



January 18, 2006

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POLICY 3.80-ER

CONSENT ITEM Emergency Adoption Contact: James Hayes, PX 47696

I recommend that the Board adopt the proposed amendments to Policy 3.80, entitled "Leave of Absence," as an emergency rule to protect the public health, safety, or welfare under Fla. Stat. § 120.54(4)(a), and as advertised through a public notice as shown below.

SCHOOL BOARD OF PALM BEACH COUNTY

NOTICE OF PROPOSED EMERGENCY RULE

RULE NUMBER: 3.80-ER, "LEAVE OF ABSENCE" (SECTIONS 4, 5, AND 6).

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY, OR WELFARE: The health or welfare of employee(s) with chronic or terminal illness is endangered by lack of a rule allowing other employees to donate sick leave or annual for use as sick leave, or by lack of a rule establishing a sick-leave pool.

REASONS FOR CONCLUDING THAT THE PROCEDURE USED IS FAIR UNDER THE CIRCUMSTANCES: This notice is being published, as soon as possible, in the newspaper and on the District's Web site and by distribution to the schools to inform the affected persons and the public, and action will be taken at a public meeting with due public notice.

SUMMARY OF THE PROPOSED RULE: This amendment would add three new sections (sections 4, 5, and 6) to the existing leave Policy. The other sections would remain unchanged. New section 4 would codify the sick-leave donation program for family members that is required by FLA. STAT. § 1012.61(2)(e). New section 5 would establish a general sick-leave and annual-leave donation program which is not specifically provided for in a statute, but is similar to a program of another local government entity and is within the powers of the School Board under Fla. Stat. § 1012.22(2) (authority to adopt rules concerning annual and sick leave) and Fla. Stat. § 1001.32(2) (home rule authority to "exercise any power except as expressly prohibited by the State Constitution or general law"). New Section 6 would authorize the Superintendent to establish the sick-leave pool allowed by Fla. Stat. § 1012.61(3)(a)-(i). (The full text of the proposed emergency amendment is available on the District's Web site at: www.SchoolBoardPolicies.com/revisions.htm. Section 1 of the Policy, which remains unchanged, provides: "If the terms of a collective-bargaining agreement differ from this Policy, the language of the employee's agreement will take precedence.")

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: James Hayes, Chief Officer of Human Resources; or Joseph Moore, Chief Operating Officer, 3300 Forest Hill Blvd., West Palm Beach, FL 33406.

PUBLIC MEETING: Rule adoption will be considered at the School Board's regular meeting on January 18, 2006, anticipated to begin at 5:00 p.m. in the Board Chambers at 3300 Forest Hill Blvd., West Palm Beach, Fla. **AGENDA:** A copy of the agenda will be available by January 11 on the District's Web site. Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the agency at least 48 hours in advance by contacting the Board clerk at 434-8139. This meeting is open to the public.

UPON APPROVAL BY THE BOARD, THIS EMERGENCY RULE (NEW SECTIONS 4, 5, AND 6 OF POLICY 3.80) WILL TAKE EFFECT ON JANUARY 19, 2006 and will remain in effect up to 90 days through April 19, 2006. Substantially the same amendments will simultaneously be developed and recommended for adoption through the regular rulemaking process, beginning with a first reading anticipated to occur on February 22, 2006.

POLICY 3.80-ER
LEAVE OF ABSENCE

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- 6 1. [Introduction: *No change*].
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- 8 2. [Paid Leaves: *No change*].
- 9
- 10 3. [Unpaid Leaves: *No change*].
- 11
- 12 4. **Sick Leave Donation to Family Members.--** As required by Fla. Stat. §
13 1012.61(2)(e), the District shall allow an employee to authorize his or her spouse,
14 child, parent, or sibling who is also a District employee to use sick leave that has
15 accrued to the authorizing employee.
 - 16
 - 17 a. The recipient family member may not use the donated sick leave until all of his
18 or her own accrued sick leave has been depleted (excluding leave available
19 from a sick leave pool, if the recipient participates in such leave pool).
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 - 21 b. Donated sick leave under this section shall have no terminal value, as
22 provided in § 1012.61(2)(e) (but the remaining received credits may be
23 donated to another family member under this section, or to another employee
24 under section (5) below, or to a sick leave pool if the departing employee is a
25 member thereof under section (6) below).
- 26
- 27 5. **Transfer of Annual or Sick Leave to Another Employee for Sick Leave.--** A
28 regular employee may donate unused accrued annual leave or sick, in whole-day
29 increments, to another regular employee to use for leave for the recipient
30 employee's serious illness, accident, or physical injury.
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 - 32 a. A regular employee may donate unused accrued sick leave under this section
33 as long as the donating employee has completed at least six (6) years of
34 service.
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 - 36 b. A regular employee may donate unused accrued annual leave under this
37 section as long as the donation would not prevent him or her from taking any
38 minimum required annual leave during that fiscal year.
 - 39
 - 40 c. Such donations shall be processed using an appropriate District form signed
41 by the donor employee.
 - 42
 - 43 d. The donated leave shall not be accessible to the recipient until his/her own
44 accrued sick leave and annual leave have been exhausted. Once accessible,
45 the donated leave shall be transferred to the donee on an as-needed basis.
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 - 47 e. Donated leave under this section shall have no terminal value to the donee.

48
49 f. Any donated leave credits not used within twelve (12) weeks after donation
50 shall revert to the donor.

51
52 6. **Sick Leave Pool.-- To allow full-time non-bargaining unit employees to pool**
53 **accrued sick leave and disburse pooled leave to any participating employee who is**
54 **in need of sick leave beyond the amount he or she has personally accrued, the**
55 **Board hereby authorizes the Superintendent to establish a sick leave pool in**
56 **accordance with the following provisions pursuant to Fla. Stat. § 1012.61(3)(a)-(i):**

57
58 a. The pool program shall be based upon the maintenance of reliable and
59 accurate records showing the amount of sick leave which has been
60 accumulated and is unused by employees.

61
62 b. Participation in a sick leave pool shall at all times be voluntary on the part of
63 employees.

64
65 c. A full-time employee shall be eligible for participation in a sick leave pool after
66 one (1) year of employment with the District, provided the employee has
67 accrued at least twelve (12)* days of unused sick leave and provided that a
68 sick leave pool is established that allows participation by that particular
69 employee. [*Note: the statute allows the School Board to set the number of days by
70 stating it in this Policy. Twelve days is the Staff recommendation, based upon the
71 amount of credit generally accrued annually under Policy 3.80(2)(i).]

72
73 d. Any sick leave pooled shall be removed from the personally-accumulated sick
74 leave balance of the employee donating such leave.

75
76 e. Participating employees shall make equal contributions to the sick leave pool.
77 The initial contribution shall be one (1) day's* amount of sick leave. After the
78 initial contribution that the employee makes upon electing to participate, no
79 further contributions shall be required except as may be necessary to
80 replenish the pool. Any such further contribution shall be equally required of all
81 employees participating in the pool. [*Note: the statute allows the School Board to
82 set the number of days by stating it in this Policy. One day is the Staff
83 recommendation, based upon the policy of the South Florida Water Management
84 District.]

85
86 f. A participating employee is not eligible to use sick leave from the pool until all
87 of his or her normally-accrued sick leave has been depleted.

88
89 g. An employee may withdraw up to sixty (60) days* of credits from the sick leave
90 pool during any one fiscal year. [*Note: the statute allows the School Board to set
91 the number of days by stating it in this Policy. Sixty days is the Staff recommendation,
92 based on the South Florida Water Management District's policy.]

93

- 94 h. A participating employee who uses sick leave from the pool is not required to
95 recontribute such sick leave to the pool, except as may be required of all pool
96 members on an equal basis as necessary to replenish the pool, as provided in
97 subsection (e) above.
- 98
- 99 i. An employee who chooses to no longer participate in the sick leave pool is not
100 eligible to withdraw any sick leave already contributed to the pool.
- 101
- 102 j. Any sick leave time drawn from the pool by a participating employee must be
103 used for that employee's personal illness, accident, or injury on an as-needed
104 basis and shall have no terminal value to the employee. The Superintendent/
105 designee is authorized to investigate the use or alleged abuse of sick leave by
106 a participating employee. Upon a finding of wrongdoing, the employee shall
107 repay all of the sick leave credits drawn from the sick leave pool and be
108 subject to such other disciplinary action as determined by the School Board to
109 be appropriate.
- 110

111 STATUTORY AUTHORITY: §§ 1001.32(2); 1001.41(1) & (2); 1001.43(11); 1012.22(2);
112 1012.23; 1012.61(2)(e); 1012.61(3); 1012.66, Fla. Stat.

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114 LAWS IMPLEMENTED: §§ 115.07; 1001.32(2); 1012.61; 1012.62; 1012.63; 1012.64;
115 1012.65; 1012.66; 1002.33(12)(e), Fla. Stat.; Family and Medical Leave Act of
116 1993, 29 U.S.C. § 2602 et seq., 29 C.F.R. Part 825; Uniformed Services
117 Employment and Reemployment Rights Act, 38 U.S.C. § 4301 et seq.

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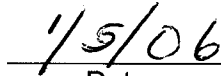
119 HISTORY: 11/29/76; 6/26/82, 12/11/85, 7/7/93; 4/28/2003; / /2006

Legal Signoff:

The Legal Department has reviewed the proposed amendments to Policy 3.80 and finds them legally sufficient for emergency adoption by the Board.



Attorney



Date