

POLICY 7.135

- 5-B** I recommend the Board approve the proposed new Policy 7.135, to be entitled "Program Capacity," and that it be adopted on a fast-track basis with one reading followed by 28 days' legal notice as allowed by the Administrative Procedure Act.

[Contact: Kris Garrison, 434-8935.]

Development with Adoption upon Subsequent 28-day Notice

CONSENT ITEM

- This Policy implements Waiver # 2 under Charter District status, approved by the State Board of Education.
- On January 13, 2003, after multiple opportunities for public input, the Board approved a document substantially the same as this proposed Policy, as part of the Charter School District application.
- On January 21, the State Board of Education approved a document substantially the same as this proposed Policy, as part of the SBE's granting of Charter District status.
- In spite of this District's tradition, the Administrative Procedure Act does not actually require two readings to adopt a rule/Policy. A Policy can be adopted by mere passage of time (28 days) after the first/only reading. (A second hearing would be required only if an affected person were to specifically request it.) See Fla. Stat. § 120.54(2)(c), (3)(a)(1), (3)(c)(1), and (3)(e)(2).
- Considering the previous level of public notice and opportunity for public input and the prior approval of substantially the same document by the School Board and State Board of Education, this Policy should be adopted on a fast-track basis on the 28th day after advertisement of notice following today's approval.

POLICY 7.135

PROGRAM CAPACITY

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5 **1. Purpose.--** Pursuant to Fla. Stat. § 1003.62(2), this Policy implements Waiver # 2
6 under charter district status, approved by the State Board of Education ("SBE") on
7 January 21, 2003, providing exemption from specified aspects of Fla. Stat. §§
8 1013.03(10)(a) and 1013.72 and the SBE rules implementing those statutes,
9 concerning program capacity. The Policy should be revised as necessary to
10 maintain consistency with the Charter School District Contract with the SBE and
11 should be repealed if charter district status is not renewed. The scope of the
12 exemption and the practices authorized to replace the waived statutory
13 requirements are set forth below, substantially as presented to the SBE.
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- 15 **2. Rationale for the Exemption.--** Fla. Stat. §§ 1013.03(10)(a) and 1013.72 would
16 normally require the District to prepare an educational plant survey and undergo a
17 review to verify that student station and auxiliary facility space allocations do not
18 exceed the limits provided by this chapter and related rules and to compare total
19 capital outlay full-time equivalent (FTE) enrollment projections in the survey with
20 Department of Education ("DOE") projections. Under current formulas, spaces
21 used for essential special programs are counted by the DOE as regular
22 instructional space, thereby limiting the District's ability to construct adequate
23 school facilities to meet growth and program needs. As a result, these formulas do
24 not allow enough space for the many special programs in the District's schools.
25 Some examples of the programs include:
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27 a. English for Speakers of Other Languages (ESOL): In some neighborhoods, a
28 higher than state-average number of ESOL programs is needed to serve the
29 school population. Many ESOL students require an intensive program with a
30 lower teacher-pupil ratio in a "pull-out" setting (typically in resource rooms). To
31 meet this student instructional need in some schools, there would be
32 competing uses for resource rooms in schools whose actual usage of resource
33 rooms is much higher than currently recognized by the State.
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35 b. Exceptional Student Education (ESE): Some clustering of ESE programs is
36 desirable for economies of scale, adequate staffing and program quality.
37 While clustering can maximize instruction and use of therapeutic resources,
38 the DOE formula does not allow for clustering due to allowing only one
39 permanent and one temporary space per 500 students. This need becomes
40 significant as the District looks for ways to meet the needs its large population
41 of ESE students.
42
43 c. Parent Involvement. A primary focus of several federally sponsored and
44 mandated programs in the public school system is parent involvement and

45 parent literacy. At times implementation of parent involvement programs
46 requires that non-students (parents and young children) use space during the
47 daytime to receive program services. In some schools these types of
48 programs are critical to the success of their students. Because DOE formulas
49 would not currently allow space to be set aside for this purpose, space used in
50 this way would count towards permanent classroom space.

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52 **3. Approved Alternative Practice.**-- The School Board will determine space needs
53 at the local level, based on local projections and program needs. The District will
54 continue to use Florida Inventory of School Houses (FISH) as the baseline
55 reporting measure. The District will provide for Board-approved deviations from the
56 baseline, based on special programs in a school. The District will also follow the
57 requirements of the Interlocal Agreement for School Concurrency. The primary
58 funding source for deviations from use of the FISH baseline will be locally
59 supported alternative funding, currently Certificates of Participation.

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61 **4. Criteria.**-- The District will conform to the criteria contained in the Interlocal
62 Agreement for School Concurrency, signed by 26 cities, the County and the School
63 Board. The measurement of utilization will be based on the School Board-approved
64 space needs of the following programs: ESOL, ESE, Pre-K, parent involvement
65 programs, Title I-related programs, and other Board-approved special programs
66 offered at a school. Annual space utilization surveys will also be conducted to
67 assess use of space at each school. For example, schools with high ESOL
68 populations have significant space facility needs in order to provide the appropriate
69 instructional program for their students, and the alternative practice will enable the
70 instructional space used by ESOL students to be measured based on actual use.

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72 **5. Impact on Students.**-- The waiver will enable the District to utilize school space to
73 meet the specific needs of the school population. All of the programs listed above
74 are essential to the academic success of students. Additionally, by allowing the
75 District to construct additional instructional space, this waiver is consistent with and
76 supports the goals and objectives of Constitutional Amendment #9 for reduction of
77 class size.

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79 **6. Monitoring and Reporting.**-- The School Board will receive a reporting chart each
80 spring showing compliance with concurrency level of service and capacity
81 utilization percentage at each school, as well as FISH capacity. District staff will
82 also prepare the annual reports required by the School Concurrency Interlocal
83 Agreement.

84 STATUTORY AUTHORITY: §§ 1001.41(2); 1001.42(22); 1001.43(4); 1003.62(2),
85 Fla. Stat.

86 LAWS IMPLEMENTED: §§ 1001.41(1), (3); 1001.42(4), (9); 1003.62(2);

87 exemption from aspects of 1013.03(10)(a) and 1013.72, Fla. Stat.

88 HISTORY: / / 2003

Legal Signoff:

The Legal Department has reviewed proposed Policy 7.135 and finds it legally sufficient for development by the Board.

Attorney

Date