

Valtena G. Brown, Chief Operating Officer
School Operations

**SUBJECT: INITIAL READING: PROPOSED AMENDMENTS TO SCHOOL
BOARD POLICIES 5512, TOBACCO USE, AND 5500, STUDENT
CONDUCT AND DISCIPLINE**

COMMITTEE: INSTRUCTIONAL EXCELLENCE AND COMMUNITY ENGAGEMENT

**LINK TO STRATEGIC
FRAMEWORK: STUDENT, PARENT, AND COMMUNITY ENGAGEMENT**

At the School Board meeting of December 11, 2013, the School Board approved Agenda item H-10, submitted by Ms. Raquel Regalado, Board Member, and co-sponsored by Ms. Perla Tabares Hantman, Chair, and Dr. Lawrence S. Feldman, Vice-Chair, directing the School Board Attorney and the Superintendent to revise current Board polices to prohibit the possession and use of nicotine dispensing devices, such as e-cigarettes. This item requests consideration of amendments to Board Policy 5512, *Tobacco Use*, and 5500, *Student Conduct and Discipline*, to prohibit the student possession and use of nicotine-dispensing devices and any smoking device designed to imitate tobacco or nicotine products regardless of whether it contains tobacco or nicotine, renaming of the Tobacco Use policy, and revisions to the relevant portions of the *Code of Student Conduct*.

Attached is the Notice of Intended Action, the proposed policy amendments, and the proposed amended portions of the *Codes of Student Conduct*. Changes are indicated by underscoring words to be added and ~~striking through~~ words to be deleted. The proposed amended *Codes of Student Conduct* are also available in their entirety at:

http://pdfs.dadeschools.net/COSC_el.pdf
http://pdfs.dadeschools.net/COSC_sec.pdf

Authorization of the Board is requested for the Superintendent to initiate rulemaking proceedings in accordance with the Administrative Procedure Act to amend Board Policies 5512, *Tobacco Use*, and 5500, *Student Conduct and Discipline*.

C-100

RECOMMENDED:

That The School Board of Miami-Dade County, Florida, authorize the Superintendent to initiate rulemaking proceedings in accordance with the Administrative Procedure Act to amend School Board Policies 5512, *Tobacco Use*, and 5500, *Student Conduct and Discipline*.

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced May 7, 2014, its intention to amend Board Policies 5512, *Tobacco Use*, and 5500, *Student Conduct and Discipline*, at its meeting of June 18, 2014.

PURPOSE AND EFFECT: To amend Board Policies 5512, *Tobacco Use*, and 5500, *Student Conduct and Discipline*, to prohibit the possession and use of nicotine dispensing devices by students including electronic cigarettes and other smoking devices, as well as any product or device designed to imitate any of these products regardless of whether it contains tobacco or nicotine. The Board Policy 5512 is also proposed to be renamed "Use of Tobacco Products and Smoking Devices" and will be enforced through the appropriate *Code of Student Conduct*.

SUMMARY: The proposed amendments define prohibited "use of tobacco and smoking devices" to include all uses of tobacco, including nicotine dispensing devices and/or electronic cigarettes or smoking devices, as well as any product or device designed to imitate any of these products regardless of whether it contains tobacco or nicotine. The Board Policy 5512 is proposed to be renamed "Use of Tobacco Products and Smoking Devices" and will be enforced through the appropriate *Code of Student Conduct*.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: 1001.41(1), (2); 1001.42(8), 1006.07(1)(a), (2); 1006.08(1); F.S.

LAW IMPLEMENTED INTERPRETED, OR MADE SPECIFIC:

381.84, 386.202, 386.204, 386.206, 386.212, F.S.; 20 U.S.C. 6081 et seq., 20 U.S.C. 7182 F.S.

IF REQUESTED, A HEARING WILL BE HELD DURING THE BOARD MEETING of June 18, 2014, which begins at 1:00 p.m., in the School Board Auditorium, 1450 N.E. Second Avenue, Miami, Florida 33132. Persons requesting such a hearing or who wish to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative as provided by Section 120.541(1), F.S., must do so in writing by June 3, 2014, to the Superintendent, Room 912, at the same address.

ANY PERSON WHO DECIDES TO APPEAL THE DECISION made by The School Board of Miami-Dade County, Florida, with respect to this action must ensure the preparation of a verbatim record of the proceedings, including the testimony and evidence upon which the appeal is based (Section 286.0105, Florida Statutes).

A COPY OF THE PROPOSED AMENDED POLICIES are available at cost to the public for inspection and copying in the Citizen Information Center, Room 158, 1450 N.E. Second Avenue, Miami, Florida 33132.

Originator: Ms. Raquel Regalado, Board Member
Ms. Perla Tabares Hantman, Chair (Co-Sponsor)
Dr. Lawrence S. Feldman, Vice Chair (Co-Sponsor)

Date: April 23, 2014

1 TOBACCO USE

2 USE OF TOBACCO PRODUCTS AND SMOKING DEVICES

3 A tobacco free environment shall be provided ~~to~~ for students, staff, and visitors.

4 “Use of tobacco and smoking devices” shall mean all uses of tobacco, including cigars,
5 cigarettes, pipe tobacco, chewing tobacco, snuff, nicotine dispensing devices,
6 electronic cigarettes, smoking devices, ~~or~~ any other matter or substances ~~that~~
7 containing tobacco or nicotine, including any product designed or manufactured to
8 imitate any of these products regardless of whether it contains tobacco or nicotine,
9 and the possession of papers used to roll cigarettes.

10 The use and possession of tobacco and smoking devices is prohibited:

11 A. within any indoor facility owned or leased or contracted for by the School
12 Board is prohibited;

13 B. anywhere on the campus of an facility owned or leased or contracted for by
14 the Board, including, but not limited to, practice fields, playgrounds, football
15 fields, baseball fields, softball fields, pool areas, soccer fields, tennis courts,
16 all open areas, and within 1000 feet of a school;

17 C. in all vehicles owned or operated by the Board, including, but not limited to,
18 school buses, vans, trucks, station wagons, and cars.

19 Violations of this policy will be addressed pursuant to Policy 5500, *Student Conduct*
20 *and Discipline.*

21 F.S. 381.84, 386.202, 386.204, 386.206, 386.212
22 20 U.S.C. 6081 et seq., 20 U.S.C. 7182

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STUDENT CONDUCT AND DISCIPLINE

2 Schools shall promote a positive school climate that supports academic achievement
3 and emphasizes civility, fairness, mutual respect, and acceptance of diversity. The
4 Code of Student Conduct Elementary, Code of Student Conduct Secondary, and the
5 Code of Student Conduct Adult/Vocational Education, incorporated by reference,
6 apply to all students in the District. Copies of these documents are on file in the
7 Office of Board Recording Secretary, and the Citizen Information Center, and shall
8 be available in each school and special center.

9 The Superintendent, principals, and other administrators shall assign
10 discipline/corrective strategies to students pursuant to the Code of Student Conduct
11 and, where required by law, protect the student's due process rights to notice,
12 hearing, and appeal. Additional guidelines for the maintenance of appropriate
13 student behavior are issued by memorandum from District administration.

14 The Superintendent shall make the Code of Student Conduct available to all
15 students and their parents.

16 See also Elementary Code of Student Conduct (Español and Kreyòl) and Secondary
17 Code of Student Conduct (Español and Kreyòl).

18 F.S. 39.201, 39.201(2)(a), 39.301(16), 39.401, 39.401(1)(a), 119.07(1)(3)(h), 120
19 F.S. 322.091, 561.01(4), 741.24, 775.082, 775.083, 775.084, 775.21, 790.001(13)
20 F.S. 790.115, 790.161, 790.162, 790.163, 794.011, 794.024, 794.03, 806.13(2)
21 F.S. 810.097, 827.03, 827.04, 827.071, 831.31, 893, 893.02, 893.03, 893.13
22 F.S. 901.15(3), 943.0435, 985.04(7), 985.101, 985.481, 985.557, 1000.04, 1001.31
23 F.S. 1001.42, 1001.42(6), 1001.43, 1001.43(1)(6), 1002.20, 1003.01
24 F.S. 1003.02(1)(c)(2), 1003.04, 1003.31, 1003.32(e)(2)(3)(4)(5)(6)(a)(b), 1003.53
25 F.S. 1006.07, 1006.08, 1006.09, 1006.10, 1006.12, 1006.13
26 F.A.C. 6A-1.0404

27 Revised 1/16/13

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