

Office of School Board Attorney
Walter J. Harvey, School Board Attorney

SUBJECT: FINAL READING: PROPOSED AMENDMENTS TO BOARD BYLAWS 0165, PUBLIC MEETINGS, AND 0164, NOTICE OF MEETINGS

COMMITTEE: FISCAL ACCOUNTABILITY AND GOVERNMENT RELATIONS

LINK TO STRATEGIC BLUEPRINT: INFORMED, ENGAGED AND EMPOWERED STAKEHOLDERS

At its meeting of November 15, 2017, the Board approved Revised Agenda Item G-2 (Cancellation of Board Meetings), authorizing the Superintendent to initiate rulemaking to require that when the Governor declares a state of emergency and the Superintendent subsequently closes schools, any School Board meeting scheduled during the state of emergency must be cancelled and rescheduled after the state of emergency as passed or on a date that will not adversely affect the health, safety, and welfare of employees and the general public.

In accordance with that item, this item requests that Bylaws 0165, *Public Meetings*, and 0164, *Notice of Meetings*, be amended to require that whenever the Governor declares a state of emergency, and consistent with that declaration, the Superintendent subsequently initiates the closing of schools under Board Policy 8420, *Emergency Closing of Schools*, and any School Board meeting scheduled to take place during the state of emergency shall be cancelled. The cancellation would be required to be noticed wherever and however practicable and possible. The Chair of the Board would also be required to reschedule the meeting by polling the Board for a meeting date as soon as practicable after the state of emergency is lifted or on a date that will not adversely affect the health, safety, and welfare of employees and the general public. The notice of the rescheduled meeting would be required to follow that of regularly scheduled meetings in accordance with law and Bylaw 0164, *Notice of Meetings*.

At the same meeting, and as part of the same item, the Board also directed the Superintendent to initiate rulemaking to amend Bylaw 0165, *Public Meetings*, to reduce the number of Board presentations during the 11:00 a.m. portion of the regular Board meeting from two (2) to one (1) and to waive the voting and quorum requirements for recognitions, resolutions, endorsements, and proclamations during the 11:00 a.m. portion of the regular meeting. These agenda items would then be required to be ratified by at least a majority vote of the Board at the commencement of the 1:00 portion of the regular meeting agenda. This item therefore also requests that Bylaw 0165, *Public Meetings*, be amended to incorporate these changes.

The Notice of Intended Action was published in the *Miami Daily Business Review* on November 20, 2017, and posted in various places for public information and mailed to various organizations representing persons affected by the amended Bylaws and to individuals requesting notification. The time to request a hearing or protest the adoption of this amendment has elapsed.

Attached are the Notice of Intended Action and the proposed bylaw amendments. Changes are indicated by underscoring words to be added and ~~striking through~~ words to be deleted.

RECOMMENDED:

That The School Board of Miami-Dade County, Florida, adopt the proposed amendments to Board Bylaws 0165, *Public Meetings*, and 0164, *Notice of Meetings*, and authorize the Superintendent to file the amended Bylaws with the School Board of Miami-Dade County, Florida, to be effective January 17, 2018.

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on November 15, 2017, its intention to amend Board Bylaws 0165, *Public Meetings*, and 0164, *Notice of Meetings*, at its regular meeting on January 17, 2018.

PURPOSE AND EFFECT: Bylaws 0165, *Public Meetings*, and 0164, *Notice of Meetings*, are proposed to be amended to require that scheduled Board meetings be cancelled whenever the Governor declares a state of emergency and consistent with that declaration, the Superintendent initiates the closing of schools under Policy 8420, *Emergency Closing of Schools*. The meeting cancellation(s) would be required to be noticed wherever and however practicable and possible. The Chair of the Board would be required to reschedule the meeting by polling the Board for a meeting date as soon as practicable after the state of emergency is lifted or on a date that will not adversely affect the health, safety, and welfare of employees and of the general public. The notice of the rescheduled meeting would be required to follow that of regularly scheduled meetings as required by law and Policy 0164, *Notice of Meetings*.

In addition, Bylaw 0165, *Public Meetings*, is proposed to be amended to reduce the number of Board member presentations during the 11:00 a.m. portion of regular Board meetings from two (2) to one (1) and to waive the voting and quorum requirements for recognitions, resolutions, endorsements, and proclamations during that portion of the meeting. These agenda items would then be required to be ratified by a majority vote of the Board at the commencement of the 1:00 p.m. portion of the regular meeting agenda.

SUMMARY: To amend applicable Board bylaws to allow for cancellation, rescheduling, and public notice of Board meetings during and after a declared state of emergency and to reduce the number of Board presentations during the 11:00 a.m. portion of the regular Board meeting from two (2) to one (1) and to waive the voting and quorum requirements for resolutions, endorsements, and proclamations during the 11:00 a.m. portion of the regular meeting.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: 1001.41(1), 1001.43(10), F.S.

LAWS IMPLEMENTED INTERPRETED OR MADE SPECIFIC: 1001.43(10), F.S.

IF REQUESTED, A HEARING WILL BE HELD DURING THE SCHOOL BOARD MEETING on January 17, 2018, which begins at 1:00 p.m., in the School Board Auditorium, 1450 N.E. Second Avenue, Miami, Florida 33132. Persons requesting such a hearing or who wish to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative as provided in Section 120.54(1), F.S., must do so in writing by December 12, 2017, to the Superintendent, Room 912, at the same address.

ANY PERSON WHO DECIDES TO APPEAL THE DECISION made by The School Board of Miami-Dade County, Florida, with respect to this action will need to ensure the preparation of a verbatim record of the proceedings, including the testimony and evidence upon which the appeal is to be based. Section 286.0105, F.S.

COPIES OF THE PROPOSED AMENDED BYLAWS are available at cost to the public for inspection and copying in the Citizen Information Center, Room 102, 1450 N.E. Second Avenue, Miami, Florida 33132.

MEETINGS

0165

Public Meetings

All meetings at which official acts are to be taken are open public meetings, and no resolution, rule, policy, regulation, or formal action shall be considered binding except as taken or made at such a meeting. All meetings of the School Board shall be open to the public, except as provided by Florida law, and the order of business of any regular meeting shall include an opportunity for the public to address the Board. The purpose of the public portion of the Board meeting, however, is to allow the public to address specific agenda items and general matters within the Board's jurisdiction.

The Board shall first consider Wednesdays to schedule all meetings in which Board members are requested to attend, recognizing that certain factors may impede consideration for Wednesdays including, but not limited to, advertisements, agenda publication deadlines, emergency meetings, annual organizational meeting, legislatively mandated periods for special meetings and budget public hearings, religious holidays, previously scheduled calendared conflicts and travel, legislative session, Dade Days, and graduations.

A. Regular Meeting

The Board shall hold at least one (1) regular meeting each month according to a schedule approved by the Board at its organization meeting.

All regular meetings will begin at 11:00 a.m. in the Board Administration Building Auditorium, 1450 Northeast Second Avenue, Miami, Florida. At 11:00 a.m., the Board will address Board member agenda items designated by the Board Chair and seeking approval of recognitions, resolutions, endorsements or proclamations. Board members are limited to two ~~(2)~~ one (1) presentations of these types of items per Board meeting. ~~A quorum must be present to vote on these items. Following the vote, the meeting will recess and the presentation of approved items may then be made.~~ A quorum is not necessary for these presentations. All persons signed up to speak to these items may do so at this time. The Superintendent's Special Orders shall follow the Board

member presentations. The Board may then recess for lunch if time permits. The Board meeting will reconvene at 1:00 p.m., at which time a quorum must be present. The Board shall to first ratify by majority vote any recognitions, resolutions, endorsements or proclamations that were presented at the 11:00 a.m. portion of the meeting and then complete the remainder of the regular Board meeting agenda.

Upon public notice, regular meetings of the Board may be held at any appropriate public place in the county. Public notice shall consist of publication in a newspaper of general circulation in the county.

Any change in the date or time for these meetings shall be by an action of the Board.

B. Board Committee Meetings

Board committee meetings addressing the monthly Board agenda shall occur after the publication of the official agenda and prior to the regularly scheduled monthly Board meetings. Unless otherwise noticed, these meetings shall be held in Room 726, Board Administration Building, 1450 NE 2 Ave., Miami, Florida.

C. Special Meeting

Special meetings may be called for official action on topics specified in the call and agenda for the meeting by the Superintendent, the Chair of the Board through the Superintendent, or by request of a majority of the members of the Board. A majority of the members of the Board may only request the convening of a special meeting of the full Board by seeking the approval of a majority of the members present at a regular or special Board meeting.

Unless otherwise noticed, all special meetings will be held in the Board Administration Building Auditorium, 1450 NE 2 Ave., Miami, Florida. The date and time shall be specified in the call and agenda for each meeting.

D. Emergency Meeting

If the Board finds that an immediate danger to the public

health, safety, or welfare requires immediate action, it may hold an emergency public meeting in accordance with State law.

E. Public Hearings

Public hearings may be scheduled on a specific topic, document, or proposal which is to be the subject of Board action that will be taken at the public hearing or at an upcoming regular Board meeting, either to comply with State law or to hear citizens on an issue of great public interest.

F. Conference Session

Conference sessions may be conducted to receive information and confer with the Superintendent on issues requiring in-depth consideration and discussion with a possible proposed recommended action to be taken by the Board at an upcoming regular meeting. Citizens will not be heard at conference sessions unless the Board determines otherwise in advance of the session. A conference session shall be scheduled in the same manner as a regular Board meeting.

G. Workshop

Workshops may be scheduled to receive information and confer with the Superintendent on issues requiring in-depth consideration and discussion, with a possible proposed recommended action to be taken by the Board at an upcoming regular meeting. Only after a minimum of six (6) Board members, upon being polled by the Chair through his/her designee, have advised of their intent to attend a workshop on a given date, shall the workshop be scheduled, noticed, and advertised. Once the workshop is advertised, noticed, and the meeting is conducted in accordance with the requirements of this rule and with any applicable provisions of the Sunshine Law, the workshop may be held even if a quorum is not present.

Workshops will be conducted in Conference Room 726B of the Board Administration Building, 1450 Northeast Second Avenue, Miami, Florida, unless otherwise noticed. If a greater than normal attendance by the public is anticipated for any specific Board workshop, the workshop may be held at the

Board auditorium. The date and time shall be specified in the call and agenda for the meeting.

H. Member Conferences

Individual Board members may sponsor conference-type discussions, inviting Board members, staff and members of the public to engage in a voluntary and informal discussion of topics of vital concern to the member in an effort to foster a free flowing exchange of information and ideas. These conferences must be open to the public and otherwise satisfy Florida law governing public meetings and applicable Board policies.

These are voluntary forums for discussion purposes only, are not official Board meetings, and no action may be taken on the topics discussed. Agendas for these meetings will be proposed by the Board member calling the meeting and may be changed or amended as provided by the Sunshine Law, Board policies, and the Administrative Procedure Act.

I. Cancellation and Rescheduling of Board Meetings Due to Emergencies

Whenever the Governor declares a state of emergency, and consistent with such a declaration the Superintendent subsequently initiates the closing of schools under Policy 8420, *Emergency Closing of Schools*, any School Board meeting scheduled to take place during the state of emergency shall be cancelled. The Chair of the Board shall poll the Board to reschedule the cancelled meeting as soon as practicable after the state of emergency is lifted or on a date that will not adversely affect the health, safety, and welfare of our employees and of the general public. The cancelled and rescheduled meetings shall be appropriately noticed in accordance with law and Policy 0164, *Notice of Meetings*.

F.S. 286.011, 286.0114

Revised 9/7/11
Revised 10/16/13
Revised 6/18/14
Revised 9/9/15

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MEETINGS

2 0164

Notice of Meetings

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- A. Regular Meetings, Conference Sessions, Workshops, and Public Hearings

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The School Board shall give notice of the date, time, place and general subject matter of its regular meetings, conference sessions, workshops and public hearings.

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Notice means publication in a newspaper of general circulation and posting on the Board website not less than seven (7) days before the meeting. An agenda shall be prepared in time to ensure that a copy of the agenda may be received at least seven (7) days before the meeting by any person who requests a copy.

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The Superintendent shall provide the approved schedule of regular meetings and notices of all meetings to the Clerk of the Board for publication and to the Citizen Information Center.

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- B. Board Committee Meetings

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The Board shall give notice of the date, time, and place of Board committee meetings. Notice means publication in a newspaper of general circulation and posting on the Board website not less than five (5) days prior to the meeting.

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- C. Special Meetings

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The Board shall give at least forty-eight (48) hours written notice of the time and purpose of a special meeting. An agenda for the meeting shall be prepared upon the call of the meeting, but not less than forty-eight (48) hours prior to the meeting.

1 The Superintendent shall post the special meeting's purpose,
2 date, time, and place on the Board website and provide it to
3 the Clerk of the Board and the Citizen's Information Center
4 immediately upon the call of the meeting but not less than
5 forty-eight (48) hours prior to the meeting. Notice may be
6 provided in a newspaper of general circulation as appropriate.

7 D. Emergency Meetings

8 The Board shall give notice of emergency meetings in any
9 manner that is fair under the circumstances and necessary to
10 protect the public interest.

11 E. Cancellations or Revisions

12 Where feasible, cancellations or non-substantive revisions to
13 a notice of announcement previously posted in a newspaper
14 of general circulation must be received by the Clerk of the
15 Board no later than five (5) days before the meeting. Notice of
16 emergency cancellations shall be provided as soon as possible
17 and wherever appropriate and practicable after a meeting is
18 cancelled under Policy 0165(I), *Public Meetings*. Rescheduled
19 regular meetings that have been cancelled due to an
20 emergency under that provision must be noticed in
21 accordance with Section (A) of this policy.

22 F.S. 120.525, 120.81, 1001.372