

POLICY 7.135

Adoption of proposed new Policy 7.135, to be entitled "Program Capacity," to be adopted on a fast-track basis pursuant to the public hearing on Feb. 17, followed by 28 days' legal notice as allowed by the Administrative Procedure Act, thus taking effect on March 24, 2003.

[Contact: Kris Garrison, 434-8935.]

Adoption per 28-day Notice, Ending March 24, 2003

Approved Feb. 17, 2003, to take effect March 24, 2003

- 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 within 21 days of the publication of notice.) 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 will be adopted on a fast-track basis on the 28th day after advertisement of notice following the Feb. 17 approval.

POLICY 7.135**PROGRAM CAPACITY**

1
2
3
4
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11 should be repealed if charter district status is not renewed.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.

14
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:

26
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.

34
35 **b. *Parent Involvement.*** A primary focus of several federally sponsored and
36 mandated programs in the public school system is parent involvement and
37 parent literacy. At times implementation of parent involvement programs
38 requires that non-students (parents and young children) use space during the
39 daytime to receive program services. In some schools these types of
40 programs are critical to the success of their students. Because DOE formulas
41 would not currently allow space to be set aside for this purpose, space used in
42 this way would count towards permanent classroom space.

43
44 **3. Approved Alternative Practice.--** The School Board will determine space needs
45 at the local level, based on local projections and program needs. The District will
46 continue to use Florida Inventory of School Houses (FISH) as the baseline

47 reporting measure. The District will provide for Board-approved deviations from the
48 baseline, based on special programs in a school. The District will also follow the
49 requirements of the Interlocal Agreement for School Concurrency. The primary
50 funding source for deviations from use of the FISH baseline will be locally
51 supported alternative funding, currently Certificates of Participation.

52
53 **4. Criteria.--** The District will conform to the criteria contained in the Interlocal
54 Agreement for School Concurrency, signed by 26 cities, the County and the School
55 Board. The measurement of utilization will be based on the School Board-approved
56 space needs of the following programs: ESOL, ESE, Pre-K, parent involvement
57 programs, Title I-related programs, and other Board-approved special programs
58 offered at a school. Annual space utilization surveys will also be conducted to
59 assess use of space at each school. For example, schools with high ESOL
60 populations have significant space facility needs in order to provide the appropriate
61 instructional program for their students, and the alternative practice will enable the
62 instructional space used by ESOL students to be measured based on actual use.

63
64 **5. Impact on Students.--** The waiver will enable the District to utilize school space to
65 meet the specific needs of the school population. All of the programs listed above
66 are essential to the academic success of students. Additionally, by allowing the
67 District to construct additional instructional space, this waiver is consistent with and
68 supports the goals and objectives of Constitutional Amendment #9 for reduction of
69 class size.

70
71 **6. Monitoring and Reporting.--** The School Board will receive a reporting chart each
72 spring showing compliance with concurrency level of service and capacity
73 utilization percentage at each school, as well as FISH capacity. District staff will
74 also prepare the annual reports required by the School Concurrency Interlocal
75 Agreement.

76 STATUTORY AUTHORITY: §§ 1001.41(2); 1001.42(22); 1001.43(4); 1003.62(2).
77 Fla. Stat.

78 LAWS IMPLEMENTED: §§ 1001.41(1), (3); 1001.42(4), (9); 1003.62(2);
79 exemption from aspects of 1013.03(10)(a) and 1013.72, Fla. Stat.

80 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