

MEMORANDUM

To: Chair, School Board of Madison County, Florida

From: George T. Reeves, Esq., School Board Attorney for the School Board of Madison County, Florida

Copies to: All members of the School Board of Madison County, Florida

Date: April 29, 2019

Re: Effect of Resignation of Superintendent of Schools

RESIGNATION OF SUPERINTENDENT

On April 12, 2019, the Hon. Karen Pickles, Superintendent of Schools for Madison County Florida (the "Superintendent") submitted her letter of resignation (the "Letter of Resignation") to the Governor of the State of Florida (the "Governor"). A copy of the letter of resignation which was provided to the School Board of Madison County, Florida (the "School Board"), and which we assume is the same as the letter of resignation submitted to the governor, is attached hereto as Exhibit "A".

The Letter of Resignation stated that it was to be effective on April 30, 2019. As the Letter of Resignation was submitted and accepted by the Governor, the office of Superintendent of Schools will be deemed vacant as of April 30, 2019. Section 114.01(1)(d), Florida Statutes.

REMAINDER OF THE SUPERINTENDENT'S TERM OF OFFICE

The Office of Superintendent was up for election in 2020. Section 100.041(1), Florida Statutes (Providing that the "superintendent of schools . . . shall be chosen by the qualified electors at the general election in each year the number of which is a multiple of 4.") The first day of the next term of office for the Superintendent is November 17, 2020. Section 100.041(3)(a), Florida Statutes Therefore the last day of the Superintendent's present term of office is November 16, 2020. April 30, 2019 to November 16, 2020 is just under nineteen months.

WHO FILLS THE OFFICE OF THE SUPERINTENDENT FOR THE REMAINDER OF THE SUPERINTENDENT'S TERM OF OFFICE?

Under Florida law, the Governor is to fill the Office of Superintendent by appointment for the rest of the Superintendent's term of office.

Art. IV, § 1(f), Florida Constitution provides in pertinent part:

[T]he governor shall fill by appointment any vacancy in state or county office¹ . . . for the remainder of the term of an elective office if less than twenty-eight months

. . .

WHAT HAPPENS IF THE GOVERNOR HAS NOT APPOINTED SOMEONE TO FILL THE OFFICE OF THE SUPERINTENDENT BY MAY 1, 2019?

The question has arisen as to what would happen if the Governor has not appointed someone to fill the Office of Superintendent by May 1, 2019.

First, operating the Madison County School District (the “District”) for any length of time without a Superintendent is not an option. Under Florida law, the superintendent is responsible for the administration and management of schools and for the supervision of instruction in the District:

The district school superintendent is the secretary and executive officer of the district school board, and as such, is responsible for the administration and management of schools and for the supervision of instruction in the school district. §§ 1001.32(3), 1001.33, 1001.48, Fla. Stat. (2006). The general powers and duties of district superintendents are set forth in section 1001.49, Florida Statutes (2006). School superintendents are required to:

(1) General oversight. - Exercise general oversight over the district school system in order to determine problems and needs, and recommend improvements.

(2) Advise, counsel, and recommend to district school board. - Advise and counsel with the district school board on all educational matters and recommend to the district school board for action such matters as should be acted upon.

(3) Recommend policies. - Recommend to the district school board for adoption such policies pertaining to the district school system as the district school superintendent may consider necessary for its more efficient operation.

(4) Recommend and execute rules. - Prepare and organize by subjects and submit to the district school board for adoption such rules to supplement those adopted by the State Board of Education

¹See, *In re Advisory Opinion to the Governor*, 626 So. 2d 684, 689-690 (Fla. 1993) (Holding that elected superintendents are “county officers” for the purposes of Art. IV, § 7, Fla. Const.)

as, in the district school superintendent's opinion, will contribute to the efficient operation of any aspect of education in the district....

(5) Recommend and execute minimum standards. - From time to time prepare, organize by subject, and submit to the district school board for adoption such minimum standards relating to the operation of any phase of the district school system....

§ 1001.49(1)-(5), Fla. Stat. (2006).

A superintendent also must perform all tasks necessary to make sound recommendations, nominations, proposals, and reports to be acted upon by the school board, and to direct the work of school personnel, subject to the requirements of chapter 1012, Florida Statutes. § 1001.51, Fla. Stat. (2006).

The specific provisions relating to appointment of personnel are sections 1012.27 and 1012.22, Florida Statutes (2006). Section 1012.27, Florida Statutes (2006), sets forth the school superintendent's duties and provides in pertinent part:

The district school superintendent is responsible for directing the work of the personnel, subject to the requirements of this chapter, and in addition the district school superintendent shall perform the following:

(1) Positions, Qualifications, and Nominations. -

(a) Recommend to the district school board duties and responsibilities which need to be performed and positions which need to be filled to make possible the development of an adequate school program in the district.

(b) Recommend minimum qualifications of personnel for these various positions, and nominate in writing persons to fill such positions.

McCalister v. School Bd. of Bay County, 971 So. 2d 1020, 1024-1025 (Fla. 1st DCA 2008); Therefore it is imperative that the District not be without someone acting as Superintendent for any significant length of time.

SUPERINTENDENT'S "DELEGATION OF AUTHORITY AND LINE OF SUCCESSION DURING SUPERINTENDENT ABSENCE OR VACANCY" ADMINISTRATIVE PROCEDURE 1030.01

On April 12, 2019 (the same date as the Letter of Resignation), the Superintendent apparently signed a document entitled “Delegation of Authority and Line of Succession During Superintendent Absence or Vacancy” (the “Delegation of Authority”). A copy of the Delegation of Authority is attached hereto as Exhibit “B”. In the Delegation of Authority, the Superintendent declares who should exercise the powers and carry out the duties of the Superintendent during her vacancy.

However, unless so provided by statute, a public official may not delegate to another person the public official’s discretionary powers:

This office has previously recognized the general proposition that a public officer or agency may not delegate its discretionary powers, except as prescribed by statute. Those duties which do not involve the exercise of an independent governmental discretion, judgment or authority are considered ministerial and may be delegated while those duties involving the exercise of independent judgment and discretion may not be delegated, absent statutory authority. See, e.g., Op. Att’y Gen. Fla. 88-61 (1988), citing Op. Att’y Gen. Fla. 74-116 (1974). See also, *State v. Inter-American Center Authority*, 84 So. 2d 9 (Fla. 1955); *Blitch v. Buchanan*, 131 So. 151 (Fla. 1930).

Op. Att’y Gen. Fla. 2006-18 (2006); *Wright v. Knight*, 381 So. 2d 729, 730 (Fla. 3d DCA 1980) (Holding that, “The authority of a public official to delegate the power of his office is clearly circumscribed by the decision of *State v. Inter-American Center Authority*, 84 So. 2d 9, 13-14 (Fla.1955) where the Supreme Court stated: “We are familiar with the rule that in the absence of statutory authority, a public officer can not delegate his powers, even with the approval of the court.”)(Emphasis supplied)

The Delegation of Authority does not cite to any statute as authority for such delegation and I am not aware of any such authority. Therefore, I must conclude that the Delegation of Authority is not effective to delegate the authority of the Superintendent or otherwise provide a line of succession.

It is true that the Delegation of Authority cites School Board Policy 1030 as authority. A copy of School Board Policy 1030 is attached hereto as Exhibit “C”. This policy provides in pertinent part:

The Superintendent shall perform the duties and responsibilities set forth in the Florida statutes, including, but not limited to, the following:

* * *

M. delegate authority to staff in any matters, when it becomes expedient to do so, and assume full responsibility for the execution and satisfactory completion of the

delegated activities . . .

Such policy also does not cite any statutes except for Sections 1001.49 and 1001.51, Florida Statutes, which set out the general powers of the Superintendent. These statutes do not address a delegation of authority. Therefore, in my opinion, the above policy only provides for the delegation of “ministerial duties” as provided in Op. Att’y Gen. Fla. 2006-18 (2006)

Further, the Policy requires the Superintendent to, “[A]ssume full responsibility for the execution and satisfactory completion of the delegated activities. . .” The quoted phrase would foreclose the ability of the Superintendent to delegate the Superintendent’s power or duties during the Superintendent’s vacancy of office because during such vacancy the Superintendent could not assume full responsibility for the execution and satisfactory completion of the delegated activities.

Finally, in the Delegation of Authority, the Superintendent seeks to assign additional job duties (acting as the superintendent) to certain designated District employees. Pursuant to Section 1012.23(1), Florida Statutes, the School Board is authorized to adopt rules governing personnel matters, including the assignment of duties and responsibilities for all district employees. Pursuant to Section 1012.23(1), Florida Statutes, the School Board has chosen to enact its Policy 1600 concerning the assignment of duties to District employees. Such policy requires that all job descriptions must be “submitted to the Board for final approval.” Therefore under Policy 1600 any attempt by the Superintendent to assign these new duties (including acting as the superintendent) to the designated District employees would be ineffective absent final approval by the School Board.

CAN SOMEONE BE DESIGNATED TO PERFORM THE FUNCTIONS OF THE SUPERINTENDENT TEMPORARILY UNTIL THE GOVERNOR MAKES AN APPOINTMENT? IF SO HOW?

Presently School Board Policies provide for the School Board to designate a person to perform the functions of the superintendent temporarily, until the governor acts, in cases of suspension of the Superintendent. Policy 1060 provides:

1060 - INCAPACITY OF THE ELECTED SUPERINTENDENT

Under the Florida Constitution, only the governor has the power to suspend the superintendent for, among other reasons, temporary or permanent inability to perform duties, and to fill the office by appointment for the period of suspension.

In the event the elected superintendent is suspended by the governor but the governor does not fill the office by appointment, the School Board shall designate a person to perform the functions of the superintendent temporarily. Such person will serve only until such time as the governor fills the office by appointment or

reinstates the elected superintendent.

The above Policy only deals with the situation where an elected superintendent has been suspended by the governor, not where the office is vacant as in the instant case. Therefore it cannot be relied upon as authority for the School Board to designate a person to act as superintendent. However, it does show how such a designation would work.

Further, the School Board has broad “home rule” powers which allow the School Board to exercise any power for school purposes except those expressly prohibited by the constitution or general law:

Section 1001.32(2), Florida Statutes, provides that “district school boards shall operate, control, and supervise all free public schools in their respective districts and may exercise any power except as expressly prohibited by the State Constitution or general law.” This has been acknowledged as giving school boards broad home rule powers to exercise any power for school purposes in the operation and supervision of the free public schools unless expressly prohibited by the constitution or general law.

Op. Att'y Gen. Fla. 2010-49 (2010)

The home rule power of the district school board is codified in section 1001.32(2), Florida Statutes, which states:

“In accordance with the provisions of s. 4(b) of Art. IX of the State Constitution, district school boards shall operate, control, and supervise all free public schools in their respective districts and may exercise any power except as expressly prohibited by the State Constitution or general law.” (e.s.)

Thus, the district school board has the authority to enact rules and policies on any school matter unless it is expressly prohibited to do so by the State Constitution or the Florida Statutes.

Op. Att'y Gen. Fla. 2004-56 (2004)

I am unaware of any provision of the State Constitution or Florida Statutes which addresses how or if a person may be designated to temporarily perform the functions of the superintendent until the Governor appoints someone to fill the Office of Superintendent. Therefore, in my opinion, the School Board possesses the authority to enact a Policy (like Policy 1060) which provides that the School Board may designate someone to temporarily perform the functions of the superintendent until the Governor appoints someone to fill the Office of Superintendent.

HOW CAN THE SCHOOL BOARD ENACT A POLICY PROVIDING FOR SUCH

DESIGNATION?

As set out above, the School Board Policy 1060 presently provides for the School Board may designate someone to temporarily perform the functions of the Superintendent until the Governor appoints someone to fill the Office of Superintendent. In my opinion, the simplest way to provide a policy as contemplated herein is for the School Board to amend Policy 1060 to include the instant situation.

Therefore I recommend that the School Board adopt and amended Policy 1060 as shown in Exhibit “D” attached hereto. Also the School board should direct staff to advertise such amended policy for a public hearing and adoption at our earliest opportunity. A “REDLINE” version of the amended policy showing all of the additions and deletions is also attached as Exhibit “E”.

Of course a change of policy like this will have to be advertised for no less than 28 days prior to the above public hearing. Section 120.54(3)(a)2, Florida Statutes; Section 120.81(1)(d), Florida Statutes.

CAN THE SCHOOL BOARD ACT WHILE IT IS WAITING FOR THE ADVERTISEMENT OF THE ABOVE POLICY?

Florida law provides that where the School Board finds that an immediate danger to the public health, safety, or welfare requires emergency action, the School Board may adopt any policy necessitated by the immediate danger. Section 120.54(4)(a), Florida Statutes. In my opinion the prospect of attempting to run this District without a superintendent does present such an immediate danger to the public welfare that it requires emergency action in the form of the adoption of an emergency policy allowing the School Board to designate someone to act as superintendent temporarily until the governor appoints someone to serve the remainder of the Superintendent’s term.

My proposed emergency policy, which is substantially the same as the amended policy 1060 set out above, is attached hereto as Exhibit “F”. By law, the emergency policy is only effective for 90 days. Therefore the School Board should still pursue the permanent amended policy 1060 set out above.

The School Board presently has a special meeting set for May 1, 2019. Item 2.4 on the agenda is “Emergency Rule for Appointment of Interim Superintendent - Chair.” In my opinion, at such time, the School Board could enact the emergency policy and then immediately designate someone to act as superintendent temporarily until the governor appoints someone to serve the remainder of the Superintendent’s term.

END MEMORANDUM

EXHIBIT “A”

District School Board of Madison County

Dr. Karen Todd Pickles
Superintendent
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An Equal Opportunity Employer



April 12, 2019

Chair Gibson, Board Members and Staff:

Effective leaders know when they have reached an impasse and are no longer effective. After pouring my heart and soul into making effective changes for our students, the superintendent and board have reached a position where I personally feel my position is ignored, the board makes their own recommendations, and the position of superintendent is not considered in actions. The past three and half months have been wrought with many accusations, an intentional micro-management battle by the board, and an overall intent to strip the powers and duties statutorily granted to the superintendent. There comes a time when one must decide to continue the good fight and remember why you started a journey; however, when that same journey has a negative impact on your family and health, you must reevaluate the purpose.

After significant reflection, both personally and professionally, I wish to notify you that I have decided to tender my letter of resignation as Superintendent of Schools for the Madison County effective, April 30, 2019. I have accepted another position where my work will focus more directly on providing direct support services to those truly needing assistance, which is one of my greatest passions.

I truly thank the citizens of Madison County and all the staff of the Madison County School District for giving me the opportunity to serve the students in our county. I started this journey in an effort to make changes and turn our school system around. With my background and experience, I know what students need to complete to be competitive for life after graduation. Change is never easy, but I looked for the positive features in all our employees.

I am grateful for the parents, community leaders, and staff, who came together on behalf of student achievement which resulted in significant progress and achievements within our schools. During the 2017-18 school year, we overcame many challenges and improved our district to a grade of B. Our greatest challenge was moving our persistently low-performing school out of turn around.

While under my leadership, Madison County has been filled with many accomplishments in academics and athletics. We have seen improvements in student growth and academic achievement, we continue to close our achievement gaps, we've increased graduation rates, and our latest academic accomplishment was the recent expansion in our learning opportunities. With the excellent coaching staff, our coaches have built relationships with our students and instilled in our teams the desire to achieve their very best. With such, Madison County can proudly claim they are back-to-back State Championships in Football and a first-time State Championship in Boy's Basketball.

Other recent district and school accomplishments show our continued efforts for our students and teachers. These include our collaborated Welding Program with our local community college, our additional instructional professional development support for our new teachers, streamlined

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District School Board of Madison County

Dr. Karen Todd Pickles
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curriculum offerings focused on standards, and a single sign-on approach with our technology. Additionally, there was a recent change in leadership at our largest school. With this leadership change came a shift in focus to increase the rigor in K-2 and tackle discipline. Providing additional resources and addressing the student issues saw a reduction in discipline referrals.

With additional funding, we now have a school resource officer at each of our public traditional schools and have an increased awareness on the trauma issues our students are faced with daily. Focusing on our students and our teachers is an example of focusing on the whole child initiative and a way to address the social and emotional needs of our students. The increased professional development available to our teachers is just one initiative we have as an investment in our human capital—our staff. The increased staffing investments have been supportive measures to address the behavioral needs in our schools.

With the help of our very supportive community members and business partners, we successfully brought our persistently low-performing school out of turn-around by implementing a continuous improvement model for learning. Madison's educational programs are focusing on a standards-based learning curriculum for our students, but the work is not nearly done.

Additionally, during the 2017-18 year, our audited fund balance realized the largest financial increased since 2012. The audited fund balance increased from 4.0% to 5.5% as of June 30, 2018. With consistent monitoring, and ensuring better grant utilization, we have streamlined our expenditures to begin an overall improvement of the fiscal health of the district—something that cannot be accomplished overnight unless significant expenditure reductions are addressed. Our current practices will continue to see savings in the future.

I can truly say I did what I was elected to do—improve our schools. I truly hope each of you remember why you were elected and focus on our students and govern through policy—something each of you has lost sight of and seem to have forgotten overall the last several months.

I wish the employees of the Madison County School District the best in the future!

Sincerely,

Karen Todd Pickles
Superintendent
Madison County Schools

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EXHIBIT “B”

District School Board of Madison County

Dr. Karen Todd Pickles
Superintendent
Karen.Pickles@mcsbfl.us

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MCSB Policy 1030
Administrative Procedure 1030.01

**SUBJECT: DELEGATION OF AUTHORITY AND LINE OF SUCCESSION DURING
SUPERINTENDENT ABSENCE OR VACANCY**

1. Background:

From time to time, the Superintendent may be unavailable to sign official documents or take other official action. It will be necessary during those occasions for various official documents to be signed and for various orders and directions to be given on behalf of the Superintendent. In addition, there may be circumstances in which the position of the Superintendent becomes vacant. It is therefore necessary and prudent to name individuals authorized to act in the event of the Superintendent's absence or during a vacancy in the position of Superintendent.

2. Delegation of Authority and Line of Succession:

It is hereby ordered and directed that the following individuals, in descending line of succession and availability, are designated to act on behalf of the Superintendent in the event of absence or vacancy. The powers and duties of the Superintendent are hereby delegated to such individuals to be assumed and carried out during such absence or vacancy.

- (1) Chief Human Capital Officer
- (2) Chief Finance Officer
- (3) Director of Exceptional Student Education/ Student Services
- (4) Coordinator of Curriculum
- (5) Coordinator of Safety/Operational Services

Updated this 13th day of April, 2019.

Karen Pickles; PhD
Superintendent

Reference: Administrative Procedure 1030: Administrative Authority
MCSB Policy 1030 Superintendent of Schools

EXHIBIT “C”



Book	Policy Manual
Section	1000 Administration
Title	SUPERINTENDENT OF SCHOOLS
Code	po1030
Status	Active
Adopted	September 20, 2016

1030 - **SUPERINTENDENT OF SCHOOLS**

The Superintendent, as secretary and executive officer of the School Board, shall have the responsibility for the administration and management of the District's schools and for the supervision of instruction in the District.

The Superintendent shall enforce the rules of the State Board of Education, rules of the Florida Department of Education, and the policies of this Board.

The Superintendent shall provide educational direction for the instructional staff and supervision for the support staff.

The Florida statutes vest in the Superintendent the following powers:

- A. exercise general oversight over the District in order to determine problems and needs, and recommend improvements.
- B. advise and counsel with the Board on all educational matters and make recommendations to the Board for action regarding such matters as should be acted upon.
- C. recommend to the Board such policies as the Superintendent may consider necessary for the District's more efficient operation.
- D. prepare and submit to the Board for adoption such policies to supplement those rules adopted by the State Board of Education that, in the Superintendent's judgment, will contribute to the efficient operation of the District, and, upon adoption by the Board, require compliance with these policies.
- E. from time-to-time prepare, organize, and submit to the Board for adoption such minimum standards relating to the operation of any phase of the District program as are needed, in the Superintendent's judgment, to supplement standards of the State Board of Education and as will contribute to the efficient operation of the District's program, and, upon adoption by the Board, require that said standards are observed.
- F. perform such duties and exercise such responsibilities as are assigned to the Superintendent by law and by rules of the State Board of Education.

The Superintendent shall perform the duties and responsibilities set forth in the Florida statutes, including, but not limited to, the following:

- A. require the participation of all instructional staff members and school administrators in training on the District's standards of ethical conduct and the related policies and procedures upon employment and annually thereafter;
- B. make recommendations, nominations, proposals, and reports required by law to be acted upon by the Board;
- C. keep the Board informed of school operation by preparing Board agendas, providing oral and written communication, scheduling management meetings, and requesting special Board meetings that become necessary to keep the Board properly informed

- D. require that all aspects of District operation comply with State laws and regulations as well as Board contracts and policies
- E. require that all laws, rules of the State Board of Education, and the policies of the Board are properly observed
- F. prepare and submit the annual budget to the Board for adoption and to direct all expenditures within the appropriations adopted by the Board
- G. direct the work of all personnel in accordance with the Florida statutes, Federal law, and the policies of the Board
- H. recommend measures to the Board so that adequate educational facilities are available throughout the District
- I. prepare reports to the Board on the conditions and needs of the schools and to acquaint the public with the said activities and needs
- J. assign staff to their respective teaching duties
- K. work cooperatively with parents and community groups concerned with programs in the schools
- L. participate in such conferences and courses of continuing professional education so that s/he may function more efficiently and effectively
- M. delegate authority to staff in any matters, when it becomes expedient to do so, and assume full responsibility for the execution and satisfactory completion of the delegated activities
- N. recommend to the Board an annual plan for instructional programs

The Superintendent may authorize changes or exceptions as necessary for implementing the instructional program.

Pursuant to State law, the superintendent shall complete four (4) hours of ethics training each calendar year that addresses, at a minimum, the constitutional "Sunshine Law" provisions (Article II, Section 8), the statutory **Code of Ethics for Public Officers and Employees** (F.S. Chapter 112, Part III), and the public records and public meetings laws. This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered.

Pursuant to the Florida statutes, the Superintendent shall not knowingly sign and transmit to any state official a report that the Superintendent knows to be false or incorrect. Furthermore, the Superintendent shall investigate any allegation of misconduct by instructional staff members or school administrators, as defined in F.S. 1012.01, which affects the health, safety, or welfare of a student, and shall report the alleged misconduct to the Department as required the Florida statutes and Policy 8141 – Reporting Misconduct.

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Legal

F.S. 1001.49, 1001.51

EXHIBIT “D”

Book	Policy Manual
Section	1000 Administration
Title	SUSPENSION OF THE ELECTED SUPERINTENDENT OR VACANCY IN THE OFFICE OF ELECTED SUPERINTENDENT
Code	po1060
Status	Active
Adopted	_____, 20____

1060 - SUSPENSION OF THE ELECTED SUPERINTENDENT OR VACANCY IN THE OFFICE OF THE ELECTED SUPERINTENDENT

Under the Florida Constitution, the Governor has the power to suspend the Superintendent and thereafter the Governor may fill the Office of Superintendent by appointment for the period of suspension. Under Section 114.01, Florida Statutes, the Office of Superintendent may be deemed vacant and thereafter the Governor shall fill the Office of Superintendent by appointment.

Where the Superintendent has been suspended or the Office of Superintendent is vacant, the School Board shall, from time to time, designate a person to perform the functions of the Superintendent until the Governor appoints a person to fill the Office of Superintendent as provided by law or the period of suspension or vacancy ends as provided by law, whichever occurs first. Such designation may be revoked by the School Board at any time.

Legal	Florida Constitution, Art. IV, Sec. 7, Art. IV, Sec. 1(f) F.S. 114.01, 1012.22, 1012.23
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EXHIBIT “E”

Book	Policy Manual
Section	1000 Administration
Title	INCAPACITY <u>SUSPENSION</u> OF THE <u>ELECTED SUPERINTENDENT</u> <u>OR VACANCY IN THE OFFICE OF</u> ELECTED SUPERINTENDENT
Code	po1060
Status	Active
Adopted	<u>September 20, 2016</u>

~~1060 - INCAPACITY~~ _____, 20

1060 - SUSPENSION OF THE ELECTED SUPERINTENDENT OR VACANCY IN THE OFFICE OF THE ELECTED SUPERINTENDENT

Under the Florida Constitution, ~~only~~ the ~~g~~Governor has the power to suspend the ~~superintendent~~ for, among other reasons, temporary or permanent inability to perform duties, and to fill the office Superintendent and thereafter the Governor may fill the Office of Superintendent by appointment for the period of suspension.

~~In the event the elected superintendent~~ Under Section 114.01, Florida Statutes, the Office of Superintendent may be deemed vacant and thereafter the Governor shall fill the Office of Superintendent by appointment.

Where the Superintendent has been suspended or the Office of Superintendent is suspended by the governor but the governor does not fill the office by appointment ~~vacant~~, the School Board shall, from time to time, designate a person to perform the functions of the ~~s~~Superintendent temporarily. ~~Such person will serve only until such time as the governor fills the office by appointment or reinstates the elected superintendent~~ until the Governor appoints a person to fill the Office of Superintendent as provided by law or the period of suspension or vacancy ends as provided by law, whichever occurs first. Such designation may be revoked by the School Board at any time.

Legal	Florida Constitution, Art. IV, Sec. 7, <u>Art. IV, Sec. 1(f)</u> F.S. <u>114.01</u> , 1012.22, 1012.23
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EXHIBIT “F”

SCHOOL BOARD OF MADISON COUNTY, FLORIDA
EMERGENCY POLICY - ER 1060

Provisions of the Emergency Policy:

Under the Florida Constitution, the Governor has the power to suspend the Superintendent and thereafter the Governor may fill the Office of Superintendent by appointment for the period of suspension. Under Section 114.01, Florida Statutes, the Office of Superintendent may be deemed vacant and thereafter the Governor shall fill the Office of Superintendent by appointment.

Where the Superintendent has been suspended or the Office of Superintendent is vacant, the School Board shall, from time to time, designate a person to perform the functions of the Superintendent until the Governor appoints a person to fill the Office of Superintendent as provided by law or the period of suspension or vacancy ends as provided by law, whichever occurs first. Such designation may be revoked by the School Board at any time.

Authority for Adoption of This Emergency Policy. The School Board is adopting this emergency policy under the provisions of Section 120.54(4), Florida Statutes as well as Sections 114.01, 1001.32(2), 1012.22, 1012.23, Florida Statutes.

Finding of Immediate Danger to the Public Health, Safety, or Welfare Which Requires Emergency Action. The School Board finds that there is an immediate danger to the public health, safety, or welfare which requires the adoption of this emergency policy for the reasons set out herein. The Superintendent has resigned effective April 30, 2019 and therefore the Office of Superintendent is now vacant. The Superintendent's present term of office runs until November 16, 2020. Only the Governor of the State of Florida has the authority to appoint someone to fill the Office of Superintendent for the remainder of the Superintendent's term of office. The Office of Superintendent is crucial to the effective operation of the Madison County School District and it is imperative that someone be designated to exercise the powers and perform the duties of the Superintendent until the Governor takes action to appointing a person to fill the Office of Superintendent for the remainder of the Superintendent's term. No other process or method is given by law to designate someone to exercise the powers and perform the duties of the Superintendent pending action by the Governor.

Finding that the Procedure Used to Adopt the Emergency Policy Provides at Least the Procedural Protection Given by other Statutes, the State Constitution, or the United States Constitution. The School Board finds that the procedure used by the School Board to enact this emergency policy is fair under the circumstances and provides at least the procedural protection given by other statutes, the State Constitution, or the United States Constitution because such procedure is consistent with the statutory emergency enactment procedures for County and City ordinances. See, Section 125.66(3), Florida Statutes ("The emergency enactment procedure shall be as

follows: The board of county commissioners at any regular or special meeting may enact or amend any ordinance with a waiver of the notice requirements of subsection (2) by a four-fifths vote of the membership of such board, declaring that an emergency exists and that the immediate enactment of said ordinance is necessary. “); Section 166.041(3)(b), Florida Statutes (“The governing body of a municipality may, by a two-thirds vote, enact an emergency ordinance without complying with the requirements of paragraph (a) of this subsection.”)

Finding that in Enacting this Emergency Policy the School Board Has Taken Only That Action Necessary to Protect the Public Interest. The School Board finds that in enacting this emergency policy, the School Board has taken only that action necessary to protect the public interest.

Publication of Notice of this Emergency Policy. Immediately upon adoption, the School Board Attorney is hereby authorized and directed to publish notice of this emergency policy as required by Section 120.54(4)(a)(3), Florida Statutes.

Effective Date for this Emergency Policy. This emergency policy shall be effective shall be effective immediately.

Period of Time for Which This Emergency Policy Shall be Effective. This emergency policy shall not be effective for a period longer than 90 days and shall not be renewable, except as provided in Section 120.54(4)(c), Florida Statutes.

END