

# Public Schools Element

*Goals, Objectives, and Policies*

*Approved July 7, 2008 • Amended August 28, 2017*

POLICY DOCUMENT

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## **PUBLIC SCHOOL FACILITIES GOALS, OBJECTIVES AND POLICIES**

### **GOAL 1**

To establish plans, regulations and programs in conjunction with Orange County Public Schools (OCPS) to facilitate the future availability of public school facilities to serve City residents, consistent with the adopted level of service for public schools and with State of Florida concurrency statutes and regulations.

*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*

**Objective 1.1** The City of Orlando shall coordinate with OCPS to implement a School Concurrency Management System that ensures adequate classroom capacity to accommodate impacts of new residential development throughout the planning period.

*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*

**Policy 1.1.1** The School Concurrency Management System shall include standards and procedures to ensure that new residential development complies with the Level of Service (LOS) standards provided in the City's adopted Capital Improvements Element. The adopted LOS shall be used to determine the available capacity of Elementary, Middle and High Schools within the designated Concurrency Service Area (CSA) where the development is proposed. The adopted LOS must be maintained in all CSAs for each school type.

In accordance with section 163.3180(1)(b), Florida Statutes, the adopted LOS standards for the purposes of implementing school concurrency shall be:

School Type	Standard*	Concurrency Service Area (CSA)
Elementary	110%	Modified Middle School Attendance Zones
Middle	100%	Middle School Attendance Zones
High	100%	High School Attendance Zones

\* Permanent FISH + "In-Slot" school, not to exceed Core Capacity for Elementary, and Middle school types. Permanent FISH, not to exceed Core Capacity for High Schools.

The LOS for all zoned K-8 schools is as follows: grades kindergarten through five shall be included in the adopted LOS for elementary schools and grades six through eight shall be included in the adopted LOS for middle schools.

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A development shall be deemed to meet school concurrency if there is sufficient capacity in the CSA where the development is located or where sufficient capacity exists in one or more contiguous CSAs, so long as the LOS in the adjacent zone does not exceed 95% of the LOS and the School District does not exceed 100% of capacity on a district-wide basis for the school type. The evaluation of capacity in the adjacent CSAs will also take into account transportation costs and court-ordered desegregation plans. CSA boundaries are depicted in the support document of the Public School Facilities Element.

Any changes or modifications to the adopted LOS shall follow the process and guidelines as outlined in the First Amended and Restated Interlocal Agreement for Public School Facility Planning and Implementation of Concurrency.

*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001; Amended November 1, 2010, Effective January 18, 2011, Doc. No. 1011011102; Amended December 5, 2011, Effective December 5, 2011, Doc. No. 1112051203; Amended August 28, 2017, Effective October 27, 2017, Doc. No. 1708281201)*

Policy 1.1.2

The City of Orlando shall cooperate with and encourage OCPS to initiate and implement any appropriate combination of the following strategies to ensure compliance with adopted LOS standards:

- a. Build new schools to relieve over-capacity schools in CSA's that exceed the adopted LOS;
- b. Renovate over-capacity schools to add permanent capacity and replace on-campus portables;
- c. Rezone students from over-capacity schools to under-capacity schools;
- d. Move special programs from over-capacity schools to under-capacity schools to utilize excess permanent capacity where it exists.

*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*

Policy 1.1.3

The City shall utilize the OCPS calculation of school capacity, which is annually determined by OCPS using the Adjusted FISH Capacity for each school and CSA within the school district. Consistent with the Interlocal Agreement, Adjusted FISH Capacity shall be defined as the number of students who can be served in a permanent public school facility as provided in FISH (Florida Inventory of School Houses) Capacity, adjusted to include the design capacity of modular or In-Slot classrooms on the campuses designed as Modular or In-Slot schools, not to exceed the adopted Core Capacity for that school.

*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*

- Policy 1.1.4 The number of elementary, middle and high school students generated by a residential development shall be calculated by multiplying the number of dwelling units by the student generation rates by school type as set forth in the Orange County Code, Section 34-155(b)(1).  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001; Amended August 28, 2017, Effective October 27, 2017, Doc. No. 1708281201)*
- Policy 1.1.5 The City shall cooperate with OCPS in its efforts to meet adopted LOS standards through the adoption of a ten (10) year, financially feasible District Capital Outlay Plan (DCOP). Where the LOS cannot be achieved through the construction of new school capacity as provided in the five (5) year DCOP, the City shall cooperate with OCPS in its efforts to adopt a long range ten (10) year DCOP as part of the School District's annual capital planning process.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*
- Policy 1.1.6 Where adequate school facilities will be in place or under actual construction within three (3) years after the issuance of final subdivision or site plan approval, or the functional equivalent, the City of Orlando shall not deny an application for site plan approval, final subdivision approval, or the functional equivalent thereof, for any development or phase of a development that includes residential uses, based solely on failure to achieve and maintain the adopted LOS in a CSA.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*
- Policy 1.1.7 The City of Orlando, in conjunction with OCPS, shall review LOS standards for public school facilities annually, and any changes to those standards shall be processed as amendments to this element and the Capital Improvements Element.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*
- Policy 1.1.8 The City of Orlando shall amend the Concurrency Management System in its Land Development Code in order to implement school concurrency.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*
- Objective 1.2** School capacity shall be calculated using School Concurrency Service Areas (CSAs) adopted by OCPS throughout the planning period. Such CSAs shall be used to evaluate capacity of schools available to accommodate students generated by proposed development.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*
- Policy 1.2.1 OCPS, in coordination with Orange County, the City of Orlando and other municipalities, has established CSAs that are less than district-wide. The CSAs are available from OCPS.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001; Amended August 28, 2017, Effective October 27, 2017, Doc. No. 1708281201)*

Policy 1.2.2 CSAs shall be reviewed annually in conjunction with the adoption of an updated ten (10) year DCOP. CSA boundaries may be adjusted to ensure that the utilization of school capacity is maximized to the greatest extent possible, taking into account transportation costs, court approved desegregation plans, and other factors.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*

Policy 1.2.3 Changes or modifications to the adopted CSAs shall follow the process and guidelines as outlined in Section 16.2 of the First Amended and Restated Interlocal Agreement for Public School Facility Planning and Implementation of Concurrency.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001; Amended August 28, 2017, Effective October 27, 2017, Doc. No. 1708281201)*

**Objective 1.3** The City of Orlando and OCPS shall develop and maintain throughout the planning period a joint process for the implementation of School Concurrency as provided for in the adopted First Amended and Restated Interlocal Agreement for Public School Facility Planning and Implementation of Concurrency.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001; Amended August 28, 2017, Effective October 27, 2017, Doc. No. 1708281201)*

Policy 1.3.1 The City of Orlando shall not adopt a developer-initiated Growth Management Plan amendment or rezoning that would increase residential density on property that is not otherwise vested until such time as OCPS has determined whether sufficient capacity will exist concurrent with the development or a capacity enhancement agreement is executed that provides for the needed capacity to accommodate the proposed development.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*

Policy 1.3.2 The City of Orlando shall determine if a development is vested or exempt from school concurrency. Unless the development is determined to be vested or exempt from concurrency, the City shall not approve a residential site plan, plat, or its functional equivalent, until a concurrency determination has been conducted by OCPS and a School Concurrency Certificate (or similar instrument) has been issued for the development consistent with the provisions of the adopted Interlocal Agreement. Vested rights and exemptions respecting concurrency and consistency shall be in accordance with applicable law.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*

- Policy 1.3.3 School concurrency shall not apply to property within a Development of Regional Impact (DRI) for which a Development Order was issued prior to July 1, 2005, or for which a DRI application was submitted prior to May 1, 2005, unless the developer elects otherwise or unless the developer files a Notice of Proposed Change (NOPC) and/or Substantial Deviation to increase the total number of residential dwelling units.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*
- Policy 1.3.4 The City of Orlando shall include OCPS planning staff as members of the City’s Technical Review Committee. The TRC shall review all projects with a residential component including DRIs and shall specifically ensure that DRI Development Orders and Agreements for residential DRI’s submitted after July 1, 2005 and proposed DRI amendments that increase the total number of residential dwelling units address the issue of school capacity. Where existing school capacity is exceeded, mitigation for school impacts shall be included in any mitigation agreements, Development Orders and agreements.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*
- Policy 1.3.5 Any proposed residential development that creates an impact of less than one student shall be considered de minimis and therefore exempt from capacity review.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*
- Policy 1.3.6 Consistent with Section 18.2 of the Interlocal Agreement, the following residential uses shall be exempt from the requirements of school concurrency:
- a. Any proposed residential development that creates an impact of less than one student.
  - b. One single-family house, one (1) duplex, and/or one accessory multi-family unit being developed on an existing platted residential lot of record.
  - c. Any building or structure that has received a Building Permit as of the effective date of the Amended Interlocal Agreement.
  - d. Any new Residential Development that has Site Plan approval for a site pursuant to a specific development order approved prior to the effective date of school concurrency, including the portion of any project that has received final subdivision plat approval as a residential subdivision into one (1) dwelling unit per lot.
  - e. Any amendment to any previously approved Residential Development, which does not increase the number of dwelling units or change the type of dwelling units (e.g. converts single-family to multi-family, etc.)

- f. Any age-restricted community that qualifies as one of the three types of communities designed for older persons as “housing for older persons” in the Housing for Older Persons Act, 42 U.S.C. § 3607(b). This exemption shall be applied in conformity with the principles set forth in *Volusia County v. Aberdeen at Ormond Beach, L.P.*, 760 So. 2d, 126 (Fla.2000). Provided, however, that any senior housing community or dwelling unit that loses its qualification as housing for older persons shall be required to meet applicable school concurrency requirements in effect at the time the qualification as housing for older persons is lost.
- g. Alterations or expansion of an existing dwelling unit where no additional dwelling units are created.
- h. The construction of accessory buildings or structures which will not create additional dwelling units.
- i. The replacement of a dwelling unit where no additional dwelling units are created and where the replacement dwelling unit is located on the same lot. If the type of dwelling unit is different from the original dwelling unit type, the exemption shall be limited to an exemption based on the current student generation rate for the original dwelling unit type. Documentation of the existence of the original dwelling unit must be submitted to the concurrency management official.
- j. Developments of Regional Impact that have filed a complete application for a development order prior to May 1, 2005, or for which a development order was issued prior to July 1, 2005. This exemption shall expire upon withdrawal, denial, or expiration of the application for a development order. This exemption shall not apply where the developer files a Notice of Proposed Change and/or Substantial Deviation (as provided in statute) to increase the number of Residential Units. If such Development of Regional Impact has been approved, or is approved, through a development order, such exemption shall expire for any phase of the development order upon expiration of the development order build-out date for such phase, or for the entire development order upon expiration of the development order, or upon any material default of the school mitigation conditions of the development order or a related development agreement, unless such project, or portions of such project, remains exempt pursuant to another exemption provision.
- k. The portion of any Residential Development that, prior to the effective date of school concurrency, is the subject of a binding and enforceable development agreement or Capacity Enhancement Agreement designated as a Capacity Commitment Agreement by resolution of the School Board; however, such exemption shall expire upon expiration of the development agreement, Capacity Enhancement Agreement,

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extension thereof, or upon any material default of the school impact mitigation conditions of such development agreement or Capacity Enhancement Agreement, unless such project, or portions of such project, remains exempt pursuant to another exemption provision.

- l. Any Residential Development with a letter from the Applicable Local Government vesting it for purposes of complying with school concurrency, or which would be vested at common law for purposes of such concurrency requirement implemented by this Agreement, provided that the School Board may contest a vested rights determination as provided in the Land Development Regulations of an Applicable Local Government.
- m. Group living facilities that do not generate students and including residential facilities such as local jails, prisons, hospitals, bed and breakfast, motels and hotels, temporary emergency shelters for the homeless, adult halfway houses, firehouse sleeping quarters, dormitory-type facilities for post-secondary students, and religious non-youth facilities, regardless of whether such facilities may be classified as residential uses.

*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001; Amended August 28, 2017, Effective October 27, 2017, Doc. No. 1708281201)*

**Objective 1.4**

Upon completion of an OCPS Concurrency Review, a development that fails to meet school concurrency may be postponed until adequate public school capacity is created through the construction of new schools or any combination of the methods specified in Policy 1.1.2. As an alternative, the impact of a development may be mitigated by making a Proportionate Share contribution consistent with OCPS policy.

*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*

**Policy 1.4.1**

Proportionate Share, when used for mitigation, shall be calculated based on the number of elementary, middle, and high school students generated by the development at build-out. As provided for in the adopted First Amended and Restated Interlocal Agreement for Public School Facility Planning and Implementation of Concurrency, proportionate share shall be calculated based on reasonable methods of estimating cost of school construction, including the cost of land, equipment, and school buses. Any Proportionate Share Mitigation must be directed by OCPS to a school capacity improvement identified in the capital improvement schedule in the financially feasible five (5) year district work plan of the District Facilities Work Program, and in Orlando's Capital Improvement Element to maintain financial feasibility based upon the adopted LOS standards. If a school capacity improvement does not exist in the District Facilities Work Program, OCPS may in its sole discretion, add a school capacity improvement to mitigate the impacts from a proposed residential development, so long as

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the financial feasibility of the District Facilities Work Program can be maintained and so long as the City agrees to amend its Capital Improvements Element to include the new school capacity improvement.

*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001; Amended August 28, 2017, Effective October 27, 2017, Doc. No. 1708281201)*

**Policy 1.4.2** Proportionate Share mitigation may include payments of money, construction of schools, donations of land, expansion of permanent capacity of existing school campuses, payment of funds necessary to advance schools contained in the ten (10) year DCOP, establishment of charter schools that meet State Requirements for Educational Facilities (SREF) standards, payments into mitigation banks, establishment of an Educational Facilities Benefit District, Community Development District, or other methods identified in Section 19.6(b) of the Interlocal Agreement and as may be negotiated between the developer and OCPS, and as appropriate, the City of Orlando.

*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001; Amended August 28, 2017, Effective October 27, 2017, Doc. No. 1708281201)*

**Policy 1.4.3** Any of the Proportionate Share options set forth in Policy 1.4.2 that are utilized by developers as mitigation are eligible for school impact fee credits as provided by Florida Statutes.

*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*

## **GOAL 2**

To maintain a high quality education system for the current and future residents of the City of Orlando through enhanced and meaningful coordination between the City, Orange County, and Orange County Public Schools (OCPS).

*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*

**Objective 2.1** Throughout the planning period, the City of Orlando and OCPS shall establish and maintain coordination and review policies and procedures to ensure consistency with the adopted Comprehensive Plan.

*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*

**Policy 2.1.1** Pursuant to the adopted First Amended and Restated Interlocal Agreement for Public School Facility Planning and Implementation of Concurrency, a Technical Advisory Committee comprised of representatives from the City of Orlando, Orange County, other Orange County municipalities, OCPS and the East Central Florida Regional Planning Council shall be established to discuss issues of mutual concern. In accordance with the Interlocal Agreement, OCPS shall be responsible for making meeting arrangements, providing notification and maintaining a written summary of meeting actions.

*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001; Amended August 28, 2017, Effective October 27, 2017, Doc. No. 1708281201)*

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- Policy 2.1.2 The Technical Advisory Committee shall meet quarterly, or as needed, to discuss issues and formulate recommendations regarding coordination of land use and school facilities. Specific areas addressed by the committee shall include, but shall not be limited to:
- a. Short and long range planning, population and student projections, and future development trends;
  - b. Co-location and joint use opportunities, and ancillary infrastructure improvements needed to support the school facilities and ensure safe student access to schools;
  - c. Planning for needed supporting infrastructure for schools such as utilities, roads, sidewalks, etc.;
  - d. The need for new schools to meet the adopted LOS within the adopted CSAs and the coordination of annual revisions to the (10) ten year District Capital Outlay Plan (DCOP); and
1. Update of the DCOP for inclusion in Orlando’s Growth Management Plan.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*
- Policy 2.1.3 The City of Orlando shall provide updated residential dwelling unit and population projections (the City of Orlando’s Growth Projections Report), including approved developments, anticipated timing of development by phase, and estimated build-out by phase to the OCPS Planning Department upon request.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001; Amended August 28, 2017, Effective October 27, 2017, Doc. No. 1708281201)*
- Policy 2.1.4 The City of Orlando shall review OCPS generated future enrollment and growth projections on an annual basis and provide input to the OCPS Planning Department.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*
- Objective 2.2** Throughout the planning period, the City of Orlando and OCPS shall coordinate the siting of new public schools to ensure, to the extent possible, public school facilities are located to address the needs of future residential development, are coordinated with necessary services and infrastructure development, and provide for safe learning environments. School sites shall be reviewed for consistency with the adopted Future Land Use Map and shall comply with the applicable provisions of the Comprehensive Plan and Land Development Code.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*

- Policy 2.2.1 Applications for Future Land Use Map amendments, rezonings, Conditional Use approvals and site development review for schools shall be given priority status. OCPS shall not be required to pay application fees or impact fees for the development of public school facilities, provided, however, OCPS shall not be exempt from payment of connection fees for water and wastewater.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*
- Policy 2.2.2 The City shall protect existing schools from the intrusion of incompatible land uses through the development review process. Likewise, the City shall provide protection to existing residential neighborhoods through the development review process as new schools or school renovations and/or expansions are proposed.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*
- Policy 2.2.3 In an effort to enhance local communities and neighborhoods, the City of Orlando shall work with OCPS in the school siting, design and development process so that the school serves as a focal point for the community and is compatible with the Future Land Use Map and with land uses and neighborhoods surrounding proposed school sites.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*
- Policy 2.2.4 Where feasible, the City shall work with OCPS to co-locate parks, libraries, community centers and/or other similar civic uses with public schools. Where such co-location occurs, both entities shall establish an ongoing management relationship via written agreement that permits the school's use of the park facilities and the public's use of school facilities for community meetings and sports activities.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*
- Policy 2.2.5 In accordance with Section 1006.23, Florida Statutes, and as funding permits, the City of Orlando shall ensure the construction of sidewalks along roadways and trails connecting neighborhoods that are within two miles of schools to the school facility. OCPS shall be responsible for the construction of sidewalks and trails on school property and shall provide connections to existing and future sidewalks and trails identified by the City.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*
- Policy 2.2.6 OCPS and the City of Orlando will jointly determine the need for and timing of on-site and off-site improvements necessary to support each new school or the proposed significant renovation of an existing school, and where appropriate will enter into a written agreement as to the timing, location, and the party or parties responsible for constructing, operating and maintaining the required improvements.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*

Policy 2.2.7 The City of Orlando shall coordinate with OCPS in their efforts to construct new school facilities and rehabilitate existing facilities to serve as emergency shelters as required by Section 1013.372, Florida Statutes.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*

### **GOAL 3**

To work with OCPS to develop a financially feasible ten (10) Year District Capital Outlay Plan (DCOP) and consistent GMP Public School Facilities Element and Capital Improvements Element.

*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*

**Objective 3.1** Prior to June 1st of each year, OCPS shall coordinate with the City of Orlando to develop a financially feasible ten (10) year DCOP for review and approval by the OCPS Board and adoption into the City of Orlando's Capital Improvements Element through the GMP amendment process.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*

Policy 3.1.1 The ten (10) year DCOP shall include all capital projects which increase capacity of public schools within the City of Orlando and address the deficiencies necessary to maintain or improve LOS.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*

Policy 3.1.2 The City of Orlando shall include the ten (10) year DCOP in the annual update of the GMP Capital Improvements Element.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*

Policy 3.1.3 The City of Orlando shall coordinate with OCPS to review and update the adopted Concurrency Service Area (CSA) boundaries, and associated enrollment projections in the annual update of the Public School Facilities Element and Capital Improvements Element, to ensure that the GMP Capital Improvements Element continues to be financially feasible and that the adopted school LOS will continue to be achieved.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*

Policy 3.1.4 The City of Orlando shall coordinate with OCPS by reviewing and providing input into the annual update of the ten (10) year DCOP. Such coordination may include the review and update of adopted CSA boundaries, student enrollment projections, and LOS for each school and CSA within the City.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001)*

Policy 3.1.5 Reserved.  
*(Amended July 7, 2008, Effective September 30, 2008, Doc. No. 0807071001; Amended August 28, 2017, Effective October 27, 2017, Doc. No. 1708281201)*