



POLICY 1.120

4-D I recommend that the Board adopt the proposed revised Policy 4.210, entitled "Waiver of a School Board Policy," which will be renumbered as Policy 1.120.

[Contact: Gerald A. Williams, Esq., and Bruce A. Harris, Esq., PX 48500.]

Adoption

CONSENT ITEM

- The Board approved development of this revised Policy at the first reading on March 28, 2007.
- This Policy, currently in Chapter Four, is being updated and transferred to Chapter One, as most Policies in Chapter Four will be repealed.
- The substance of the Policy remains the same.
- After the first reading, language was added, pursuant to the statute, to clarify that District employees and students are not eligible to petition for a variance or waiver. Also pursuant to the statute, clarification was added regarding publication of a notice in the newspaper.

POLICY 4.210 1.120

WAIVER OF A SCHOOL BOARD POLICY

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3 1. Except as provided in Fla. Stat. §§ 120.542 and §120.81(1)(k), ~~Florida Statutes~~,
4 the School Board may waive a Policy to avoid unreasonable, unfair or unintended
5 results in particular instances. Waiver of a School Board Policy shall be granted
6 when a person subject to a rule demonstrates that the purpose of the underlying
7 statute will be or has been achieved by other means by the person and when
8 application of the Policy would create a substantial hardship or would violate
9 principles of fairness as defined in § 120.542(2).
- 10 a. Pursuant to § 120.542(1), a District employee is not eligible to petition for a
11 variance or waiver to a Policy that affects that District employee in his or her
12 capacity as a public employee.
- 13 b. As stated in § 120.81(1)(k), students are not eligible to petition for a variance
14 or waiver to a Policy.
- 15 2. The procedures and basis for filing a petition for waiver and for the granting or
16 denying of a petition for waiver shall be in accordance with Fla. Stat. § 120.542,
17 F.S., and the Uniform Rules of Procedure, Chapter 28-104, Florida Administrative
18 Code. Within 15 days after receipt of a petition for variance or waiver, the District
19 shall provide notice of the petition to a newspaper of general circulation in this
20 county, for publication in the legal notices section, consistent with §§ 120.542(6)
21 and 120.81(1)(d).
- 22 3. A waiver of a School Board Policy shall not render the Policy void with respect to
23 the continued implementation of the Policy which is sought to be waived nor to the
24 application of said Policy to said situations which may arise in the future.

25 STATUTORY AUTHORITY: Fla. Stat. §§ 1001.41(1), (2); 1001.42(17)(b), (23);
26 230.22(1), (2); 230.23(17), (22)

27 LAWS IMPLEMENTED: Fla. Stat. §§ 120.52(18), (19); 120.542; 120.81(1)(d), (k);
28 1001.41(1); 1001.42(17)(b); 230.22(1); 230.23(17)(b)

29 HISTORY: 8/17/94; 03/26/01 (as 4.210); ___/___2007

Legal Signoff:

The Legal Department has reviewed proposed Policy 1.120 and finds it legally sufficient for development by the Board.

Attorney

Date