



POLICY 6.09

- 5-C** I recommend that the Board approve development of the proposed revised Policy 6.09, entitled “Settlements of Claims, Lawsuits, and Workers Compensation Matters.”

[Contacts: Dianne Howard, PX 48414; and the Chief Counsel, PX 48500.]

Development

CONSENT ITEM

- This proposed revision would clarify to whom the Board has delegated certain settlement authority: rather than “the Superintendent or his/her designee,” the Policy would specify, as applicable, “the Superintendent or the Director of Employee Benefits and Risk Management,” “the Superintendent or the Chief Officer of Human Relations,” “the Superintendent or the Chief Operating Officer,” or “the Chief Counsel.”
- In addition to the existing delegations of authority regarding auto, general liability, and workers compensation matters, this Policy would further delegate authority to the Superintendent or Chief Operating Officer to settle claims and lawsuits involving labor relations issues up to \$25,000 (and/or non-monetary issues) and authority to the Superintendent or Chief Officer of Human Relations to settle claims and lawsuits involving personnel up to \$25,000 (and/or non-monetary issues) when settlement is determined to be in the best interest of the School Board.
- Additionally, for matters *other than* auto, general liability, workers compensation, personnel, or labor relations, the Chief Counsel (in consultation with the Superintendent/designee) would have settlement authority for a limited range of matters up to \$25,000.

POLICY 6.09

SETTLEMENTS OF CLAIMS, LAWSUITS, AND
WORKERS COMPENSATION MATTERS

1. Except as set forth in the Policy, any settlements of claims or lawsuits which the Superintendent favors accepting or offering, shall be brought by the Superintendent to the Board for a vote for approval.
2. Once a case is in litigation, all proposals for settlement/offers of judgment or settlement offers made or received in any amount, whether or not such proposals or offers are accepted or rejected, shall be provided promptly to the Chief Counsel for reporting to the Board.
3. During the mediation of a civil proceeding, the attorney representing the School Board and/or its employees, as well as the School Board's representative physically present at the mediation session, shall have, within the meaning of Florida Rules of Civil Procedure 1.720(b), full authority to negotiate on behalf of the School Board and to recommend settlement by the Superintendent to the School Board.
4. Except as stated in section (6) below, proposals for settlements/offers of judgment or settlement proposals for pending or threatened litigation or claims may be accepted, and/or offered and processed for payment, by certain administrators as set forth below (providing they have determined that such offer or acceptance will be in the best interest of the School Board upon consideration of the factors in Section (5) below and after consultation with the Office of Chief Counsel):
 - a. ~~Settlements of claims and lawsuits by the Superintendent or Director of Employee Benefits and Risk Management for claims or cases involving auto and general liability; at or below \$50,000 will be processed and approved by the Superintendent or his/her designee for payment. Settlements of claims and lawsuits in excess of \$50,000 will be brought by the Superintendent to the Board for approval of payment.~~
 - b. ~~Settlements of~~ by the Superintendent or Director of Employee Benefits and Risk Management for in Workers' Compensation claims; at or below \$50,000 will be processed and approved by the Superintendent or his/her designee for payment. ~~Settlements of Workers' Compensation claims in excess of \$50,000 will be brought by the Superintendent to the Board for approval of payment.~~
 - c. by the Superintendent or the Chief Officer of Human Resources for personnel issues at or below \$25,000, or for non-monetary personnel remedies;

- 41 d. by the Superintendent or the Chief Operating Officer for labor relations issues
42 at or below \$25,000 or for non-monetary labor relations remedies; and
- 43 e. by the Chief Counsel (after consultation with the Superintendent/designee),
44 for pending or threatened litigation in areas *other than* those listed in
45 subsections (a) – (d) above, at or below \$25,000.
- 46 5. Factors to consider in determining whether settlement is in the best interest of the
47 School Board, in Section (4) above, may include:
- 48 a. risk analysis;
- 49 b. cost to defend or litigate;
- 50 c. potential liability of the School Board through its agents or employees;
- 51 d. plaintiff’s damages based on theories in the complaint or petition;
- 52 e. relative merits of the case;
- 53 f. characteristics of the opposing party, School Board’s agent or employee,
54 experts, and key witnesses;
- 55 g. ability and experience of opposing counsel;
- 56 h. potential impact on School Board policies or the School District in general;
57 and
- 58 i. other aggravating or mitigating circumstances.
- 59 6. Notwithstanding the above, the Superintendent shall bring to the Board, for payment
60 approval, any claim settlement, regardless of type or amount, where involving the
61 Superintendent or the Superintendent’s direct reports are named as a party or
62 potential defendant direct reports to the Superintendent shall be brought by the
63 Superintendent to the Board for approval of payment.
- 64 7. Pursuant to Fla. Stat. § 69.081(9), for any settlement of a claim in tort which requires
65 the expenditure of public funds in excess of \$5,000, a legal notice shall be provided
66 in a newspaper of general circulation in the county in which the claim arose, within
67 60 days of entering into such settlement; provided that no notice shall be required if
68 the settlement has been approved by a court of competent jurisdiction.
- 69 8. As required by Fla. Stat. § 69.081(8)(b), any person having custody of any
70 document, record, contract, or agreement relating to any settlement in tort shall
71 maintain said public records in compliance with Florida Statutes, Chapter 119.

72 9. Except as to paragraphs two (2) and three (3) above, the provisions in this Policy do
73 not apply to eminent domain lawsuits.

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75 STATUTORY AUTHORITY: Fla. Stat. §§ Section 120.53; 230.22(4); 1001.41(2) & (4);
76 1001.43(2) & (10).

77 LAWS IMPLEMENTED: Fla. Stat. §§ Section 230.22(4); 1001.32(2); 1001.41(4);
78 1001.43(2) & (10).

79 HISTORY: 2112.11-1; Revised: 04/06/83, 07/31/96; 2006

Legal Signoff:

The Legal Department has reviewed proposed Policy 6.09 and finds it legally sufficient for development by the Board.

Attorney

Date