



POLICY 3.80

4-A I recommend that the Board approve amendments to Policy 3.80, entitled “Leave of Absence.”

[Contact: James Hayes, PX 47696.]

CONSENT ITEM

- The Board adopted a similar amendment as an emergency rule on January 18, 2006. The emergency rule will remain in effect up to 90 days through April 19, 2006 or until superseded by a permanent amendment, which is anticipated to be adopted upon second reading of this Policy on April 5.
- This amendment would add three new sections (sections 4, 5, and 6) to the existing leave Policy. The other sections would remain unchanged.
 - New section 4 would codify the sick-leave donation program for family members that is required by Fla. Stat. § 1012.61(2)(e).
 - New section 5 would establish a general sick-leave and annual-leave donation program which is not specifically provided for in a statute, but is similar to a program of another local government entity and is within the powers of the School Board under Fla. Stat. § 1012.22(2) (authority to adopt rules concerning annual and sick leave) and Fla. Stat. § 1001.32(2) (home rule authority to “exercise any power except as expressly prohibited by the State Constitution or general law”).
 - New Section 6 would authorize the Superintendent to establish the sick-leave pool allowed by Fla. Stat. § 1012.61(3)(a)-(i).
- Sections 5 and 6 apply to non-bargaining-unit employees. Section 1 of the Policy, which remains unchanged, provides: “If the terms of a collective-bargaining agreement differ from this Policy, the language of the employee's agreement will take precedence.”

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POLICY 3.80

LEAVE OF ABSENCE

1. [Introduction: *No change*].
2. [Paid Leaves: *No change*].
3. [Unpaid Leaves: *No change*].
4. **Sick Leave Donation to Family Members.-- As required by Fla. Stat. § 1012.61(2)(e), the District shall allow an employee to authorize his or her spouse, child, parent, or sibling who is also a District employee to use sick leave that has accrued to the authorizing employee.**
 - a. The recipient family member may not use the donated sick leave until all of his or her own accrued sick leave has been depleted (excluding leave available from a sick leave pool, if the recipient participates in such leave pool).
 - b. Donated sick leave under this section shall have no terminal value, as provided in § 1012.61(2)(e) (but the remaining received credits may be donated to another family member under this section, or to another employee under section (5) below, or to a sick leave pool if the departing employee is a member thereof under section (6) below).
5. **Transfer of Annual or Sick Leave to Another Employee for Sick Leave.-- A regular non-bargaining-unit employee may donate unused accrued annual leave or sick leave, in whole-day increments, to another regular non-bargaining-unit employee to use for leave for the recipient employee's serious illness, accident, or physical injury.**
 - a. A regular employee may donate unused accrued sick leave under this section as long as the donating employee as completed at least six (6) years of service.
 - b. A regular employee may donate unused accrued annual leave under this section as long as the donation would not prevent him or her from taking any minimum required annual leave during that fiscal year.
 - c. Such donations shall be processed using an appropriate District form signed by the donor employee.
 - d. The donated leave shall not be accessible to the recipient until his/her own accrued sick leave and annual leave have been exhausted. Once accessible,

46 the donated leave shall be transferred to the donee on an as-needed basis.

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48 e. Donated leave under this section shall have no terminal value to the donee.

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50 f. Any donated leave credits not used within twelve (12) weeks after donation
51 shall revert to the donor.

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53 6. **Sick Leave Pool.**-- To allow participating full-time non-bargaining-unit employees
54 to pool accrued sick leave and disburse pooled leave to any participating non-
55 bargaining-unit employee who is in need of sick leave beyond the amount he or
56 she has personally accrued, the Board hereby authorizes the Superintendent to
57 establish a sick leave pool in accordance with the following provisions pursuant to
58 Fla. Stat. § 1012.61(3)(a)-(i):

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60 a. The pool program shall be based upon the maintenance of reliable and
61 accurate records showing the amount of sick leave which has been
62 accumulated and is unused by employees.

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64 b. Participation in a sick leave pool shall at all times be voluntary on the part of
65 employees.

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67 c. A full-time employee shall be eligible for participation in a sick leave pool after
68 one (1) year of employment with the District, provided the employee has
69 accrued at least twelve (12)* days of unused sick leave and provided that a
70 sick leave pool is established that allows participation by that particular
71 employee. [*Note: the statute allows the School Board to set the number of days by*
72 *stating it in this Policy. Twelve days is the Staff recommendation, based upon the*
73 *amount of credit generally accrued annually under Policy 3.80(2)(i).]*

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75 d. Any sick leave pooled shall be removed from the personally-accumulated sick
76 leave balance of the employee donating such leave.

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78 e. Participating employees shall make equal contributions to the sick leave pool.
79 The initial contribution shall be one (1) day's* amount of sick leave. After the
80 initial contribution that the employee makes upon electing to participate, no
81 further contributions shall be required except as may be necessary to
82 replenish the pool. Any such further contribution shall be equally required of all
83 employees participating in the pool. [*Note: the statute allows the School Board to*
84 *set the number of days by stating it in this Policy. One day is the Staff*
85 *recommendation, based upon the policy of the South Florida Water Management*
86 *District.]*

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88 f. A participating employee is not eligible to use sick leave from the pool until all
89 of his or her normally-accrued sick leave has been depleted.

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- 91 g. An employee may withdraw up to sixty (60) days* of credits from the sick leave
92 pool during any one fiscal year. [*Note: the statute allows the School Board to set
93 the number of days by stating it in this Policy. Sixty days is the Staff recommendation,
94 based on the South Florida Water Management District's policy.]
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- 96 h. A participating employee who uses sick leave from the pool is not required to
97 recontribute such sick leave to the pool, except as may be required of all pool
98 members on an equal basis as necessary to replenish the pool, as provided in
99 subsection (e) above.
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- 101 i. An employee who chooses to no longer participate in the sick leave pool is not
102 eligible to withdraw any sick leave already contributed to the pool.
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- 104 j. Any sick leave time drawn from the pool by a participating employee must be
105 used for that employee's personal illness, accident, or injury on an as-needed
106 basis and shall have no terminal value to the employee. The Superintendent/
107 designee is authorized to investigate the use or alleged abuse of sick leave by
108 a participating employee. Upon a finding of wrongdoing, the employee shall
109 repay all of the sick leave credits drawn from the sick leave pool and be
110 subject to such other disciplinary action as determined by the School Board to
111 be appropriate.
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113 STATUTORY AUTHORITY: §§ 1001.32(2); 1001.41(1) & (2); 1001.43(11); 1012.22(2);
114 1012.23; 1012.61(2)(e); 1012.61(3); 1012.66, Fla. Stat.

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116 LAWS IMPLEMENTED: §§ 115.07; 1001.32(2); 1012.61; 1012.62; 1012.63; 1012.64;
117 1012.65; 1012.66; 1002.33(12)(e), Fla. Stat.; Family and Medical Leave Act of
118 1993, 29 U.S.C. § 2602 et seq., 29 C.F.R. Part 825; Uniformed Services
119 Employment and Reemployment Rights Act, 38 U.S.C. § 4301 et seq.
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121 HISTORY: 11/29/76; 6/26/82, 12/11/85, 7/7/93; 4/28/2003; / /2006

Legal Signoff:

The Legal Department has reviewed the proposed amendments to Policy 3.80 and finds them legally sufficient for development by the Board.

Attorney

Date