



### **POLICY 6.143**

**4-A** I recommend the Board adopt the proposed new Policy 6.143, to be entitled "Diversity and Equitable Utilization in Business."

[Contact: Dr. Otelia DuBose, 434-8508.]

#### **Adoption**

#### **CONSENT ITEM**

- The presentation of this proposed new Policy fulfills the direction set by the Board in Policy 6.142(B) in 2001: "The Board hereby directs the Superintendent to compile and analyze additional data . . . [and] bring back a policy that actively promotes diversity and business practices and that sets goals for M/WBE participation that are consistent with the calculated disparity . . . ." This proposal also fulfills the Board's direction at the business diversity workshop held on February 9, 2005: "The Board hereby directs the Superintendent to finalize Policy 6.143 such that it will actively promote diversity in business practices, set defensible goals for M/WBE and SBE participation, and authorize the issuance of Bulletins detailing processes and goals (adjusted as needed by the District's goal-setting committee) consistent with the recommendations from the Causation and Analysis Study."
- The information and findings underlying this proposed Policy are derived, in large part, from the December 20, 2004, Causation and Anecdotal Study Final Report, prepared and submitted to the School Board by D. J. Miller & Associates, Inc.
- The proposed Policy has been drafted by the Office of Diversity in Business Practices, based in part on Policy 6.146, which sunset in 2001, prior studies and data, and upon review of more recent findings and recommendations from the December 20, 2004, Causation and Anecdotal Study Final Report, prepared and submitted to the School Board by D. J. Miller & Associates, Inc.
- This proposed new Policy has been reviewed by expert outside counsel experienced with M/WBE programs.

## POLICY 6.143

DIVERSITY AND EQUITABLE UTILIZATION IN BUSINESS1. Factual Predicate and Purpose

- a. In September 1993, the School Board of Palm Beach County hired MGT of America, a Tallahassee consulting firm, to conduct a disparity study to analyze utilization of minority- and women-owned business enterprises (M/WBEs) in School District procurement. The disparity study was accepted by the School Board on April 5, 1995.
- b. The study was designed to address four major issues: Whether there is a disparity in the utilization of M/WBEs in the District's procurement program; whether any such disparity is the product or result of past discrimination or other factors related to race- or gender-based discrimination; whether such disparity could be effectively ameliorated through race- and gender-neutral programs; and if the appropriate remedy was a race- or gender-conscious program, how the program should be narrowly tailored to remedy the current effects of past discrimination and conform to constitutional guidelines.
- c. The 1995 study concluded that market area industry practices in construction, construction support services, professional services, and commodities and services were discriminatory toward M/WBEs and that the School District had been a passive participant in discrimination against M/WBEs.
- d. Since 1995, the School District has employed several race- and gender-neutral methods in an effort to eliminate disparities in the utilization of M/WBE firms, such as: bond waivers, contract de-bundling, contractual prohibitions against discrimination, advertisements in minority media; outreach activities by the District; and agency networking and trade fair activities.
- e. Incorporating recommendations in the disparity study report, the Department of Equity Assurance prepared Policy 6.146A and Procedures Manual 6.146B, approved by the School Board in February 1996 with a Sunset date of September 30, 2005. These policies were later amended to sunset on June 6, 2001.
- f. On August 6, 2001, the School Board adopted Policy 6.142, directing "the Superintendent to compile and analyze additional data as may be necessary to develop appropriate programs and procedures" in furtherance of and equitable participation by minority-and-women-owned business enterprises (M/WBEs), and "that the Superintendent will bring back a policy that actively promotes diversity and business practices that sets goals for M/WBE participation that are consistent with the calculated disparity above."

- 39 g. The administration in the Office of Equity Assurance transitioned to a focus on  
 40 M/WBE participation, and the Board established the Office of Diversity in Business  
 41 Practices (ODBP) in August of 2001 to monitor all contracts, bids, and  
 42 professional services and promote the increased use of M/WBEs in the District's  
 43 procurement process.
- 44 h. On December 12, 2001, Washington & Rice, LLC, was hired to conduct a  
 45 comprehensive review of the District's M/WBE program and procurement  
 46 practices, customize and install the CHAMP software, a comprehensive database  
 47 and tracking system for use by the ODBP.
- 48 i. In June 2004, the School District commissioned D. J. Miller & Associates, Inc.  
 49 (DJMA) to conduct a Causation and Anecdotal Study (DJMA Study) to examine  
 50 School District procurement practices, to examine the existence of any disparities  
 51 in market outcomes in the utilization of ready, willing, and able minority- and  
 52 women-owned businesses on District contracts, to determine possible causes for  
 53 any such disparities and whether there is an compelling government interest to  
 54 utilize race/gender-conscious means to remedy ongoing effects of marketplace  
 55 discrimination upon the School Districts contracting. Additionally, the DJMA Study  
 56 sought to recommend narrowly tailored remedies to any identified barriers to  
 57 equitable participation of minority- and women-owned businesses (M/WBEs) in  
 58 School District contracts that are consistent with applicable law. Based largely  
 59 upon its review of the DJMA Study results and previously gathered evidence, the  
 60 School Board has made the following significant findings:
- 61 i. Within the relevant geographic market (consisting of the Palm Beach County,  
 62 Ft. Lauderdale, and Miami-Dade County, FL MSAs), there are statistically  
 63 significant disparities in the utilization of ready, willing, and able minority- and  
 64 women-owned business in the following categories of contracts and business  
 65 owners:
- 66 A. Construction (African American owned firms)
- 67 B. Non-professional Services (Hispanic American owned firms)
- 68 C. Professional Services (African American, Hispanic American, Native  
 69 American, and Women owned firms)
- 70 D. General Procurement (Asian American and Native American owned  
 71 firms)
- 72 ii. These significant disparities establish an inference of discrimination that is  
 73 adversely affecting the Palm Beach County School District's utilization of  
 74 ready, willing, and able minority- and women-owned firms.

- 75           iii. These inferences of discrimination were further supported by other strong  
76 and compelling evidence for the relevant time period including, but not limited  
77 to, the following examples:
- 78           A. White male-owned firms received the overwhelming majority of the  
79 County's construction building permits in the public sector for prime  
80 contracts (98.54%) and for subcontracts (94.81%).
- 81           B. White male-owned firms received an even larger overwhelming majority  
82 of the County's construction building permits for private sector prime  
83 contracts (99.41%) and subcontracts (97.75%). This significant private  
84 sector disparity in the relevant market was further confirmed by findings  
85 derived from Reed Construction data that reflect M/WBEs received only  
86 6.81% of public sector construction dollars, and 5.17% of the private  
87 sector construction dollars.
- 88           C. Interviews with District purchasing staff and M/WBE firms identified a  
89 number of discriminatory barriers affecting the relevant market including  
90 unequal access to bonding, finance, and insurance; unfair denials of  
91 opportunities to bid; unfair denial of contract awards; "good old boy"  
92 networks; double standards in performance; jobsite harassment; and  
93 false reporting of M/WBE contract participation to avoid utilization of  
94 legitimate M/WBE firms.
- 95           D. The implementation of a broad array of race- and gender-neutral  
96 assistance efforts and programs throughout the relevant market over the  
97 past decade have been unsuccessful in eliminating these persistent and  
98 significant disparities in the District's utilization of ready, willing, and able  
99 M/WBE firms. (See DJMA Study, pp. VII-1 to VII-20). These race- and  
100 gender-neutral efforts have included small business programs, technical  
101 assistance, loan guarantee assistance, bonding assistance, business  
102 development assistance, financing assistance, matchmaking sessions,  
103 and mentor-protégé programs.
- 104           E. Based upon comparisons of the ranking of bids obtained through an  
105 analysis of Reed Elsevier Construction Data, M/WBE contractors are as  
106 competitive as their white male counterparts. However, the M/WBE  
107 bidding rate is nearly three times as great in the public sector as it is in  
108 the private sector, and M/WBEs receive a significantly lower percentage  
109 of contract dollars in the private sector. (See DJMA Study pp. VIII-22 to  
110 VIII-33). Yet, a significant disparity in the utilization of African American  
111 construction firms by the School District persists.
- 112           j. Based upon the totality of the evidence gathered and presented to the Board since  
113 1995, the Board has concluded that there is a strong basis in evidence

114 establishing that the School District has a compelling interest to remedy the  
115 ongoing effects of discrimination that is occurring in the broader relevant market  
116 and adversely affecting the District's utilization of ready, willing, and able minority-  
117 and women-owned firms in District contracts. The Board has further concluded  
118 that it needs to take action to avoid becoming a passive participant in private  
119 sector discrimination.

120 k. The Board has further concluded that race- and gender-neutral remedies, in and  
121 of themselves, are likely to be insufficient to eliminate the effects of the identified  
122 forms of discrimination, and that a narrowly tailored combination of race- and  
123 gender-neutral and race- and gender-conscious remedies is warranted.

## 124 2. Policy Direction

125 a. The School District shall resort to the use of race- and gender-conscious means  
126 for addressing disparities only when it is apparent that the use of neutral means  
127 alone will likely be insufficient to remedy the effects of identified discrimination.

128 b. Having found that it has a compelling governmental interest to remedy the  
129 effects of identified discrimination in District procurement and contracting, the  
130 School Board directs the Superintendent to establish procedures to implement  
131 remedies that are consistent with this Policy and that are narrowly tailored to  
132 the findings and conclusions of the DJMA Study

133 c. It is the policy of the Board to take all necessary, reasonable, and legal action  
134 to prevent discrimination and to ensure that all businesses, including M/WBEs,  
135 are afforded the maximum equitable opportunity to participate in the District's  
136 purchasing process.

137 d. This Policy shall apply to the solicitation of all goods, services, and  
138 construction contracts procured in accordance with the Palm Beach County  
139 School Board policies, Florida Statutes, and Department of Education (DOE)  
140 rules. The District's procurement processes shall promote diversity and  
141 equitable utilization of M/WBEs; and such solicitation processes shall be used,  
142 whenever possible, even for those goods and services which are exempt from  
143 competitive procurement under State Board of Education Rule 6A-1.012.

144 e. The Superintendent shall take all necessary and reasonable steps permissible  
145 by law to ensure full equitable participation by M/WBEs in the procurement of  
146 goods and services for the District school system. As a minimum, those steps  
147 shall include:

148 i. developing programs and procedures as described herein that will  
149 achieve the School Board's diversity objectives in business practices in a  
150 manner that is consistent with this Policy;

- 151 ii. establishing a commercial non-discrimination policy that ensures that  
 152 companies doing business with the School Board do not discriminate in  
 153 the solicitation, selection, or treatment of subcontractors, suppliers,  
 154 vendors, or commercial customers on the basis of race, color, sex or  
 155 national origin;
- 156 iii. ensuring that the ODBP is included on all selection committees for bids,  
 157 contracts and professional services. The ODBP shall review contract  
 158 specifications to ensure that they are not unnecessarily restrictive to the  
 159 availability and the participation of Small Business Enterprises (SBEs)  
 160 and M/WBE firms in the procurement and contracting process;
- 161 iv. establishing an evaluation system whereby all School District employees  
 162 who are responsible for the procurement of goods and services are  
 163 knowledgeable about the District's goals in achieving diversity and  
 164 evaluated on their job performance regarding implementation of this  
 165 Policy;
- 166 v. ensuring that all senior-level staff performance evaluations include an  
 167 indicator for SBE and M/WBE diversity objectives for procurement; and
- 168 vi. evaluating the levels of availability and utilization in SBE and M/WBE  
 169 participation through the establishment and use of a centralized bidder  
 170 registration system, and adjusting the implementation of policy  
 171 accordingly to account for changing needs and circumstances and to  
 172 ensure that appropriate utilization objectives are established and  
 173 achieved.
- 174 3. **Definitions.--** As used in this Policy, the terms below have the following meanings:
- 175 a. Agency.-- The School Board of Palm Beach County.
- 176 b. Availability.-- The percentage of ready, willing and able business firms that are  
 177 minority- and/or women-owned and seek to provide goods and services to the  
 178 School District.
- 179 c. Award Amount.-- The award amount is the dollar value of the contract when  
 180 awarded.
- 181 d. Board.— The School Board of Palm Beach County, which is the legal entity with  
 182 authority to enter contracts on behalf of the District school system under Fla. Stat.  
 183 § 1001.41(4).
- 184 e. Business.-- Any for-profit corporation, partnership, sole proprietorship, joint stock  
 185 company, joint venture, or any other private legal entity.

- 186 f. Certification.-- The process by which the ODBP determines that a business meets  
187 the criteria for classification as a small, minority, or woman business enterprise.
- 188 g. Centralized Bidder Registration System.-- A computer-based management  
189 information system designed to manage the contract compliance process. It is a  
190 software solution designed to develop and monitor narrowly tailored M/WBE  
191 programs by integrating with existing School District financial and contract  
192 systems for the purpose of tracking all aspects of the contract sequence process:  
193 vendor information, contract information, solicitation/award information, invoice,  
194 and payment information.
- 195 h. Construction.-- The process, usually requiring the professional services of an  
196 architect and/or engineer, of building, altering, repairing, improving, or demolishing  
197 any structure or building, or other improvements of any kind to any real property  
198 as determined by the Director of Purchasing.
- 199 i. Contract.-- (1) A written agreement between two or more competent parties to  
200 perform or not perform a specific act or acts; and (2) any type of agreement  
201 regardless of what it is called for the procurement or disposal of supplies, services,  
202 or construction.
- 203 j. Contractor.-- A separate and distinguishable business entity participating or  
204 seeking to participate in the performance of a contract.
- 205 k. Controlled.-- For the purpose of determining whether a business is a minority or  
206 women business enterprise, "controlled by" shall mean that the minority/ies, the  
207 woman, or combination of minorities and women, as the context requires, shall (1)  
208 possess legal authority and power to manage business assets, good will and daily  
209 operations of the business; and (2) actively and continuously exercise such  
210 authority and power in determining the policies and directing the operations of the  
211 business, knowledge and technical expertise in the business endeavor, licensed  
212 to perform the business or trade, and the lack of external influence over the day-  
213 to-day operations or decision-making process by any entity (with the exception of  
214 franchise operations).
- 215 l. Compliance.-- The level of performance at which the School District and the Prime  
216 Contractor utilizes vendors in meeting diversity objectives.
- 217 m. Discriminate.-- To treat an individual or group differently solely on the basis of  
218 race, religion, color, sex, national origin, age, handicap, ancestry or disabled  
219 veteran status.
- 220 n. Debarment.-- The exclusion of a vendor or contractor, for cause, from bidding  
221 and/or doing business with the School Board.

- 222 o. District.-- The School District of Palm Beach County, its individual and collective  
223 departments, managers, staff and facilities.
- 224 p. Disability.-- A physical or mental impairment that substantially limits one or more of  
225 an individual's major life activities.
- 226 q. DOE.-- Department of Education, an executive-branch department of the State of  
227 Florida, which is tasked with recommending education-related policy to the  
228 Governor, State Board of Education, and state Legislature, and oversees local  
229 school districts' adherence to state requirements.
- 230 r. DOE or State Board of Education Rules.-- Legislatively-mandated policies as  
231 established by the Department of Education or State Board of Education for  
232 governmental and operational facilities for personnel and administration, including  
233 State Board of Education Rule 6A-1.012, "Purchasing Policies."
- 234 s. Front.-- A business which purports to be a M/WBE for purposes of obtaining  
235 District contracts, but which is actually owned, controlled, and/or operated in a  
236 manner that is inconsistent with the performance of a commercially useful function  
237 and that does not comply with the District's requirements for M/WBE certification.
- 238 t. Goals (Annual Diversity Goals).-- A percentage of total contract dollar volume, on  
239 an annual basis, for the participation of minority and women-owned businesses in  
240 the District's procurement, professional services and construction contracts.
- 241 u. Industry Categories.-- Construction, professional services, non-professional  
242 services, commodity procurement, manufacturing, wholesale, and retail.
- 243 v. Joint Venture.-- An association of two or more persons or businesses to carry out  
244 a single business enterprise for profit for which purpose they combine their  
245 property, capital, efforts, skills and knowledge. Joint ventures must be established  
246 by written agreement.
- 247 w. Minority.— a "minority" or "minority person" means a lawful, permanent resident of  
248 Florida who is:
- 249 i. an "African American," a person having origins in any of the racial groups of  
250 the African Diaspora;
- 251 ii. a "Hispanic American," a person of Spanish or Portuguese culture with  
252 origins in Mexico, Central or South America, or the Caribbean, regardless of  
253 race;
- 254 iii. an "Asian American," a person having origins in any of the original peoples of  
255 the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands,  
256 including the Hawaiian Islands prior to 1778;



- 257 iv. a "Native American," a person who is a member of or is eligible to be a  
 258 member of a federally recognized Indian tribe. A "federally recognized Indian  
 259 tribe" means an Indian tribe, band, nation, rancheria, pueblo, colony, or other  
 260 organized group or community, including any Alaska native village, which  
 261 recognized by the Secretary of the Interior on October 1, 1985, as having  
 262 special rights and is recognized as eligible for the services provided by the  
 263 United States to Indians because of their status as Indians, and any tribe that  
 264 has a pending application for federal recognition on October 1, 1985, as  
 265 having special rights and is recognized as eligible for the services provided  
 266 by the United States to Indians because of their status as Indians, and any  
 267 tribe that has a pending application for federal recognition on October 1,  
 268 1985; or
- 269 v. an American woman.
- 270 x. M/WBE.-- A minority-owned business enterprise or a women-owned business  
 271 enterprise or a designated combination of minority- and woman-owned business  
 272 enterprise in a specified industry that:
- 273 i. employs 200 or fewer permanent full-time employees and that, together with  
 274 its affiliates, has a net worth of not more than five million dollars (\$5 million) or  
 275 any firm based in this state which has a Small Business Administration 8(a)  
 276 certification (and as applicable to sole proprietorships, the \$5 million net worth  
 277 requirement shall include both personal and business investments); and
- 278 ii. has at least 51% minority ownership, daily management, and control of the  
 279 business; and
- 280 iii. is domiciled in the Palm Beach County, Miami-Dade County, or Ft.  
 281 Lauderdale metropolitan statistical areas (MSA), or is domiciled in the State  
 282 of Florida and can demonstrate that it routinely bids on and/or performs  
 283 contracts in Palm Beach County; and
- 284 iv. is lawfully organized to engage in commercial transactions.
- 285 However, ownership by a minority person does not include ownership resulting  
 286 from a transfer from a non-minority person to a minority person within a related  
 287 immediate family group if the combined total net asset value of all members of  
 288 such family group exceeds one million dollars (\$1 million). For purposes of this  
 289 definition, the term "related immediate family group" means one or more children  
 290 under sixteen (16) years of age and a parent of such children or the spouse of  
 291 such parent residing in the same house or living unit. The Superintendent shall  
 292 implement procedures for periodic re-certification and graduation of M/WBEs from  
 293 M/WBE program eligibility.

- 294 y. NIGP (National Institute of Governmental Purchasing).-- Standards used to  
 295 classify business enterprises by industry codes.
- 296 z. Owned.-- For the purposes of determining whether a business is a minority or  
 297 woman business enterprise, shall mean that the minority/ies or woman(en), as the  
 298 context requires, shall possess an ownership interest of a minimum of 51%.
- 299 aa. Preferential Programs.-- The preference extended for diversity participation in the  
 300 ranking of responsive bidders and the bid preference procedures under this  
 301 Policy. It also means the maximum point allocation for professional service  
 302 contract award evaluations.
- 303 bb. Prime Contractor.-- Any person or business entity that has a contract with the  
 304 School Board to provide specific construction services, sales, supplies, materials,  
 305 professional services, labor and/or equipment.
- 306 cc. Professional Services.-- Any narrow discipline wherein a known practitioner has  
 307 through education and experience developed expert advisory and programming  
 308 skills as a vocation; any service performed primarily by vocational personnel which  
 309 requires the analysis or certification of a professional before the services are  
 310 acceptable to the user of the service; or any other advisory study, or programming  
 311 activity where the School District's Director of Purchasing determines that the level  
 312 of skills and/or creativity of the potential or known practitioner(s) warrant utilizing a  
 313 request for proposals, request for information, or similar solicitation process other  
 314 than the competitive bid or quotation process.
- 315 dd. Project Goals.-- Contract-specific goals expressed as percentages of the total  
 316 contract dollar volume that are anticipated by the District for subcontract  
 317 participation by Small Business Enterprise firms or M/WBE firms based upon  
 318 relative availability in the relevant industry.
- 319 ee. Proposal.-- An executed formal document submitted by an offeror to the  
 320 purchasing agent stating the goods and/or services offered to satisfy the need as  
 321 requested in the Request for Proposal or Request for Information.
- 322 ff. Procurement.-- Buying, purchasing, renting, leasing or otherwise acquiring any  
 323 goods and/or services for public purposes in accordance with the law, rules,  
 324 regulations and procedures intended to provide for the economic expenditure of  
 325 public funds. For the purpose of this Policy, procurement refers to those goods  
 326 and/or services, except professional services, solicited by the Purchasing  
 327 Department pursuant to Department of Education requirements and Policy 6.14.
- 328 gg. Ready, Willing, and Able.-- Any vendor(s), who has registered an interest in doing  
 329 business with the School District, and has the technical expertise, training, and  
 330 licenses to perform in accordance to the contract document.

- 331 hh. Relevant Market Place.-- The geographical area in which the majority of the  
332 School District's suppliers, vendors, and / or contractors are located.
- 333 ii. Small Business Enterprise (SBE) – Any business firm that is certified by the  
334 District as having average annual gross sales and an average number of full-time  
335 employees over the last three years that are less than fifty percent (50%) of the  
336 small business size standards as most recently defined by the U. S. Small  
337 Business Administration for the business firm's relevant industry. In addition, to be  
338 eligible as an SBE for bidding purposes, a business firm must have received less  
339 than one million dollars (\$1 million) in contract payments from District projects or  
340 contracts in the fiscal year preceding the bid. The Superintendent shall establish  
341 procedures for periodic re-certification and graduation of SBE firms from SBE  
342 program eligibility.
- 343 jj. Subcontractor.-- Any person providing goods and/or services to a prime contractor  
344 for profit, if such goods and/or services are procured or used in fulfillment of the  
345 prime contractor's obligations arising from a contract with the School District of  
346 Palm Beach County.
- 347 kk. Diversity Directory.-- A compilation of certified SBEs and M/WBEs, which is  
348 retained and published by the ODBP and made available to contractor(s) or  
349 vendor(s) for use in identifying subcontractors, material suppliers, etc.
- 350 ll. Underutilization.-- A level of contract participation by a group of businesses (e.g.,  
351 M/WBEs) that is at least two standard deviations below their relative availability in  
352 a given an industry code.
- 353 mm. WBE.-- Woman-owned, controlled, and operated business enterprises (which  
354 have at least 51% female ownership, management, and control of the business).
- 355 nn. Goals.-- The annual or contract-specific goals for contract participation that  
356 express the anticipated level or proportion of contract dollars in a given time frame  
357 that would be expected to be received by a particular segment of the total  
358 population of Ready, Willing, and Able (RWA) firms. RWA firms are defined as  
359 those firms that are ready and able to sell goods or services that the School  
360 District buys, and that have registered their interest in doing business with the  
361 School District. Such goals are based upon availability analysis derived from a  
362 database established through the implementation of a mandatory and automated  
363 centralized bidder registration system. Upon completion of availability analysis,  
364 such goals for contract participation may, under certain circumstances, be set and  
365 narrowly tailored by race, gender, and industry codes. Annual goals are intended  
366 as an administrative guide only to assist the District in its annual policy review to  
367 determine whether the use of more aggressive or less aggressive remedies are  
368 warranted in the future. Annual goals shall not be routinely applied to specific  
369 contracts absent independent availability analysis that demonstrates they are

370 appropriate for application to a specific contract.

371 4. Procurement Process.-- The Board hereby directs the Superintendent to implement  
 372 the following race- and gender-neutral measures and procurement procedures to  
 373 provide fairer access to District contracts:

374 a. Establishment of a Procurement Policy Work Group to examine and propose  
 375 modifications to the District's procurement processes and practices, including a  
 376 thorough review of policies and practices affecting small dollar purchases, the use  
 377 of blanket purchase orders, contract-bundling, the merits of centralized vs. de-  
 378 centralized purchasing and its effects on M/WBE utilization, the uniformity (or lack  
 379 thereof) in the standards applied in the development of contract specifications, the  
 380 utilization of construction managers at risk, and any other policies and practices  
 381 that may adversely affect the utilization of small, minority, and women-owned firms  
 382 on District contracts.

383 b. Establishment of a Commercial Non-Discrimination Policy, to be proposed for  
 384 Board approval, which provides: (a) a clear policy statement against  
 385 discrimination in business on the basis of race, gender, religion, national origin,  
 386 ethnicity, age, or disability; (b) a prohibition against the District entering into  
 387 contracts with business firms that discriminate in the solicitation, selection, or  
 388 treatment of vendors, suppliers, subcontractors, or commercial customers; (c) a  
 389 formal complaint process and investigation process for alleged violations of this  
 390 policy; and (d) due process for hearing evidence, rendering findings, and  
 391 imposing sanctions against business firms and District employees that violate this  
 392 Policy, in coordination with any applicable collective bargaining procedures.

393 c. Establishment of an automated and mandatory Centralized Bidder Registration  
 394 system for all firms that are interested in selling goods or services to the District.  
 395 This Centralized Bidder Registration system should be a computer-based  
 396 management information system designed to manage the contract compliance  
 397 process. It should enable targeted e-mail solicitation of prospective bidders of  
 398 relevant bid opportunities. The Centralized Bidder Registration system should  
 399 also facilitate the collection of data that is necessary for the development and  
 400 monitoring of narrowly tailored SBE and M/WBE programs. In doing so, it should  
 401 also interface with existing School District financial and contract systems for the  
 402 purpose of tracking all aspects of the contract sequence process: vendor  
 403 information, contract information, solicitation/award information, invoice, and  
 404 payment information. All bidders, regardless of ownership type, shall be required  
 405 to register on this system prior to submitting a bid, receiving a contract award, or  
 406 submitting an invoice for payment to the School District.

407 d. Establishment of business development assistance initiatives such as the use of  
 408 bond waivers for contracts up to \$200,000 in value; prohibition against prime  
 409 contractors' requirements for bonds from subcontractors on District contracts;

410 wrap-up insurance plans; financial assistance programs for SBEs (e.g., loan  
 411 initiatives, revolving working capital fund, contract financing, and public venture  
 412 capital funds); mentor-protégé programs; and a one-stop referral system for firms  
 413 in need of technical assistance resources.

414 e. Establishment of a procedure for bid de-briefing for losing bidders on District  
 415 contracts.

416 f. Establishment of a linked deposit program to encourage financial institutions that  
 417 hold District funds to improve capital access and loan availability for SBEs and  
 418 M/WBEs.

419 g. Establishment of a procedure for ODBP to preview proposed contract bids in  
 420 advance of their public dissemination to suggest ways in which contracts may be  
 421 de-bundled or segmented into smaller segments to provide for greater competition  
 422 and opportunities for greater prime contract participation by SBE and M/WBE  
 423 firms.

424 h. Establishment of a Prompt Payment Policy that requires that every contract let by  
 425 the School Board for the performance of work shall contain a provision requiring  
 426 the prime contractor to certify in writing with the submission of its invoices to the  
 427 District that all subcontractors, subconsultants, and suppliers have been paid for  
 428 satisfactorily delivered work and materials from previous progress payments  
 429 received, less any retainage, by the prime contractor. During the term of the  
 430 contract and upon the completion of the contract, the District shall request  
 431 documentation to certify payment to subcontractors, subconsultants, or suppliers.  
 432 Failure to comply with this policy or to provide this required documentation shall  
 433 constitute a material breach of contract. Such failure shall also preclude the prime  
 434 contractor from further receipt of progress payments from the District until such  
 435 delinquent payments to subcontractors, subconsultants, and suppliers are made.  
 436 This provision in no way creates any contractual relationship between any  
 437 subcontractor, subconsultant, or supplier and the District or any liability on the  
 438 District for the contractor's failure to make timely payment to the subcontractor,  
 439 subconsultant, or supplier.

440 5. **Industry Specific Remedial Programs.**— The Board hereby directs the  
 441 Superintendent to develop and implement remedial programs for the purpose of  
 442 eliminating the disparities in M/WBE contract participation in District contracts caused  
 443 by discrimination. The following array of industry-specific programs are to be  
 444 established and implemented in a narrowly tailored manner consistent with the factual  
 445 predicate and consistent with the terms of this Policy:

446 a. **Construction Programs**

447 i. A Small Business Enterprise Program permitting the use of set asides of

448 small prime contracts that are below competitive bidding dollar thresholds for  
 449 bidding exclusively among certified SBE firms, and also establishing  
 450 mandatory subcontracting goals for the participation of certified SBE  
 451 subcontractors on those construction contracts that are above the  
 452 competitive bidding threshold and that have commercially useful subcontract  
 453 opportunities.

454 ii. An Internal Matchmaking Program for SBE and M/WBE construction  
 455 contractors wherein the Program Management Department shall review bids  
 456 for viable opportunities for SBE and M/WBE participation and then inform  
 457 SBE and M/WBE firms of those specific opportunities that they are likely to  
 458 be interested in. The District shall establish mechanisms to ensure timely  
 459 notification of SBEs and M/WBEs of such opportunities and shall also  
 460 establish an open door policy to permit SBE and M/WBEs to dialogue with  
 461 and market themselves directly to appropriate District construction personnel.

462 iii. An External Matchmaking Program for SBE and M/WBE construction  
 463 contractors wherein ODBP shall sponsor matchmaking sessions between  
 464 prime contractors and SBE and M/WBE subcontractors to occur  
 465 simultaneously with public release of contract forecasts to provide the  
 466 maximum opportunity for SBE and M/WBE collaboration with non-minority  
 467 firms. The Program Management Department and its construction managers  
 468 should be actively involved in the process.

469 iv. A Minority Business Enterprise Program establishing bid preferences on  
 470 certain construction contracts on behalf of certified M/WBE African American-  
 471 owned construction firms including the use of contract-specific subcontracting  
 472 goals on selected contracts with genuine opportunities for commercially  
 473 useful subcontracting as described herein under Section 8 of this Policy.

474 b. **Non-professional Services Programs**

475 i. A Small Business Enterprise Program permitting the use of set asides of  
 476 small prime contracts that are below competitive bidding dollar thresholds for  
 477 bidding exclusively among certified SBE firms, and also establishing  
 478 mandatory subcontracting goals for the participation of certified SBE  
 479 subcontractors on those non-professional services contracts that are above  
 480 the competitive bidding threshold and that have commercially useful  
 481 subcontract opportunities.

482 ii. An Internal Matchmaking Program for SBE and M/WBE non-professional  
 483 services firms wherein the Purchasing Department shall review bids for viable  
 484 opportunities for SBE and M/WBE participation and then inform SBE and  
 485 M/WBE firms of those specific opportunities that they are likely to be  
 486 interested in. The District shall establish mechanisms to ensure timely

487 notification of SBEs and M/WBEs of such opportunities and shall also  
 488 establish an open door policy to permit SBE and M/WBEs to dialogue with  
 489 and market themselves directly to appropriate District procurement  
 490 personnel.

491 iii. An External Matchmaking Program for SBE and M/WBE non-professional  
 492 services firms wherein the ODBP shall sponsor matchmaking sessions  
 493 between prime contractors and SBE and M/WBE subcontractors and joint  
 494 venture partners to occur simultaneously with public release of contract  
 495 forecasts to provide the maximum opportunity for SBE and M/WBE  
 496 collaboration with non-minority firms. The Purchasing Department  
 497 purchasing agents and managers should be actively involved in the process.

498 iv. A Minority / Women Business Enterprise Program permitting the use of set  
 499 asides of small prime contracts that are below competitive bidding dollar  
 500 thresholds for bidding exclusively among certified M/WBE firms that are  
 501 owned by Hispanic Americans, and also establishing contract-specific  
 502 subcontracting goals for the participation of certified M/WBE subcontractors  
 503 on those non-professional services contracts that are above the competitive  
 504 bidding threshold and that have commercially useful subcontract  
 505 opportunities.

506 c. **Professional Services Programs**

507 i. A Small Business Enterprise Program to establish bid preferences, joint  
 508 venture incentives, and evaluation preferences on behalf of certified SBE  
 509 firms as described hereunder in Section 8 of this Policy.

510 ii. An Internal Matchmaking Program for SBE and M/WBE professional services  
 511 firms wherein the Program Management Department and the Purchasing  
 512 Department shall review bids for viable opportunities for SBE and M/WBE  
 513 participation and then inform SBE and M/WBE firms of those specific  
 514 opportunities that they are likely to be interested in. The District shall  
 515 establish mechanisms to ensure timely notification of SBEs and M/WBEs of  
 516 such opportunities and shall also establish an open door policy to permit SBE  
 517 and M/WBEs to dialogue with and market themselves directly to appropriate  
 518 District engineering, architectural design, and procurement personnel.

519 iii. An External Matchmaking Program for SBE and M/WBE professional  
 520 services firms wherein the ODBP shall sponsor matchmaking sessions  
 521 between prime contractors and SBE and M/WBE subcontractors and joint  
 522 venture partners to occur simultaneously with public release of contract  
 523 forecasts to provide the maximum opportunity for SBE and M/WBE  
 524 collaboration with non-minority firms. The Purchasing Department  
 525 purchasing agents and managers should be actively involved in the process.

526 iv. A Minority / Women Business Enterprise Program permitting the use of bid  
 527 preferences, joint venture incentives, and evaluation preferences among  
 528 certified M/WBE firms that are owned by African Americans, Hispanic  
 529 Americans, Native Americans, and Women and also establishing contract-  
 530 specific subcontracting goals for the participation of certified M/WBE  
 531 subcontractors on those professional services contracts that are above the  
 532 competitive bidding threshold and that have commercially useful subcontract  
 533 opportunities.

534 d. General Procurement Programs

535 i. A Small Business Enterprise Program permitting the use of set asides of  
 536 small prime contracts that are below the competitive bidding dollar thresholds  
 537 for bidding exclusively among certified SBE firms, and also establishing  
 538 mandatory subcontracting goals for the participation of certified SBE  
 539 subcontractors on those general procurement contracts that are above the  
 540 competitive bidding threshold and that have commercially useful subcontract  
 541 opportunities as described hereunder in Section 8 of this Policy.

542 ii. An Internal Matchmaking Program for SBE and M/WBE general procurement  
 543 firms wherein the Purchasing Department shall review bids for viable  
 544 opportunities for SBE and M/WBE participation and then inform SBE and  
 545 M/WBE firms of those specific opportunities that they are likely to be  
 546 interested in. The District shall establish mechanisms to ensure timely  
 547 notification of SBEs and M/WBEs of such opportunities and shall also  
 548 establish an open door policy to permit SBE and M/WBEs to dialogue with  
 549 and market themselves directly to appropriate District procurement  
 550 personnel.

551 iii. An External Matchmaking Program for SBE and M/WBE general  
 552 procurement firms wherein the ODBP shall sponsor matchmaking sessions  
 553 between prime contractors and SBE and M/WBE subcontractors and joint  
 554 venture partners to occur simultaneously with public release of contract  
 555 forecasts to provide the maximum opportunity for SBE and M/WBE  
 556 collaboration with non-minority firms. The Purchasing Department  
 557 purchasing agents and managers should be actively involved in the process.

558 iv. A Minority / Women Business Enterprise Program permitting the use of set  
 559 asides of small prime contracts that are below competitive bidding dollar  
 560 thresholds for bidding exclusively among certified M/WBE firms that are  
 561 owned by Asian Americans and Native Americans, and also establishing  
 562 contract-specific subcontracting goals for the participation of certified M/WBE  
 563 subcontractors on those general procurement contracts that are above the  
 564 competitive bidding threshold and that have commercially useful subcontract  
 565 opportunities.



566 6. Administration.— The Board hereby directs the Superintendent to adopt  
567 procedures to ensure that the ODBP will periodically conduct the following kinds of  
568 analyses using data captured by an automated mandatory centralized bidder  
569 registration system as described in this policy.

570 a. Availability Analysis

571 i. Overall Availability.— The measure of overall availability is based on all  
572 the vendors and contractors that register in the automated and mandatory  
573 centralized bidder registration system. Such availability measurements  
574 shall be segmented according to the proportion of business ownership by  
575 race, gender, and size within certain NIGP or North American Industrial  
576 Classification System (NAICS) or comparable industry codes.

577 ii. SBE Availability.— The proportion of overall availability of the ready,  
578 willing, and able (RWA) vendors that are certified as Small Business  
579 Enterprise (SBE) firms within the SBE program, categorized by industry  
580 codes and relevant markets.

581 iii. M/WBE Availability.— The proportion of overall availability of the ready,  
582 willing, and able (RWA) vendors that are certified within the M/WBE  
583 program, categorized by race, gender, industry codes, and relevant  
584 market.

585 iv. Race-Neutral SBE Contract Goals.— Availability analysis shall be used to  
586 set contract participation goals on an annual basis and on a contract-  
587 specific basis. The contract participation goals shall be set based on the  
588 relevant measures of SBE availability as compared to all RWA vendors  
589 within the specific industry code of the contract in the relevant market.

590 v. M/WBE Contract Goals.— Availability analysis shall be used whenever  
591 setting contract participation goals on an annual basis or on a contract-  
592 specific basis. The contract participation goals shall be set based on the  
593 relevant measures of M/WBE availability as compared to all RWA  
594 vendors within the specific industry code of the contract in the relevant  
595 market. In setting such goals, the Superintendent shall consider adoption  
596 of procedures based upon DJMA's recommendations for Algorithm Target  
597 Methodology (ATM) or Benchmarking (see pages IX-20 through IX-24 of  
598 the DJMA Study).

599 b. Utilization Analysis.— The utilization analysis shall be based on the total dollar  
600 amount paid in a given period, such as a year, to the vendors and contractors that  
601 were registered in the automated and mandatory centralized bidder registration  
602 system. This analysis reflects the proportion of contract dollars that are spent, by  
603 industry code, and within SBE or M/WBE vendor categories, as compared to the

604 total contract dollars spent with the overall vendor population within those  
 605 industries.

606 c. **Disparity Analysis**

607 i. This disparity analysis shall be based on the 80% statistical significance rule  
 608 adopted under *Croson v. Richmond*, which is defined as two standard  
 609 deviations between utilization and availability. Utilization of RWA M/WBE  
 610 firms that is 80% or less of the level of availability of M/WBE firms in a  
 611 particular market is considered statistically significant under-utilization.  
 612 Utilization of that is above 100% of the level of availability is considered over-  
 613 utilization.

614 ii. Statistically significant underutilization creates an inference of discrimination,  
 615 and in combination with other factors, permits consideration of the use of  
 616 narrowly tailored race- and gender-conscious remedies to ameliorate the  
 617 effects of such discrimination.

618 d. **Remedy Analysis**

619 i. If disparity is shown in the disparity analysis above, the District shall review  
 620 the findings and recommendations from the DJMA Study (or from the  
 621 District's most recent independent disparity study) to determine the most  
 622 appropriate and effective remedies to apply to a given set of contracts to  
 623 eliminate barriers and overcome the effects of various forms of discrimination  
 624 identified through the DJMA Study or any subsequent studies.

625 ii. In selecting a remedial approach for any given contract, the District shall seek  
 626 to identify the remedy that is most likely to be effective in promoting fair and  
 627 equitable contract participation by all segments of the relevant vendor  
 628 population, yet does not impose any undue burden on innocent third parties.

629 e. **Periodic Review of Factual Predicate**

630 i. At least once every four years, the ODBP shall contract with an independent  
 631 disparity study consultant to conduct an updated review of the factual  
 632 predicate for the District's M/WBE programs, and to determine whether there  
 633 is any ongoing need for the use of race- and gender- conscious remedies.

634 ii. Each successive disparity study update shall use methodologies and data  
 635 sources that are preferred or consistent with the most recent controlling legal  
 636 precedents.

637 iii. Each successive disparity study update shall make specific findings and  
 638 recommendations regarding the ongoing need for race- and gender- neutral

639 and race- and gender-conscious remedies for certain categories of contracts.  
 640 Study recommendations should also suggest appropriate modifications to  
 641 existing District procurement procedures, SBE programs, and M/WBE  
 642 programs to promote fair and equitable participation in School District  
 643 contracting opportunities in the most effective (yet least restrictive and least  
 644 burdensome) manner.

645 iv. In the event that the District determines that there is no ongoing need for any  
 646 race- and gender-conscious remedies, the M/WBE programs shall be  
 647 gradually phased out and shall sunset within two years after such  
 648 determination is made.

649 7. **Goal Setting Committee.--** The goals mentioned in Section 6 will be established  
 650 by a Goal Setting Committee under the auspices of ODBP, and shall be composed  
 651 of professional and senior-level representation from the following departments:

- 652 a. Department of Purchasing;
- 653 b. Diversity in Business Practices;
- 654 c. Chief Operating Officer;
- 655 d. Superintendent's Designee; and
- 656 e. The Department responsible for letting the contract.

657 8. **Remedial Options to Encourage Fair and Equitable Contract Participation**

658 a. **Bid Preferences.--** Specific goals for each project or contract may be  
 659 adopted on a project-by-project, or contract-by-contract basis, wherein the  
 660 contract award shall be made to the lowest responsive, responsible bidder  
 661 meeting the SBE or M/WBE subcontracting goals for the contract/project, when  
 662 that bidder's price does not exceed the lowest bidder's price by an amount greater  
 663 than the dollar or percentage amount set by the Goal Setting Committee

664 b. **Professional Services Evaluation Preferences**

665 i. In the selection process for the award of certain professional services  
 666 contracts, the District may include as one of its evaluation criteria the level of  
 667 SBE or M/WBE participation on the team or in subcontract participation.  
 668 Under this remedial approach, the maximum number of evaluation points is  
 669 available to an SBE or M/WBE proposer.

670 ii. A summary of any applicable SBE or M/WBE Program procedures shall be  
 671 plainly stated in each solicitation. For competitive professional services  
 672 contracts, a point system of evaluation will be used by an evaluation

673 committee to determine the recipient of the contract award recommendation.  
 674 Businesses submitting proposals to provide professional services to the  
 675 District will be eligible to receive, on a sliding scale, a designated number of  
 676 the total possible points based upon their SBE or M/WBE participation. The  
 677 distribution of points allocated to the evaluation criteria shall be stated in the  
 678 request for proposal. SBE or M/WBE participation shall be but one of several  
 679 criteria used to evaluate each proposal. Maximum points shall be awarded  
 680 when the proposer is a certified SBE or M/WBE. The provisions within this  
 681 section pertaining to the procurement of professional services are not  
 682 intended to be used to the exclusion of other provisions of this policy.

683 c. Internal Matchmaking.-- ODBP, in conjunction with the Purchasing Department  
 684 and the Program Management Department, shall review bids for viable  
 685 opportunities for M/WBE participation and then inform M/WBEs of those specific  
 686 opportunities that they are likely to be interested in. The District shall establish  
 687 mechanisms to ensure timely notification of M/WBEs of such opportunities and  
 688 shall also establish an open door policy to permit M/WBEs to dialogue with and  
 689 market themselves directly to appropriate District procurement personnel.

690 d. External Matchmaking.-- ODBP shall facilitate non-M/WBE firms and M/WBEs  
 691 coming together on specific School District projects where opportunities are  
 692 available for cooperative efforts. Such matchmaking sessions should occur  
 693 simultaneously with public release of contract forecasts to provide the maximum  
 694 opportunity for M/WBE collaboration with non-minority firms. On construction  
 695 projects, the Program Management Department and its construction managers  
 696 should be actively involved in the process.

## 697 9. Contract Solicitation and Award

698 a. ODBP Review.-- The ODBP shall preview all solicitations for construction,  
 699 procurement, and professional services prior to public dissemination, for  
 700 compliance with the objectives stated in this policy, and to ensure that bid  
 701 specifications do not unnecessarily restrict the ability of SBE and M/WBE firms to  
 702 compete and bid. All District award recommendations shall bear the review  
 703 signature of the Director of the ODBP.

704 b. Disqualification/Rejection.-- The School District and School Board reserve the right  
 705 to reject any proposals from bidders who have previously failed to perform  
 706 properly and who have done so by commission or omission of an act of such  
 707 serious and compelling nature that the act indicates a serious lack of business  
 708 integrity or honesty.

709 c. Contract Compliance Requirements.-- As the Superintendent's designee, the  
 710 ODBP will establish procedures for monitoring and evaluating program  
 711 performance and compliance.

712 d. The School District and School Board reserve the right to reject any proposal  
713 deemed non-responsive for failing to meet the Diversity requirements.

714 e. A firm's failure to comply with the contract may result in the drafting of a  
715 recommendation for suspension or debarment of the firms or individuals involved.  
716 Suspension or debarment of vendors by the School Board for activity contrary to  
717 this program will be carried out in accordance with Policy 6.14.

718 10. **Waivers**

719 a. Pre-Award Waiver.-- At any time prior to the award of a contract for a purchase of  
720 goods and supplies, the Superintendent or designee may grant a partial or  
721 complete waiver of diversity requirements for reasons such as: cases of  
722 emergency procurement; situations where a non-M/WBE is the sole source of the  
723 needed goods or services and there are no apparent commercially useful  
724 functions available to be performed by Ready, Willing, and Able SBE or M/WBE  
725 subcontractors; or good faith efforts to meet the contract diversity goal have  
726 proven unsuccessful. The Department making an emergency procurement shall  
727 consider the availability of SBE or M/WBEs from which to make such purchases.  
728 The Director of Purchasing shall make available a report of procurement activities,  
729 including at a minimum project name, project number, project description,  
730 awarded vendor, advertisement date, waivers of diversity requirements (and  
731 reasons for the waiver), and estimated dollar value to include change orders.

732 b. Performance and Payment Bonds.-- The Director of Purchasing and the Director  
733 of the ODBP, as the Superintendent's designees, in accordance with provisions of  
734 Fla. Stat. § 255.05 shall have the authority to waive the requirements for  
735 performance and payment bonds for projects having a dollar value to \$200,000 or  
736 less. The determination of this exemption shall be made on a contract-by-contract  
737 or project-by-project basis. In the event such exemption is granted, the Board or  
738 the District and its officers or officials shall not be personally liable to persons  
739 suffering loss because of granting such exemption.

740 11. **Program Administration.-- The Superintendent of Schools has the overall**  
741 **responsibility for establishing procedures and administering the Diversity Program.**  
742 **The ODBP shall report directly to the Chief Operating Officer. The ODBP shall be**  
743 **responsible for developing, managing, and implementing the Diversity program on**  
744 **a day-to-day basis.**

745 12. **District Implementation.-- The School District shall take all necessary steps**  
746 **permissible under law to ensure that M/WBEs are afforded the maximum equitable**  
747 **opportunity to participate in the District's procurement processes. The ODBP will**  
748 **utilize internal and external monitoring and reporting as the methods of evaluation.**

749 13. **Reporting.-- The ODBP will provide the following reports:**

- 750 a. Reports and recommendations to the Board on at least an annual basis regarding  
751 suggestions for policy changes consistent with these guidelines. This report shall  
752 be generated within 90 days subsequent to the Division of Financial  
753 Management's completing the fiscal close out of the School District records.
- 754 b. A program evaluation analysis will be submitted to the Board every four years to  
755 assess the success of diversity in the District's procurement process and whether  
756 disparity continues to exist in individual industry codes.
- 757 c. A disparity study update report prepared by an independent consultant, and as  
758 described in Section (6)(e) of this Policy, will be submitted to the Board every four  
759 years.
- 760 14. **Graduation from the SBE and M/WBE Programs.--** Participation in the SBE or  
761 M/WBE program will be dependent upon the firm's need for the preferences  
762 extended under this Policy. Data should be maintained to determine which firms  
763 have overcome size barriers and barriers related to the effects of discrimination  
764 sufficiently to join the competitive mainstream in their respective industries. Firms  
765 that exceed the District's SBE and M/WBE size standards or which are otherwise  
766 graduated from the SBA or M/WBE programs shall remain eligible for certification,  
767 technical assistance, and other forms of assistance not related to bid preferences  
768 or evaluation preferences. Moreover, the utilization of graduated M/WBE firms  
769 shall continue to be tracked and counted towards attainment of the District's  
770 Annual M/WBE participation goals. However, these firms may not participate in  
771 any of the race- or gender-conscious preferences of this Policy.
- 772 15. **Implementation by the Superintendent.--** Wherever this Policy mentions  
773 procedures to be established or implemented by the Superintendent, certain  
774 internal operational procedures and guidelines may be set forth in Bulletins where  
775 appropriate. Other more formal procedures, when sufficiently developed and  
776 solidified, should be recommended to the Board, where appropriate, for adoption  
777 as Policy.
- 778 16. **Policy Review.--** As required by Fla. Stat. § 120.74(1), the Board shall review and  
779 revise this Policy as often as necessary to ensure that it complies with legal  
780 requirements, such as applicable current standards of binding decisions of the  
781 Eleventh Circuit Court of Appeals and the United States Supreme Court.  
782 Moreover, at least every fourth year, the Board will review the successes and  
783 failures of the M/WBE program and make a determination as to the need for a  
784 continuing M/WBE program.
- 785 17. **Severability.--** If any section, paragraph, sentence, clause, phrase or word of this  
786 Policy is for any reason held by a Court to be unconstitutional, inoperative, or void, it is  
787 intended that to the maximum extent practicable such holding shall not affect the  
788 remainder of this Policy.

789

790 SPECIFIC RULEMAKING AUTHORITY: §§ 1001.41(2); 1001.42(22); 1001.43(2)(a), (6).

791 Fla. Stat.

792

793 LAWS IMPLEMENTED: §§ 287.055(3)(d); 287.093; 287.0931; 287.094; 287.0943;

794 287.09451; 287.09431; 288.703; 288.7031; 1001.41(1), (3); 1001.42(10)(i);

795 1001.43(2)(a); 1013.45(4); 1013.46(1)(c), Fla. Stat.

796

797 HISTORY: New \_\_\_ / \_\_\_ /05

Legal Signoff:

The Legal Department has reviewed proposed new Policy 6.143 and finds it legally sufficient for development.

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Attorney

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Date