

**POLICY 7.133**

**4-F** I recommend the Board adopt the proposed revisions to Policy 7.133, entitled "Implementation of School Concurrency."

[Contacts: Kris Garrison, Angela Usher, or Jeanne Mills, 434-8100.]

**Adoption**

**CONSENT ITEM**

- The Board approved this revision as a first reading for development on July 28, 2003. The adoption notice was published on August 11, 2003.
- The minor revisions proposed in this Policy and three others in Chapter 7 are needed to implement amendments to the Interlocal Agreement for Concurrency, on which at least 51% of the municipalities have recently signed off.
- Statutory citations are also updated to reflect the new K-20 Education Code.
- Any Board member with technical questions about this revision is invited to confer with the contact persons listed above.

**POLICY 7.133**

**IMPLEMENTATION OF SCHOOL CONCURRENCY**

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- 2     **1. Responsibility for Application Intake and Review.**— In accordance with the  
3     Public School Concurrency Interlocal Agreement ("Interlocal") to establish school  
4     concurrency, the Board designates the Superintendent who shall assign a  
5     designee to be responsible for review of applications for residential development  
6     orders for a concurrency determination that are submitted to the local  
7     governments.
- 8     **2. Intake of Application and Response Time**
- 9         a. The application for a residential development order shall be first submitted to  
10        the local government.
- 11        b. The local government shall submit the fully completed application for  
12        residential development to the District for review and determination as to  
13        whether school capacity is available concurrent with the impact of the  
14        proposed residential development.
- 15        c. The District shall log in the completed application by date and time stamp.
- 16        d. The District shall process each completed application in the order in which it is  
17        received.
- 18        e. No application will be reviewed and processed without receipt of the  
19        application fee.
- 20        f. The application review and determination process shall not exceed fifteen (15)  
21        work days.
- 22     **3. Fees**
- 23         a. The application fee schedule shall be based on the amount necessary to  
24        recoup the actual costs for the application determination and review process.
- 25         b. The application fee schedule shall be adopted by the Board and shall be  
26        incorporated herein by reference.
- 27         c. The non-refundable application fee shall be submitted by the applicant to the  
28        District.
- 29     **4. Concurrency Determination Review Criteria.**— The District shall review each  
30     application in accordance with the following criteria to determine whether school  
31     capacity is available concurrent with the impact of the proposed residential  
32     development:

- 33 a. Concurrency determination shall be measured on the basis of the twenty-one  
34 (21) Concurrency Service Areas (CSAs) as described in the adopted  
35 Interlocal.
- 36 b. The District shall use the information contained in the Development Review  
37 Table created in accordance with the Interlocal for calculation of capacity  
38 utilization of each type of school within the specific CSA, and the projected  
39 student enrollment impact of the proposed residential development.
- 40 c. The District shall determine the resulting Level of Service ("LOS") for each  
41 type of school within the CSA or, if necessary, in the adjacent CSAs.
- 42 d. If the LOS is exceeded, and new capacity in the CSA will be in place or under  
43 actual construction in the first three years of the District's Five-Year Capital  
44 Facilities Plan ("Plan"), the new capacity will be assigned for the determination  
45 of school capacity for the new residential development.
- 46 e. If the projected student growth from the residential development causes the  
47 adopted LOS to be exceeded in the particular CSA and that type of school and  
48 capacity exists in one or more contiguous CSAs, the applicant shall receive a  
49 Letter of Determination of Concurrency ("Letter") pursuant to the terms of the  
50 Interlocal.

51 **5. Letter of Determination of Concurrency ("Letter")**

- 52 a. The District shall issue a Letter stating that the applicant is in compliance if the  
53 concurrency determination review criteria stated in Section D 4 is met.
- 54 b. If the applicant is not in compliance, the Letter shall detail why the  
55 development is not in compliance and shall offer the applicant an opportunity  
56 to enter into the ninety (90) day negotiation period described in Section F 6.

57 **6. Concurrency Mitigation Procedure**

- 58 a. Ninety (90) Day Negotiation Period
- 59 i. If a Letter cannot be issued under the criteria as stated in Section D, the  
60 applicant shall be allowed to enter a ninety (90) day negotiation period  
61 with the District in an effort to mitigate the impact from the development.
- 62 ii. Mitigation options must consider the District's educational delivery  
63 methods and requirements, and the State Requirements for Educational  
64 Facilities ("SREF").
- 65 iii. If the capacity is not in the Plan, the applicant may submit the following  
66 for consideration by the School Board:
- 67 A. Donate buildings for use as a primary or alternative learning facility;

- 68                   B. Renovate existing buildings for use as learning facilities;
- 69                   C. Construct permanent student stations or core capacity of a school;
- 70                   D. Initiate an agreement with a new or existing charter school;
- 71                   E. Initiate an agreement with an existing or new private school.
- 72                   iv. If the capacity is contained in the District's Plan, the applicant may build  
73                   the school(s) in advance of the time set forth in the District's Plan.
- 74                   v. If approved, the Board shall enter into an agreement to reimburse the  
75                   applicant at such time as the school(s) would have been funded in the  
76                   District's Plan.
- 77                   b. Impact Fee Credit.— The applicant shall receive appropriate impact fee credit  
78                   for the donation of a building, renovation of existing buildings to provide new  
79                   capacity, or construction of a permanent student station or core capacity.
- 80                   c. Second Letter of Determination of Concurrency ("Second Letter")
- 81                   i. Upon conclusion of the ninety (90) day period, the District shall issue a  
82                   Second Letter.
- 83                   ii. If mitigation is agreed to, the Second Letter shall find the applicant is in  
84                   compliance and shall be conditioned on those mitigation measures  
85                   agreed to by the applicant and the Board.
- 86                   iii. The mitigation measures shall be memorialized in an agreement between  
87                   the Board and the applicant that specifically details mitigation provisions  
88                   to be paid for by the applicant and the relevant terms and conditions.
- 89                   iv. Prior to the Board's approval of the mitigation plan, the local government  
90                   in which any proposed mitigation is to occur shall have the opportunity to  
91                   review the mitigation options.
- 92                   v. The mitigation options shall be limited to those which the Board is  
93                   prepared to accept and assume the responsibility to operate.
- 94                   vi. If mitigation is not agreed to by the Board and the local government, the  
95                   Second Letter shall detail why any mitigation proposals were rejected and  
96                   detail why the application is not in compliance.
- 97                   7. **Term of School Concurrency.**— A Letter issued by the District shall be valid for  
98                   one (1) year from the date of issuance. A determination may be extended for two  
99                   consecutive six month periods providing the School District receives  
100                   documentation that the application is progressing in good faith through the local  
101                   government's review process. Once the Local Government Site Specific

102 Development Order ("DO") is issued, the concurrency determination shall run with  
103 the life of the development order as long as the DO is valid.

104 8. **Exemption Rule.**— The following shall be exempt from meeting school  
105 concurrency requests:

106 a. Legally created single-family lots of record, for a single-family residence  
107 existing at such time as the ordinance implementing school concurrency is  
108 adopted.

109 b. Any residential development or any other development with a residential  
110 component that received final approval of a DO prior to the commencement  
111 date of school concurrency or is exempt from concurrency which was  
112 previously approved under a local government's concurrency regulations for  
113 that component.

114 c. Any new residential development that has filed a complete application for a  
115 DO or any amendment to any previously approved DO pending prior to the  
116 commencement date of the School Concurrency Program shall be exempt  
117 from the school concurrency requirements as long as the development order  
118 remains in effect.

119 d. Any amendment to any previously approved residential development, which  
120 does not increase the total number of units or change the type of unit.

121 e. Any previously approved residential development or any other previously  
122 approved development with a residential component located within any  
123 existing Transportation Concurrency Exception Area as defined in §  
124 163.3180(5), Fla. Stat.

125 STATUTORY AUTHORITY: §§ 163.3177(9); 230.03(2) 1001.32(2);  
126 1001.41(2), 1001.42(22); 1001.43(4), (5), Fla. Stat.

127 LAW(S) IMPLEMENTED: §§ 163.3161; 163.3164; 163.3177; 163.3180(5);  
128 163.3180(13)(2); 230.03(2) 1001.32(2); 230.22(6) 1001.41(6); 230.23(4) 1001.42(4);  
129 1013.33, 1013.35, Fla. Stat.

130 ~~FLORIDA ADMINISTRATIVE CODE IMPLEMENTED~~ RULE SUPPLEMENTED: 6A-  
131 2.001, F.A.C.

132 ADOPTED INTERLOCAL AGREEMENT FOR SCHOOL CONCURRENCY, 01/25/01

133     /    /03 : Article V, Sections B, F and G

134 ADOPTED 2001-2006 FIVE YEAR CAPITAL FACILITIES PLAN: Section 4.44

135 HISTORY: 04/06/1983, 02/05/1997; 12/10/2001;     /    /03

Legal Signoff:

The Legal Department has reviewed the revisions to proposed Policy 7.133 and finds them legally sufficient for development by the Board.

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Attorney

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Date