



POLICY 7.22

5-D I recommend the Board approve development of the proposed **revised** Policy 7.22, entitled "Construction Change Orders."

[Contact: Joseph Sanches, PX 47573]

Development

CONSENT ITEM

- 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 revised policy has been reviewed by the Construction Oversight and Review Committee (CORC) and Audit Committee. CORC reviewed the proposed policy at its February 9, 2012 meeting. Changes recommended by CORC are represented by blue underlinings for additions and blue strikeovers for deletions. Red underlinings represent actions taken by the Audit Committee at its February 10, 2012 meeting. The committees did not agree as to the amount delegated to the Superintendent or designee. The differences are noted in Section 6 a & b.
- The proposed policy provides 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 under the following circumstances:
 - 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 by the Superintendent or designee does not exceed the original construction amount by a certain amount. Please note the Superintendent may delegate such authority to a subordinate, but the subordinate cannot re-delegate to another person. The Board must approve any amounts greater than the amount delegated. See Sec. 6.
 - For emergencies, the Superintendent may authorize change orders exceeding 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 Board must approve change orders which exceeds the amounts delegated to the Superintendent; eliminates the Board's right to pursue liquidated damages; or impacts the occupancy date. See Sec. 6.
- 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.1.

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POLICY 7.22

CONSTRUCTION CHANGE ORDERS

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3 1. **Purpose**

4 This policy is to comply with § 1013.48, Fla. Stat., which provides the School Board
5 “may, at its option and by written policy, authorize the Superintendent or other
6 designated individual to approve change orders in the name of the School Board
7 for pre-established amounts.” Thus, this policy is established to prescribe the
8 manner in which construction change orders shall be initiated, approved, and
9 reported.

10 2. **Applicability**

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

13 3. **Definitions**

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

15 a. Change Order means a written amendment to the construction contract issued
16 and signed by the Superintendent or designee, the architect-engineer, and the
17 contractor authorizing a change in the scope of work, an adjustment in the
18 contract sum or contract time, or both.

19 b. Construction means demolition, renovation, remodeling or new construction. It
20 does not include the routine operation, routine repair or routine maintenance
21 of existing structures, buildings or real property.

22 c. Construction Contract and/or Contract Documents mean the agreement
23 between the Board and the contractor or architect-engineer, plans and
24 specifications, approved construction change orders and any addenda issued
25 prior to the execution of the contract, and other written modifications.

26 d. Critical Path means the longest sequence of critical activities in a project plan
27 which must be completed on time for the entire project to be completed on the
28 due date. An activity on the critical path cannot be started until its
29 predecessor activity is complete. The completion of the construction project is
30 delayed when one of the critical path activities is not started and/or not
31 finished on time.

32 e. Emergency means any occurrence, or threat thereof, whether natural,
33 technological, or manmade, in war or in peace, which results or may result in

34 substantial injury or harm to the population of the school community or
35 substantial damage to or loss of School Board property.

36 f. Final Completion means when the Work and the requirements of the
37 construction contract documents are fully and finally completed.

38 g. Project means the total design and construction of which the Work performed
39 under the contract documents may be the whole or a part.

40 h. Substantial Completion means the stage in the progress of the Work when the
41 Work or designated portion thereof is sufficiently complete in accordance with
42 the Contract Documents so the Owner can occupy or utilize the Work for its
43 intended use. When substantial completion occurs for a portion of a
44 construction contract for which the contract states a separate price, substantial
45 completion occurs only to the work under that portion of the contract.

46 i. Work means the construction and services required by the construction
47 contract documents, whether completed or partially completed, and includes
48 all other labor, materials, equipment and services provided or to be provided
49 by the architect, construction manager, or contractor to fulfill their obligations
50 to the School Board. The Work may constitute the whole or a part of a
51 construction project.

52 4. **Policy Statement**

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

61 a. A construction change order shall not be binding on the School Board unless
62 in writing, approved and executed by duly authorized parties as provided
63 herein. All work which is the subject of a construction change order shall not
64 commence until approved as provided herein. Otherwise, the Board will not be
65 responsible for payment on a construction change order.

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

68 c. All construction change orders shall be funded by contingencies approved by
69 the Board.

70 5. Initiation of Change Orders

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

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

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

90 6. Change Order Approval Authority

91 a. Superintendent Authority. The Superintendent or designee may approve a
92 construction change order request, whether a COPR or CCD, for a single
93 construction contract in an amount not to exceed \$100,000; provided however,
94 the cumulative total of all approved construction change orders for a single
95 construction contract by the Superintendent or designee does not exceed the
96 original construction amount by (\$500,000 or 8%.) (\$300,000 or 10%)
97 whichever is less. If the Superintendent delegates his authority to a designee,
98 such party has no authorization to re-delegate such approval authority to
99 another individual. The Board must approve all change orders in excess of the
100 maximums shown above.

101 ~~2. The Superintendent or his designated representative shall authorize CCD's~~
102 ~~as provided in the School of Palm Beach County, Florida, General Conditions~~
103 ~~of the Contract. All CCD's shall be brought to the Board for subsequent Board~~
104 ~~ratification as soon as possible. As soon as documented time and cost data~~
105 ~~are known and the work accomplished, an adjusting report shall be prepared~~
106 ~~and submitted to the Board.~~

107 ~~3. Pending Board ratification of a CCD, the Contractor may, with the approval~~
108 ~~of the Design Professional and Project Manager, include in the next~~

- 109 ~~Application for Payment amounts not in dispute.~~
- 110 b. Board Authority. In addition to the Board's authority as provided in
111 subparagraph (a) above, the Superintendent or designee shall recommend to
112 the School Board for its review and approval any construction change order:
- 113 i. greater than \$100,000, or that increases the cumulative total of all
114 construction change orders of a construction project to greater than
115 (\$500,000 or by more than 8%) (\$300,000 or by more than 10%) of the
116 original construction contract amount, whichever is less;
- 117 ii. that eliminates the Board's right to pursue liquidated damages, due to late
118 delivery or untimely performance; or
- 119 iii. that impacts the occupancy date of a construction project.
- 120 7. Emergency Change Orders. In an emergency situation, the Superintendent
121 may approve a change order, beyond his/her authority limits described in this
122 policy, which is reasonably necessary for emergency purposes to:
- 123 a. prevent or minimize an imminent threat to the health, welfare and safety of
124 District students, employees, volunteers, contractors and visitors; or
- 125 b. protect, the work and structural integrity of a facility, equipment, material to be
126 used in the work, human safety, or the environment at or near the work from
127 substantial and immediate danger or injury; or
- 128 c. protect, where damage or injury has occurred, work equipment or materials to
129 be used in the work, human safety, or the environment at or near the site of
130 the work, from further or additional damage or injury or deterioration.
- 131 The Superintendent shall present a written finding of the existence of the
132 emergency and the change order must be reported to the Board at the next
133 subsequent meeting following approval by the Superintendent.
- 134 8. Documentation Required
- 135 a. A construction change order shall be in writing on a District-specified form and
136 supported by a written justification, appropriate backup and a written cost
137 proposal from the contractor/construction manager showing quantities and
138 sizes of materials; unit cost (itemized costs and/or credits); labor; profit and
139 overhead; a statement indicating what the proposed change in work will have
140 on the contract/project time and/or cost; and a narrative justification of the
141 change in relation to the original bid/educational specifications. Change order
142 requests shall include any work that is added, omitted or deleted, along with
143 attached costs or deductions where applicable. On Design-Bid-Build and

144 Construction Management at Risk projects, the architect/engineer shall
145 examine the requested change order to determine that the request is justified
146 and reasonable and the information provided is accurate. Such
147 documentation shall be signed by the architect/engineer and the contractor
148 prior to submission the District. If additional information is requested by the
149 Board/District for the purposes of evaluating the change order request, such
150 information shall be timely submitted.

151 b. Where a construction change order is made at no additional cost, or where
152 added or deleted work balance in cost, the change order shall be prepared to
153 record the fact that such changes were made, including a description,
154 explanation and monetary sums.

155 c. For each construction contract, the Director of Facilities Services shall ensure
156 a construction change order log and all related change order documentation
157 are maintained in an auditable manner.

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

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

163 10. **Reporting of Change Orders**

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

166 b. A report detailing the construction change orders, activities and finances shall
167 be provided to the Board and the Construction Oversight and Review
168 Committee comparing the initial budget approved by the Board for the
169 construction project and the actual cost to construct the project so that the
170 Board and Committee are informed, in a summary format, of construction
171 change orders affecting the project costs and schedules. The information
172 shall be entered into the official minutes of the Board and Committee.

173 11. **Implementation of Policy**

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

176 12. **Prohibitions**

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

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

181 13. ~~4.~~ Administrative Procedures or Directives

182 The Superintendent shall add any additional conditions necessary to protect the
183 policies and interests of the School Board and promulgate any necessary
184 administrative procedures or directives.

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

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

187 STATE BOARD OF EDUCATION RULE: Rule 6A-2.0010, F.A.C.

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

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191 **Cross References:** Policy [7.065](#) *Errors and Omissions of Construction-Related Professionals*

192 Policy [7.02](#) *Educational Facilities Specifications*

193 Policy [6.14](#) *Purchasing*

194 Policy 6.141 *School District Purchase of Construction-Related Material*

195 Policy [1.093](#) *Construction Oversight and Review Committee*

196 Policy 7.225 *Use of Contingency Funds for Construction Projects*

197 Policy 7.132 *Five-Year Plan and Capital Budget; Annual Update, Amendment*
198 *and Adoption*

Legal Signoff:

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

Attorney

Date