

Legally Speaking

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VOLUME XI, ISSUE 2

Winter 2010

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School Attendance Policy

By Laurie Dart, Associate Counsel

On Sept. 14, 2010, the school board approved two new policies that address student attendance. **Policy 5500.05, Code of Student Conduct – Student Attendance**, is the new student attendance policy and replaces the policy printed on page 7 of the Code of Student Conduct delivered to parents at the start of the 2010-11 school year. As revised, the policy provides uniformity among schools, which simplifies the procedures for parents and families having children at more than one school in the district. It also streamlines data collection and reporting obligations for the district by requiring each school to use the same criteria to determine what constitutes an unexcused absence. The new policy clearly notifies parents of the law relating to compulsory school attendance, their responsibility as parents to comply with that law and the consequences for failure to do so.

Some of the changes to the policy include:

- The policy recites the requirement under Florida law that students age 6 to 18 are subject to compulsory school attendance unless at age 16 they follow the proper procedures to withdraw. A student who attains the age of 16 but is younger than 18 years old may withdraw from school only if the student files a formal declaration of intent to terminate school enrollment, which must be signed by the parent and contain an acknowledgement by the student that withdrawal from school is likely to reduce the student's earning potential. (**PCS-Form 2-2715**).



Mission Statement

The mission of the Office of General Counsel is to provide the highest quality legal services to the Pinellas County School Board, the superintendent and the district by ensuring timely and accurate legal advice and effective representation on all legal matters.

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Progressive Discipline

By James A. Robinson, General Counsel

Through application of a program of progressive discipline, an employee will, in most cases, receive progressively more severe discipline for each successive instance of misconduct. Our school board has adopted progressive discipline as the policy of the district with the intent to assist employees in overcoming performance problems and satisfy job expectations. Failing the employee's achievement of those

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Student Attendance

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- The new policy contains an exclusive list of reasons why an absence, tardy or early sign-out will be excused. So, while the reasons that a student may be excused from school is substantially the same as under the old policy, the new policy is stricter because the school previously had discretion to excuse an absence for reasons that were not specifically listed in the policy and that discretion no longer exists.
- The requirement under the old and new policy for the parent to notify the school of the student's absence in order for the absence to be excused is substantially the same. However, under the new policy, a parent is expected to both call and send a written note explaining the absence (in certain cases, an employee's note to the file based upon a phone call could suffice for this written notice). Also, the school may request that the parent produce medical documentation from a doctor or public health unit and in such case, the parent must provide the information within 48 hours of the absence. If the student has been out of school for more than five days, the parent must provide medical documentation within 48 hours in order for the absence to be excused.
- Skipping classes and tardiness are also addressed in the new policy. A student who is not present in class at least one half of the class period will be counted absent from that class. In order to get credit for attendance for the school day, the student must be in attendance for at least one half of the class periods during the school day. Every three (3) unexcused tardies or early release times within a grading period count as one unexcused absence.
- The policy remains the same regarding make-up work. The number of days that the student has to make up the work is the same number of days that the student was absent. If the absence is unexcused, the teacher may drop a letter grade for middle school students and must drop a letter grade for high school students.
- The policy recites Florida law regarding the consequence of truancy. For example, it informs parents to expect contact from the school if the student has five or more unexcused absences within a grading period and that after ten unexcused absences within a 90 day period, the student will be referred to the school's child study team. It further notifies parents that the superintendent may: 1) file a truancy petition if the student has 15 unexcused absences in a 90 day period and 2) refer the matter for a "child in need of services petition," or 3) pursue criminal prosecution against the parents.
- Parents and students are also notified that under Florida law truancy (15 unexcused absences in a 90 day period) will result in the revocation of their driver's license, if they have one, or will result in the denial of a student's application for a driver's license.

Policy 5420.03, Reporting Student Ranking and Class Ranking-High School, is the second policy adopted on Sept.14, 2010. While this policy is not an attendance policy, a student's attendance affects whether or not he or she must take a final exam. Specifically, a student who might not otherwise be required to take a final exam under this policy will be required to do so if he or she is absent five or more times in any class. In such case, the student is required to take the final exam in all classes. The exceptions are for pre-approved absences for school sponsored activities, religious holidays and college/ post secondary visitation. ■



Did you know?

Placement of Twins or Multiple Birth Siblings

Did you know that parents of twins, triplets and other multiple birth siblings have certain rights to have their children placed in the same or different classroom? Under Florida law, a parent of multiple birth siblings who are assigned to the same grade level and school can, subject to certain exceptions, insist that the children be placed in the same or different classroom, so long as the parent has requested this

placement in writing no later than five days before the first day of school or five days after the first day of attendance if the students enroll after school has started. There are certain exceptions to this right, such as (1) factual evidence showing that the siblings should be separated, (2) a principal's decision to separate the siblings after one semester together, (3) class-size amendment requirements being violated and (4) ESE siblings of non-

disabled siblings for whom a general education setting is inappropriate. In addition, this parental right does not affect the right of the schools to remove a student from a classroom for disciplinary reasons. If you are faced with a parental request to place twins or other multiple birth siblings in the same or different classrooms, please feel free to contact us for further guidance. ■

Booster Clubs and Other Outside Support Organizations - Basic Rules

By James A. Robinson, General Counsel
David Koperski, Associate Counsel

We receive numerous questions and concerns regarding schools' relations with their booster clubs and other outside support organizations (OSOs). Some concerns relate to financial matters, while other relate to liability or operational issues.

An OSO is a non-school organization that supports an individual school or school activity. Examples of OSOs include booster clubs and Parent/Teacher Organizations. [Board Policy 9211, Parent Organizations, Booster Clubs and other Fund-raising Activities](#), addresses the requirements and conditions of being an OSO. Parent/Teacher Associations and Parent/Teacher/Student Associations are addressed separately by [Board Policy 9210, Parent Organizations](#).

Each school principal should maintain a list of authorized OSOs for each school year. Neither the OSO nor its representatives is an agent or representative of the school, the board or of the district and will not hold itself out as an agent or representative.

An OSO may use the name, logo and other school symbols. In order to assure proper accounting of funds, the OSO must agree to comply with board policy and requirements regarding their operations. These requirements include the following:

- OSOs engaged in fund-raising activities must provide insurance designated by the risk management department.
 - This insurance is required to protect the board and the OSO from potential losses. Remember that OSOs should refrain from all dangerous activities, such as having students advertise a car wash fundraiser from the median of a street.
- OSOs may obtain this coverage through their membership in the County Council of PTAs or by securing individual policies.
- OSOs that secure individual policies must obtain coverage for the school year and provide proof of coverage to risk management and the school principal prior to the beginning of the school year.
- All OSO activities must be approved in advance by the principal or designee and be beneficial to students, volunteers, employees of the school or the school and must not conflict with district programs.
- Adequate, auditable financial records must be maintained at all times.
- All officers of the OSO must be registered volunteers with the board (other OSO members are encouraged to become registered volunteers).
- The OSO must use a fiscal reporting period that begins July 1st and ends June 30th.
- The OSO must provide the principal with a copy of its budget at the beginning of each school year in a format provided by the district.
- PCS employees cannot handle money that is collected for a fund-raising activity of an OSO at the school in which they are employed during normal working hours.
- The OSO must report any allegations of misappropriation or misuse of funds to law enforcement and notify the principal in writing of such reports.
- An OSO that is not incorporated cannot maintain a separate bank account but must deposit all proceeds from its activities into the school's internal funds account.
- The OSO must comply with all processes and procedures in board policy related to receiving and disbursing funds.
- An OSO that is incorporated as a not-for-profit corporation under Florida law must comply with the following additional requirements:
 - There must be a clear delineation between the school and the OSO with respect to internal controls and custody of money.
 - The OSO must use its own accounting procedures, bookkeeping system and a single bank account.
 - The OSO must secure its own Federal ID number.
 - The OSO must maintain active status with the Florida Department of State and provide the principal with a copy of the OSO's Uniform Business Report no later than Sept. 15, of each year.
 - Copies of the bank statements and treasurer's reports must be provided to the principal on a monthly basis.
 - Only elected officers may be authorized to sign checks drawn on the bank account of the OSO.
 - Two (2) signatures are required on all OSO checks. Persons authorized to sign may not be related or live in the same house.
 - An employee of the school may not be authorized to sign checks drawn on the bank account of an OSO operating at that school.

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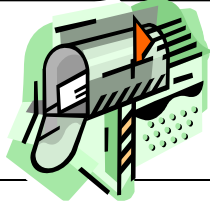
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Booster Clubs and OSOs

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- The OSO cannot use the board tax identification number (FEIN) or the board's sales tax exemption number or any other number assigned to the board in accordance with state and federal law. The OSO will be responsible for proper payment of sales tax.
- Bank statements must be sent to the OSO at the school's address.
- The OSO must provide the principal an annual financial statement with backup documentation for the previous school year no later than the beginning of classes each year.

If an OSO violates the conditions of its approval, the principal may notify the OSO in writing that he or she is revoking the permission to use the school's name, logo and other school symbols. The OSO may appeal the revocation to the region superintendent or designee, whose decision will be final. In the event an OSO's permission to use the school's name, logo or other school symbol is revoked, the OSO must deposit all of the funds in its possession into the school's internal funds account within three days to be utilized by the school for the benefit of the school. In addition, the OSO must take actions to remove the name, logo or other school symbols from its organization. ■

Progressive Discipline

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goals, progressive discipline enables the district to fairly, and with all due process, terminate the employment of employees who are ineffective and unwilling to improve.

If misunderstood and misapplied by supervisors, the school board's policy of progressive discipline may prevent or unduly delay suspension or discharge of employees in cases where such discipline is appropriate. Some supervisors think that progressing from one step in the disciplinary process to the next is a necessary component of progressive discipline. That is not the case. **Progressive discipline is addressed in School Board Policies 1140 (administrators), 3140 (instructional personnel) and 4140 (support staff).** These policies state that;

"The severity of the problem or employee conduct will determine whether all steps [in the progressive discipline process] will be followed or a recommendation will be made for suspension without pay or dismissal. When there is a range of penalties, aggravating or mitigating circumstances will be considered."

The SEIU Collective Bargaining Agreement is the only collective bargaining agreement that addresses progressive discipline. It states that, "... the board shall follow a system of progressive discipline that may include, but not be limited to, the use of: (1) Verbal or written counseling or warnings; (2) Written reprimands; (3) Suspension without pay; (4) Dismissal. The severity of the problem or employee behavior will determine whether all steps will be followed or a recommendation will be made for suspension or dismissal." (Emphasis added.)

Thus, if severe enough, an isolated instance of misconduct may subject an employee with no disciplinary history to suspension without pay or termination. However the positive goal of progressive discipline is improved performance.

Let's not forget, progressive discipline is most successful when it assists an individual to become an effectively performing member of the district staff. ■

The Office of General Counsel
would like to wish
you and your family a
safe and happy
Holiday Season.

