

PROPORTIONATE SHARE MITIGATION FOR SCHOOL CONCURRENCY

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I. INTRODUCTION

The concept of “proportionate share” in Florida is closely associated with the provision of adequate facilities concurrent with new development. Its earliest application occurred in the context of Developments of Regional Impact (DRI’s) and through the use of regulatory “concurrency” established by the Growth Management Act of 1985. The “proportionate share mitigation” concept has more recently been applied to schools to address the school capacity demand created by rapid growth. With the passage of SB 360, school concurrency programs must make available a formal “proportionate share” mitigation process when school capacity is unavailable for a development proposal. In the few Florida communities that have begun this type of program, proportionate share mitigation has included an option for “monetary mitigation” in the form of “mitigation fees.”

While “proportionate share mitigation” and “impact fees” are both based on “proportionate share” and provide a method of requiring growth to pay for the cost of new school capacity, these concepts should not be confused. Proportionate share mitigation is intended to address a specific school concurrency issue, i.e., a lack of school capacity to absorb the students generated by a new residential development, while school impact fees are imposed on all new residential development to pay for the impact of new development on an entire school district.

In 2005, the Florida Legislature mandated that “concurrency” be applied to public schools.¹ The “availability standard” within this legislation specified that “a local government may not deny an application ...authorizing residential development for failure to achieve and maintain the level-of-service standard for public school capacity in a local school concurrency management system where adequate school facilities will be in place or under actual construction within 3 years..... SB 360 further stipulated that “School concurrency shall be satisfied if the developer executes a legally binding commitment to provide mitigation proportionate to the demand for public school facilities to be created by actual development of the property ... and that ” Options for proportionate-share mitigation of impacts on public school facilities shall be established in the public school facilities element and the interlocal agreement

The 2005 Legislature also recognized the increased reliance of Florida’s school districts on impact fees to pay for the new school capacity required by new development, and the close relationship between the payment of impact fees and proportionate share mitigation. Specifically, the Legislature stipulated that “if the education facilities plan and the public educational facilities element authorize a contribution of land; the construction, expansion, or payment for land acquisition; or the construction or expansion of a public school facility..... as proportionate-share mitigation, the local government shall credit such a contribution toward any other impact fee or exaction imposed by local ordinance for the same need....”.

With the advent of mandatory school concurrency, a standardized methodology for the application of proportionate share mitigation is needed. While there will certainly be many variations among Florida’s school districts for the application of proportionate

¹ Senate Bill 360, Section 163.3177(12), F.S.

share mitigation, certain fundamental legal, financial, and procedural principles should be common to all. The development of such a methodology is the primary purpose of this study.

A. PAYING FOR GROWTH

Why should new development pay for the capacity it demands? Why not rely on other taxes and revenue sources to build new infrastructure with general revenue increase produced by growth?

New development creates a one time demand for the infrastructure required to support each increment of new growth. The use of general tax dollars to pay for new roads, utilities, parks schools, and other necessary infrastructure places a burden on existing residents.

Proportionate share contributions and development impact fees are commonly used to supplement other means of funding the capital facility improvements needed to accommodate new development. Proportionate share contributions and impact fees grew out of two rather commonly held notions:

1. Generally, new development does not pay the cost of capital facilities needed to accommodate the residents and businesses from standard sources of revenue; and
2. It would be inequitable to impose the cost of extending facilities to new developments on existing residents and taxpayers.

In Florida, both the courts² and the Florida Statutes³ acknowledge local governments' authority to impose equitable fees. Such fees are not taxes and are governed by a standard that has become known as the "dual rational nexus test." This test has two major components:

1. That the facilities to be constructed with impact fees charged to new development must be needed to serve that new development; and
2. That the funds collected as impact fees must be earmarked and spent for the purposes for which they were collected.

Implied in this test is that a development fee cannot exceed a *pro rata* or proportionate share of the anticipated costs of providing new developments with capital facilities.

² See *Hollywood, Inc. v. Broward County*, 431 So.2d 606 (Fla. 4th DCA 1983). In this opinion, the Court observed:

[W]e discern the general legal principle that reasonable dedication or impact fee requirements are permissible so long as they offset needs sufficiently attributable to the subdivision and so long as the funds collected are sufficiently earmarked for the substantial benefit of the subdivision residents.

³ See Section 163.3202(3), Florida Statutes

B. TYPES OF EDUCATIONAL DEVELOPER FEES AND MITIGATION CURRENTLY LEVIED IN FLORIDA

Developer fees of various types are used widely in Florida. Impact fees are the most common, but proportionate share fees have often been applied to large scale development. The statutory requirement under SB 360 to make available a proportionate share mitigation option for transportation and schools will almost certainly result in increased use of proportionate share fees as a means of mitigating the impacts of new development.

IMPACT FEES

A 2005 survey showed that 30 counties, 38 municipalities, 24 school districts and 22 independent special districts in Florida have enacted impact fees representing at least 264 different fees. School impact fees have been imposed in twenty-two (22) school districts as shown below.

Florida Counties/ School Districts With School Impact Fees in 2005

Brevard	Martin
Broward	Miami-Dade
Citrus	Orange
Collier	Osceola
Flagler	Palm Beach
Hendry	Pasco
Hernando	Polk
Hillsborough	Sarasota
Indian River	Seminole
Lake	St Johns
Lee	St Lucie
Manatee	Volusia

PROPORTIONATE SHARE MITIGATION

Mitigation has most often been applied in Florida to large scale development and, in particular, to Developments of Regional Impact (DRI) based on a proportionate share concept.

Ten Florida school districts currently report the use of proportionate share mitigation in some form⁴ including Orange, Palm Beach, Seminole, Monroe, Lee, Miami-Dade, Collier, Broward, Pasco, and Martin.

Orange County represents the most proactive application of proportionate share mitigation to school capacity. This program is based on comprehensive plan authorization under a policy often referred to as the “Martinez Doctrine” and relies upon

⁴ Refer to survey conducted as a part of this study

“Capacity Enhancement” Agreements to assure that adequate school capacity is in place to support new residential growth.

The Broward County School Board formally adopted Policy 1161, establishing a “voluntary” school mitigation program, in November 2004. The Miami-Dade County School Board adopted a mitigation policy in April 2005, although it had informally collected similar mitigation on a voluntary basis for a number of years prior to that time.

C. WHAT DOES SENATE BILL 360 REQUIRE?

Over the past decade, the Florida Legislature has progressively strengthened the ties between school planning and general land use and comprehensive planning through amendments to Chapters 163 and 1013, Florida Statutes.

The 2005 Legislature mandated that the availability of public schools be made a prerequisite for the approval of residential construction and directed a closer integration of planning for school capacity with comprehensive planning. Senate Bill 360:

- requires that existing Interlocal Agreements between school boards and local governments be updated and expanded to comply with the legislation;
- requires each local government⁵ to adopt a Public School Facilities Element as part of its comprehensive plan;
- mandates school concurrency;
- requires that local governments update their Intergovernmental Coordination Elements to incorporate principles and guidelines that coordinate the comprehensive plan with the plans of the school board;
- requires that the capital improvements element be amended and updated annually to set forth a financially feasible public school capital facilities program, established in conjunction with the school board, that demonstrates that the adopted level-of-service standards will be achieved and maintained; and
- **requires the establishment of a process and uniform methodology for proportionate share mitigation [emphasis added].**

Public Schools Interlocal Agreement

To guide the mechanics of the school and comprehensive planning, the 2005 legislation expanded upon existing requirements for a public school Interlocal Agreement (ILA). School districts and local governments were required prior to 2005 to jointly establish the specific ways in which the plans and processes will be coordinated⁶. SB 360⁷ expands the content requirements and directs that the enhanced interlocal agreement serve as data and analysis for the public school facilities element.

⁵ Some local governments may qualify for exemption under s. 163.3177(12) (a) and (b), F.S.

⁶ s163.31777, F.S.

⁷ s 163.3180(13)(g), F.S.

The expanded Interlocal Agreement (ILA) must acknowledge both the school board's constitutional and statutory obligations to provide a uniform system of free public schools on a countywide basis, and the land use authority of local governments, including their authority to approve or deny comprehensive plan amendments and development orders. The Interlocal Agreement must specifically⁸:

- ***Establish a process and uniform methodology for determining proportionate-share mitigation....***

Public School Facilities Element

The law requires that local governments within a school district adopt consistent public school facility elements as a part of their comprehensive plans to establish a framework for the planning of public schools. (s. 163.3177(12), F.S.). The Public School Facilities Element must be based on data and analysis and contain goals, objectives and policies as set forth in s. 163.3177 (c) – (h), F.S. and Rule 9J-5.025 FAC. Among other things, the Public School Facilities Element must establish the options for proportionate share mitigation of impacts on school facilities.⁹

Minimum Requirements for School Concurrency

- SB 360 establishes minimum requirements for school concurrency¹⁰.

Level of Service. Standards for defining school capacity must be established:¹¹

- *Level-of-service standards are to be jointly established[by the local government and school district],, adequate, and based on data and analysis.*
- *Public school level-of-service standards are to be adopted into the Capital Improvements Element of the comprehensive plan and are to be applied districtwide to all schools of the same type.*

Concurrency Service Areas.¹² The designation of an area within which the level of service will be measured when an application for a residential development permit is reviewed is essential. The statute recognizes that the delineation of concurrency service areas is an important component of a financially feasible public school facilities capital improvement program that will achieve and maintain the adopted level-of-service standards.

Local governments and school boards have the burden to demonstrate that utilization of school capacity is maximized to the greatest extent possible, taking into account transportation costs and court-ordered desegregation plans as well as other factors.¹³

⁸ s 163.31777, F.S. & 163.3180(13)(g)(8)

⁹ s 163.3180(13)(e), F.S.

¹⁰ s 163.3180(13), F.S.

¹¹ s. 163.3180(13) (b), F.S. & Rule 9J-5.025

¹² s 163.3180(13) (c), F.S.

¹³ s 163.3180(13)(c) 1. & 2., F.S

When public school concurrency is being applied on a less than districtwide basis, even if there is a capacity deficiency within the concurrency service area where a proposed residential development is located, the permit may not be denied on that basis if the needed capacity is available in one or more contiguous concurrency service areas.¹⁴

Financial Feasibility

Financial feasibility was addressed by the 1998 Legislature ():¹⁵

The Legislature recognizes that financial feasibility is an important issue because the premise of concurrency is that the public facilities will be provided in order to achieve and maintain the adopted level-of-service standard.

SB 360 requires that, as a part of school concurrency, local governments are to adopt amendments into the Capital Improvements Element (CIE) of the comprehensive plan that set forth a financially feasible public school capital facilities program, established in conjunction with the school board, that demonstrates that the adopted level-of-service standards will be achieved and maintained¹⁶. SB 360 contains the following definition of financial feasibility¹⁷:

“Financial feasibility” means that sufficient revenues are currently available or will be available from committed funding sources for the first 3 years, or will be available from committed or planned funding sources for years 4 and 5, of a 5-year capital improvement schedule for financing capital improvements, such as ad valorem taxes, bonds, state and federal funds, tax revenues, impact fees, and developer contributions, which are adequate to fund the projected costs of the capital improvements identified in the comprehensive plan necessary to ensure that adopted level-of-service standards are achieved and maintained within the period covered by the 5-year schedule of capital improvements.”

Availability Standard

An availability standard¹⁸ for public schools is provided within the statute, which further ties level-of-service standards to residential development and requires that:

...a local government may not deny an application for site plan, final subdivision approval, or the functional equivalent for a development or phase of a development authorizing residential development for failure to achieve and maintain the level-of-service standard for public school capacity in a local school concurrency management system where adequate school facilities will be in place or under actual construction

¹⁴ s163.3180 (13)(c) 2. and 3., F.S.

¹⁵ s. 163.3180(13)(d), F.S.

¹⁶ s. 163.3180(13)(d), F.S.

¹⁷ s. 163.3164(32), F.S.

¹⁸ s. 163.3180(13)(e), F.S.

within 3 years after the issuance of final subdivision or site plan approval, or the functional equivalent...

Proportionate Share Mitigation

The section referenced above also authorizes proportionate share mitigation as a method to satisfy school concurrency:

.....School concurrency shall be satisfied if the developer executes a legally binding commitment to provide mitigation proportionate to the demand for public school facilities to be created by actual development of the property, including, but not limited to, the options described in subparagraph 1. Options for proportionate-share mitigation of impacts on public school facilities shall be established in the public school facilities element and the interlocal agreement pursuant to s. 163.31777.

The details of proportionate share mitigation are:¹⁹

1. Appropriate mitigation options include the contribution of land; the construction, expansion, or payment for land acquisition or construction of a public school facility; or the creation of mitigation banking based on the construction of a public school facility in exchange for the right to sell capacity credits. Such options must include execution by the applicant and the local government of a binding development agreement that constitutes a legally binding commitment to pay proportionate-share mitigation for the additional residential units approved by the local government in a development order and actually developed on the property, taking into account residential density allowed on the property prior to the plan amendment that increased overall residential density. The district school board shall be a party to such an agreement. As a condition of its entry into such a development agreement, the local government may require the landowner to agree to continuing renewal of the agreement upon its expiration.

2. If the education facilities plan and the public educational facilities element authorize a contribution of land; the construction, expansion, or payment for land acquisition; or the construction or expansion of a public school facility, or a portion thereof, as proportionate-share mitigation, the local government shall credit such a contribution, construction, expansion, or payment toward any other impact fee or exaction imposed by local ordinance for the same need, on a dollar-for-dollar basis at fair market value.

3. Any proportionate-share mitigation must be directed by the school board toward a school capacity improvement identified in a financially feasible 5-year district work plan and which satisfies the demands created by that development in accordance with a binding developer's agreement.

¹⁹ s 163.3180(13)(e), F.S.

4. This paragraph does not limit the authority of a local government to deny a development permit or its functional equivalent pursuant to its home rule regulatory powers, except as provided in this part.

D. STUDY METHODOLOGY AND SCOPE

This study draws primarily from the experience of Florida school districts and local governments with proportionate share mitigation and impact fees. Both proportionate share mitigation and impact fees are sufficiently well established to provide a substantial survey sample. These concepts have also been legally challenged in Florida and a significant body of case law has resulted.

The research underpinning this report is derived from four primary sources:

1. a review of the legal precedents in Florida courts;²⁰
2. a review of the pertinent literature;
3. an inventory and analysis of the background studies supporting the application of proportionate share mitigation and impact fees, including interviews with school and local government officials; and
4. a survey of all school districts and selected local governments within Florida.

The documentation of this research and inquiry is documented in footnotes throughout the study. The results of the Survey are summarized in Section V of the report. The Survey and the complete survey results are included in the Appendix.

E. PURPOSE OF THE REPORT

This report provides guidelines and methodologies for Proportionate Share Mitigation. It is part of a multi-faceted program initiated by the Florida Department of Community Affairs to provide technical assistance to local governments and school districts regarding implementation of the public school and comprehensive planning requirements of SB 360. A companion report addresses Level of Service methodologies. Concurrent with the preparation of these guidelines, the Department of Community Affairs has identified six pilot communities within which the schedule for preparation of public school concurrency – including data and analysis, and draft interlocal agreements, public school facility elements and amendments to capital improvements and intergovernmental coordination elements – will be accelerated to provide models for use throughout the State. It is anticipated that these guidelines will be revised and other publications prepared based on the experience gained in the pilot communities.

This guidebook is intended to assist Florida school districts and local governments in the development and implementation of proportionate share mitigation programs that are

²⁰ In St Johns County v Northeast Florida Builders Association, 16 FL W S264 (April 18, 1991) the Florida Supreme Court ruled that new development can be required to pay impact fees. The following five significant court cases also guide the development of impact fees in Florida: Contractors and Builders Association of Pinellas v. City of Dunedin, 329 So.2d 314 (Fla 1976); Hollywood, Inc. v. Broward County, 431 So.2d 606 (Fla 4th DCA 1983); Home Builders and Contractors Association of Palm Beach County, Inc. v. Board of County Commissioners of Palm Beach County, 446 So.2d 140 (Fla 4th DCA 1983); and Seminole County v. City of Casselberry, 541 So.2d 666 (Fla 5th DCA 1989); City of Ormond Beach v. County of Volusia, 535 So.2d 302 (Fla 5th DCA 1968)

consistent with State legislation and rules and which can be effectively implemented. While many variations of proportionate share mitigation may ultimately be conceived and sustained, these guidelines attempt to outline a methodology that is grounded in the basic principles intended by the Legislature, is understandable and can be broadly applied across the diverse range of Florida school districts and communities.

II. PROPORTIONATE SHARE MITIGATION FOR SCHOOL IMPACTS

Proportionate share mitigation is intended to achieve financially feasible concurrency while reducing disruption to the community development process. This section expands on the legislative authorization of proportionate share mitigation by exploring its underlying concepts, its origins and applications in Florida, its relationship to other financial techniques for meeting school facility needs, and the key components necessary for its implementation.

A. FINANCIALLY FEASIBLE CONCURRENCY

The 1998 Legislature established that public facilities will be provided to achieve and maintain the adopted level-of-service standard (s. 163.3180(13)(d), F.S.). This underlying premise of “concurrency” was confirmed by SB 360 with a definition for financial feasibility (s. 163.3164(32), F.S.):

“Financial feasibility” means that sufficient revenues are currently available or will be available from committed funding sources for the first 3 years, or will be available from committed or planned funding sources for years 4 and 5, of a 5-year capital improvement schedule for financing capital improvements, such as ad valorem taxes, bonds, state and federal funds, tax revenues, impact fees, and developer contributions, which are adequate to fund the projected costs of the capital improvements identified in the comprehensive plan necessary to ensure that adopted level-of-service standards are achieved and maintained within the period covered by the 5-year schedule of capital improvements.....

This definition introduces some important elements. The first of these is the emphasis placed on the initial three years of the five-year schedule of improvements. Within this three-year period those public facilities necessary to achieve and maintain the level-of-service standards must be supported by currently available and committed funding sources (including developer contributions and proportionate share contributions). In contrast, necessary improvements identified in years four and five may be supported by planned funding sources, i.e., sources that are not at the time available and committed including anticipated sales taxes, and bond issues.

If through level-of-service standards, concurrency service areas, and financially feasible capital improvement elements, comprehensive plans are to assure there will be no concurrency shortfall then what purpose is served by the review of residential development permits to ensure school adequacy? The answer is simple – the growth of school age population, the progress of development, and the timely construction of public schools is not always predictable. Sometimes despite best efforts there is a surge of student growth or there is a failure to initiate construction of a school on time. In those unanticipated instances, school concurrency may lead to restrictions on the issuance of development permits for residential development.

As a safety-valve to address arguments about the temporary taking of property rights proportionate share mitigation is available. However, that safety-valve comes with the

important proviso²¹ that any proportionate share mitigation must be directed by the school board toward a capacity improvement identified in the five-year district work plan and capital improvements programs (CIPs) of effected local governments, and which satisfies the demands created by the development.

3. Any proportionate-share mitigation must be directed by the school board toward a school capacity improvement identified in a financially feasible 5-year district work plan and which satisfies the demands created by that development in accordance with a binding developer's agreement.²²

Thus, the developer contribution option available in the event of a concurrency failure is not simply a "pay and go" mechanism. Rather, a proposed dedication must result in a capacity enhancement included in the CIP, which will result in sufficient school capacity to accommodate the new development. In the event that a current CIP does not include improvements that will result in a positive concurrency determination for a particular development, the developer may petition the school district and affected local governments to include necessary school facilities within the 5 year district work plan (and CIPs) that support the development. This approach will be most effective to support large scale residential projects or to respond to unanticipated residential growth in specific geographic areas. Notably, proportionate share mitigation will be especially important to assist with school facility capacity projects identified in the fourth and fifth year of the district facility plan.

B. THE SCHOOL BOARD'S FIVE YEAR PLAN

Chapter 1013 requires each school district to adopt a five year district capital facilities plan. This capital plan forms the basis for collaboration with local governments regarding the programming and funding of school facilities. It is reasonable to expect that in some jurisdictions, the District Five Year Facilities Plan may well be adopted by reference into a local government's CIE and CIP to meet the "financial feasibility" standard.

The 5 Year District Facilities Plan is a central and indispensable feature of school planning, school concurrency and proportionate share mitigation. The format and content of this plan has been established by the Florida Department of Education and is used by each of the State's school districts. Consequently, there is a high degree of availability and consistency of data throughout the State.

The 5 year District Facilities Plan will consistently provide the following data: (1) a list of school facilities by type, (2) the operating and permanent capacity of each school facility, (3) the enrollment of each school facility, (4) the current utilization of each school facility (enrollment-to-capacity ratio), and (5) projected capacity, enrollment and utilization. The plan will also contain information about funding sources, projections of funding availability and needs and the programming of capital expenditures.

A 5 year district facilities plan showing that established levels of service are satisfied for the 5 year planning period would be deemed "financially feasible".

²¹ s. 163.3180(13)(e) 2., F.S.

²² s. 163.3180(13)(e) 3., F.S.

C. THE LOCAL GOVERNMENT'S CAPITAL IMPROVEMENT ELEMENT / PROGRAM

The local government's Capital Improvement Element (CIE) and Capital Improvement Program (CIP) must also demonstrate that the established level of service for schools will be achieved and maintained over the coming five years. This requirement can be most readily met by the integration of the School Board's District Facilities Plan into the CIE/ CIP adoption process of affected local government's. The local government and school district are jointly responsible, under the 2005 statute, for establishing coordination procedures to accomplish this objective.

SB 360 requires the school district and local governments to relieve any level of service deficiency within its jurisdiction and demonstrate that the adopted level-of-service can be achieved and maintained through a "financially feasible" program that is incorporated into its CIE / CIP. This requirement is especially significant for the planning, programming and funding of school capacity. Under this concept, the local government and the school district assume mutual responsibility for assuring that school capacity is in place to support new development.

D. ORIGINS OF SCHOOL IMPACT MITIGATION

School boards have limited sources of revenue that may be used for the expansion of school capacity. They are limited to a 2 mill ad valorem tax assessment for capital facilities, and receive only those state monies and funding sources that the Florida Legislature specifically allocates or authorizes. Because these revenue sources have not traditionally covered the capital costs to accommodate escalating school enrollment, many counties have adopted school impact fees.

Two basic capital financing problems are commonplace among Florida's school districts. First, those counties imposing school impact fees did not cover the full cost of new schools i.e. the impact fees were set a level significantly below a full fair share assessment. Second, impact fees have not been routinely updated and the assessments fall behind as construction costs escalate. Over several years these shortfalls may become quite large. Consequently, some school districts and local governments have turned to school impact mitigation in an effort to reduce overcrowding.

Orange County, on the strength of a comprehensive plan policy requiring that school capacity be in place to serve new residential development, gives developers a choice of waiting to build until new school capacity could be programmed or entering into a "capacity enhancement agreement" as a prerequisite for development approval. Nine other counties as noted in the survey that supported this report apply some form of mitigation to address school capacity deficiencies.

Why would developers voluntarily agree to provide such mitigation? Because the school overcrowding in these communities has reached the point that elected officials are unwilling to approve development that did not do more to address its school impacts. Also, uncrowded schools benefit new development directly because they enhance property values, and aid in the marketing of the project.

SB 360 now makes school concurrency mandatory and simultaneously establishes “proportionate share mitigation” as an optional tool to resolve specific school concurrency issues.

E. KEY COMPONENTS OF PROPORTIONATE SHARE MITIGATION

A process and uniform methodology for determining proportionate share mitigation is required as an element of mandatory school concurrency. Consequently, each school district and local government must include proportionate share mitigation provisions in its interlocal agreement, its comprehensive plans, and in its capital improvement programs. Ordinances and procedures must also be adopted to apply the concept of proportionate share mitigation through the development review and permitting process.

To comply with the statutory provisions, all proportionate share mitigation programs will share some common elements. This section identifies these key components, explores what they mean, and highlights their implications in the context of proportionate share mitigation.

Time of Imposition

SB 360 specifically provides that school concurrency is applied at the site plan or final subdivision stage (or its functional equivalent). This requirement is important because it represents the point in the development process where the developer commits financial resources to the construction of streets, utilities and other improvements in reliance on governmental approval. The developer’s interest and the community interest’s are both served if school capacity issues are addressed and resolved at this stage.

Proportionate share mitigation provides an additional tool to address a school concurrency issue. Consequently, the application of proportionate share mitigation will, in most cases, be implemented at site plan or final subdivision stage as well. Certainly, the terms of proportionate share mitigation may be established at the rezoning stage or preliminary plat approval stage, while the binding commitment of funds may not be required until the point of concurrency determination is reached.

Early payment of proportionate share contributions is typically not in the best interest of the developer because such payments must be amortized as a part of the construction cost and add to the project’s carrying cost. Their preference is to defer payment until the residential unit is sold allowing this charge to be passed directly to the end user. If early contribution is required or offered, it comes with an expectation of vesting against school concurrency requirements at a later stage.

Contributions delayed until very late in the development process may pose problems. Waiting until certificate of occupancy captures more of the development in process at the time that the contribution is first imposed, but leaves no time between collection and the actual impact on the school system in which to construct the needed school facilities.

New Development's Proportionate Share of Costs

The equitable distribution of the cost of providing school facilities is critical to a fair share program. The more accurately the cost of school facilities can be anticipated over the long term, how those costs will be absorbed and how that cost will be distributed, the more successful a community will be in defending legal and political challenges and more effective it will be in meeting its capacity demands in a timely fashion.

The demand for school capacity is attributed only to residential development. While decisions will certainly be required by local government and the school district regarding seasonal dwellings, adult-restricted housing, student housing, etc., commercial and industrial development clearly do not generate school enrollment.

Determining the proportionate share of the cost of school facilities attributed to any residential structure or development must consider two fundamental factors: (1) the demand created by the residential development and (2) the benefit received by the residential development.

On the demand side, the following components are essential:

- The Student Generation Multiplier – How many students will a dwelling unit generate?
- Capital Cost per Dwelling Unit – How much will new school capacity cost and how much of that cost should be attributed to each dwelling unit?
- Level of Service – What standard does the community consider acceptable for the use of school facilities?

The benefit side of the equation generally involves how proportionate share contributions are spent:

- Location – Are the school facilities located so as to create a reasonable benefit to the development that contributed to their construction?
- Timing – Is adequate school capacity in place at or reasonably near the time demand is generated?

Student Generation Multiplier

To charge proportionate share mitigation against new development, local governments and school boards must first decide how to measure the impact of new development on the public school system. For example, traffic impacts are measured in terms of non-residential square footage or dwelling units, and then converted into the number of vehicular “trips” being produced by the new development. Just as traffic impacts are measured with a “trip generation rate,” school impacts are measured with a “student generation rate” or student generation multiplier.” Student generation multipliers will be typically arrayed by the type of dwelling unit and the type of school. For example, a school district may determine that a single family detached dwelling unit generates 0.2 elementary school students.

Whereas “trip generation” rates used for transportation planning purposes have been standardized²³, there is no recognized reference source for student generation rates. In part, this is due to the more recent emergence of school capacity as a planning issue and because of wider variations of student generation rates from community to community and among housing types.

All residential dwelling units are not equal in their impacts on the school system, and there are a number of ways to measure these differences. There is no generally accepted standard for determining the school impacts of residential development, no common “ITE” bible which can be consulted. Instead, a standardization of acceptable methodologies is emerging largely due to work done in support of school impact fees that produces student generation rates by dwelling unit type that is specific to the community involved. While student generation multipliers may be similar among communities, there is sufficient variation to suggest that each community should continue to validate its own student generation multipliers.

Student generation multiplier studies will in almost all cases distinguish among single family, multi family dwelling units and mobile homes. More detailed applications may be based on the size of the unit, whether defined by square footage or the number of bedrooms. Others are based on the average household size for the census tract in which the development is located, regardless of the size of the unit while still others use a combination of these factors. Most are at least partly derived from studies of recent development in the county in which the school impact fee is being prepared.

Regardless of how the student generation rate is derived, it is applied to a particular development to determine the number of public school students that can be expected to enroll in the local school system once the new development is complete and fully occupied.²⁴

Capital Costs Attributable to New Development

To calculate the proportionate share of new school capacity to be assigned to new residential development, the cost of constructing new facilities must be determined and converted to a cost per dwelling unit.

The first step in this equation requires that the costs of building school facilities are known. The Florida Department of Education requires documentation from school districts regarding school construction costs and maintains extensive records.

Although the data maintained by DOE and the individual school districts is very detailed, this data is consolidated and reported as a “cost per student station” for elementary, middle and high schools. This factor includes all costs associated with the educational facility except land acquisition costs. DOE also projects these costs parameters for future years.

²³ The Institute of Transportation Engineers “Trip Generation Manual” is the widely accepted authority.

²⁴ If the project is redevelopment, only a net increase in the residential impacts can trigger the requirement to pay a school impact fee. The existing units are already impacting the school system.

Individual school districts will typically adjust the “cost per student station” to reflect local conditions and experience. For example, Palm Beach County sets their ‘cost per student station” at 96% of the DOE estimate based.²⁵

“Cost per student station” is the most appropriate cost expression for proportionate share mitigation. This factor can be directly correlated to the student generation multiplier to produce the “cost per dwelling unit” indicator required to assess proportionate share.

Level of Service

To determine that new or expanded school facilities are necessary to accommodate new development, local governments and school boards must first define the appropriate level of service. “Level of Service,” as defined by the Florida Administrative Code, is “an indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of the facility.”²⁶ Level of service is a quantitative measurement, and it is unique to each county. There are several ways in which level of service can be defined or expressed.²⁷ Most often, it is expressed as a utilization factor i.e. the percentage of use of the defined capacity of the school.

The adopted level of service acts as the benchmark for maintaining the necessary school facilities in each county, and determines the need for and cost of school facilities. For example, if the level of service is defined as student enrollment using up a certain percentage of the capacity of school facilities, and new development generates enough additional students so that the percentage can no longer be met, the cost of the improvements necessary to increase capacity to accommodate the new students can be calculated.

New Development’s Benefit

New residential development must receive a substantial benefit from a proportionate share contribution:

- 2. Any proportionate-share mitigation must be directed by the school board toward a school capacity improvement identified in a financially feasible 5-year district work plan and which satisfies the demands created by that development in accordance with a binding developer's agreement.*

Two issues must be addressed when analyzing the adequacy of the benefit to the contributing development benefit district: location and timing.

Location. Proportionate share contributions made by new residential development must generally be spent to finance improvements to school facilities that benefit the new development. Although the expenditure of proportionate share contributions to expand

²⁵ 2003 Impact Fee Update, Palm Beach County

²⁶ Rule 9J-5.003(62), F.A.C.

²⁷ See separate report on Level of Service Methodologies for a more in-depth discussion of this concept, and the various ways in which it can be implemented.

school capacity within the attendance zone where the residential development is located clearly meets this test, expenditures beyond the attendance zone may also result in a sufficient benefit depending on the local circumstance; for example, where construction in an adjacent concurrency service area relieves overcrowding in the original attendance zone. As concurrency service areas become larger, the direct benefit becomes less clear. However, there is a relationship between the size of the benefit districts and the ability to use the collected proportionate share contribution to construct an improvement in a timely fashion. The smaller the benefit district, the longer it may take to amass enough money to construct a classroom building.

The concept of “benefit” becomes especially complex as other operational and educational factors are introduced. How does one factor in magnet schools that draw students from the entire county? What about commuter schools, which are located in high employment areas and draw students based on where their parents work rather than where they live? What if the system allows parents to transfer their child from the school in their attendance zone to a school in an adjacent attendance zone? What if there is court-imposed busing and desegregation, so that some of the students generated by a particular development will be educated at a school that is distant from their home in order to maintain racial balance?

Since these issues will have to be resolved on a case-by-case basis based on local circumstance, it can be expected that many school districts may elect to use larger concurrency service areas. For example, Broward County is geographically divided into only four benefit districts, with each district containing several municipalities. The City of Hallandale Beach is located in the southernmost benefit district. Fees paid by new development occurring within the boundaries of the City of Hallandale Beach can be used not only for the construction of school facilities located in Hallandale Beach, but also for school facilities located anywhere within that benefit district, including the City of Hollywood, the City of Pembroke Pines, the City of Miramar, and other cities. Other counties use countywide benefit districts.

Timing. The 5 Year District Facilities Plan describes when each school facility will be built, and how it is to be funded. In its most direct form, proportionate share mitigation will commit funds to accelerate projects in the last two years of the 5-year construction cycle to the first three years where necessary to achieve concurrency.

A more complex scenario is presented if new residential development requires new or expanded facilities not previously contemplated by the 5-Year District Facilities Plan. As such projects are considered for inclusion in the Plan, a “financially feasible” evaluation should be undertaken to ensure that sufficient funds are available to complete projects within a time frame that meets concurrency.

F. OPTIONS FOR PROPORTIONATE SHARE MITIGATION

The 2005 legislation includes the mitigation options that may be applied:

- 1. Appropriate mitigation options include the contribution of land; the construction, expansion, or payment for land acquisition or construction of a public school facility; or the creation of mitigation banking based on the construction of a public school facility in exchange for the right to sell*

capacity credits. Such options must include execution by the applicant and the local government of a binding development agreement that constitutes a legally binding commitment to pay proportionate-share mitigation for the additional residential units approved by the local government in a development order and actually developed on the property, taking into account residential density allowed on the property prior to the plan amendment that increased overall residential density. The district school board shall be a party to such an agreement. As a condition of its entry into such a development agreement, the local government may require the landowner to agree to continuing renewal of the agreement upon its expiration.²⁸

The Contribution of Land

SB 360 recognizes the contribution of land as an acceptable means of satisfying all or part of a proportionate share mitigation obligation. This provision offers both a challenge and an opportunity that should be specifically addressed by the adopted proportionate share methodology. Two primary issues are especially critical: (1) the suitability of a particular site for a school and (2) the value of the land to be contributed.

The selection of school sites is a complex procedure with siting criteria prescribed in state statutes and rules and incorporated into local comprehensive plans and ordinances. Site selection typically occurs after the need for a new school has been identified and the planning design and construction process is underway. The prospect of land contributions that may occur well in advance of facility construction may require siting decisions much earlier than under existing policies and place a premium on long range planning that coincides with development decisions by local government. Consequently, the procedure for acceptance of land should be specifically addressed in the proportionate share methodology.

The valuation of land proposed for dedication and the rules to be applied in each school district should be defined in the proportionate share mitigation methodology. As a general guideline, land costs should be separated from facility construction with appropriate valuation techniques applied. In addition, policies and techniques should address other issues such as whether the valuation is to be based on pre-development value or post-development value, how density transfers (clustering) may influence the established land value, whether or not values are to be based on specific site appraisals or on the generalized cost of land in the community and other similar issues.

Construction of Public School Facilities

Monetary contributions for the construction or the expansion of public school capacity are the most direct form of proportionate share mitigation. The school district may accept such payments to ensure funding and/ or to accelerate the construction of school facilities identified in the 5 Year District Facilities Plan.

The allocation of monies received through proportionate share mitigation is restricted. These funds may not be used for operational purposes or to alleviate existing

²⁸ s 163.3177(13)(e)(1)

deficiencies. Rather contributions made by new residential development must provide capacity to accommodate the demand created by the development and be incorporated into the 5 Year District Facilities Plan..

Contributions to meet concurrency requirements should be directed only to capacity enhancements that achieve the established level of service. Generally this means that only the expansion of permanent school capacity is eligible as defined in the Interlocal Agreement and the Public School Facilities Element. Relocatables would be eligible if the level of service standard recognized such facilities as meeting its permanent capacity standard.

Proportionate share mitigation cannot be construed as a means of simply paying for capacity one student at a time. Because this option is triggered by a level of service deficiency, the school district and affected local governments must commit to relieving the deficiency in a timely fashion. Funds derived from proportionate share mitigation must fully relieve the deficiency either alone or in combination with other committed funding sources.

The Role of Charter Schools

Charter schools are public schools of choice. They are very popular—and among the fastest growing school choice option in Florida. Charter schools are largely free to innovate, and often provide more effective programs and choice to diverse groups of students. Since 1996, the number of charter schools in Florida has grown from 5 to 334. Charter school student enrollment for 2005-2006 was over 92,000 students. Over 50 new charter schools have opened in the 2005-2006 school year.

Section 163.3180(13), F.S., states that school concurrency shall be established on a district wide basis and shall include all public schools in the district. Section 1002.33(1), F.S., states that charter schools shall be part of the state's program of public education and that all charter schools are public schools. Section 1002.33 (2) states that these facilities will expand the capacity of the public school system and will mitigate the educational impact created by the development of new residential dwelling units.

Therefore, charter schools must be an integral part of public school concurrency both in terms of providing capacity against which development will be measured for purposes of meeting concurrency and as a proportionate share mitigation option.

Capacity

Charter schools are public schools that operate under a performance contract, or a "charter". The charter contract between the charter school governing board and the sponsor (i.e., the school district) details the school's mission, program, goals, students served, methods of assessment and ways to measure success. The length of time for which charters are granted varies but most are granted for three to five years.

Charter schools are open to all students residing within the district; however, charter schools are allowed to target students within specific age groups or grade levels, students considered at-risk of dropping out or failing, students wishing to enroll in a

charter school-in-the-workplace or charter school-in-a-municipality, students residing within a reasonable distance of the school, students who meet reasonable academic, artistic or other eligibility standards established by the charter school, or students articulating from one charter school to another. Enrollment preference may be given to siblings of current charter school students or children of the charter school governing board members or employees.

In granting a charter, the school district specifies how many students the school is authorized to serve and whether a particular class of students is being targeted. This capacity must be taken into account as the school district determines and plans for current and projected student enrollment and available capacity of public school facilities. It must be also counted when applying the test of concurrency to determine whether sufficient capacity exists to serve the student demand of a particular development. If the school district and local governments decide to initially use a district wide concurrency service area (CSA), then the capacity that charter schools provide must be included along with the aggregated capacity in all other public schools in determining available capacity. (Within 5 years after adoption of school concurrency, local governments must apply school concurrency on a less than district wide basis, such as school attendance zones or concurrency service areas.) If less than district wide concurrency service areas are selected, then the school district must allocate a percentage of the capacity of the charter school based on proximity, students targeted, and current enrollment patterns.

Example: Concurrency service area #1 has one middle school with a capacity of 800 students and there is a distant charter school with an authorized enrollment of 150 students. Due to the distance and enrollment pattern, 10% of the capacity of the charter school, or 15 student stations, are assigned to the total capacity available to the CSA #1, bringing its total capacity to 815 student stations. The remaining capacity provided by the charter school is likewise allocated out to the various other CSAs until 100% of its student stations is assigned. Actual enrollment in CSA #1 is 792 students and enrollment at the charter school is 110 students. Therefore (assuming a 100% level of service standard), 8 student stations from the middle school within CSA #1 and 4 student stations from the charter school, for a total of 12 student station, are available to accommodate new development within CSA #1 (10% of the 110 students currently at the charter school, or 11 students, are from CSA #1, leaving 4 student stations available to CSA #1).

Proportionate Share Mitigation

Charter schools must also be included as a proportionate share mitigation option available to developers to meet public school concurrency. To exercise this option the school district and local government must enter into a legally binding agreement with the developer pursuant to s. 163.3180(13)(e), F.S., to provide mitigation proportionate to the demand for public school facilities to be created by actual development of the property. This agreement is different from, and does not take the place of the charter required at s. 1002.33(7), F.S. Capacity created in excess of actual demand can be used as

mitigation banking by the developer to sell as capacity credits to other developers in order for their projects to meet concurrency. The option to allow charter schools to satisfy public school concurrency must be included in the interlocal agreement between the school district and local governments pursuant to s. 163.31777, F.S., and in the public school facilities element required pursuant to s. 163.3177(12), F.S.

Educational Facility Benefit Districts

A new form of proportionate share mitigation is available in areas that can meet the statutory requirements to establish an Educational Facilities Benefit District (“EFBD”). See Sections 1013.355-357, Florida Statutes. An interlocal agreement must be executed between the school board and the local government in which the district will be located, and an ordinance must be adopted to create this dependent special district. Functionally, it is similar to a Chapter 190 Community Development District (“CDD”), but it can only be used to fund and construct school facilities. Like a CDD, it requires consent of all the property owners, so it lends itself to greenfield development of sites that are still within the control of a single developer or few landowners. The EFBD is governed by a board with representation from the local government, the school board, and the land owners.

A new revenue source available only in an EFBD is a special assessment against all dwelling units in the EFBD. To preserve the special benefit required for a legally defensible special assessment, the EFBD must guarantee that all students residing in the EFBD will be provided a seat in the school(s) in the EFBD. A byproduct of this requirement is that the EFBD schools truly become neighborhood schools. Students residing outside the EFBD may also attend the EFBD schools, which may assist EFBD schools in meeting the statutory requirement to retain the same socio-economic, racial, and ethnic balance that exists in the school district to the greatest extent possible.

Another financial advantage of the EFBD is that all school impact fees generated by development within the EFBD can be kept and spent within the EFBD, and are not dissipated into the larger benefit district. These two streams of future revenue can be bonded and used to build schools upfront to address the impacts of development within the EFBD, either with or without additional funding from the school board.

School facilities built under an EFBD are a part of the public school system and contribute to meeting level of service standards for school concurrency determinations. If included in the 5 Year District Facilities Plan, such facilities would qualify as proportionate share mitigation.

Mitigation Banking

The concept of mitigation banking recognizes the incremental nature of growth. It provides a means by which a residential developer or a group of developers may front the cost of contributing land or constructing school facilities and be reimbursed by future residential development. Proceeds received through the proportionate share mitigation program can be used to repay a developer making an investment in school facilities that exceeds his own proportionate share.

For example, a proposed residential development will generate 300 elementary students. However, there is a need for a new elementary school in the area to accommodate 800 students. The developer proposes to contribute the land and build a school for all 800 students. Under a proportionate share mitigation agreement, the developer would absorb the cost of his proportionate share (300 students) and be reimbursed through proportionate share contributions made by subsequent residential development using the school facility.

This approach can effectively leverage early investment by development to finance schools before they can be reasonably programmed by the school district. Such agreements are complex, however, and typically involve funding beyond that produced through proportionate share mitigation alone. In structuring such agreements, the school district (and effected local government) should give due consideration to siting, school design, the adequacy of funding and the capacity of the district to operate the school. The agreement should also specify the terms of reimbursement. In effect, the school district is adding a school facility to its 5 Year District Facilities Plan and contracting for its construction.

Impact Fee Credits

To avoid a double payment to mitigate the same impact, credits against future impact fee payments are specifically required by the 2005 legislation:

2. If the education facilities plan and the public educational facilities element authorize a contribution of land; the construction, expansion, or payment for land acquisition; or the construction or expansion of a public school facility, or a portion thereof, as proportionate-share mitigation, the local government shall credit such a contribution, construction, expansion, or payment toward any other impact fee or exaction imposed by local ordinance for the same need, on a dollar-for-dollar basis at fair market value.²⁹

If proportionate share contributions defray the same land or capital costs that would be covered by impact fees, these payments must be credited when impact fees are due. In most jurisdictions where school impact fees are applied, these fees do not represent the full proportionate share. Impact fee credits would in those instances be allowed only for that portion of the proportionate share contribution that was for the same facilities as would be funded through impact fee revenues. For example, if the full proportionate share was determined to be \$10,000 for a single family dwelling unit and the impact fee was set at \$3,000 for the same dwelling unit, the credit per dwelling unit would not exceed \$3,000. The remaining \$7,000 of the proportionate share amount would not be eligible for an impact fee credit.

The most common scenario will involve the payment (or binding commitment) of mitigation at the final subdivision stage and the assessment of an impact fee at the time a building permit is issued for an individual dwelling. In this case, the impact fee should be reduced by an amount equal to the per-unit amount of any previously paid (or agreed to) proportionate share mitigation. A variety of scenarios for the crediting of impact fees are possible among school districts. The proportionate share mitigation methodology

²⁹ s 163.3177(13)(e)(2)

Proportionate Share Mitigation For School Concurrency

should clearly define how these credits are to be applied and the procedures to be followed.

III. ESTABLISHING A PROPORTIONATE SHARE MITIGATION PROGRAM

Proportionate share mitigation is a required component of mandatory school concurrency. It may be applied only in circumstances prescribed by statute and consistent with the legislative criteria.

While the actual application and implementation of proportionate share mitigation is specific to circumstances at the time of development application and the unique aspects of the development under review, the process and methodology for proportionate share mitigation is pre-established. This section addresses the steps and best practices for establishing a proportionate share mitigation program.

A. PUBLIC SCHOOL FACILITIES ELEMENT / INTERLOCAL AGREEMENT

and The Interlocal Agreement (ILA) is required by statute to include a process and methodology for proportionate share mitigation and the Public School Facilities Element (PSFE) adopted by each local government is required to set forth mitigation options. This requirement elevates the proportionate share mitigation program to the status of a comprehensive plan policy and effectively mandates a coordinated school planning program involving the school district and local governments.

The ILA and the PSFE also provide the foundation for the essential components on which proportionate share mitigation is based. The essential components include:

- siting criteria which encourages the location of public schools proximate to urban residential areas and the collocation schools with other public facilities such as parks, libraries, and community centers;
- uniform, districtwide level-of-service standards for public schools of the same type;
- a process for the preparation, amendment, and joint approval by each local government and the school board of a public school capital facilities program which is financially feasible, and a process and schedule for incorporation of the public school capital facilities program into the local government comprehensive plans;
- a uniform districtwide procedure for implementing school concurrency which provides for the evaluation of development applications for compliance with school concurrency requirements, including information provided by the school board on affected schools, impact on levels of service, and programmed improvements for affected schools and any options to provide sufficient capacity;
- the geographic application of school concurrency including the establishment of school concurrency service areas that ensure maximum utilization of school capacity and the achievement and maintenance of the adopted level-of-service standards for the geographic area of application throughout the 5 years covered by the public school capital facilities plan.

The proportionate share mitigation program must be consistent with the standards adopted in the PSFE and the ILA.

B. 5 YEAR DISTRICT FACILITIES PLAN

The 5 Year District Facilities Plan is a central feature of the proportionate share mitigation program. It prescribes (1) the current status of each school facility in terms of capacity versus enrollment and (2) the programmed application of public school funds for capacity expansion over the coming five years. The Plan will also show current and projected utilization factors for each school facility on which levels of service are based.

The 5 Year District Facilities Plan is also the primary reference for concurrency determinations and for assessing the eligibility of residential development projects for proportionate share mitigation. “Student generation multipliers” and “cost per student station” factors should be incorporated into the Plan or adopted by reference, and validated annually with the update of the Plan.

C. SCHOOL CONCURRENCY ORDINANCE

A school district cannot directly establish a proportionate share mitigation program. Only local governments have the land use powers to condition approval of a project on the mitigation of impacts. Consequently, the local government’s code of ordinances must be amended to establish the mitigation obligation, determine the time at which the mitigation must be accomplished, establish the options available for mitigation, and provide a process for implementing the required mitigation. It is recommended that the “student generation multipliers” and the “cost per student station” factors be prescribed in the 5 Year District Facilities Plan and referenced in the school concurrency ordinance. This approach avoids the need for annual amendments to the Land Development Regulation of each local government.

Although the authority for the use of proportionate share mitigation must be established in the comprehensive Plan local ordinance, it must also be implemented by an agreement between the developer, the school district and the affected local government.

Moreover, the application of proportionate share mitigation must be uniform countywide. The Florida Constitution requires all school districts in the state to be countywide, and further provides that school boards must provide a “free, adequate and uniform” system of education.

School boards and local governments must also work together on implementation of the ordinance, and an interlocal agreement is useful in setting forth the respective duties and obligations of the parties. Most often, the calculation of the impacts and the fee owed by a particular development is performed by the school board’s staff, applying the methodology in the ILA and local government’s code. The local government actually mandates the mitigation as part of its development approval processes.

D. SCHOOL DISTRICT POLICIES

School districts may also adopt written policies that describe processes and methodologies for various aspects of school planning and school concurrency including proportionate share mitigation. These policies must be consistent with the PSFE, ILA and concurrency management ordinances adopted by the local governments both in terms of process and content. Generally, district policies could amplify on the provisions

of the PSFE, ILA and implementing ordinances so long as they remained consistent with these documents.

E. IMPACT FEE STUDIES

Jurisdictions that have adopted school impact fees will have conducted studies to calculate a “maximum allowable fee”. Because these studies employ essentially the same methodology as required for the determination of proportionate share, they may provide much of the foundation for the proportionate share mitigation methodology.

Impact fee studies should be reviewed as the proportionate share mitigation program is being developed for consistency with the provisions prescribed by the PSFE and ILA.

F. ESTABLISHING PROPORTIONATE SHARE COST PARAMETERS

Data Issues

The proportionate share calculation involves linking the student generation characteristics of the various residential types to school capacity and the cost of providing that capacity. The more precisely and accurately these parameters can be shown to reflect real world conditions within each school district, the greater the probability that the program will sustain any legal challenge and serve the community well as an instrument of public policy.

In reality, there may be a variety of data sources and methods that can be used to support the required calculations. Unfortunately there appears no single reliable source available to school districts and data must of necessity be drawn from census and government data sources, tax data maintained by county property appraisers, development data maintained by local governments and school enrollment, capacity and cost data maintained by school districts and the Department of Education.

Despite the disjoints noted above, adequate data can be assembled from readily available sources to support a proportionate share methodology in most Florida school districts.

The material offered in this section is also intended to assist in the identification of the type of source of data required.

The distinction between school impact fees and proportionate share mitigation has been noted in this report. It should be emphasized, however, that these distinctions lie primarily in purpose and application. Both impact fees and mitigation are based on a proportionate share concept and, as such, will be mutually supported by a common database and methodology.

Capital Cost for Schools

All proportionate share methodologies must begin with the question, “*proportionate share of what?*” *How is the overall cost to be determined and what facilities are to be included in this calculation?*

At the beginning, it is important to establish that the term “cost” in the context of proportionate share calculation means the actual cost to reproduce the educational capacity at the time the demand for the capacity is generated. A level of service for each type of educational facility is first established. Then it must be determined how each increment of new development affects this level of service. For example, if a single family house generates 0.15 elementary school students and the construction of one elementary school student station costs \$14,000; it would follow that the proportionate share of permanent school construction for this new home would be \$2,100.

The first step in determining the proportionate share for public educational facilities is to pro rate the various capital costs of school facilities among the enrollment capacity (i.e. student stations). The cost per student is calculated using the following formula:

$$\frac{\text{Cost of Educational Facility}}{\text{Student Capacity per Educational Facility}} = \text{Cost per Student}$$

There are three variables used in this formula:

- A. the **types and levels** of each educational facility
- B. the **costs of each type and level** of educational facility
- C. the **student capacity of each type and level** of educational facility

Variable A: Types and Levels of Educational Facilities. Public schools are typically structured by grade level:

Elementary schools serve Kindergarten through 5th grade
Middle schools serve 6th grade through 8th grade
High schools serve 9th through 12th grade

Schools at each level are designed to meet different educational needs for different numbers of students. Consequently each level must be analyzed separately.

There are typically three components of educational facilities included in a proportionate share calculation: (1) permanent facilities, (2) portable classrooms³⁰, and (3) land acquisition.³¹ For purposes of proportionate share mitigation, only permanent school capacity as determined by the school district should be considered.³²

Support facilities that are located at schools, such as cafeterias and principals’ offices, are typically classified as “core capacity”. The cost of “core” facilities are included in the “cost per student station” factor, and are generally not analyzed separately.

³⁰ Temporary classroom space provided by facilities that do not meet permanent space requirements

³¹ Support facilities that are not located at schools, such as maintenance, storage, transportation and administrative facilities are called “ancillary” facilities. The cost per student of ancillary facilities is calculated separately from other types of educational facilities.

³² Some relocatables meet standards for permanent classroom space at the discretion of the school district in accordance with DOE guidelines

Variable B: Costs of Educational Facilities The cost of each new or expanded educational facility includes **land, design, buildings, equipment and furniture, and site improvements.**

While most additional capacity in educational facilities will be provided by constructing new facilities, capacity may also be added by expanding existing facilities. Typically references to new educational capacity are understood to include the expansion of existing facilities but not their renovation.

The costs per student station were established by the Florida Legislature in 1997.³³ These costs are the maximum allowed by the State, and they must cover design, site preparation, construction materials, labor costs, contractor's pre-construction services, contractor's fees, contractor's risk, builder's risk insurance, performance bond, furniture, technology and equipment, utility connection fees, printing & signage, permitting and construction inspection and testing. These costs do not include land acquisition. The state figures are adjusted annually by changes in the Consumer Price Index.³⁴

A district may elect to adjust construction costs to reflect documented local experience. Because the State estimates represent maximum allowable costs, these local adjustments will typically reduce the cost per student station used in the proportionate share calculation. For example, Palm Beach County used a 0.96 adjustment factor to reflect local construction experience in its 2003 impact fee update.

The land cost represents the cost for a site needed for buildings, playgrounds/ athletic fields, auxiliary facilities, parking and on-site stormwater retention for the standard new school or for a school expansion. For proportionate share mitigation calculations, land costs should be based on historical land costs or values within the district with adjustments to reflect current fair market value averages. The resulting cost per acre is then multiplied by a standard number of buildable acres required to support each type of educational facility. If significant variations in land cost occur in different areas of the county e.g. beachfront areas versus inland suburban areas, fair market averages may be tiered to better reflect market conditions. Studies supporting these land costs should be prepared by qualified professionals, and updated frequently to reflect current costs.

Variable C: Students per Educational Facility. The existing and planned capacity of each school within a district is contained within the 5 Year District Facilities Plan.

Because schools have been constructed over a period of decades, the capacity of individual schools and the site size may vary widely. In recent years, many school districts have adopted standards that apply to new schools. Table 1 illustrates typical standards for a school district. While it should be noted that standards such as those shown in Table 1 are not a requirement, their inclusion in the PSFE and ILA may serve to clarify expectations for design and site needs.

³³ House Bill 17A

³⁴ <http://www.firn.edu/doe/oef/costofconst.htm>

Table 1: Typical Standards for School Capacity

Type of Facility	Elementary	Middle	High
Permanent New Schools	550	900	1,800
Land Requirements (buildable acres)	15	25	40

Cost Per Student

Using the above variables, the cost per student for each type of educational facility can be determined. Table 2 illustrates the factors typically applied to determine the per student cost of constructing new permanent education facilities.

Table 2: Permanent School Capacity Cost

Cost Items	Elementary	Middle	High
Structure & Related Facilities			
Student Capacity	550	900	1,800
State Cost per Student	\$13,911	\$15,950	\$21,106
Local Adjustment Factor	.96	.96	.96
Construction Cost	\$7,345,008	\$13,780,800	\$36,471,168
Land			
Cost per acre	\$30,000	\$30,000	\$30,000
Acres Required	15	25	40
Land Cost	\$450,000	\$750,000	\$1,200,000
Total School Cost	7,795,008	\$14,530,800	\$37,671,168

With the exception of the “State Cost per Student”, all of the factors noted above will vary among school districts depending on local circumstances, adopted fiscal practices and public school policies regarding levels of service.

Table 3 shows the conversion of the cost identified in Table 2 to the “facility cost per student for elementary, middle and high schools.

Table 3: Educational Facility Costs per Student Station

Cost Item	Elementary	Middle	High
Permanent Educational Facilities	\$13,355	\$15,312	\$20,262
Land	\$818	\$833	\$667
Total Cost per Student Station	\$14,173	\$16,145	\$20,929

Cost of Education Facilities per Dwelling Unit

Once the cost of educational facilities per student has been determined, the proportionate share amount must be converted to a cost per dwelling unit. Because the number of students residing in a dwelling can vary significantly depending on the size and type of the dwelling unit, the calculation and application of this ratio is perhaps the most critical and sensitive step in this process.

Students per Dwelling Unit

The student / dwelling unit ratio is typically expressed in one of four ways: (1) the student generation by dwelling unit type (single family, multi-family, mobile home, etc), (2) the size of the home typically expressed in square feet, (3) the number of bedrooms in the dwelling or (4) some combination of these definitions. Generally, single-family dwellings will generate more students than multi-family units and larger dwellings will have more students than smaller units. Furthermore, each type of dwelling unit has a different number of students at each school level (elementary, middle and high).

It cannot be assumed that the student generation characteristics of each dwelling unit type or size will be the same from school district to school district. Consequently each district will be required to locally verify this correlation. The more sophisticated (statistically valid) the approach, the more equitable it is likely to be and the more likely it is to withstand challenge. Nonetheless, defensible student generation multipliers can be devised from US Census data and this methodology can be reliably used in the absence of more sophisticated data and data management resources. Public Use Microdata Sample Data from the 2000 US Census is available on a countywide basis and for small areas as small as census tracts. 100% counts contain statistics regarding population, age, households, families and housing units. The 5% microdata samples provide estimates of housing types, the population residing within different housing types and school enrollment. This analysis will typically produce an estimate of the number of public school students residing in single family, multi-family and mobile homes. This estimate is then divided by the total number of houses to produce a "student generation multiplier" by housing type. Estimates of the average public school enrollment derived from this data have been found by Florida courts to be "reasonable" and not arbitrary.

An increasing number of school districts maintain the addresses of students in electronic formats. The conversion of this data into a geographic information system (GIS) format compatible with property tax data provides the best database for determining student generation multipliers. County property appraisers will typically maintain data by type of residence, the number of bedrooms and the size in square feet. These two sources can be combined to arrive at occupancy by square footage for residences.

These multipliers are calculated by applying the ratio of elementary, middle and high school students within the school district to the total student generation multiplier for each housing type. An example of the result is shown in the Table 4.

Table 4: Adjusted Multipliers: Public School Students per Dwelling Unit by Education Level

Housing Type	Elementary School	Middle School	High School	All
Single Family	0.194	0.097	0.138	0.429
Multi-Family	0.122	0.050	0.057	0.229
Mobile Home	0.111	0.049	0.060	0.220

Source: Polk County School Impact Fee Study, Henderson & Young

The student generation multipliers used for school concurrency determinations should distinguish between single family, multi family and mobile homes. Finer grain multipliers e.g. those providing gradations for the size of dwelling may be difficult to apply at the comprehensive planning, zoning and platting stage of development. Consequently, if the jurisdiction uses a complex multiplier table for impact fee calculation, it is recommended that a more generalized table be developed for school concurrency and proportionate share purposes. Care should be given to ensure that multipliers used for these different purposes are not in conflict.

Cost per Dwelling Unit

The final calculation involves multiplying the cost per student by the number of public school students generated by each dwelling unit for each educational level. Table 5 below shows this calculation by applying the “cost per student” shown in Table 3 to the multipliers shown in Table 4 above.

Table 5: Public School Cost per Dwelling Unit by Education Level

Housing Type	Elementary School	Middle School	High School	All
Single Family	\$2,750	\$1,566	\$2,888	\$7,204
Multi-Family	\$1,729	\$807	\$1,193	\$3,729
Mobile Home	\$1,573	\$791	\$1,256	\$3,620

IV IMPLEMENTING PROPORTIONATE SHARE MITIGATION

The implementation of the proportionate share mitigation involves the following steps: (1) a school concurrency determination for each residential development application, (2) a school capacity study for developments where a level of service deficiency is anticipated, (3) a determination of eligibility for proportionate share mitigation and a calculation of proportionate share, (4) a selection of a mitigation option and (5) the execution of a binding agreement.

A. ORGANIZING FOR IMPLEMENTATION

By statute, school concurrency is mandatory only at the final subdivision plat or site plan stage (or its functional equivalent). The statute also requires that the school district be afforded the opportunity to comment on comprehensive plan and zoning amendments. In reality, school district review and comment should be integrated into all stages of the development review process of each local government.

As a best practice, the actual finding regarding school concurrency for any residential development should be made by the school district and this responsibility should be established in the ILA and the Public School Facilities Element. In recognition of this responsibility, each local government should consider elevating the school district to a “reviewing agency” status i.e. school district review and response would be required for all residential development and at all stages of development approval. Each application should be required to provide school-related data and applications should be routinely forwarded to the school district early in the development review process with comment required in accordance with established timelines.

The school concurrency review process should be supported by the development of a comprehensive database specifically designed for school concurrency purposes and a clear articulation of the standards for review.

B. ORGANIZING THE DATABASE

The database for managing school concurrency should be GIS³⁵ – based and in a format that can be readily shared. The framework for the database is established in the data and analysis portion of the PSFE and in the background analysis for the establishment of the proportionate share mitigation methodology. For concurrency evaluations and proportionate share mitigation, this database should be further developed to link school enrollment and school capacity data with residential development at the attendance zone and concurrency service area level. The primary datasets include:

- Projections of population and housing countywide;
- School enrollment projections (population and housing projections for the first ten years reconciled with local government projections);
- Current and 5 year projection School capacity and school enrollment data by school attendance zone and concurrency service area (as per the 5 Year District Facilities Plan
- Student generation multipliers by housing type and by school type;

³⁵ Geographic Information Systems

- Cost per student station by school type (as per 5 Year District Facilities Plan)

It is recommended that a consolidated geodatabase be developed and shared by the school district and the local governments with management assigned to a single entity. If the database is not to be directly maintained by the school district, the school district staff should have easy access for data retrieval and analysis.

C. IDENTIFYING LEVEL OF SERVICE DEFICIENCIES

The school district should be established by the ILA, PSFE and the implementing ordinances and policies as the authority for determining that school concurrency is satisfied for each residential development. The responsibility amplifies the importance of the school districts role as a review agency and the need for standardized process for their review.

To standardize this procedure, each local government should require that school-related information (prescribed in the local ordinance) be required of each residential development (similar to a traffic analysis or the identification of environmental constraints). Once submitted, each application should be routinely forwarded to the school district for review and response within a prescribed timeframe. For those applications where school capacity is adequate, this response will be routine and require no additional review.

If the initial development review indicates that adequate school capacity may not be available, a more extensive school capacity review should be conducted. Such studies would be appropriate for schools that were exceeding or near level of service and the proposed development either alone or in combination with other development could trigger a level of service deficiency. The purpose of the study is to more precisely define the relationship of the proposed residential project and school capacity within its service area. The study may consider the specific nature of the development, its phasing and other factors to support a school concurrency finding.

D. CALCULATING PROPORTIONATE SHARE

If the review of a development demonstrates that a residential development will result in a level of service deficiency, the study should then include sufficient data and analysis to (1) determine if the proposed development qualifies for proportionate share mitigation and (2) calculate the appropriate proportionate share.

The standards and parameters for calculating the proportionate share should be pre-established as described in Section III. This calculation should result from the straightforward application of the adopted “cost per student station” by school type to the mix of housing unique to the proposed development.

E. SELECTING A MITIGATION OPTION

The selection of a mitigation option from among those authorized by statute should also be addressed by the development review process. Unlike the previous steps which are largely dictated by formula or pre-established standards, the selection of a mitigation option may represent a variety of choices and vary widely depending on the particular circumstances unique to each agreement.

This phase will often be negotiated between the developer and the school district but with the involvement of the local government. Broad discretion may be exercised at this stage provided the resulting agreement complies with statutes, plans, policies and ordinances that may govern the process and developer's contribution is consistent with his proportionate share obligation.

F. SECURING A BINDING COMMITMENT

Proportionate share mitigation must finally be secured by a binding development agreement if the school concurrency requirement is to be satisfied and the "financially feasible" standard is to be met.

Because the school district is not a party to development orders approved by local government, the proportionate share mitigation option will be executed by an agreement between the developer, the school district, and the local government. At a minimum, the development order pertaining to a residential project where proportionate share mitigation is applied should also be conditioned on the implementation of the agreement as a prerequisite for development.

Orange County uses a "Capacity Enhancement Agreement" for this purpose. While these agreements are unique to the development in question and to the school capacity issue in question, their form, procedures and terms are standardized to the maximum extent possible and established within the implementing ordinances. Typically these agreements address the following topics:

- A description of the development and the school enrollment / capacity characteristics;
- A commitment by the developer to participate in the proportionate share mitigation program;
- A description of the developer's proportionate share mitigation program;
- Provisions for the implementation of the proportionate mitigation option including the timing of contributions and other capacity enhancing actions; and
- A commitment by the school district to use proportionate share contributions to provide additional school capacity.

V. SURVEY RESULTS

Of the 67 school districts in Florida, 39 (58%) responded to the survey. Only 13 local governments responded including 12 counties (18%). The conclusions provided primarily rely upon the response of the school districts.

Ten (10)³⁶ school districts in Florida use proportionate share mitigation for school capacity. Another fifteen (15) districts are considering proportionate share mitigation. Of the ten school districts that apply proportionate share mitigation, nine also impose impact fees for public school facilities³⁷. School impact fees have been enacted in twenty two (22) counties and survey responses were received from fourteen (14) of these districts or counties. It may be concluded from this data that proportionate share mitigation is not commonly applied by Florida school districts and local governments. Its application is most common in school districts that also impose impact fees.

All reporting districts calculate proportionate share for different dwelling unit types e.g. single family, multi family, etc. but vary in the use of parameters such as the size of the dwelling unit, the number of bedrooms and other factors. These calculations are typically linked to the methodologies established for impact fees. The responses also suggest that most if not all districts base student generation multipliers on local conditions either through formal studies or by reference to local development characteristics or trends.

The “cost per student station” data and estimates provided by the Department of Education are used extensively. Most of the reporting districts adjust these cost estimates to reflect local experience. Land costs are also typically included based on local conditions.

The reporting jurisdictions determine proportionate share mitigation at various stages of the development review process ranging from comprehensive plan amendment to final plat. Likewise, proportionate share contribution may occur at various points although actual payment generally occurs nearer to the point of residential construction. It should be noted that the survey responses indicate wide variance among districts about the point in the development process where proportionate share mitigation is applied.

Although land cost is typically included in proportionate share calculations and land dedication is indicated to be a common element of the proportionate share mitigation, school site dedication is rarely mandatory. It is more often either required for large scale residential projects reviewed as DRI’s and/ or PUD’s or as a voluntary offer for purchase by the school district. The negotiation for school lands is widely used and may occur at any stage in the development review process.

³⁶ The Orange County school district did not respond to the survey but the application of proportionate share mitigation by Orange County Public Schools under the “Martinez Doctrine” is well documented.

³⁷ Monroe County does not impose school impact fees.

Proportionate Share Mitigation For School Concurrency

The implementation of proportionate share mitigation is accomplished by both formal development agreements and by conditions prescribed in a development order. Several of the reporting jurisdictions use both techniques.

The survey responses indicate that proportionate share mitigation is not common in Florida and is applied primarily in districts where impact fees have also been established. Although there are common elements, presumably due to the “impact fee” connection for these programs, there is also a high degree of variation among methods and implementation techniques.

Appendix A

PROPORTIONATE SHARE METHODOLOGY FOR SCHOOL CONCURRENCY / SURVEY OF CURRENT PRACTICES

Senate Bill 360 enacted by the 2005 Florida Legislature mandated school concurrency. To implement this legislation, each school district and the local governments within the district must include a *proportionate share methodology* as a part of its school concurrency management system. The Florida Department of Community Affairs (DCA) is charged with the responsibility of developing model *proportionate share methodologies* for application by school districts and local governments.

DCA is requesting your assistance and input in the development of model *proportionate share methodology*. **Please complete and return this survey and return by Friday, December , 2005. You may submit by return email.**

Excerpts from SB 360

The following excerpts from SB 360 provide the legislative foundation for this survey.

Chapter 163.3180 (13).F.S.

(e) Availability standard.--Consistent with the public welfare, a local government may not deny an application for site plan, final subdivision approval, or the functional equivalent for a development or phase of a development authorizing residential development for failure to achieve and maintain the level-of-service standard for public school capacity in a local school concurrency management system where adequate school facilities will be in place or under actual construction within 3 years after the issuance of final subdivision or site plan approval, or the functional equivalent. School concurrency shall be satisfied if the developer executes a legally binding commitment to provide mitigation proportionate to the demand for public school facilities to be created by actual development of the property, including, but not limited to, the options described in subparagraph 1. Options for proportionate-share mitigation of impacts on public school facilities shall be established in the public school facilities element and the interlocal agreement pursuant to s. 163.31777.

1. Appropriate mitigation options include the contribution of land; the construction, expansion, or payment for land acquisition or construction of a public school facility; or the creation of mitigation banking based on the construction of a public school facility in exchange for the right to sell capacity credits. Such options must include execution by the applicant and the local government of a binding development agreement that constitutes a legally binding commitment to pay proportionate-share mitigation for the additional residential units approved by the local government in a development order and actually developed on the property, taking into account residential density allowed on the property prior to the plan amendment that increased overall residential density. The district school board shall be a party to such an agreement. As a condition of its entry into such a development agreement, the local government may require the landowner to agree to continuing renewal of the agreement upon its expiration.

2. *If the education facilities plan and the public educational facilities element authorize a contribution of land; the construction, expansion, or payment for land acquisition; or the construction or expansion of a public school facility, or a portion thereof, as proportionate-share mitigation, the local government shall credit such a contribution, construction, expansion, or payment toward any other impact fee or exaction imposed by local ordinance for the same need, on a dollar-for-dollar basis at fair market value.*

3. *Any proportionate-share mitigation must be directed by the school board toward a school capacity improvement identified in a financially feasible 5-year district work plan and which satisfies the demands created by that development in accordance with a binding developer's agreement.*

4. *This paragraph does not limit the authority of a local government to deny a development permit or its functional equivalent pursuant to its home-rule regulatory powers, except as provided in this part.*

(g) Interlocal agreement for school concurrency.--When establishing concurrency requirements for public schools, a local government must enter into an interlocal agreement that satisfies the requirements in ss. s. 163.3177(6)(h)1 and 2 and 163.31777 and the requirements of this subsection. The interlocal agreement shall acknowledge both the school board's constitutional and statutory obligations to provide a uniform system of free public schools on a countywide basis, and the land use authority of local governments, including their authority to approve or deny comprehensive plan amendments and development orders. The interlocal agreement shall be submitted to the state land planning agency by the local government as a part of the compliance review, along with the other necessary amendments to the comprehensive plan required by this part. In addition to the requirements of ss. s. 163.3177(6) (h) and 163.31777, the interlocal agreement shall meet the following requirements:

.....

8. *A process and uniform methodology for determining proportionate-share mitigation pursuant to subparagraph (e) 1.*

SURVEY: PROPORTIONATE SHARE METHODOLOGY FOR SCHOOL CONCURRENCY

This questionnaire is intended to survey current practices among school districts and local governments regarding the use of proportionate share contributions to mitigate school capacity. The survey will address (1) the methods used to calculate proportionate share, (2) the means used to levy the proportionate share and (3) the processes and techniques used to allocate contributions derived from a proportionate share program. In addition to your response to each of the questions, you are requested to provide copies of policies, ordinances, procedures, agreements or other documents used by your agency to calculate, levy and allocate proportionate share contributions.

Survey Respondents	
School Districts	39
Counties	12
Cities	1

PART I: GENERAL USE OF PROPORTIONATE SHARE CONTRIBUTIONS

1. Does your school district / local government currently use proportionate share contributions from residential development to mitigate school capacity?

- NO
- YES

Does your school district / local government currently use proportionate share contributions from residential development to mitigate school capacity?		
	Yes	No
School Districts	8	29
Counties		12
Cities		1

2. Is your school district / local government currently considering the use of proportionate share contributions from residential development to mitigate school capacity?

- NO
- YES: No Action Taken Yet
- YES: Study Completed / Under Review for Adoption
- YES: Study In Progress

Proportionate Share Mitigation For School Concurrency

Is your school district / local government currently considering the use of proportionate share contributions from residential development to mitigate school capacity?				
	No	YES: No Action Taken Yet	YES: Study Completed / Under Review for Adoption	YES: Study In Progress
School Districts	8	10	0	5
Counties	7	1	2	0
Cities	1	0	0	0

3. Does your school district / local government currently impose impact fees on residential development to mitigate school capacity?

- NO
- YES

Does your school district / local government currently impose impact fees on residential development to mitigate school capacity?		
	Yes	No
School Districts	12	27
Counties	6	6
Cities	0	1

4. Is your school district / local government currently considering the use of impact fees to mitigate school capacity?

- NO
- YES: No Action Taken Yet
- YES: Study Completed / Under Review for Adoption
- YES: Study In Progress

Is your school district / local government currently considering the use of impact fees to mitigate school capacity?				
	No	YES: No Action Taken Yet	YES: Study Completed / Under Review for Adoption	YES: Study In Progress
School Districts	17	6	1	7
Counties	3	2	2	2
Cities	1	0	0	0

IF YOU ANSWERED NO TO QUESTIONS 1 THROUGH 4 ABOVE, YOUR RESPONSE IS COMPLETE.

IF YOU ANSWERED YES TO ANY QUESTION 1 THROUGH 4 ABOVE, PLEASE PROCEED TO PART II

PART II: PROPORTIONATE SHARE CALCULATIONS

5. How does your agency calculate proportionate share for residential development?

- Type of Dwelling Unit (single family detached, multi-family, etc)
- Size of Dwelling Unit (floor area)
- Number of Bedrooms
- Unit Type plus Number of Bedrooms
- Combination of the above (please specify)

How does your agency calculate proportionate share for residential development? NARRATIVE RESPONSES	
Seminole District	Type of dwelling unit (SF, MF, Mobile home)
Santa Rosa District	The responses do not match your printed version - printed answer is Combination of the above but our study is not complete at this point so I can not how it will be applied as that is yet to be determined.
Hillsborough District	We are a pilot project and are just beginning to finalize procedures for calculations.
Highlands District	Did not respond to following questions - currently working with county and municipalities to develop our concurrency requirements.
Volusia District	By type of Dwelling Unit (single family detached, multi-family, etc.)
Lake District	This has not yet been established
Lee District	Type of Dwelling Unit
Miami – Dade District	size of dwelling unit floor area
Collier District	Type of Dwelling Unit.
Broward District	unit type plus number of bedrooms
Pasco District	type of dwelling unit/Impact see assessment
Martin District	number of units and acreage of project
Palm Beach District	size of dwelling unit
Lake County	Impact fees are based on a study. The impact fees are per residential unit and based on expansions, redistricting or reassignment.
Collier County	No proportionate share calculations - Impact fees are calculated
Manatee County	type of dwelling unit

6. How do you determine the proportionate share to be allocated to a residential development?

- Formal study of demographics / multipliers
- Estimates based on historical experience
- Estimates based on school enrollment/ development trends analysis.

Proportionate Share Mitigation For School Concurrency

How do you determine the proportionate share to be allocated to a residential development?			
	Formal study of demographics / multipliers	Estimates based on historical experience	Estimates based on school enrollment/ development trends analysis.
School Districts	6	2	5
Counties	No Response		
Cities	No Response		

PLEASE PROVIDE ANY DOCUMENTATION AVAILABLE REGARDING THE DETERMINATION OF PROPORTIONATE SHARE CALCULATIONS/ MULTIPLIERS

9. How does your agency estimate facility cost for proportionate share calculations?

- Per student station using Department of Education data
- Per student station adjusted for local conditions
- Cost per square foot
- Average of projected cost as per capital facilities program
- Cost of concrete or modular student station
- Other (please specify)

How does your agency estimate facility cost for proportionate share calculations?					
	Per student station using Department of Education data	Per student station adjusted for local conditions	Cost per square foot	Average of projected cost as per capital facilities program	Cost of concrete or modular student station
School Districts	8	7	3	4	0
Counties	Not applicable				
Cities	Not Applicable				

How does your agency estimate facility cost for proportionate share calculations? NARRATIVE RESPONSES	
Seminole District	Actual historical cost per student station
Lake District	Not yet established
Pasco District	Impact fee calculations
Lake County	Proportionate share is being studied. Impact fees are based on a study.
Collier County	No proportionate share calculations - Impact fees are calculated

10. How does your agency estimate land cost for proportionate share contributions?

- Our agency does not include land cost in proportionate share calculations
- Average land cost based on formal study
- Average cost based on school district experience
- Other (please specify)

Proportionate Share Mitigation For School Concurrency

How does your agency estimate land cost for proportionate share contributions?				
	Our agency does not include land cost in proportionate share calculations	Average land cost based on formal study	Average cost based on school district experience	Other
School Districts	0	6	7	2
Counties	No Response			
Cities	No Response			

PLEASE PROVIDE ANY DOCUMENTATION AVAILABLE REGARDING THE ESTIMATION OF CONSTRUCTION AND LAND COSTS FOR PROPORTIONATE SHARE DETERMINATIONS

PART III: LEVY OF PROPORTIONATE SHARE REQUIREMENTS

11. At what stage in the development process does your agency require a school capacity / proportionate share analysis?

- Future Land Use Plan Map Amendment
- Development of Regional Impact (DRI)
- Planned Unit Development
- Rezoning
- Final Subdivision / Site Plan
- Combination of the above (please specify)

At what stage in the development process does your agency require a school capacity / proportionate share analysis?					
	Future Land Use Plan Map Amendment	Development of Regional Impact (DRI)	Planned Unit Development	Rezoning	Final Subdivision / Site Plan
School Districts	4	4	3	5	2
Counties	No Response				
Cities	No Response				

Proportionate Share Mitigation For School Concurrency

At what stage in the development process does your agency require a school capacity / proportionate share analysis? NARRATIVE RESPONSES	
Alachua District	None at this time
Sumter District	To be developed by interlocal committee
Lake District	Not yet established
Baker District	The Baker County School District has not had anything come up for proportionate share. If given the option, we would use the DRI, PUD and Final Subdivision/Site Plan.
Collier District	All of the above
Pasco District	it is not required
Palm Beach District	combination of the above should also be done at first development order
Lake County	The School Board provides a school capacity analysis at the time of application.
Santa Rosa County	Not yet formally implemented, but any of the above proposals requesting increased residential development of more than 10 acres or more than 10 du per acre are referred to the School District.
Collier County	No proportionate share calculations - Impact fees are calculated - This analysis conducted when Building Permit is reviewed.

12. At what stage in the development process does your agency require a proportionate share contribution?

- Future Land Use Plan Map Amendment
- Development of Regional Impact (DRI)
- Planned Unit Development
- Rezoning
- Final Subdivision / Site Plan
- Combination of the Above (please specify)

At what stage in the development process does your agency require a proportionate share contribution?					
	Future Land Use Plan Map Amendment	Development of Regional Impact (DRI)	Planned Unit Development	Rezoning	Final Subdivision / Site Plan
School Districts	2	2	2	3	4
Counties	No Response				
Cities	No Response				

Proportionate Share Mitigation For School Concurrency

At what stage in the development process does your agency require a school capacity / proportionate share analysis? NARRATIVE RESPONSES	
Santa Rosa District	We currently require mitigation on developments of 100 ac or more, new ILA will include all development, but is yet to be implemented
Alachua District	None at this time
Sumter District	To be developed by interlocal committee
Lake District	Not yet established
Baker District	The Baker County School District has not had anything come up for proportionate share. If given the option, we would use the DRI, PUD and Final Subdivision/Site Plan.
Collier District	Future Land Use Map Amendment and DRI
Pasco District	impact fee is assessed at certificate of occupancy
Palm Beach District	combination of the above contribution should be done prior to final development order
Lake County	If a developer provides a contribution in addition to impact fees, it is voluntary and worked out with the School Board.
Santa Rosa County	Not yet formally implemented, but (after receipt of an application and referral by the Planning Division), the School District requires proposed developments of 100 acres or more to mitigate before capacity is approved.
Collier County	No proportionate share calculations - Impact fees are calculated - This analysis conducted when Building Permit is reviewed.
Manatee County	Impact fees at certificate of occupancy

13. Do local governments in your district require mandatory school site dedication in their land development code? If so at what stage in the development process must sites be reserved or dedicated?

- No local governments in our district mandate the dedication of school sites
- Future Land Use Plan map amendment
- Development of Regional Impact (DRI)
- Planned Unit Development
- Rezoning
- Final Subdivision / Site Plan
- Other

Do local governments in your district require mandatory school site dedication in their land development code? If so at what stage in the development process must sites be reserved or dedicated?						
	No local governments in our district mandate the dedication of school sites	Future Land Use Plan Map Amendment	Development of Regional Impact (DRI)	Planned Unit Development	Rezoning	Final Subdivision / Site Plan
School Districts	13	1	1	1	0	1
Counties	4	0	0	0	0	0
Cities	0	0	0	0	0	0

Proportionate Share Mitigation For School Concurrency

Do local governments in your district require mandatory school site dedication in their land development code? If so at what stage in the development process must sites be reserved or dedicated? NARRATIVE RESPONSES	
Santa Rosa District	Yet to be determine, still in study stage
Sumter District	To be developed by interlocal committee
Pasco District	land is extracted and purchased by school board
Palm Beach District	school district staff has successfully acquired school sites at no cost
Lake County	Dedication is voluntary and negotiated between the Commission and the School Board.
Manatee County	Not mandatory-sometimes with DRI or PUD

14. Does your district negotiate the reservation and/or dedication of school sites as a condition of development approval? If so at what stage in the development review process does this negotiation occur?

- Our district does not negotiate for the reservation of school sites during the development review process
- Future Land Use Plan map amendment
- Development of Regional Impact (DRI)
- Planned Unit Development
- Rezoning
- Final Subdivision / Site Plan
- Other (please specify)

Does your district negotiate the reservation and/or dedication of school sites as a condition of development approval? If so at what stage in the development review process does this negotiation occur?						
	No local governments in our district mandate the dedication of school sites	Future Land Use Plan Map Amendment	Development of Regional Impact (DRI)	Planned Unit Development	Rezoning	Final Subdivision / Site Plan
School Districts	3	3	9	5	5	1
Counties	0	2	2	3	3	1
Cities	No Response					

Proportionate Share Mitigation For School Concurrency

Does your district negotiate the reservation and/or dedication of school sites as a condition of development approval? If so at what stage in the development review process does this negotiation occur?	
NARRATIVE RESPONSES	
Santa Rosa District	Only on development that exceeds 100 ac in size
Sumter District	To be developed by interlocal committee
Lake District	Yes we do, however, w/o local government LDRs nothing is codified.
Baker District	We have only negotiated with one developer for land.
Broward District	Use of flexibility/reserve units and DRI
Martin District	Our district sometimes negotiates for dedication of a school site during PUD and DRI review process
Palm Beach District	1st development order
Lake County	Dedication is voluntary and negotiated between the Commission and the School Board.
Manatee County	Not mandatory-sometimes with DRI or PUD

15. What techniques does your district use to implement proportionate share requirements?

- Developer agreements
- Conditions imposed by development order
- Capacity enhancement agreements
- Other
- Combination of the above

What techniques does your district use to implement proportionate share requirements?				
	Developer agreements	Conditions imposed by development order	Capacity enhancement agreements	Other
School Districts	6	5	1	5
Counties	3	2	1	0
Cities	No Response			

Proportionate Share Mitigation For School Concurrency

What techniques does your district use to implement proportionate share requirements? NARRATIVE RESPONSES	
Alachua District	None at this time
Sumter District	To be developed by interlocal committee
Lake District	Not yet established.
Okeechobee District	Informal-Not mandate or policy driven
Pasco District	we charge an impact fee based on a formal study
Charlotte District	combination of the above
Palm Beach District	will be done also through development agreements
Lake County	Voluntary.
Collier County	No proportionate share implementation - Impact fees are required

PLEASE PROVIDE ANY DOCUMENTATION AVAILABLE REGARDING THE LEVY OF PROPORTIONATE SHARE REQUIREMENTS.