

**SUBMISSION OF PROPOSAL FOR LOWER COST REGULATORY ALTERNATIVES
TO PROPOSED RULE PURSUANT TO SECTION 120.541, FLORIDA STATUTES
AND REQUEST FOR DRAW-OUT PROCEEDING PURSUANT TO SECTION
120.54(3)(C)2., FLORIDA STATUTES**

This submission of a proposal for lower cost regulatory alternatives and request for a draw-out proceeding are being submitted in response to a proposed rule by the District School Board of Pasco County (“District”) to change the student attendance boundaries for Anclote High, Gulf Middle, Gulf High, J.W. Mitchell High, Paul R. Smith Middle, River Ridge Middle, River Ridge High, and Seven Springs Middle to be effective July 1, 2018 (“Proposed Rule”). This proposal and request is being submitted in good faith by the undersigned individuals, who all reside within the student attendance boundaries affected by the Proposed Rule. Specifically, all of the undersigned individuals reside in the neighborhoods commonly known as Riverside Estates, Magnolia Estates, Oak Ridge, and Veteran’s Village (west of Seven Springs), (collectively “The West Side”), and the Proposed Rule, if adopted, will change the student attendance boundaries for The West Side from J.W. Mitchell High (“MHS”) and Seven Springs Middle School (“SSMS”) to Anclote High School (“AHS”) and Paul R. Smith Middle School (“PRSMS”). The undersigned are substantially affected persons with standing to challenge the Proposed Rule.

I. Statement of Estimated Regulatory Costs (“SERC”)

In the District’s notice for the Proposed Rule, the District states that it “does not anticipate the adoption of this rule will , , , directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in the state within 1 year after the implementation of the rule.” This statement is factually inaccurate, and the Proposed Rule will clearly result in direct or indirect regulatory costs in excess of \$200,000 within 1 year after the implementation of the Proposed Rule. Specifically, the Proposed Rule will result in the following direct or indirect regulatory costs that will individually or cumulatively exceed \$200,000 within 1 year after the implementation of the Proposed Rule:

A. Additional Transportation Costs

The Proposed Rule changes the school attendance boundary for The West Side from MHS and SSMS, which are approximately 2.5 miles (closest house) - 5.5 miles (furthest house) away from The West Side, to AHS and PRSMS, which are approximately 5.5 miles (closest house) – 8.5 miles (furthest house) away from The West Side. Although the District does provide bus transportation to a zoned school, the District does not provide bus transportation for many other school related activities, such as school sponsored extra-curricular activities, parent/teacher conferences or orientations, or for students that may need to leave school early, or arrive late, due to illness or a medical appointment (collectively “Other School Related Activities”). This will result in additional travel time and fuel costs to parents and students that currently drive approximately 2.5 - 5.5 miles for Other School Related Activities, and now will have to drive approximately 5.5 - 8.5 miles for Other School Related Activities. Furthermore, those parents and students that are able to utilize school choice to attend MHS or SSMS will no longer be guaranteed daily bus transportation if the Proposed Rule is adopted, which will result in additional daily travel time and fuel costs for these parents and students. Because the District

has not analyzed these additional transportation costs, the District has no rational basis for concluding that these costs will not exceed \$200,000 within 1 year after the implementation of the Proposed Rule.

B. Lower Property Values – Distance

The study attached hereto as **Exhibit A** demonstrates that there is a direct correlation between school distance and property values, even if the schools are similar in quality. Therefore, based on the results of this study, the Proposed Rule will negatively affect the value of homes in The West Side by changing the attendance boundaries of these neighborhoods to schools that are farther away. While the distance may seem minor at only a few miles, the travel time is significant. Because the District has not analyzed the effect of the Proposed Rule on property values, the District has no rational basis for concluding that the negative affect on property values will not exceed \$200,000 within 1 year after implementation of the Proposed Rule.

C. Lower Property Values – School Grades

The studies and articles attached hereto as **Exhibit B** demonstrates that there is a direct correlation between school Grades and property values. Therefore, based on the results of this study, the Proposed Rule will negatively affect the value of homes in The West Side by changing the attendance boundaries of these neighborhoods to schools with lower grades. Attached as **Exhibit C** are the current school grades per Pasco County Schools. Attached as **Exhibit D** are the current grades from Greaterschools.org. Zillow uses the grades from Greaterschools.org when determining home values. Because the District has not analyzed the effect of the Proposed Rule on property values, the District has no rational basis for concluding that the negative affect on property values will not exceed \$200,000 within 1 year after implementation of the Proposed Rule.

D. Lower Property Values – Lost Taxes

Related to Items B and C above, as lower property values will be assessed on the houses in The West Side, lower property taxes will also be assessed on these same properties. Because the District has not analyzed the effect of the Proposed Rule on the property taxes lost that will be seen because of the lower property values, the District has no rational basis for concluding that the negative affect on property values will not exceed \$200,000 within 1 year after implementation of the Proposed Rule.

E. Litigation Costs and Damages

As evidenced by the most recent litigation challenging the 2017-18 attendance boundaries for the west side middle and high schools (“2017-18 Litigation”), a change of school attendance boundaries affecting established neighborhoods (such as The West Side) will almost certainly result in additional litigation costs to the District and regulated parents and students in excess of \$200,000. For example, the District’s own fees and costs of defending the 2017-18 Litigation was likely in excess of \$200,000, and the District likely will be responsible for paying a significant portion of the litigation fees and costs incurred by the regulated parents and students for the 2017-18 Litigation. Although the District may assume that the Proposed Rule is insulated from legal challenge because the District (i) has revamped its legal notice and process

for boundary modifications, and (ii) has eliminated boundary committees, this assumption is not correct. Specifically, the Proposed Rule remains subject to legal challenge for a number of reasons, including the following:

1. The Proposed Rule is effectively Option 5, which was also created by the Boundary Committee, and therefore remains subject to invalidation for all the reasons that Option 4A-2 was invalidated. Furthermore, to the extent the Proposed Rule relies on data, analysis or decisions that were created or made by the Boundary Committee, the Proposed Rule remains subject to invalidation for all the reasons that Option 4A-2 was invalidated. This will continue to be an issue as long as the District continues to rely on Chris Williams (a member of the Boundary Committee) to prepare the attendance boundaries.
2. The District has not prepared a SERC for the Proposed Rule as required by Sections 120.54(3)(b) and 120.541(1)(b), Florida Statutes. Therefore, the Proposed Rule is an invalid exercise of delegated legislative authority pursuant to Section 120.52(8)(a), Florida Statutes.
3. The Proposed Rule is vague, fails to establish adequate standards for District decisions, and vests unbridled discretion in the District. Therefore, it is an invalid exercise of delegated legislative authority pursuant to Section 120.52(8)(d), Florida Statutes. Specifically, the Proposed Rule consists only of a proposed map depicting boundary changes, fails to explain the effect of the proposed boundary changes on school choice, and fails to explain which students will or will not be grandfathered under the proposed boundary changes. Furthermore, the proposed map includes the phrase “(6th, 9th Phased)” without any explanation as to what this phrase means, or which schools and students this phrase applies to. The undersigned recognize that the District has published a “Questions and Answers” form on its website that addresses some of these issues, but these “Questions and Answers” do not appear to be incorporated into the Proposed Rule, even by reference.
4. Because the Proposed Rule will negatively affect property values, and because many parents purchased and invested in their homes in reliance upon the existing attendance boundaries, the Proposed Rule will subject the District to claims for damages pursuant to Section 70.001, Florida Statutes and/or regulatory taking claims under Penn Central Transp. Co. v. New York City, 434 U.S. 104 (1978). School overcrowding is a County-wide issue, and any solution to this issue should be borne by the public at large instead of the limited number of property owners that will be bearing a disproportionate share of this burden through the Proposed Rule. See Section 70.001(3)(e), Florida Statutes.

Even if the District is ultimately successful in defending the foregoing legal challenges to the Proposed Rule, the cost of the District litigating the foregoing legal challenges will almost certainly exceed \$200,000 within the first year of implementation of the Proposed Rule.

II. Lower Cost Regulatory Alternatives

In an effort to minimize or avoid the regulatory costs set forth above, the undersigned propose in good faith the following lower cost regulatory alternatives to the Proposed Rule which, individually or cumulatively, will substantially accomplish the objective of the law being implemented (i.e., relief of school overcrowding):

A. Earlier Construction of new Wings or Reliever Schools

In lieu of the Proposed Rule, the District should immediately begin design and construction of (a) new wings at the MHS or SSMS campus, (b) the Starkey K-8, and/or (c) the new high school north of S.R. 54 (behind Asturia) where the District recently acquired land. Construction of these new facilities will provide relief to MHS and SSMS. The undersigned recognize that the District's existing funding sources may not be sufficient to begin immediate design and construction of these new facilities; however, the District has funding sources available that could be adopted and utilized to construct these new facilities. Specifically, the District could authorize a referendum for a general obligation bond, or for the adoption of the 1/2 cent sales tax for schools, either of which likely would be sufficient to begin earlier construction of reliever facilities. Furthermore, either of these options would ensure that the burden of school overcrowding is properly borne by the public at large, and not by the limited number of property owners that are subject to the Proposed Rule. The use of general obligation bonds or sales tax to construct needed public facilities is not a new concept in Pasco County and is even supported by some influential members of the Pasco Republican Party. For example, the Pasco County Sheriff is supporting a general obligation bond referendum in 2018 for a new jail, and the Pasco County Board of County Commissioners is supporting a general obligation bond referendum in 2018 for new fire stations and other needed public infrastructure. At a minimum, the District should place at least one of these funding sources on the ballot for 2018 to determine if this alternative is viable. Although there are costs associated with this alternative, these are costs that the District eventually will have to expend to construct these new facilities in the future, so the only true additional costs to the District are (a) the cost (if any) of placing a referendum on the ballot, and (b) any interest expense associated with borrowing the funds to construct the facilities earlier. These additional costs are unlikely to exceed the regulatory costs of the Proposed Rule, particularly if the Proposed Rule results in protracted litigation and/or damages.

B. Meaningful Address Verification

In lieu of the Proposed Rule, the District should implement meaningful address verification to ensure that all students that currently attend, or plan to attend, overcrowded schools legally reside in the attendance boundaries for these schools. The District has in the past taken the position that there are legal or practical constraints to this alternative, but the District has so far failed to explain why other Florida jurisdictions, such as the Broward County School District, are able to implement this alternative, but the Pasco County School District cannot. A copy of Broward County's address verification policy is attached hereto as **Exhibit E** (specifically Policy 5.1D1 – 5.1D10 on pages 7-8), and the undersigned specifically propose that the Broward County address verification policy be adopted as a lower cost regulatory alternative to the Proposed Rule. Until true address verification has been implemented, the districts data is flawed, and therefore any results gleaned from that data are flawed. These additional costs are unlikely to exceed the regulatory costs of the Proposed Rule, particularly if the Proposed Rule results in protracted

litigation and/or damages.

C. Double Sessions

In lieu of the Proposed Rule, the District should implement double sessions at SSMS/JWMHS. While double sessions are not favored by some, the solution has been used by the District in the past. These additional costs are unlikely to exceed the regulatory costs of the Proposed Rule, particularly if the Proposed Rule results in protracted litigation and/or damages.

D. Administrative Rezoning (Rezoning Vacant Land Pre-Construction)

In lieu of the Proposed Rule, the District should create a rule whereby vacant land is administratively rezoned (by District planning staff, the District Superintendent, or the School Board) before the vacant land is developed, such as at the time of building permit, plat or site plan approval, or potentially even earlier in the development process. Homeowners that are zoned for a particular school before they ever purchase their home cannot claim detrimental reliance or damages, because the change in boundaries occurred before they purchased their home. The District recently rezoned vacant land from Trinity Oaks Elementary School to Seven Springs Elementary School without any significant controversy, but the District has missed, or is about to miss, opportunities for similar rezonings of vacant land in projects such as Starkey Ranch, Asturia, South Branch Ranch, and Longleaf Neighborhoods 4 and 5. Accordingly, the District should immediately adopt and implement a rule that allows vacant land that is proposed to be developed to be administratively rezoned pre-construction as an alternative to the Proposed Rule. The Seminole County School District has adopted a similar rule. See **Exhibit F**, page 240 (5.31.IV.C).

III. Request for Draw-Out Proceeding

If the District disputes any of the factual or legal assertions set forth above, and elects to proceed with the Proposed Rule in lieu of the undersigned's proposed lower cost regulatory alternatives to the Proposed Rule, the undersigned hereby request a draw-out proceeding pursuant to Section 120.54(3)(c)2., Florida Statutes to address any disputed factual or legal assertions. The proposed workshop and public hearing that the District has scheduled for the Proposed Rule will not provide an adequate opportunity for the undersigned to protect their substantial interests that are being affecting, because the workshop and public hearing will not have a neutral decision-maker present (e.g., an Administrative Law Judge) who can render an objective and binding decision on any disputed factual or legal issues. For example, if the District disputes that the Proposed Rule will negatively affect property values, or disputes that this negative effect will result in potential liability to the District under Section 70.001, Florida Statutes, there will not be any independent and neutral decision maker present at the workshop or public hearing who is qualified to resolve these factual and legal disputes. Furthermore, although the District has not announced its procedures for the workshop and public hearing, it does not appear that the workshop and public hearing will provide any of the procedural protections available under Section 120.57, Florida Statutes, such as an opportunity for discovery and cross-examination.

This document may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same document.

As additional information is released by the district we reserve the right to add additional SERC requests and/or Lower Cost Regulatory Alternatives.

We look forward to your response.

Sincerely,

Residents of the West Side Area.

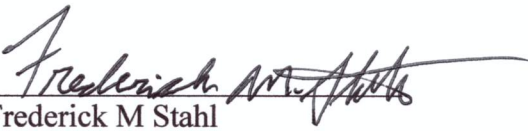
| *Melissa Cook*

Missy Cook

Veteran's Village

7052 Carmel Ave

New Port Richey, FL 34655

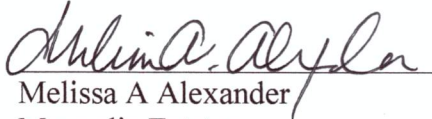
A handwritten signature in black ink, appearing to read "Frederick M. Stahl", with a long horizontal flourish extending to the right.

Frederick M Stahl

Meadowood

2920 Meadowood Drive

New Port Richey, FL 34655

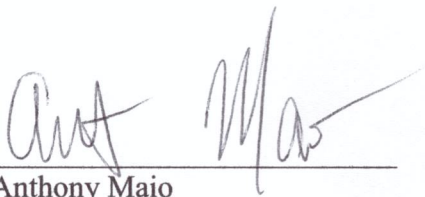
A handwritten signature in dark ink, appearing to read "Melissa A. Alexander", written over a horizontal line.

Melissa A Alexander

Magnolia Estates

2213 Mountain Ash Way

New Port Richey, FL 34655

A handwritten signature in dark ink, appearing to read 'Anthony Maio', is written over a horizontal line.

Anthony Maio
Oak Ridge
6308 Sunhigh Drive
New Port Richey, FL 34655

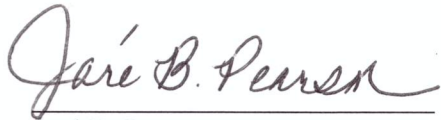
A handwritten signature in dark ink, appearing to read 'David J Steadham', is positioned above a horizontal line.

David J Steadham

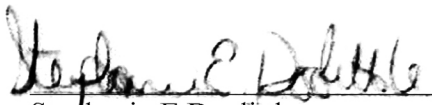
Plantation

3123 Tori Court

New Port Richey, FL 34655

A handwritten signature in dark ink, reading "Jaré B. Pearson". The signature is fluid and cursive, with a horizontal line drawn underneath it.

Jaré B. Pearson
Riverside Estates
6223 Rockcross Ave
New Port Richey, FL 34655

A handwritten signature in dark ink, appearing to read 'Stephanie E Doolittle', written over a horizontal line.

Stephanie E Doolittle
Venice Estates
3284 La Verne Court
New Port Richey, FL 34655