (including economic losses), costs arising out of any actual or alleged bodily injury, sickness, disease or death, or injury to or destruction of tangible property including the loss of use resulting therefrom, or any other damage or loss arising out of, or claimed to have resulted in whole or part from any actual or alleged act or omission of the **Contractor**, subcontractor, anyone directly or indirectly employed by any of them, of anyone for whose acts any of them may be liable in the performance of the work, or violation of law, statute, ordinance, governmental administration order, rule or regulation by **Contractor** in the performance of the work; or liens, claims or actions made by the **Contractor** or any subcontractor or other party performing the work. The indemnification obligations hereunder shall not be limited to any limitation on the amount, type of damages, compensation or benefits payable by or for the **Contractor** or any subcontractor under workers' compensation acts, disability benefit acts, other employee benefit acts or any statutory bar. This provision shall survive the termination of or completion of all obligations under this Agreement.



#### 8. DUTY TO DEFEND

The **Contractor** agrees, at its own expense, and upon written request by the **Board**, to defend any suit, action or demand brought against the **School Board** on any claim or demand arising out of, resulting from or incidental to **Contractor's** performance under this Agreement.

#### 9. CANCELLATION / TERMINATION

In the event any of the provisions of this agreement are violated by the contractor, the Superintendent or their designee, shall give written notice to the **Contractor** stating the deficiencies and unless the deficiencies are corrected within ten (10) days, recommendation will be made to the **School Board** for immediate cancellation. Upon cancellation hereunder, the **School Board** of Indian River County, Florida, may pursue any and all legal remedies as provided herein and by law. The **School Board** of Indian River County, Florida, reserves the right to terminate any contract at any time and for any reason, upon giving ten (10) business days prior written notice to the **Contractor**. If said contract should be terminated for convenience as provided herein, the **School Board** shall be relieved of all obligations under said contract. The **School Board** of Indian River County shall only be required to pay to the **Contractor** that amount of the contract actually performed to the effective date of termination.

#### 10. EQUAL EMPLOYMENT OPPORTUNITY

**Contractors** awarded contracts involving Federal Funds in excess of \$10,000 must be in compliance with Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor Regulations (41 CFR Chapter 60).

#### 11. ACCESS TO RECORDS / FLORIDA'S PUBLIC RECORDS LAWS

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE SCHOOL BOARD'S CUSTODIAN OF RECORDS AT [INSERT NAME, TELEPHONE NUMBER, EMAIL ADDRESS AND MAILING ADDRESS].**

- a. This Agreement is subject to and governed by the laws of the State of Florida, including without limitation Chapter 119, Florida Statutes, which generally makes public all records or other writings made by or received by the parties. The Contractor acknowledges its legal obligation to comply with § 119.0701, Florida Statutes.
- b. The Contractor shall keep and maintain public records, as that phrase is defined in the Florida Public Records Act, required by the School Board in order to perform the scope of services.
- c. Upon request by the School Board, the Contractor shall provide the School Board with a copy of any and all requested public records or allow the requested public records to be inspected or copied, within a reasonable time, at a cost that does not exceed the cost allowed by law.
- d. The Contractor shall not disclose public records that are exempt, or confidential and exempt, from public records disclosure unless specifically authorized by law for the duration of the Agreement term and following completion of the Agreement if the Contractor does not transfer the public records to the School Board as indicated below.
- e. The Contractor shall comply with all requirements for retaining public records and shall transfer, at no cost to the School Board, all public records in the possession of the Contractor upon termination or expiration of this Agreement. The Contractor shall destroy any duplicate public records that are exempt, or confidential and exempt, from public records disclosure requirements. All public records stored electronically must be provided to the School Board in a format that is compatible with the information technology systems of the School Board.

f. Notwithstanding any other provision of this Agreement to the contrary, failure to comply with this requirement shall result in the immediate termination of the Agreement, without penalty to the School Board. Further, the Contractor shall fully indemnify and hold harmless the School Board, its officers, agents and employees from any liability and/or damages, including attorney's fees through any appeals, resulting from the Contractor's failure to comply with these requirements.

## 12. PATENTS, COPYRIGHTS AND ROYALTIES

All books, manuals, films or other materials suitable for copyright or patent, regardless of means of transmission produced as a result of the work or services performed under or in connection with this Agreement, are hereby reserved as the exclusive property of and sole ownership by The **School Board** of Indian River County, Florida, unless and to the extent that the parties agree otherwise, as evidenced in writing and included as a part of this Agreement. **Contractor** shall defend, indemnify and hold the **School Board** and its successors and assigns harmless from and against all third-party claims, suits and proceedings and any and all damages, liabilities, costs and expenses (including reasonable attorneys' fees and court costs) incurred as a result of (i) infringement by **Contractor** of any third-party patent, copyright or trademark or (ii) misappropriation by **Contractor** of any third-party trade secret in connection with any of the foregoing. **Contractor** will indemnify and hold harmless the School Board from liability of any nature or kind, including costs and expenses for or on account of any copyrighted, service marked, trademarked, patented or unpatented invention, process, article or work manufactured or used in the performance of the Agreement, including its use by the **School Board**. If **Contractor** uses any design, device, materials or works covered by letters, service mark, trademark, patent, copyright or any other intellectual property right, it is mutually agreed and understood without exception that the proposal prices will include all royalties or costs arising from the use of such design, device or materials in any way involved in the work.

## 13. BACKGROUND SCREENING REQUIREMENTS

In accordance with the requirements of §1012.465, §1012.32 and §1012.467, Florida Statutes, and **School Board Policies** as amended from time to time **Contractor** agrees that, if **Contractor** receives remuneration for services, **Contractor** and all of its employees who provide or may provide services under this Contract will complete criminal history checks, and all background screening requirements, including level 2 screening requirements as outlined in the above-referenced statutes and **School Board Policies** prior to providing services to The **School Board** of Indian River County.

Additionally, **Contractor** agrees that each of its employees, representatives, agents, subcontractors or suppliers who is permitted access on school grounds when students are present, who has direct contact with students or who has access to or control of school funds must meet level 2 screening requirements as described in the above-referenced statutes and **School Board Policies**.

A non-instructional **Contractor** who is exempt from the screening requirements set forth in §1012.465, §1012.468 or §1012.467, Florida Statutes, is subject to a search of his or her name or other identifying information against the registration information regarding sexual predators and sexual offenders maintained by the Department of Law Enforcement under §943.043 and the national sex offender public registry maintained by the United States Department of Justice.

Further, upon obtaining clearance by **School Board**, the **School Board** will issue a photo identification badge, which shall be worn by the individual at all times in plain sight while on **School Board** property when students are present. **Contractor** agrees to bear any and all costs associated with acquiring the required background screening including any costs associated with fingerprinting and obtaining the required photo identification badge. **Contractor** agrees to require all its affected employees to sign a statement, as a condition of employment with **Contractor** in relation to performance under this Bid/RFP/Agreement, agreeing that the employee will abide by the heretofore described background screening requirements, and also agreeing that



the employee will notify the **Contractor/Employer** of any arrest(s) or conviction (s) of any offense enumerated in **School Board Policy 8475** within 48 hours of its occurrence.

**Contractor** agrees to provide the **School Board** with a list of all its employees who have completed background screening as required by the above-referenced statutes and who meet the statutory requirements contained therein. **Contractor** agrees that it has an ongoing duty to maintain and update these lists as new employees are hired and in the event that any previously screened employee fails to meet the statutory standards. **Contractor** further agrees to notify the **School Board** immediately upon becoming aware that one of its employees who was previously certified as completing the background check and meeting the statutory standards is subsequently arrested or convicted of any disqualifying offense. Failure by **Contractor** to notify the **School Board** of such arrest or conviction within 48 hours of being put on notice and within five (5) business days of the occurrence of qualifying arrest or conviction, shall constitute grounds for immediate termination of this Agreement. The parties further agree that failure by **Contractor** to perform any of the duties described in this section shall constitute a material breach of the Agreement entitling the **School Board** to terminate this Agreement immediately with no further responsibility to make payment or perform any other duties under this Agreement.

#### 14. CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP

As per **School Board Rule 1113**, it is the policy that no District officer or employee, including but not limited to, **Board** members, administrators, instructional staff members, or support staff members, shall have or hold any employment or contractual relationship with any business entity or any agency which is doing business with an agency of which s/he is an officer or employee, excluding those organization and their officer who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the District.

Furthermore, it is the policy of the **Board** that no District officer or employee, including but not limited to **Board** members, administrators, instructional staff members, or support staff members, shall have or hold any employment or contractual relationship that will create any conflict whatsoever between his/her private interests and the performance of his/her duties or that would impede the full and faithful discharge of his/her duties. It is the intent of the **Board** that this policy is interpreted consistent with the Florida Commission on Ethics interpretations.

#### 15. COMPLIANCE WITH BOARD POLICIES

I certify agreement with the following **School Board Policies**: 6320 Purchasing and Contracting for Goods and Services; 6324 Code of Silence; 6322 Construction Contracting and Bidding; 6540 Consultant Agreements; and 6460 Vendor Relations, and agree to comply with all applicable **School Board** contracting and procurement policies and procedures.

#### 16. ASSIGNMENT

This Agreement may not be assigned nor may any assignment of monies due, or to become due to **Contractor**, be assigned without the prior written agreement of The **School Board** of Indian River County, Florida. If **Contractor** attempts to make such an assignment, such attempt shall constitute a condition of default.

#### 17. DEBARMENT

By signing this Agreement, **Contractor** certifies, to the best of its knowledge and belief, that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a federal department or agency.
- (b) Have not, within the preceding five-year period, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under public transaction;

violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.

- (c) Are not presently indicted or otherwise criminally charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in the preceding paragraph (b).
- (d) Have not within the preceding five-year period had one or more public transactions (federal, state or local) terminated for cause or default.
- (e) Have not been debarred by the School Board pursuant to School Board policy 6320.

**Contractor** agrees to notify **School Board** within 30 days after the occurrence of any of the events, actions, debarments, proposals, declarations, exclusions, convictions, judgments, indictments, information, or terminations as described in paragraphs (a) – (e) above, with respect to **Contractor** or its principals.

#### 18. DAVIS-BACON ACT LABOR STANDARDS

The **Contractor** shall comply with all applicable provisions of 40 U.S.C. §276a to 276a-7, the Davis-Bacon Act, as supplemented by the Department of Labor regulations (29 C.F.R. Part 5 "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction").

#### 19. CONDUCT WHILE ON SCHOOL PROPERTY

The **Contractor** acknowledges that its employees and agents must behave in an appropriate manner while on the premises of any school facility and shall at all times conduct themselves in a manner consistent with **School Board** Policies and subject to the administrator of designee. It will be considered a breach of this Agreement for any agent or employee of the **Contractor** to behave in a manner which is inconsistent with good conduct or decorum, or to behave in any manner which will disrupt the educational program or constitute any level of threat to safety, health and well-being of any student or employee of the **School Board**. The **Contractor** agrees to immediately remove any agent or employee if directed to do so by the building administrator or designee.

#### 20. NO WAIVER

Nothing herein is intended to serve as a waiver of sovereign immunity by the **School Board**.

#### 21. NON-DISCRIMINATION

The parties shall not discriminate against any employee or participant in the performance of the duties, responsibilities and obligations under this Agreement because of race, color, religion, gender, age, marital status, disability, political or religious beliefs, or national or ethnic origin.

#### 22. NO TAXES

The **School Board** is not obligated and does not agree to pay any federal, state, or local tax as a result of this agreement. The only exemption regarding payment of taxes shall be for situations that involve re-sale of product to the public for the purpose of fund-raising.

#### 23. WRITTEN NOTICE DELIVERY

Any notice required or permitted to be given under this agreement by one party to the other party shall be in writing and shall be given and deemed to have been given immediately if delivered in person to the recipient's address set forth in this section or on the date shown on the certificate of receipt if placed in the United States mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the receiving party at the address hereinafter specified.



**24. INSURANCE REQUIREMENTS**

Contractor shall provide evidence of insurance as required by the School Board's Office of Risk Management, which may include, without limitation, professional liability, general liability, cyber liability, worker's compensation and auto liability insurance coverage in accordance with the scope of services. Coverage for Sexual Abuse and Molestation must be included in the commercial general liability insurance and/or an endorsement must be attached to the certificate of insurance for services provided on any campus when students are present. Specific insurance requirements can be obtained by contacting the Risk Management Office.

U "The School Board of Indian River County, Florida, its officers, directors and employees" shall be named as additional insured. All policies will be endorsed to require the insurer to waive its rights of subrogation, if any, against the School Board. Prior to effective date of the Agreement, Contractor shall be responsible for providing the School Board with (1) certificate(s) of insurance and (2) policy endorsement(s) as proof of said coverage. If the Agreement is pursuant to a Request for Proposal or Invitation to Bid, then the Contractor shall also comply with insurance requirements set forth therein. Contractor shall maintain insurance coverage in effect for the entire term of the Agreement. Cancellation or modification of terms, without the prior written consent of the School Board, shall constitute a material default under the Agreement. Thirty (30) day notice of cancellation is required.

**Contractor/Vendor Address.** The address for Contractor/Vendor for all purposes under this agreement and for all notices hereunder shall be:

|                             |                                      |
|-----------------------------|--------------------------------------|
| <b>Contractor/Vendor</b>    | <u>Stuart Fence Company Inc.</u>     |
| <b>Contact's Name/Title</b> | <u>Attn: Mr. Chester J. Richmond</u> |
| <b>Address:</b>             | <u>PO Box 2636</u>                   |
|                             | <u>Stuart, FL 34995</u>              |

**School Board's Address.** The address for the School Board of Indian River County for all purposes under this agreement and for all notices hereunder shall be:

School Board of Indian River County  
Attn: Superintendent, Mark J. Rendell, Ed.D  
6500 57<sup>th</sup> Street  
Vero Beach, Florida 32967

With a copy to:

|                     |                                               |
|---------------------|-----------------------------------------------|
| Department          | <u>Facilities Planning &amp; Construction</u> |
| Department Director | <u>Attn: Nicholas Westenberger, Director</u>  |
| Address:            | <u>6055 62<sup>nd</sup> Avenue</u>            |
|                     | <u>Vero Beach, FL 32967</u>                   |

**And a copy to:**

Department

Department Director

Address:

Purchasing

Attn: Jeff Carver, Director

6055 62<sup>nd</sup> Avenue

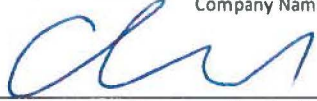
Vero Beach, FL 32967

**VENDOR/CONTRACTOR**

**THE SCHOOL BOARD OF INDIAN RIVER COUNTY,  
FLORIDA**

Stuart Fence Company Inc

Company Name



Signature of Vendor/Contractor

Chester J. Richmond

Printed Name of Vendor/Contractor

11-26-18

Date

PO Box 2636

Address

Stuart, FL 34995

772-288-1151 / 772-288-3035

TELEPHONE / FAX NUMBER

~~sfc\_estimating@bellsouth.net~~

CONTACT EMAIL ADDRESS

stuartfence@BellSouth.net

FEIN (BUSINESS)

86-10 77 639

SS# (INDIVIDUAL)

046-48-7885

The School Board of Indian River County, Florida

Signature of Chairman, School Board of Indian River County, FL

Mrs. Laura Zorc

Printed Name of Chairman, School Board of Indian River County, FL

Date

6500 57<sup>th</sup> Street

Address

Vero Beach, FL 32967

# STUART FENCE COMPANY INC.

November 8, 2018

Mike Sturgis  
Construction Manager  
Facilities Planning & Construction  
School District of Indian River County

**Re: Freshman Learning Center  
Fencing & Gates**

Our proposal for the installation of chainlink fence and gates for the above referenced project in accordance with drawing SP-1 is as follows:

## Perimeter

Furnish and install 1,650 LF of 6' high black vinyl coated commercial 6 gauge kk chainlink fence with three 4' single gates, two 12' double gates, one 26' double gate, one 45' double gate, and ten 4' wide pre-hung panic gates from Merchant Metals. All posts set in concrete. Material to consist of all black 1 5/8" top rail, 2 1/2" schedule 40 line posts, 3" schedule 40 terminal posts, 4" & 6" schedule 40 gate posts and 6 gauge bottom tension wire.

**Total: \$90,400.00**

## Option # 1-

Deduct to install ten pre-hung panic gates furnished by owner.

**Deduct: \$35,600.00**

Total includes all material, labor, and core drills for posts thru concrete and/or asphalt. Permit fees additional if required based on actual cost. Please contact me at 772-288-1151 if you need any additional information or have any questions.

Sincerely,

*Chester J. Richmond*

President

## **AGREEMENT**

This AGREEMENT entered on December 11, 2018, by and between THE SCHOOL BOARD OF INDIAN RIVER COUNTY, Vero Beach, Florida, hereafter referred to as the "SCHOOL BOARD" and THE ECONOMIC OPPORTUNITY COUNCIL OF INDIAN RIVER COUNTY, INC., HEADSTART PROGRAM, hereafter referred to as "HEADSTART".

### **WITNESSETH**

For and in consideration of the mutual covenants contained herein, the parties of this contract agree as follows:

1. A total of two (2) portable classroom buildings, leased by Head Start, shall be located on School District property as follows: one (1) portable classroom at Dodgertown Elementary, 4350 43<sup>rd</sup> Avenue, Vero Beach, FL 32967 and one (1) portable classroom at Indian River Academy, 500 20th Street SW, Vero Beach, FL 32962. The portable classroom buildings are subject to annual inspections for code compliance by both the Fire Department and the School District's Building Department.
2. The SCHOOL BOARD's School Readiness Resource Teacher will act as a liaison between the two parties and will have input on curriculum development and programming.
3. This agreement can be dissolved by either party by so advising the other party of the agreement in writing and by certified mail ninety (90) days prior to the date of termination.
4. This agreement shall be interpreted for all purposes under the laws of the state of Florida and may not be changed, modified, altered or amended, except by an instrument in writing signed by the parties to this agreement. If any provision of this agreement is declared void, such provision shall be deemed severed so that all of the remaining terms and provisions of the agreement shall otherwise remain in full force and effect.

The **SCHOOL BOARD** agrees to:

1. Invite the personnel assigned to the program to participate in all school functions, training, and staff meetings.

**HEADSTART** agrees to:

1. HEADSTART shall provide a comprehensive preschool readiness program that provides the following services to economically disadvantaged preschoolers: health, dental, nutrition, education, which includes eleven (11) mandated domains, and family engagement. The program operates in conjunction with the Indian River School District calendar. The program provides opportunities for parents to attend training and monthly meetings. The meetings are scheduled in the evening of each month from September through May. No other activities outside the HEADSTART Program will occur without prior Superintendent approval.
2. Pay for any additional improvements needed on the school's property in order for the site to meet DCF and SREF requirements.
3. Pay the actual cost for utilities.
4. Arrange for janitorial services at the cost of HEADSTART.
5. Arrange for the upkeep, maintenance and repairs of the portable classroom buildings as well as correction of code compliance issues identified by annual inspections at the cost of HEADSTART.
6. HEADSTART shall notify immediately the Superintendent and the school Principal or designee at each site in case of any emergency.



**AGREEMENT, PAGE 2**  
**School Board of Indian River County, Florida and**  
**HEADSTART Program**

7. Arrange for telephone services at the cost of HEADSTART.
8. HEADSTART shall provide the staff, teaching materials, supervision of staff, and administration of the program.
9. HEADSTART Shall indemnify and hold harmless the School district, School Board, its officers, agents, and employees from any and all claims and causes of action against this School District, School Board, its officers, agents and employees, arising out of the performance of this agreement by HEADSTART.
10. HEADSTART shall maintain during the term of this Agreement commercial general liability insurance to apply on a primary basis with limits of not less than:

|                                         |             |              |
|-----------------------------------------|-------------|--------------|
| Each occurrence                         | \$1,000,000 |              |
| Personal/advertising injury             | \$1,000,000 |              |
| Products/completed operations aggregate | \$2,000,000 |              |
| General aggregate                       | \$2,000,000 |              |
| Fire damage                             | \$ 100,000  | Any 1 fire   |
| Medical expense                         | \$ 10,000   | Any 1 person |

As evidence of such coverage, HEADSTART shall furnish the SCHOOL BOARD with a Certificate of Insurance naming the School Board of Indian River County as Additional Insured. An additional insured endorsement must be attached to the certificate of insurance naming the School Board of Indian River County as Additional Insured. General Liability policy should include a waiver of subrogation.

11. HEADSTART shall Comply with all applicable federal and state civil rights and anti-discrimination laws and regulations, including, but not limited to, Title VI and VII, Civil Rights of 1964, Section 504 of the Rehabilitation Act of 1973, as amended (Non-discrimination against the Handicapped) and Americans with Disabilities Act. It is expressly understood that upon receipt of substantial evidence of such discrimination, the SCHOOL BOARD shall have the right to terminate this contract for breach.
12. HEADSTART shall comply with the requirements of §1012.465, §1012.32 and §1012.467, Florida Statutes, and School Board Policies as amended from time to time HEADSTART agrees that, HEADSTART and all of its employees who provide or may provide services under this Agreement will complete criminal history checks, and all background screening requirements, including level 2 screening requirements as outlined in the above-referenced statutes and School Board Policies prior to providing services on School Board property. Additionally, HEADSTART agrees that each of its employees, representatives, agents, subcontractors or suppliers who are permitted access on school grounds when students are present, who have direct contact with students or who have access to or control of school funds must meet level 2 screening requirements as described in the above-referenced statutes and School Board Policies. A non-instructional contractor who is exempt from the screening requirements set forth in §1012.465, §1012.468 or §1012.467, Florida Statutes, is subject to a search of his or her name or other identifying information against the registration information regarding sexual predators and sexual offenders maintained by the Department of Law Enforcement under §943.043 and the national sex offender public registry maintained by the United States Department of Justice. Further, upon obtaining clearance by School Board, the School Board will issue a photo identification badge, which shall be worn by the individual at all times in plain sight while on School Board property when students are present. HEADSTART agrees to bear any and all costs associated with acquiring the required background screening, including any costs associated with fingerprinting and obtaining the required photo identification badge. HEADSTART agrees to require all its affected employees to sign a statement, as a condition of employment with HEADSTART in relation to performance under this Agreement, agreeing that the employee will abide by the heretofore described background screening requirements, and also agreeing that the employee will notify



**AGREEMENT, PAGE 3**  
**School Board of Indian River County, Florida and**  
**HEADSTART Program**

HEADSTART of any arrest(s) or conviction (s) of any offense enumerated in School Board Policy 8475 within 48 hours of its occurrence.

HEADSTART agrees to provide the School Board with a list of all its employees who have completed background screening as required by the above-referenced statutes and who meet the statutory requirements contained therein. HEADSTART agrees that it has an ongoing duty to maintain and update these lists as new employees are hired and in the event that any previously screened employee fails to meet the statutory standards. HEADSTART further agrees to notify the School Board immediately upon becoming aware that one of its employees who was previously certified as completing the background check and meeting the statutory standards is subsequently arrested or convicted of any disqualifying offense. Failure by HEADSTART to notify the School Board of such arrest or conviction within 48 hours of being put on notice and within five (5) business days of the occurrence of qualifying arrest or conviction, shall constitute grounds for immediate termination of this Agreement. The parties further agree that failure by HEADSTART to perform any of the duties described in this section shall constitute a material breach of the Agreement entitling the School Board to terminate this Agreement immediately with no further responsibility by the School Board under this Agreement.

13. At the end of the term or if no longer used for (60 days), or if the agreement is dissolved (hereafter "termination of agreement") HEADSTART shall remove the portables and restore the site at each campus at its own expense.

**This Agreement is effective from the date of approval by the School Board through June 30, 2022.**

**AGREEMENT, PAGE 4**  
**School Board of Indian River County, Florida and**  
**HEADSTART Program**

IN WITNESS WHEREOF, the parties hereto have set their hands and seal the day and year first above written.

**SCHOOL BOARD OF INDIAN RIVER COUNTY**

\_\_\_\_\_  
Signature

Dr. Mark J. Rendell  
Superintendent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

~~Mr. Shawn Frost~~ Mrs. Laura Zorc (as of 11/20/18)  
School Board Chairman

\_\_\_\_\_  
Date

**ECONOMIC OPPORTUNITY COUNCIL OF INDIAN RIVER COUNTY, INC.**

Angela Davis Green  
Signature

<sup>NOG</sup> Angela Davis-Green  
Executive Director (type or print name)

\_\_\_\_\_  
Date

9/10/18

Mary B. McKinney  
Signature

Mary B. McKinney  
Secretary (type or print name)

\_\_\_\_\_  
Date

9-10-18

# ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
08/08/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

|                                                                                                                     |                                                 |                                             |        |
|---------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|---------------------------------------------|--------|
| PRODUCER<br><b>First Florida Insurance Brokers</b><br>100 South Ashley Drive, Suite 250<br>Tampa, FL 33602          | CONTACT NAME: <b>Jon Rivera or Maegan Tyler</b> |                                             |        |
|                                                                                                                     | PHONE (A/C, No, Ext): <b>(813) 902-3502</b>     | FAX (A/C, No): <b>(813) 223-3932</b>        |        |
| E-MAIL ADDRESS: <b>Jon.Rivera@ffinsbr.com</b> or <b>Maegan.Tyler@ffinsbr.com</b>                                    |                                                 |                                             |        |
| PRODUCER CUSTOMER ID#:                                                                                              |                                                 |                                             |        |
| INSURED<br><b>Economic Opportunities Council of Indian River County, Inc</b><br>PO Box 2766<br>Vero Beach, FL 32961 | INSURER(S) AFFORDING COVERAGE                   |                                             | NAIC # |
|                                                                                                                     | INSURER A:                                      | <b>FIT [Markel Global Reinsurance Co.]</b>  |        |
|                                                                                                                     | INSURER B:                                      | <b>FIT [(Markel Global/State National)]</b> |        |
|                                                                                                                     | INSURER C:                                      |                                             |        |
|                                                                                                                     | INSURER D:                                      |                                             |        |
|                                                                                                                     | INSURER E:                                      |                                             |        |
|                                                                                                                     | INSURER F:                                      |                                             |        |

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR                                 | TYPE OF INSURANCE                                                                                                                              | ADDL INSR | SUBR WVD | POLICY NUMBER                                                                                                       | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS                                                                            |             |
|------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|-----------|----------|---------------------------------------------------------------------------------------------------------------------|-------------------------|-------------------------|-----------------------------------------------------------------------------------|-------------|
| A                                        | GENERAL LIABILITY                                                                                                                              |           |          | FITGL-34095-2018<br><br>Employee Benefits Liability:<br>Claims Made<br>\$1mil/\$3mil<br>Retroactive Date: 7/12/2003 | 06/01/2018              | 06/01/2019              | EACH OCCURRENCE                                                                   | \$1,000,000 |
|                                          | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY                                                                               |           |          |                                                                                                                     |                         |                         | DAMAGE TO RENTED PREMISES (Ea Occurrence)                                         | \$1,000,000 |
|                                          | <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR                                                                 |           |          |                                                                                                                     |                         |                         | MED EXP (Any one person)                                                          | \$10,000    |
|                                          | <input checked="" type="checkbox"/> Professional Liability                                                                                     | X         |          |                                                                                                                     |                         |                         | PERSONAL & ADV INJURY                                                             | \$1,000,000 |
|                                          | <input checked="" type="checkbox"/> Abuse & Molestation                                                                                        |           |          |                                                                                                                     |                         |                         | GENERAL AGGREGATE                                                                 | \$3,000,000 |
|                                          | GEN'L AGGREGATE LIMIT APPLIES PER:<br><input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC |           |          |                                                                                                                     |                         |                         | PRODUCTS - COMP/OP AGG                                                            | \$3,000,000 |
| A                                        | AUTOMOBILE LIABILITY                                                                                                                           |           |          | FITAU-34095-2018                                                                                                    | 06/01/2018              | 06/01/2019              | COMBINED SINGLE LIMIT (Ea accident)                                               | \$1,000,000 |
|                                          | <input checked="" type="checkbox"/> ANY AUTO                                                                                                   |           |          |                                                                                                                     |                         |                         | BODILY INJURY (Per person)                                                        | \$1,000,000 |
|                                          | <input checked="" type="checkbox"/> ALL OWNED AUTOS                                                                                            |           |          |                                                                                                                     |                         |                         | BODILY INJURY (Per accident)                                                      | \$1,000,000 |
|                                          | <input checked="" type="checkbox"/> SCHEDULED AUTOS                                                                                            |           |          |                                                                                                                     |                         |                         | PROPERTY DAMAGE (Per accident)                                                    | \$1,000,000 |
|                                          | <input checked="" type="checkbox"/> HIRED AUTOS                                                                                                |           |          |                                                                                                                     |                         |                         |                                                                                   |             |
| <input type="checkbox"/> NON-OWNED AUTOS |                                                                                                                                                |           |          |                                                                                                                     |                         |                         |                                                                                   |             |
| A                                        | UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR                                                                                        |           |          | FITXS-34095-2018                                                                                                    | 06/01/2018              | 06/01/2019              | EACH OCCURRENCE                                                                   | \$2,000,000 |
|                                          | <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE                                                           |           |          |                                                                                                                     |                         |                         | AGGREGATE                                                                         | \$2,000,000 |
|                                          | <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION                                                                         |           |          |                                                                                                                     |                         |                         |                                                                                   |             |
| B                                        | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY                                                                                                  |           | Y/N      | FITWC-34095-2018                                                                                                    | 06/01/2018              | 06/01/2019              | <input checked="" type="checkbox"/> WC STAT LIMITS <input type="checkbox"/> OTHER |             |
|                                          | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)                                                                    |           | n/a      |                                                                                                                     |                         |                         | E.L. EACH ACCIDENT                                                                | \$2,000,000 |
|                                          | If yes, describe under DESCRIPTION OF OPERATIONS below                                                                                         |           |          |                                                                                                                     |                         |                         | E.L. DISEASE - EA EMPL                                                            | \$2,000,000 |
|                                          |                                                                                                                                                |           |          |                                                                                                                     |                         |                         | E.L. DISEASE - POLICY LIMIT                                                       | \$2,000,000 |

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

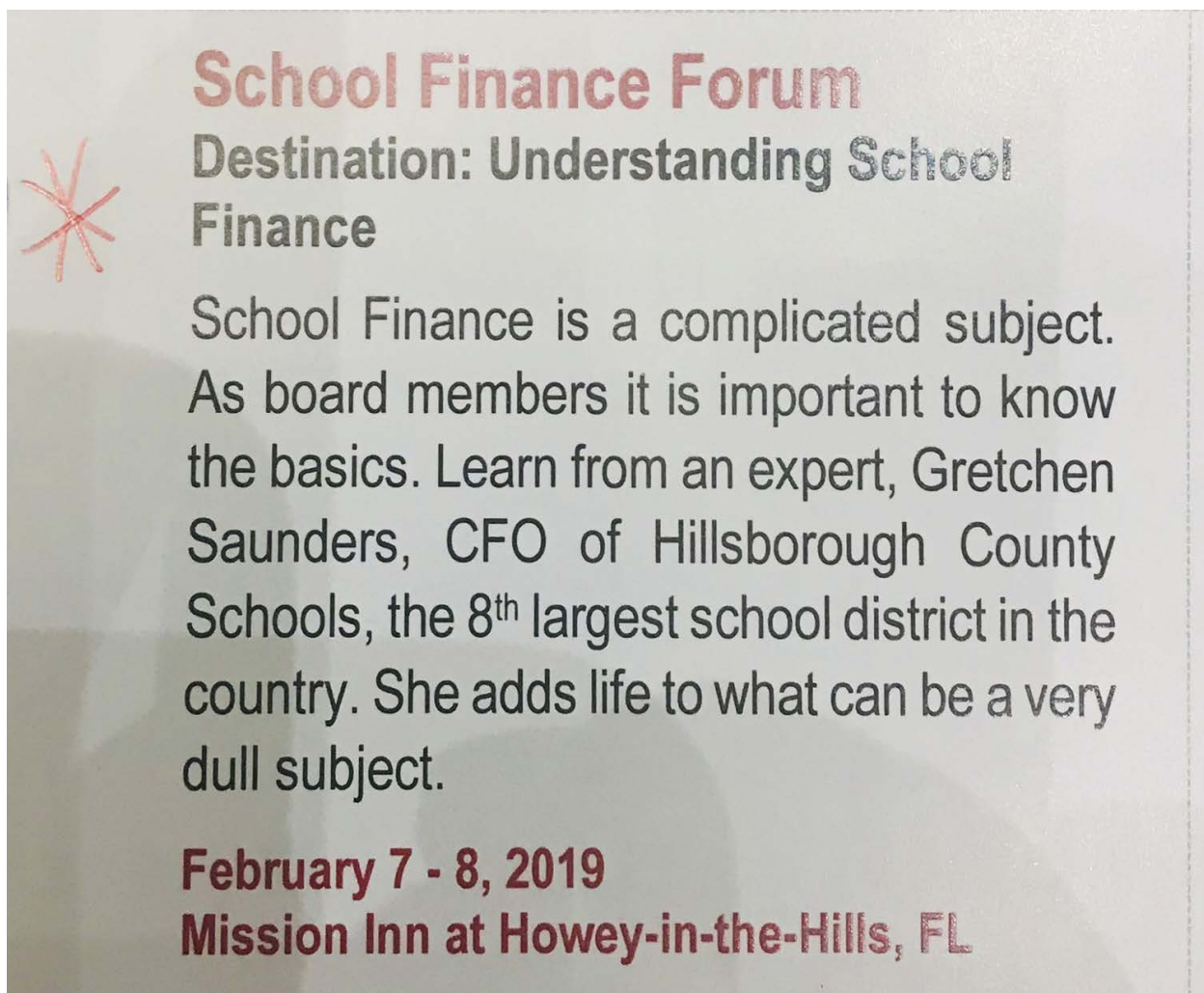
**Issued as Proof of Insurance**  
Please note, General Liability coverage includes Physical Abuse & Molestation Liability  
**THE SCHOOL BOARD OF INDIAN RIVER COUNTY shall be named as an additional insured on each policy and the Contractor shall provide certificates of insurance for each policy showing the SCHOOL BOARD as an additional insured, before beginning services under this contract providing 30 day advance notice of cancellation or nonrenewal endorsement**

|                                                                                                                             |                                                                                                                                                                |
|-----------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| CERTIFICATE HOLDER                                                                                                          | CANCELLATION                                                                                                                                                   |
| Evidence of Insurance<br><br>School District of Indian River County<br>6500 57 <sup>th</sup> Street<br>Vero Beach, FL 32967 | SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. |
|                                                                                                                             | AUTHORIZED REPRESENTATIVE<br><br><i>Jon Rivera</i>                                                                                                             |

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**From:** [Rosario, Jacqueline](#)  
**To:** [Esplen, Nancy](#)  
**Subject:** Here is the screenshot  
**Date:** Tuesday, November 27, 2018 10:28:05 AM  
**Attachments:** [Image-1.png](#)

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Jacqueline Rosario  
School Board Member, District 2  
Indian River County School District

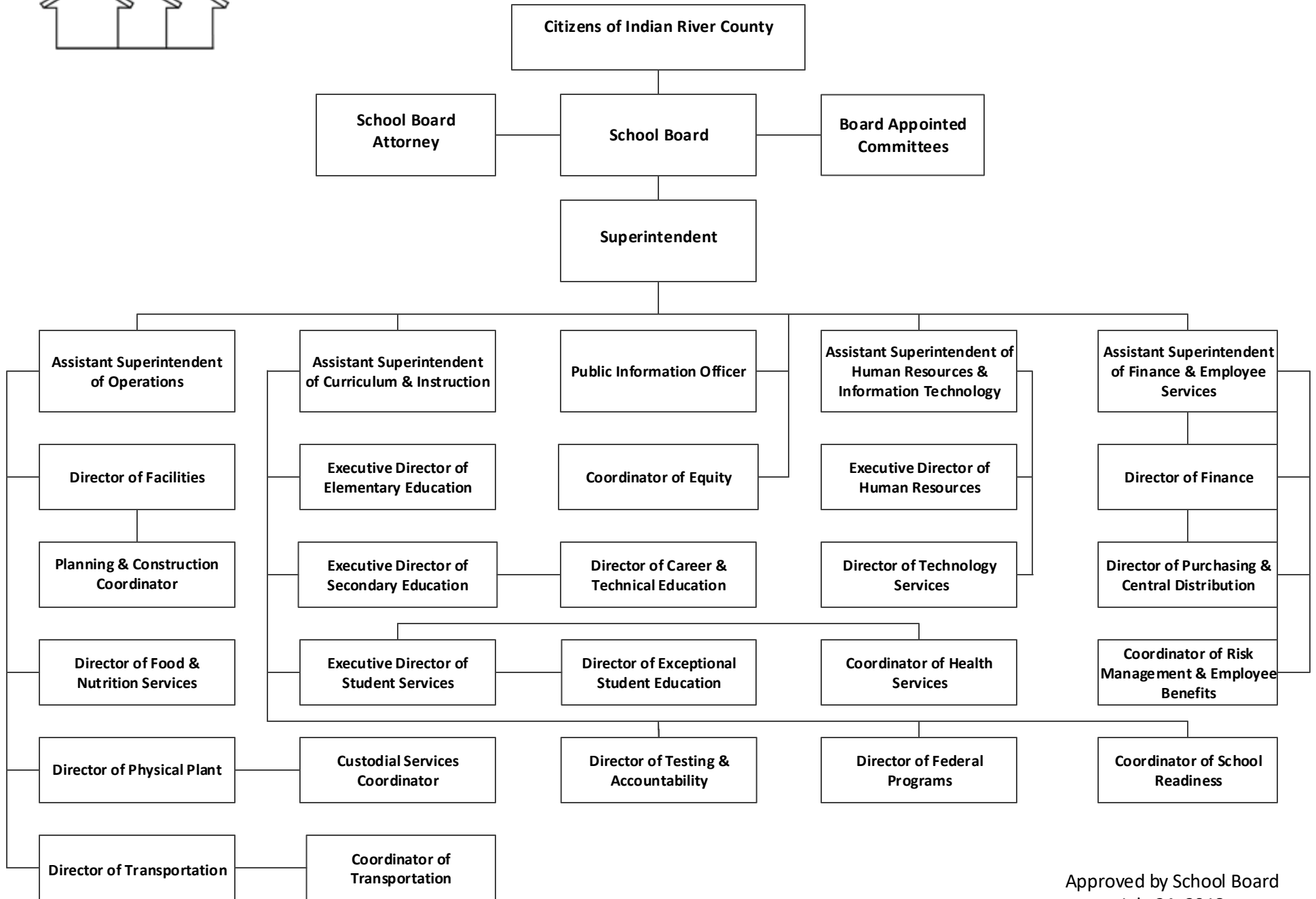
Under Florida's "Public Records" law, absent a specific exclusion, written communications to or from the School District of Indian River County employees are considered public records. E-mail communication with this correspondent may be subject to public and/or media disclosure upon request.

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## School District of Indian River County Organizational Chart 2018-2019



Approved by School Board  
July 24, 2018

Discussion B - 12/11/2018

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