

Mrs. Valtena G. Brown, Deputy Superintendent/Chief Operating Officer
School Operations

**SUBJECT: INITIAL READING: PROPOSED PROMULGATION OF NEW
BOARD POLICY 5330.03, *MEDICAL MARIJUANA***

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REVISED

COMMITTEE: PERSONNEL, STUDENT, SCHOOL AND COMMUNITY SUPPORT

**LINK TO STRATEGIC
BLUEPRINT: SAFE, HEALTHY AND SUPPORTIVE LEARNING ENVIRONMENT**

On February 13, 2019, the Board approved Agenda Item H-13 (Medical Marijuana Policy), sponsored by Ms. Lubby Navarro, Board Member, that authorized the Superintendent to survey best practices related to student use of medical marijuana as permitted under Section 1006.062(8), F.S., and to initiate rule making proceedings as appropriate. The statute mandates that each district school board adopt a policy and procedures for allowing a student who is a qualified patient to use marijuana obtained under that section.

On April 16, 2019, the Superintendent provided the Board an update on the District review of best practices and statewide policies related to student use of medical marijuana as permitted under 1006.062, F.S. It was noted that several school districts, including Broward County, have adopted policies permitting qualified student patients, as provided by state law, to have access to medical marijuana/low tetrahydrocannabinol (THC) cannabis.

While there may be legitimate concerns because of the existence of a possible conflict with federal law prohibiting the use and possession of marijuana, the benefits to qualified student patients from low THC medical marijuana that is prescribed for them potentially outweigh those concerns. This item requests approval of a proposed new Policy 5330.03, *Medical Marijuana*, that would allow qualified students to receive medical marijuana provided they meet the statutory criteria as detailed in the proposed policy. Because of the possible conflict with federal laws, the proposed policy has included language that if at any point in time the federal government indicates that the District's federal funds may be jeopardized by this policy, that the policy shall be void and that the use of medical marijuana by students will immediately cease and be prohibited. Additionally, at its December 14, 2016 meeting, the School Board approved item H-9 (Medical Marijuana Law) sponsored by Dr. Martin Karp, Vice-Chair, and unanimously co-sponsored by the Board, authorizing the Superintendent to collaborate with the Florida Association of District School Superintendents for the purpose of discussing and developing added protections and recommendations related to the implementation of Amendment 2, and amend its 2017 State Legislative Platform.

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In the development of this policy, recommendations were sought from the School Health Medical Advisory Committee and the Superintendent's District Advisory Panel for Exceptional Student Education.

This item requests that the Board authorize the Superintendent to initiate rulemaking proceedings to promulgate new Policy, 5330.03, *Medical Marijuana*, establishing a policy for the use of medical marijuana for qualified students.

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Attached is the Notice of Intended Action and proposed new policy.

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 adopt new Board Policy 5330.03, *Medical Marijuana*.

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NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced July 24, 2019, its intention to adopt a new Board Policy 5330.03, *Medical Marijuana*, at its regular meeting of September 4, 2019.

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PURPOSE AND EFFECT: New Board Policy 5330.03, *Medical Marijuana*, provides a policy and procedure for allowing a student who is a qualified patient as defined under Section 381.986, F.S., to use medical marijuana obtained pursuant to that section. In accordance with Section 1006.062(8), F.S., the policy will also “prevent access by other students and school personnel whose access would be unnecessary for the implementation of the policy.”

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SUMMARY: The new proposed policy allows a student who is a qualified patient, as defined in Section 381.986, F.S., to use medical marijuana obtained in accordance with the law. The policy provides procedures and protocols allowing access to medical marijuana by qualified student patients and will “prevent access by other students and school personnel whose access would be unnecessary.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: 1001.41(1), (2), (5); 1001.43(1); 1006.062(8), F.S.

LAW IMPLEMENTED INTERPRETED, OR MADE SPECIFIC: 381.986, 1006.062(8), F.S.

IF REQUESTED, A HEARING WILL BE HELD DURING THE BOARD MEETING of September 4, 2019, 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 August 19, 2019, to the Superintendent of Schools, 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 will need to ensure the preparation of a verbatim record of the proceedings, including the testimony and evidence upon which the appeal is based (Section 286.0105, F.S).

A COPY OF THE PROPOSED NEW POLICY is available at cost to the public for inspection and copying in the Citizen Information Center, Room 102, 1450 N.E. Second Avenue, Miami, Florida 33132.

1
2 **NEW POLICY**

3
4 **MEDICAL MARIJUANA**

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6 The exclusive purpose of this policy is to comply with the mandate of Section 1006.062 (8),
7 F.S., to allow a student who is a qualified patient, as defined in Section 381.986, F.S., to use
8 medical marijuana obtained in accordance with law. Board policy 5330-*Use of Medications*,
9 does not apply to qualified students' use of medical marijuana.

10
11 The Board strives to comply with the state law in order to honor the families' private medical
12 decisions while ensuring a learning environment free of disruption. The administration of
13 prescribed medical marijuana/low THC cannabis to a student during school hours when
14 administration cannot reasonably be accomplished outside of school hours, will be permitted
15 only when failure to do so would jeopardize the health of the student, the student would not
16 be able to attend school if the medical marijuana were not made available during school
17 hours, or the student is disabled and requires medication to benefit from his/her educational
18 program.

19
20 This policy conveys no right to any student or to the student's parents/guardians or other
21 caregivers to demand access to any general or particular location on school grounds or
22 District property, a school bus or a school-sponsored event to administer medical
23 marijuana/low THC cannabis.

24
25 If the federal government indicates that the District's federal funds are jeopardized by this
26 policy, the School Board declares that this policy shall be suspended immediately and the
27 administration of any form of medical marijuana/low THC cannabis for qualified students will
28 not be permitted. In that event, the District shall post notice of such policy suspension and
29 prohibition in a conspicuous place on its website

30
31 **Definitions**

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33 For purposes of the medical marijuana policy, the following definitions shall apply per Florida
34 Statute:

- 35
36 1. "*Student*" means an individual enrolled in a District School, Pre-Kindergarten through
37 12th grade who or is subject to compulsory school attendance, as well as students with
38 disabilities 18 through 22 years of age. }
39
40 2. "*Qualified student/patient*" means a student/patient who is a resident of this state who
41 has been added to the Medical Marijuana Use Registry by a qualified physician to
42 receive marijuana for medical use and who has a valid qualified patient identification }
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- 43 card. If a qualified student/patient is younger than 18 years of age, only a caregiver
44 may administer marijuana for medical use to the qualified student/patient. A qualified
45 student/patient may designate no more than one caregiver to assist with administering
46 medical marijuana/low THC cannabis to the qualified student/patient, unless:
47
48 a. The qualified student/patient is a minor and the designated caregivers are the
49 parents or legal guardians of the qualified student/patient.
50
51 b. The qualified student/patient is an adult who has an intellectual or developmental
52 disability that prevents the student/patient from being able to protect or care for
53 himself/herself without the assistance or supervision and the designated
54 caregivers are the parents or legal guardians of the qualified student/patient.
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56
57 3. *“Primary caregiver” or “caregiver”* must be 21 years of age or older, is a resident of
58 this state, has agreed to assist with a qualified student/patient’s medical use of
59 marijuana, has a caregiver identification card issued by the Florida Department of
60 Health, and meets the following requirements:
61
62 a. The caregiver who agrees in writing to assist with a registered qualified
63 student/patient’s medical use of marijuana is not currently serving as a primary
64 caregiver for another qualifying patient and is not the qualifying student/ patient’s
65 physician.
66
67 b. The caregiver is registered with the Florida Department of Health (FLDOH)
68 Registry for medical marijuana/low THC cannabis use and meets all of the
69 requirements.
70
71 c. The caregiver has been designated as a primary caregiver on the qualifying
72 student/patient’s Florida DOH application.
73
74 d. The caregiver is registered in the medical marijuana use registry for no more than
75 one qualified student/patient unless:
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77 (1) The caregiver is a parent/ guardian of more than one minor who is a qualified
78 student/patient; or
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80 (2) The caregiver is a parent/guardian of more than one adult who is a qualified
81 student/patient and who has an intellectual or developmental disability that
82 prevents the student/patient from being able to protect or care for
83 himself/herself without assistance or supervision.
84

- 85 4. *“Designated location”* means a location identified in writing by the school principal and
86 the Director of Comprehensive Student Health Services.
87
88 5. *“Permissible forms of medical marijuana/low THC/cannabinoid products”* means, non-
89 smokable/non-inhalable products such as oils, tinctures, edible products or lotions that
90 can be administered and fully absorbed in a short period of time.
91
92 6. *“Medical Marijuana”* means that all parts of any plant of the genus Cannabis, whether
93 growing or not; the seeds thereof; the resin extracted from any part of the plant; and
94 every compound, manufacture, salt, derivative, mixture, or preparation of the plant or
95 its seeds or resin, including low-THC cannabis dispensed from a medical marijuana
96 treatment center for medical use by a qualified patient.
97
98 7. *“Low-THC Cannabis”* means a plant of the genus Cannabis, the dried flowers of which
99 contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of
100 cannabinol weight for weight; the seeds thereof; the resin extracted from any part of
101 such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of
102 such plant or its seeds or resin that is dispensed from a medical marijuana treatment
103 center.
104
105 8. *“Prohibited forms of medical marijuana/cannabinoid products”* means any smokable,
106 vapors, patches, and any other forms of administration that provide continuous
107 delivery of medical marijuana/low THC cannabis to a qualified student/patient while at
108 school shall not be permissible.
109
110 9. *“Smoking”* means burning or igniting a substance and inhaling the smoke. Any form of
111 smokable medical marijuana/low THC/cannabinoid products is prohibited on school
112 grounds or District property, a school bus, or school-sponsored event.
113
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115 **Administration of Medical Marijuana/Low THC Cannabis to Qualified Student/Patients**
116 **on School District Property**

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118 **A. Administration of Medical Marijuana/Low THC Cannabis Use at School**
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- 120 1. School site staff, school nurses, health screener technicians, other contracted
121 health care personnel or the school principal are not allowed to administer,
122 store/hold or transport the medical marijuana/low THC cannabis in any form.
123
124 2. The primary caregiver is responsible for safely administering and transporting the
125 medication/treatment to and from school each day. An *Authorization for Medical*

126 *Marijuana/Low THC cannabis Use for A Qualified Student/Patient at School Form*
127 must be completed by the qualified physician for all medication/treatments that a
128 primary caregiver will be administering to their child during the school day.
129

130 3. The Principal and the Director of Comprehensive Student Health Services will
131 determine the location for the permissible form of administration of the medical
132 marijuana/low THC cannabis that does not create a risk of disruption to the
133 educational environment or exposure to other students.
134

135 4. The Principal and the Director of Comprehensive Student Health Services will
136 prepare, with input from the qualified student's primary caregiver, a written medical
137 marijuana/low THC cannabis implementation plan that identifies the form,
138 designated location(s), and any protocol regarding the administration of a
139 permissible form of medical marijuana/low THC cannabis to the qualified
140 student/patient. The Principal, the qualified student/patient, the qualified
141 student/patient's parent/guardian, and the primary caregiver must participate in a
142 child specific training.
143

144 Only medication in its original container labeled with the date, the qualifying
145 student/patient's name, and the exact dosage and route will be allowed to be
146 administered during school hours. The Principal will complete a medication log
147 each time medical marijuana is administered to a student/patient.
148

149 **B. Request by the Parent/Guardian for Authorization for the Use of Medical**
150 **Marijuana/Low THC Cannabis to be Administered at School**
151

152 1. The parent/guardian of a qualifying student requesting the administration of
153 medical marijuana/low THC cannabis to the student at school must submit an
154 *Authorization for Medical Marijuana/Low THC cannabis Use for A Qualified*
155 *Student/Patient at School Form* completed by the qualified physician.
156

157 2. Qualified students who require the use of medical marijuana/low THC cannabis for
158 a medical condition while at school may receive the medical marijuana/low THC
159 cannabis administered by their primary caregiver as ordered by the qualified
160 physician on school grounds. The location on school grounds where the medical
161 marijuana/low THC cannabis will be administered will be designated by the
162 Principal and the Director of Comprehensive Student Health Services.
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C. Responsibilities of the Parent/Caregiver:

1. Require that the qualified student/patient caregiver shall be responsible for providing the permissible form of medical marijuana/low THC cannabis to be administered to the qualified student. A parent/guardian of a qualifying student/patient requesting the administration of medical marijuana /low THC cannabis to the qualified student/patient while on school grounds, must submit a written request to the Principal at least 5 days in advance, excluding weekends and holidays, and requesting for the authorization to administer medical marijuana/low THC cannabis pursuant to the policy.
2. The parent/guardian must provide the Principal with a copy of the current Department of Health Registry Identification Card for the qualifying student/patient and the primary caregiver, and a valid form of picture ID.
3. The qualified student/patient's parent/guardian must provide the school, with an *Authorization for Medical Marijuana/Low THC cannabis Use for A Qualified Student/Patient at School Form* completed by the qualifying physician and signed by the parent/ guardian. The form must identify the primary caregiver for the administration of medical marijuana/low THC cannabis to the qualified student/patient during the school day and acknowledge that a primary caregiver will be administering the medical marijuana/low THC cannabis. A new form must be completed and submitted to the school Principal every school year, and when there are any changes to the medication and the type of preparation.
4. The *Authorization for Medical Marijuana/Low THC cannabis Use for A Qualified Student/Patient at School Form* must include the name of the medication, the dosage and route, and time to be administered, possible side effects and any special instructions regarding the medication.

D. Responsibilities of the School Principal:

1. Upon review and approval of the documentation submitted by the primary caregiver, the Principal will:
 - a. Coordinate the development of the District's Implementation Plan for *Medical Marijuana/Low THC Cannabis Use for Qualified Student/Patients at School*. The plan includes the following information:
 - i. The specific location and;
 - ii. Time(s) where the primary caregiver shall report to administer the medical marijuana.

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- b. Provide the primary caregiver with a copy of Board Policy 5330.03 - *Medical Marijuana* and review the procedures for the administration of medical marijuana/low THC cannabis at school with primary caregiver.
- c. Report any incidence of student/parent/caregiver dispensation of substances other than the permissible forms of medical marijuana/low THC cannabis as specified on the *Authorization for Medical Marijuana/Low THC cannabis Use for A Qualified Student/Patient at School Form*, signed by the primary caregiver and qualifying physician and take action in accordance with School Board Policy 5500, *Student Conduct and Discipline*, and School Board Policy 5610, *Suspension and Expulsion of Students*.
- d. The Principal must consult with the Director of Comprehensive Student Health Services before allowing the administration of the medical marijuana/low THC cannabis at the school.

E. Consequences of Policy Violation

- 1. Permission to administer medical marijuana/low THC cannabis to a qualified student/patient may be revoked if the qualified student/patient or the student/patient's caregiver violates this policy or demonstrates an inability to responsibly follow this policy's parameters.
- 2. At no time shall the qualifying student/patient have the medical marijuana/low THC cannabis in their possession, except during the administration process, through dispensation by the designated primary caregiver in accordance with this policy.
- 3. Consequences for sale/attempted or sale/transmittal of any medical marijuana/low THC cannabis products or low THC cannabis, or substances held out and represented to be medical marijuana/low THC cannabis, may result in disciplinary action as outlined in the School Board Policy 5500, *Student Conduct and Discipline*, and Policy 5610, *Suspension and Expulsion of Students*.
- 4. Student possession, use, or being under the influence of marijuana or marijuana derivatives inconsistent with this policy may be considered a violation of School Board Policy 5500 *Student Conduct and Discipline*, and Policy 5610, *Suspension and Expulsion of Students*. Furthermore, it may subject the student to disciplinary consequences, including suspension and/or expulsion, in accordance with applicable Board policy, and may require consultation with local law enforcement.

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- 249 5. Dispensation by parent/caregiver of medical marijuana/low THC cannabis in any
250 form other than specified on the *Authorization for Medical Marijuana/Low THC*
251 *cannabis Use for A Qualified Student/Patient at School Form*, signed by the
252 parent/guardian and physician may be treated as a violation of School Board
253 Policy 5500 *Student Conduct and Discipline*, and Policy 5610, *Suspension and*
254 *Expulsion of Students*, for possession, use, or being under the influence of
255 unauthorized substance, which are expellable offenses.
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258 F.S. 381.986; 381.96 (1)(a), (e), (f), (j) (l); 381.986 (6) (a), (b) 2, (c) 1, 2, (d)
259 F.S. 1006.062(8)
260 Article X, Section 29, Constitution of the State of Florida