



POLICY 7.22

4-D I recommend that the Board adopt the proposed revised Policy 7.22, entitled "Construction Change Orders."

[Contact: Joseph Sanches, PX 47573.]

Adoption

CONSENT ITEM

- The Board approved development of this revised Policy at the development reading on March 7, 2012.
- The proposed revised policy is provided to improve District processes related to construction change orders, and to provide for any delegation of authority for construction change orders as provided by state law.
- The proposed policy was reviewed by the Construction Oversight and Review Committee (CORC) at its February 9, 2012 meeting and by the Audit Committee at its February 10, 2012 meeting. The recommendations from each committee were highlighted in the agenda cover memorandum for the proposed policy's development reading on March 7, 2012.
- At the March 7, 2012 development of the policy, the Board tentatively approved a delegation of construction change order authority to the Superintendent as follows and requested the proposed change be presented to the committees for comment.
 - For a single construction contract an amount not to exceed \$100,000; provided, the cumulative total of all approved construction change orders for a single construction contract does not increase the original construction contract amount by more than 10% or \$250,000 whichever is less.
- As a result of the CORC Committee's review of the above proposed change, the committee has requested provisions for major and minor projects. To accomplish this, proposed changes include the following:
 - Definitions for a major and minor construction projects are provided in Sec. 3g and 3h.
 - Delegation of authority to the Superintendent or designee for major projects in Sec. 6(b).
 - Delegation of authority to the Superintendent or designee for minor projects in Sec. 6(c).

- The proposed policy has been revised to include the following additions since the development reading.
 - Exclusion district-purchased materials change orders as required in Policy 6.141 from the cumulative limits provided in the above delegations. This is proposed due to such change orders providing tax savings to the District and do not increase the cost of a construction project. See Sec. 6(d).
 - Prohibition of the separation of a construction project into smaller segments of funding, cost, work or function to avoid the approvals as required in the proposed policy. See Sec. 4(d).
 - Requirement that deductive change orders associated with a project are to be tracked separately from and not count towards the cumulative limits. See Sec. 8c.

- The proposed policy continues to provide for the following:
 - A construction change order may be initiated by two means: a change order proposal request (COPR) or a constructive change directive (CCD). The CCD is used only for matters that would delay the project's critical path, or when the contractor is not in agreement with the terms on the face of the construction change order. See Sec. 5.
 - Work under a change order may not commence until approved. See Sec. 4.
 - A change order is not binding on the Board unless it has been approved as provided for within the policy. See Sec. 4.
 - A delegation of approval to the Superintendent for emergencies for change orders which may exceed the amounts above. The Superintendent is required to provide a report to the Board at the meeting following the emergency change order approval. See Sec. 7.
 - The limitations of a Superintendent's designee as to amount and the ability to re-delegate.
 - The Board must approve change orders which exceeds the amounts delegated to the Superintendent; eliminates the Board's right to pursue liquidated damages; impacts the occupancy date; provides for facilities not approved in the specifications for facilities as approved by the Board; or significantly alters the design or extent of facilities provided for in the original contract documents. See Sec. 6a.

- Change orders must be documented; reviewed by the Construction Oversight and Review Committee; and reported to the Board. See Sec. 8, 9, and 10.
- A prohibition against the dividing of a change order to evade the policy. See Sec.13.
- Proposed revisions included since the development reading are indicated in red.

POLICY 7.22

CONSTRUCTION CHANGE ORDERS

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3 1. **Purpose**

4 In accordance § 1013.50, Fla. Stat., the Board has full authority and responsibility
5 for all decisions regarding educational and ancillary plant construction contracts,
6 change orders, and payments. This policy is to comply with § 1013.48, Fla. Stat.,
7 which provides the School Board “may, at its option and by written policy, authorize
8 the Superintendent or other designated individual to approve change orders in the
9 name of the School Board for pre-established amounts.” Thus, this policy is
10 established to prescribe the manner in which construction change orders shall be
11 initiated, approved, and reported.

12 2. **Applicability**

13 This policy applies to all change orders associated with construction contracts
14 awarded by the School Board.

15 3. **Definitions**

16 The following words and phrases shall have the meanings as provided below:

- 17 a. Change Order means a written amendment to the construction contract issued
18 and signed by the Superintendent or designee, the architect-engineer, and the
19 contractor authorizing a change in the scope of work, an adjustment in the
20 contract sum or contract time, or both.
- 21 b. Construction means demolition, renovation, remodeling or new construction. It
22 does not include the routine operation, routine repair or routine maintenance
23 of existing structures, buildings or real property.
- 24 c. Construction Contract and/or Contract Documents means the agreement
25 between the Board and the contractor or architect-engineer, plans and
26 specifications, approved construction change orders and any addenda issued
27 prior to the execution of the contract, and other written modifications.
- 28 d. Critical Path means the longest sequence of critical activities in a project plan
29 which must be completed on time for the entire project to be completed on the
30 due date. An activity on the critical path cannot be started until its
31 predecessor activity is complete. The completion of the construction project is
32 delayed when one of the critical path activities is not started and/or not
33 finished on time.

- 34 e. Emergency means any occurrence, or threat thereof, whether natural,
35 technological, or manmade, in war or in peace, which results or may result in
36 substantial injury or harm to the population of the school community or
37 substantial damage to or loss of School Board property.
- 38 f. Final Completion means when the Work and the requirements of the
39 construction contract documents are fully and finally completed.
- 40 g. Major Construction Projects means projects for the construction, renovation or
41 repair of new or existing buildings, facilities, or other permanent improvements
42 with approved budgets of more than \$1 million in cost.
- 43 h. Minor Construction Projects means projects for the construction, renovation or
44 repair of new or existing buildings, facilities, or other permanent improvements
45 with approved budgets of up to \$1 million in cost.
- 46 i. Project means the total design and construction of which the Work performed
47 under the contract documents may be the whole or a part.
- 48 j. Substantial Completion means the stage in the progress of the Work when the
49 Work or designated portion thereof is sufficiently complete in accordance with
50 the Contract Documents so the Owner can occupy or utilize the Work for its
51 intended use. When substantial completion occurs for a portion of a
52 construction contract for which the contract states a separate price, substantial
53 completion occurs only to the work under that portion of the contract.
- 54 k. Work means the construction and services required by the construction
55 contract documents, whether completed or partially completed, and includes
56 all other labor, materials, equipment and services provided or to be provided
57 by the architect, construction manager, or contractor to fulfill their obligations
58 to the School Board. The Work may constitute the whole or a part of a
59 construction project.

60 4. **Policy Statement**

61 The School Board recognizes that construction projects are complex undertakings
62 and as such unforeseen conditions, market conditions, errors, omissions, and a
63 number of other factors may impact the cost or schedule of projects, necessitating
64 a construction change order. However, the School Board further believes that
65 thoughtful planning should minimize the construction change orders that are
66 necessary to a construction contract for any construction project. Thus, all changes
67 which may be required after a construction contract has been awarded must be
68 approved in accordance with this policy and be appropriately documented.

- 69 a. A construction change order shall not be binding on the School Board unless
70 in writing, approved and executed by duly authorized parties as provided

71 herein. All work which is the subject of a construction change order shall not
72 commence until approved as provided herein. Otherwise, the Board will not be
73 responsible for payment on a construction change order.

74 b. Such authorized and fully executed construction change order shall be
75 attached to and become a part of the original contract.

76 c. All construction change orders shall be funded by contingencies approved by
77 the Board.

78 d. A construction project shall not be separated into smaller segments of funding,
79 cost, work, or function to avoid the approval by a higher administrative or
80 governing authority as provided herein.

81 5. Initiation of Change Orders

82 A construction change order is required for a change in the scope of Work, an
83 increase or decrease in the amount of the construction cost, or to adjust the
84 substantial or final completion date of a construction project. Construction change
85 orders (~~CCO~~) may be initiated ~~accomplished~~ by use of either Change Order
86 Proposal Requests (COPR) or Construction Change Directives (CCD).

87 a. Change Order Proposal Requests (COPR). A COPR may be issued only
88 when the contractor is in agreement and the backup to the construction
89 change order contains no qualifying language from the contractor. ~~As the~~
90 ~~COPR method requires a minimum of 45 calendar days from recognition of a~~
91 ~~need for change to the Contractor receiving authorization to proceed with the~~
92 ~~change, this method should be used when the change affects items not on~~
93 ~~the critical path schedule and as provided herein.~~

94 b. Construction Change Directives (CCD). CCD changes may be authorized in
95 a day or less and should be used for items that would delay the project's
96 critical path, or when the contractor is not in agreement with the terms on the
97 face of the construction change order. When terms of a CCD are finally
98 agreed upon, a COPR should be issued. ~~The construction change shall not be~~
99 ~~implemented until either the COPR is approved by the Board or the CCD is~~
100 ~~signed by the Superintendent or his designated representative.~~

101 6. Change Order Approval Authority

102 a. Board Authority. ~~In addition to the Board's authority as provided in~~
103 ~~subparagraph (a) above, the Superintendent or designee shall recommend to~~
104 ~~the School Board for its review and approval any major or minor construction~~
105 ~~change order:~~

106 i. greater than \$100,000, or that increases the cumulative total of all

107 construction change orders of a construction project approved by the
108 Superintendent or designee to greater than \$250,000 or by more than
109 10% (\$500,000 or by more than 8%) (\$300,000 or by more than 10%) of
110 the original construction contract amount, whichever is less;

111 ii. that eliminates the Board's right to pursue liquidated damages, due to late
112 delivery or untimely performance;

113 iii. that impacts the occupancy date of a construction project; or

114 iv. that provides for facilities not approved in the specifications for facilities
115 as approved by the Board; or significantly alters the design or extent of
116 facilities provided for in the original contract documents.

117 b. Delegation of Authority for Major Construction Projects

118 i. Superintendent or Designee Authority. ~~The Superintendent or~~
119 ~~designee~~ may approve a construction change order request, whether a
120 COPR or CCD, for a single, major construction contract in an amount not
121 to exceed \$100,000; provided however, the cumulative total of all
122 approved construction change orders for a single, major construction
123 contract by the Superintendent or designee does not increase exceed the
124 original construction contract amount by more than 10% or \$250,000,
125 (\$500,000 or 8%) (\$300,000 or 10%) whichever is less. If the
126 Superintendent delegates his authority to a designee, such party has no
127 authorization to re-delegate such approval authority to another individual.
128 The Board must approve all change orders in excess of the maximums
129 shown above and as provided for in subsection 6(a)(i) herein.

130 A. Designee Authority. If the Superintendent delegates any of his
131 authority as provided herein, the delegation shall be limited to the
132 following:

133 I. The designee has authority to approve a construction change
134 order request, whether a COPR or CCD, for a single, major
135 construction contract in an amount not to exceed \$50,000;
136 provided however, the cumulative total of all approved
137 construction change orders for a single, major construction
138 contract by the Superintendent or designee does not increase
139 the original construction contract amount by more than 10% or
140 \$250,000, whichever is less;

141 II. The designee may not re-delegate such authority; and

142 III. The designee may not approve matters falling within the Board's
143 authority as provided in subsection 6(a) herein.

- 144 c. Delegation of Authority for Minor Construction Projects
- 145 i. Delegation to Superintendent. The Superintendent may approve a
146 construction change order request, whether a COPR or CCD, for a single,
147 minor construction contract in an amount not to exceed \$100,000;
148 provided however, the cumulative total of all approved construction
149 change orders for a single, minor construction contract by the
150 Superintendent or designee does not increase the original construction
151 contract amount by more than 25% or \$250,000, whichever is less. The
152 Board must approve all change orders in excess of the maximums as
153 provided in this subparagraph.
- 154 A. Designee's Authority. If the Superintendent delegates any of his
155 authority as provided in this subsection, the delegation shall be
156 limited to the following:
- 157 I. The designee has authority to approve a construction change
158 order request, whether a COPR or CCD, for a single, minor
159 construction contract in an amount not to exceed \$50,000;
160 provided however, the cumulative total of all approved
161 construction change orders for a single, minor construction
162 contract by the Superintendent or designee does not increase
163 the original construction contract amount by more than 10% or
164 \$250,000, whichever is less;
- 165 II. The designee may not re-delegate such authority; and
- 166 III. The designee may not approve matters falling within the Board's
167 authority as provided in subsection 6(a) herein.
- 168 d. Exclusion of District-Purchased Materials Change Orders. The values of
169 District-Purchased Materials change orders as provided in Policy 6.141 shall
170 not count towards any cumulative limits specified herein.
- 171 ~~2. The Superintendent or his designated representative shall authorize CCD's~~
172 ~~as provided in the School of Palm Beach County, Florida, General Conditions~~
173 ~~of the Contract. All CCD's shall be brought to the Board for subsequent Board~~
174 ~~ratification as soon as possible. As soon as documented time and cost data~~
175 ~~are known and the work accomplished, an adjusting report shall be prepared~~
176 ~~and submitted to the Board.~~
- 177 ~~3. Pending Board ratification of a CCD, the Contractor may, with the approval~~
178 ~~of the Design Professional and Project Manager, include in the next~~
179 ~~Application for Payment amounts not in dispute.~~
- 180 7. Emergency Change Orders

181 In an emergency situation, the Superintendent may approve a change order,
182 beyond his/her authority limits described in this policy, which is reasonably
183 necessary for emergency purposes to:

- 184 a. prevent or minimize an imminent threat to the health, welfare and safety of
185 District students, employees, volunteers, contractors and visitors; or
- 186 b. protect, the work and structural integrity of a facility, equipment, material to be
187 used in the work, human safety, or the environment at or near the work from
188 substantial and immediate danger or injury; or
- 189 c. protect, where damage or injury has occurred, work equipment or materials to
190 be used in the work, human safety, or the environment at or near the site of
191 the work, from further or additional damage or injury or deterioration.

192 The Superintendent shall present a written finding of the existence of the
193 emergency and the change order in a report to the Board at the next subsequent
194 meeting following approval by the Superintendent.

195 8. **Documentation Required**

- 196 a. A construction change order shall be in writing on a District-specified form and
197 supported by a written justification, appropriate backup and a written cost
198 proposal from the contractor/construction manager showing quantities and
199 sizes of materials; unit cost (itemized costs and/or credits); labor; profit and
200 overhead; a statement indicating what the proposed change in work will have
201 on the contract/project time and/or cost; and a narrative justification of the
202 change in relation to the original bid/educational specifications. Change order
203 requests shall include any work that is added, omitted or deleted, along with
204 attached costs or deductions where applicable. On Design-Bid-Build and
205 Construction Management at Risk projects, the architect/engineer shall
206 examine the requested change order to determine that the request is justified
207 and reasonable and the information provided is accurate. Such
208 documentation shall be signed by the architect/engineer and the contractor
209 prior to submission the District. If additional information is requested by the
210 Board/District for the purposes of evaluating the change order request, such
211 information shall be timely submitted.
- 212 b. Where a construction change order is made at no additional cost, or where
213 added or deleted work balance in cost, the change order shall be prepared to
214 record the fact that such changes were made, including a description,
215 explanation and monetary sums.
- 216 c. When considering cumulative limits as provided for in subsections 6(b) and
217 6(c), deductive change orders shall be tracked separately from and not count
218 towards the cumulative limits.

219 d. For each construction contract, the Director of Facilities Services shall ensure
220 a construction change order log and all related change order documentation
221 are maintained in an auditable manner.

222 9. **Review by the Construction Oversight and Review Committee**

223 All construction change orders, whether to be approved by the Superintendent,
224 designee, or the School Board, shall be forwarded to the Construction Oversight
225 and Review Committee (CORC) for its review and comment, as soon as practical,
226 consistent with Board Policy 1.093.

227 10. **General Counsel Review**

228 Prior to a construction change order being presented to the Superintendent and/or
229 Board, the General Counsel shall review and sign-off on all construction change
230 orders to ensure the change order is in conformance with this policy and otherwise
231 legally sufficient.

232 11. **Reporting of Change Orders**

233 a. All COPRs and CCDs approved by the Superintendent, or designee, must be
234 reported to the Board at the next regular meeting.

235 b. A report detailing the construction change orders, activities and finances shall
236 be provided to the Board and the Construction Oversight and Review
237 Committee comparing the initial budget approved by the Board for the
238 construction project and the actual cost to construct the project so that the
239 Board and Committee are informed, in a summary format, of construction
240 change orders affecting the project costs and schedules. The information
241 shall be entered into the official minutes of the Board and Committee.

242 12. **Implementation of Policy**

243 The Superintendent or designee is responsible for ensuring that this School Board
244 policy covering construction change orders is properly implemented.

245 13. **Prohibitions**

246 a. Construction change orders shall not be divided to evade the provisions of this
247 policy, Policy 6.14, State Board of Education Rules or Florida Laws.

248 b. A proposed change to a construction contract shall not be split so that the
249 resulting change orders do not exceed the limits established by this policy.

250 14. **4. Administrative Procedures or Directives**

251 The Superintendent shall add any additional conditions necessary to protect the
252 policies and interests of the School Board and promulgate any necessary
253 administrative procedures or directives.

254 STATUTORY AUTHORITY: Fla. Stat. §§ 1001.41, 1001.42; 1013.48

255 LAWS IMPLEMENTED: Fla. Stat. §§ 1013.48; 1013.50(2)

256 STATE BOARD OF EDUCATION RULE: Fla. Admin. Code R. 6A-2.0010

257 HISTORY: 12/13/1972; 4/6/1983; 7/11/1990; ___/___2012

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260	Cross References:	Policy 7.065	<i>Errors and Omissions of Construction-Related Professionals</i>
261		Policy 7.02	<i>Educational Facilities Specifications</i>
262		Policy 6.14	<i>Purchasing</i>
263		Policy 6.141	<i>School District Purchase of Construction-Related Material</i>
264		Policy 1.093	<i>Construction Oversight and Review Committee</i>
265		Policy 7.225	<i>Use of Contingency Funds for Construction Projects</i>
266		Policy 7.132	<i>Five-Year Plan and Capital Budget; Annual Update, Amendment</i>
267			<i>and Adoption</i>

Legal Signoff:

The Legal Department has reviewed proposed Policy 7.22 and finds it legally sufficient for adoption by the Board.

Attorney

Date