



## **POLICY 5.40**

**4-O** I recommend that the Board adopt the proposed new Policy 5.40, entitled “Pledge of Allegiance in Schools.”

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

### **Adoption**

### **CONSENT ITEM**

- The Board approved development of this revised Policy at the development reading on May 26, 2010.
- The purpose of this policy is to implement a process compliant with current law relating to the reciting of the pledge of allegiance in schools by students, in light of the *Frazier* decision.

## POLICY 5.40

### PLEDGE OF ALLEGIANCE IN SCHOOLS

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3 1. **Purpose.** The purpose of this policy is to implement a process compliant with  
4 current law relating to the reciting of the pledge of allegiance in schools by  
5 students.
- 6 2. **Policy.** The State of Florida within Fla. Stat. § 1003.44 (1) requires that the Pledge  
7 of Allegiance be recited at the beginning of the day in every Florida public  
8 elementary, middle, and high school. The Statute also states that schools must  
9 post in a conspicuous place a notice stating the students' right not to stand or recite  
10 the Pledge to the Flag and advising of the written opt-out option that is signed by  
11 the parent.
- 12 3. A student under the age of 18 who is not emancipated must stand and recite the  
13 Pledge of Allegiance, unless excused in writing by the parent. An 18 year old or  
14 older or emancipated high school student has personal authority and cannot be  
15 required to stand and recite the Pledge of Allegiance.
- 16 4. A student excused from reciting the Pledge of Allegiance is also excused from  
17 standing.
- 18 5. In the event of a non-participating student without an opt-out, the school personnel:
  - 19 a. cannot single out the student in front of the class.
  - 20 b. must counsel with the student (who is not 18 years of age or older, or an  
21 emancipated high school student) privately and notify the parent for parental  
22 resolution, and any conflict between the parent and child should be resolved  
23 by the parent.
  - 24 c. cannot discipline a student for failing to stand and/or recite the pledge, and
  - 25 d. may issue disciplinary action, if a student materially disrupts the Pledge.
- 26 6. The required notice that is referenced above in paragraph 2 must be posted at  
27 each school in at least one location conspicuous to students, such as outside the  
28 school's main office.

29 STATUTORY AUTHORITY: Fla. Stat. §§ 1001.32(2); 1001.41(2); 1001.42(26)  
30 LAWS IMPLEMENTED: Fla. Stat. §§ 1001.32(2); 1001.41; 1001.42; 1003.44(1)  
31 HISTORY: \_\_/\_\_/2010

Legal Signoff:

The Legal Department has reviewed proposed Policy 5.40 and finds it legally sufficient for adoption by the Board.

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Attorney

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Date