

TRESPASS POLICY:

I. Definitions:

- (1) Authorized Personnel shall mean those persons with the authority granted by this Policy, acting in their official capacity for the School Board, to petition a Law Enforcement Officer to issue a Trespass Warning, as follows:
 - (a) When an incident occurs at any School Board property or function other than a School Board meeting, a principal, assistant principal, executive director, assistant superintendent, superintendent, athletic director, School Board member, or other School Board employee with primary management or oversight responsibility over the School Board property in question at the time the Trespass Warning is issued;
 - (b) When an incident occurs at a School Board meeting, the superintendent or his/her designee; or
 - (c) A Law Enforcement Officer, but only when persons in subsection I.(1)(a) or (b), above, are not available.
- (2) Law Enforcement Officer shall mean a sworn officer with the Sarasota County School Police Department or other law enforcement officer certified pursuant to Chapter 943, Florida Statutes that is working with or on behalf of the School Board at the time of the incident that led to the issuance of the Trespass Warning or who is a sworn law enforcement officer in any jurisdiction that is specifically tasked with obligations pursuant to this policy in order to comply with jurisdictional boundaries.
- (3) School Board Property shall mean property owned, leased, operated or managed by the School Board, including, but not limited to, Schools, structures, conveyances, vehicles, buses, fields, sports complexes, board rooms, trails, playgrounds, parking lots, vacant lots, construction sites, fenced land, posted land, easements, and other property generally used for educational or School Board purposes.
- (4) School shall mean the grounds or any facility, including school buses, of any kindergarten, elementary school, middle school, or secondary school.
- (5) School Safety Zone shall mean in, on or within 500 feet of any real property owned by or leased to any elementary, middle, or high school or school board that is used for elementary, middle, and high school education.
- (6) Respondent shall mean the person who was issued the Trespass Warning.
- (7) Trespass shall have the same meaning as defined in Chapter 810, Florida Statutes.

(8) Trespass Warning shall mean a written document that bars the Respondent from entering or remaining on specified public property.

II. Trespass Procedures:

(1) Trespass Warning Decision by Authorized Personnel. Only Authorized Personnel may make an initial determination to issue a Trespass Warning for School Board property.

(2) Procedures for Issuing Trespass Warnings. The following procedures govern the issuance of Trespass Warnings:

(a) Authorized Personnel may issue a Trespass Warning to any Respondent they determine:

1. Acts or uses language while on School Board Property which by its very utterance or action inflicts injury or tends to incite an immediate breach of the peace which gives Authorized Personnel reason to believe based on articulable facts and circumstances that Respondent imminently threatens the safety or wellbeing of others;

2. Interferes with the expeditious or orderly process of a district school board meeting as contemplated by Florida Statute 1001.372 after having been previously lawfully removed from a district school board meeting pursuant to Florida Statute 1001.372(4) two times within the last six months or three or more times total;

3. Enters or remains on or within a School or School Safety Zone without legitimate business or without authorization, license, or invitation and while acting/doing so/acts in a manner that gives Authorized Personnel reason to believe based on articulable facts and circumstances that Respondent imminently threatens the safety or wellbeing of others; or

4. Violates one or more of the below laws, rules, or regulations while on School Board Property after having on two or more a previous occasions violated one or more of the following laws, rules, or regulations:

a. United States Statute;

b. United States Code of Federal Regulations;

c. Florida Statute;

d. Florida Administrative Code;

e. County ordinance;

f. Municipal ordinance; or

g. School Board policy.

(b) The initial determination by Authorized Personnel that a Trespass Warning is needed should take into consideration all of the facts and circumstances of the individual situation, including, but not limited to, the following:

1. the gravity of the alleged violation;

2. the Respondent's refusal to conform to any verbal requests or warnings to desist or cease the violation;

3. any previous violations- or incidents warranting removal committed by the Respondent; or

4. the harm or potential harm to the public, School Board members, School Board employees, or School Board property threatened by the Respondent's actions.

(c) The decision to issue a Trespass Warning shall originate from Authorized Personnel, but a Law Enforcement Officer shall perform the ministerial duties of writing the Trespass Warning and delivering it.

(d) The Trespass Warning shall contain a detailed narrative stating the facts and circumstances justifying its issuance.

(e) The Trespass Warning must designate with specificity which of the following laws, rules, regulations, policies, protocols, or provisions has been violated by identifying the specific provision of II.(2)(a) that was violated.

(f) The Trespass Warning must identify the scope of its prohibition(s) by address, parcel identification number, or other description so that a reasonable person would understand its meaning, e.g., School Board Landings Complex, 1960 Landings, Blvd., Sarasota, FL, 34231.

(g) The Trespass Warning may only be issued by a Law Enforcement Officer after receiving a written witness statement containing the information specified in II.(2). In the event the Authorized Personnel issuing the Trespass Warning is a Law Enforcement Officer issuing it pursuant to I.(1)(b), the Law Enforcement Officer shall not issue the Trespass Warning until completing a written witness statement.

(h) The Law Enforcement Officer shall personally issue or attempt to issue the original Trespass Warning to the Respondent. If the Respondent refuses to accept the Trespass Warning, the Law Enforcement Officer shall note Respondent's refusal on the Trespass Warning. A Respondent's failure to accept a Trespass Warning shall have no bearing on any arrest for trespassing under subsection (5) or (6) of this section. Presentation or delivery of the Trespass Warning to Respondent in conformance with this paragraph shall be considered actual communication by the School Board against Respondent's entry or remaining on the School, School Safety Zone, or School Property for the applicable time period of the Trespass Warning.

(i) The Law Enforcement Officer shall forward a copy of the Trespass Warning within the next business day after issuance to each of the following:

1. the designee of the Sarasota County Sheriff's Office or other law enforcement agency that keeps track of Trespass Warnings;
2. the designee of the School Board that will keep track of Trespass Warnings; and
3. Respondent.

(3) Violators Not Authorized, Licensed, or Invited. Respondents who have been lawfully issued a Trespass Warning for one or more of the enumerated reasons listed in Section II.(2) above shall be deemed to be not authorized, licensed, or invited to the School, a School Safety Zone related to the School, or School Property listed in the Trespass Warning during the time period for which and in the manner that Respondent is restricted, subject to any alternative procedures authorized in accordance with Section 7., below. Unless Respondent is issued a Trespass Warning directly related to a School Board meeting or an incident that imminently threatens the safety or wellbeing of others, Respondent shall be entitled to attend School Board meetings.

(4) Time Period of Trespass Warning. Trespass Warnings shall be issued for a period of 90 school days and any non-school days in between~~one (1) calendar year~~ and shall prohibit Respondent's entry onto the listed School Board property, unless the time period is modified by the Special Magistrate or amended by Authorized Personnel, including pursuant to Section 7., below.

(5) Removal/Citation/Arrest. Any Respondent who enters or remains on the School, a School Safety Zone related to the School, or School Property listed in the Trespass Warning during the time period for which and in the manner that Respondent is restricted may be removed, cited, or arrested for trespassing, consistent with the provisions of Chapter 810, Florida Statutes, if probable cause to do so exists.

(6) *Authority of Law Enforcement Preserved.* This section shall not be construed to limit the authority of Law Enforcement Officers to remove individuals from district school board meetings pursuant to Florida Statute 1001.372, or arrest or cite individuals for violating any federal law, Florida law, or local government ordinance on School Board Property.

(7) *Appeal.* The written Trespass Warning shall advise the Respondent of the right to appeal and the location at which to file the form to initiate the appeal. A Respondent shall have the right to appeal the issuance of the Trespass Warning as follows:

- (a) An appeal of the Trespass Warning must be filed, in writing, within ten days of its issuance, and shall include the Respondent's name, address and phone number, if any. The appeal shall be filed with the School Board of Sarasota County, FL, Att: the Superintendent's Office, 1960 Landings Blvd., Sarasota, FL, 34231. No fee shall be charged for filing the appeal.
- (b) The Superintendent shall designate legal counsel to act as legal counsel for the School Board during the appeal process.
- (c) Appeals shall be heard by a special magistrate with whom the School Board contracts to provide this service. Special Magistrates shall be selected by the Superintendent in his sole discretion.
- (d) Within thirty days following the filing of the appeal, the special magistrate shall schedule a hearing. Notice of the hearing shall be provided to the Respondent through regular U.S. Mail to the Respondent's address as provided on the notice of appeal. Additionally, the School Board shall provide notice:
 - 1. By posting notice on the School Board's website; or
 - 2. By contacting the Respondent through the email address and telephone number provided on the notice of appeal.
- (e) The Special Magistrate shall hold a quasi-judicial hearing as soon as possible following issuance of a Trespass Warning. In no event shall the hearing be held later than 30 days from the filing of the appeal unless the parties consent to a later date in writing. The Trespass Warning shall be presumed to be validly issued. Respondent shall be entitled to be heard, may present witnesses, and may be represented by a representative of his or her choice. The School Board may but is not required to present evidence or witnesses. The burden shall be on the Respondent to establish by competent substantial evidence that the Trespass Warning was invalidly issued in an arbitrary and capricious manner. In the event the Special Magistrate determines the Respondent met its burden, the Special Magistrate shall withdraw the Trespass Warning. In the event the

Trespass Warning is not invalidated, the Special Magistrate shall be empowered to adjust the length of the Trespass Warning's restrictions based on good cause. The technical rules of evidence shall not apply to appeals of Trespass Warnings. The appeal hearing shall be subject to the open meeting requirements outlined in Ch. 286, Florida Statutes.

- (f) Within 20 days of the hearing, the special magistrate shall issue a written decision on the appeal which shall be mailed to the Respondent at the address provided and to the School Board with attention to the Superintendent. If the Special Magistrate modifies the length of the restrictions for which Respondent is prohibited from entering or remaining on specific Schools, School Safety Zones, or School Property, the Special Magistrate shall notify the Parties in writing. Such written notification shall serve as the actual communication outlining that Respondent cannot enter or remain on the specified School, School Safety Zone, or School Property for the modified restricted period.
- (g) Respondent shall be entitled to copies of any document that the School Board intends to rely upon during the special magistrate hearing upon request to the Respondent in the same manner as provided by Chapter 119, Florida Statutes. Respondent, upon request from the School Board shall provide at least three (3) days in advance of the hearing any documents it will rely upon at the hearing to the School Board. If Respondent fails to timely provide requested materials, the School Board shall be entitled to continue the hearing for up to three (3) days.
- (h) Failure of the Respondent to appear personally or through legal counsel at the Special Magistrate hearing or subsequent appeal to the School Board, as scheduled, shall constitute a waiver of appeal, a failure to exhaust administrative remedies, and the upholding of the restrictions contained in the Trespass Warning.
- (i) The Parties may appeal the Special Magistrate's decision to the School Board. Notice of this hearing shall be made to Respondent in the manner described in II.(7)(d)., above. Respondent shall be limited to asserting to the School Board the reasons why the Special Magistrate's decision was arbitrary and capricious or otherwise unreasonable. Respondent shall not be permitted to present new evidence to the School Board at this appeal that was not presented to the Special Magistrate and to the extent such evidence is proffered, the School Board shall not be required to consider it. The School Board, by majority vote, shall uphold, reject, or uphold but modify the terms of the Trespass Warning. Any modifications by the School Board shall be outlined in writing and presented or delivered to Respondent. Upon presentation or delivery, the modified restrictions shall constitute actual communication of the restrictions regarding Respondent's entry or remaining on the specified School, School Safety

Zone, or School Property outlined therein. Nothing contained in this policy shall limit any other right to redress available to Respondent that may exist pursuant to law.

- (j) The Trespass Warning shall remain in effect during the appeal and review process unless or until it is withdrawn or modified.

(7) Fundamental Rights Acknowledged. The School Board shall implement alternative procedures to ensure a Respondent who has been issued a Trespass Warning can meaningfully exercise his or her First Amendment rights, Parental rights, and/or other fundamental rights. Such alternative procedures shall be overseen by an Assistant Superintendent designated by the Superintendent, in conjunction with the Authorized Personnel who issued the Trespass Warning, who shall ensure Respondent's ability to exercise his or her rights is not unreasonably denied.

STATUTORY AUTHORITY:

LAWS IMPLEMENTED:

ADOPTED: