



### **POLICY 2.383-ER**

**4-B** I recommend that the Board adopt the proposed emergency rule, Policy 2.383-ER, entitled "Firearms and Weapons," and make the findings as to an emergency as set forth in the Board Report.

[Contact: James Kelly, PX 48435.]

#### **Emergency Adoption      CONSENT ITEM**

- The revised policy is being removed from Chapter 3 (Personnel) and renumbered for inclusion in Chapter 2 (General Administration) upon its adoption.
- Revisions to the policy have been made to comply with Florida laws governing firearms and weapons in certain public and private places. During the 2011 Florida Legislative Session, the Florida Legislature enacted Sec. 790.33, FS, preempting the regulation of firearms and ammunition in Florida to the Legislature. As a result counties, cities, and school boards are required to amend or repeal any ordinances or policies regarding the regulation of firearms.
- The proposed revised policy conforms the policy to the provisions of Florida laws.
- Firearms on the grounds and facilities of any schools or career centers are governed by separate Florida laws. Unless otherwise authorized, Sec. 790.115(2)(a), FS, prohibits firearms, etc., at support of school-sanctioned activities, at a school-sponsored event or on the property of any school, school bus, or school bus stop. Specifically, Sec. 790.115(2)(a)(3), permits school boards to adopt policies to prohibit firearms, etc., in vehicles for the purposes of student and campus parking privileges. Such a prohibition has been provided for in section 5a (lines 63-70) of the revised policy.
- The Policy needs to be adopted immediately as an emergency rule because due to statutory requirements.
- Upon approval by the Board, this emergency rule would take effect October 20, 2011, and remain in effect up to 90 days, or until superseded by adoption of the regular Policy before that date. (Substantially the same content will be developed through the regular rulemaking process, which should be completed within the 90 days). Regular development of this proposed new Policy is anticipated to begin on October 19, 2011.

**POLICY 2.383-ER**

**FIREARMS AND WEAPONS**

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4 1. **Purpose.** The School Board of Palm Beach County (School Board) believes  
5 that the presence of weapons and firearms on school property poses a serious  
6 threat to the safety and well being of students and staff. Thus, the School Board  
7 desires to maintain a positive, safe and secure learning and working environment  
8 in the Palm Beach County School District (School District), consistent with Florida  
9 laws.
- 10 2. **Applicability of Policy.** This policy is applicable to all District students,  
11 employees, independent contractors and visitors.
- 12 3. **Definitions:** For the purposes of this policy, the following terms shall have the  
13 following meanings.
  - 14 a. "Firearm" means any weapon (including a starter gun ~~or antique firearm~~)  
15 which will, is designed to, or may readily be converted to expel a projectile by  
16 the action of an explosive; the frame or receiver of any such weapon; any  
17 firearm muffler or firearm silencer; any destructive device; or any machine  
18 gun. The term "firearm" does not include an antique firearm unless the  
19 antique firearm is used in the commission of a crime.
  - 20 b. "Independent Contractor" means any person or company other than a School  
21 District employee, who provides goods and/or services to the School District  
22 and enters into a contracted agreement with the School District.
  - 23 ~~c. "Employee" means any person hired by the School District after completing~~  
24 ~~the personnel procedures required by the School District.~~
  - 25 c. **"Trespasser" means any person who:**
    - 26 i. Does not have legitimate business on the campus or any other  
27 authorization, license or invitation to enter or remain upon school  
28 property; or
    - 29 ii. Is a student currently under suspension or expulsion; or
    - 30 iii. Any person who enters or remains upon the campus or other facility of a  
31 school after the principal of such school, or his or her designee, has  
32 directed such person to leave such campus or facility or not to enter upon  
33 the campus or facility.

~~"Visitor" means any business or personal invitee including, but not limited to, parents, volunteers, family members of School District employees or friends of School District employees.~~

d. "Electric weapon or device" means any device which, through the application or use of electrical current, is designed, redesigned, used, or intended to be used for offensive or defensive purposes, the destruction of life, or the infliction of injury.

e. "Weapon" means any dirk, knife, metallic knuckles, slingshot, billie, tear gas gun, chemical weapon or device, razor blade, box cutter, or other deadly weapon except a firearm or a common pocketknife, plastic knife, or blunt-bladed table knife.

f. "School" means the grounds or any facility of any kindergarten, elementary school, middle school, junior high school, secondary school, or career center of the School District.

g. "District vehicles" mean School Board owned, rented or leased vehicles that are used in the performance of work duties for the District.

4. **Exceptions for Firearm Possession.** The prohibition against possession of a firearm as provided herein shall not apply to:

a. A firearms program, class or function, as JROTC, which has been approved in advance by the principal or chief administrative officer of the school as a program or class to which firearms could be carried.

b. A career center having a firearms training range.

c. Law enforcement officers, as defined by state or federal laws.

d. Any District employee/contractor or vendor who is required as part of his/her regular job responsibilities with the School District to carry a firearm as approved by the Superintendent or his/her Designee.

5. **Policy Statements.** Except as stated in Section 4 above, no person shall possess and/or use of any firearm, electric weapon or device, destructive device, or other weapon as defined above at a school-sponsored event, on the property of any school, on a school bus, at any school bus stop, or on any District vehicle, or at any meeting of the School Board.

a. *Prohibition in School Parking.* For the purposes of student and school campus parking, the Board waives the exception in Sec. 790.115(2)(a)(3), Fla. Stat. Thus, no person shall possess a firearm in any vehicle, locked or unlocked, parked on any school property, at any school facility, or at any

school sponsored events.

**6. Consequences of Violations.**

a. Students. Any student found to be in violation of this policy shall be disciplined in accordance with the Student Code of Conduct, as provided for in Board Policies [5.18](#), [5.1812](#) and [5.1813](#). Students who violate these policies may be suspended or expelled, and may be immediately referred to legal authorities.

i. Students with Disabilities. If the student alleged to be violating this policy is a student with disabilities, the discipline of the student is governed by federal laws, state, State Board of Education Rules and Board Policies [5.189](#) or [5.1891](#).

b. Employees. Any District employee found to be in violation of this policy, or being in possession of a firearm or weapon in the work place unrelated to the individual's job duties, shall be subject to discipline, up to and including termination, in accordance with Board policies and/or the pertinent collective bargaining agreement, and may be immediately referred to legal authorities.

~~3. No person may possess or bring a firearm on School District property. Employees who possess or bring a firearm on School District property shall be terminated.~~

~~4. No person who has a firearm in their vehicle may park their vehicle on School District property. Employees who park on School District property, with a firearm in their vehicle will be subject to disciplinary action up to and including termination.~~

**7. Consequences for Employees and Independent Contractors.** ~~5.~~ All Contract Agreements with Independent Contractors shall provide that if any employee of an Independent Contractor or Sub-Contractor is found to have brought a firearm on School District property, said employee will be terminated from the School District project by the Independent Contractor or the Sub-Contractor. If the Sub-Contractor fails to terminate said employee, the Sub-Contractor's Agreement with the Independent Contractor for the School District project shall be terminated. If the Independent Contractor fails to terminate said employee or fails to terminate the Agreement with the Sub-Contractor who fails to terminate said employee, the Independent Contractor's Agreement with the School District shall be terminated.

~~6. Except to the extent allowed by law, any visitor found to have brought a firearm on School District property shall be notified that all subsequent visits to School District property will be by appointment only, and that visits without prior appointment may result in a criminal action for trespass.~~

~~7. This Policy does not apply to any Law Enforcement Officer as defined in Section 943.10(1), (2), (3), (4), (6), (7), (8), (9), or (14), Florida State Statutes or any other~~

108 ~~employee/contractor or vendor who is required as part of his/her regular job~~  
109 ~~responsibilities with the School District to carry a firearm as approved by the~~  
110 ~~Superintendent or his/her Designee.~~

111 STATUTORY AUTHORITY: Fla. Stat. §§ 1001.41; 1001.42; 790.115(3)  
112 LAWS IMPLEMENTED: Fla. Stat. §§ 790.001; 790.33; 790. 251; 790.25, 790.115  
113 HISTORY:     /     2011

Legal Signoff:

The Legal Department has reviewed proposed emergency rule, Policy 2.383-ER, and finds it legally sufficient for emergency adoption by the Board.

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Attorney

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Date