POLICY 1.120

5-D   I recommend that the Board approve development of the proposed revised Policy 4.210, entitled "Waiver of a School Board Policy," which will be <u>renumbered as Policy 1.120</u>.

[Contact: Gerald A. Williams, Esq., and Bruce A. Harris, Esq., PX 48500.]

<u>Development</u>   **CONSENT ITEM**

- This Policy, currently in Chapter Four, is being updated and transferred to Chapter One, as most Policies in Chapter Four will be repealed.

- The substance of the Policy remains the same.

POLICY 4.210 1.120

WAIVER OF A SCHOOL BOARD POLICY

1. Except as provided in <u>Fla. Stat.</u> §§ 120.542 and §-120.81(1)(k), Florida Statutes, the School Board may waive a Policy to avoid unreasonable, unfair or unintended results in particular instances. Waiver of a School Board Policy shall be granted when a person subject to a rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of the Policy would create a substantial hardship or would violate principles of fairness.

2. The procedures and basis for filing a petition for waiver and for the granting or denying of a petition for waiver shall be in accordance with <u>Fla. Stat.</u> § 120.542, F.S., and the Uniform Rules of Procedure, Chapter 28-104, Florida Administrative Code. A waiver of a School Board Policy shall not render the Policy void with respect to the continued implementation of the Policy which is sought to be waived nor to the application of said Policy to said situations which may arise in the future.

STATUTORY AUTHORITY: Fla. Stat. §§ <u>1001.41(1), (2); 1001.42(17(b), (23);</u> 230.22(1), (2); 230.23(17), (22)

LAWS IMPLEMENTED: Fla. Stat. §§ 120.542; 120.81(1)(k); <u>1001.41(1); 1001.42(17)(b);</u> 230.22(1); 230.23(17)(b)
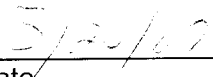
HISTORY: 8/17/94; 03/26/01 (as 4.210); __/___2007

Legal Signoff:

The Legal Department has reviewed proposed Policy 1.120 and finds it legally sufficient for development by the Board.

_____   _____
Attorney   Date