

School Board--Methods of Operation

RULEMAKING PROCEEDINGS

- I. Proceedings held for the adoption, repeal or amendment of a School Board Rule shall be conducted according to the provisions of this rule and Florida Statutes, Chapter 120.
- II. At least 28 days prior to adoption, repeal or amendment of a rule, notice must be given by the School Board as herein delineated.
- III. Manner of Notice.
 - A. Notice shall be given to affected classes of persons by:
 1. Announcing same at an open meeting of the School Board;
 2. Publication in a newspaper of general circulation in Dade County;
 3. Posting at an appropriate place at employee work location (if appropriate) or on bulletin boards (if appropriate) so that persons to whom the intended action is directed may be notified; and
 4. Mailing to organizations representing persons affected by the proposed action.
 - B. Notice shall be mailed to all persons who have made requests of the School Board for advance notice of School Board proceedings at the address provided in the request. Request must be received 14 days prior to mailing.
- IV. Content of Notice.

Notice shall contain:

 - A. A short and plain explanation of the purpose and effect of the proposed rule;
 - B. A summary of the proposed rule or the actual text of the proposed rule;
 - C. A reference to the specific rulemaking authority pursuant to which the rule is adopted and a reference to the section or subsection of the Florida Statutes or the Laws of Florida being implemented, interpreted, or made specific;
 - D. A summary of the statement of the estimated regulatory costs of the proposed rule, if one has been prepared;

The statement of the estimated regulatory costs shall include all of the provisions as set forth in '120.541(2) F.S.

- E. A statement that any person who wishes to provide the School Board with information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative as provided by '120.541(1) F.S., must do so in writing within 21 days after publication of the notice;
- F. The location where the text of the proposed rule and statement of the estimated regulatory costs can be obtained if not included in the notice;
- G. The date, time and place of the meeting at which the School Board proposes to adopt the rule; and
- H. The procedure for requesting a public hearing on the proposed rule.

V. Objections to the Rule

- A. Persons affected by the rule may request to present evidence and argument on all issues under consideration to inform the School Board of their contentions. Such request must be received by the School Board within 21 days after the date of publication of the notice. Rules relating exclusively to organization, procedure or practice, are not subject to the provisions of this Section V.
- B. A substantially affected person may seek an administrative determination of the invalidity of the proposed rule on the ground that the proposed rule is an invalid exercise of delegated legislative authority.

A petition seeking an administrative determination under this section must be in writing and must be filed with the Division of Administrative Hearings in accordance with the Administrative Procedure Act.

VI. Hearing

- A. Persons requesting to be heard, as set forth in V. A. above, shall be afforded the following procedure.
 - 1. At the scheduled meeting of the School Board for the Final Reading of the proposed Board Rule action, the person requesting to be heard should be permitted to present evidence and argument.
 - 2. Any material pertinent to the issues under consideration submitted to the School Board Clerk within 21 days after the date of publication of the notice or submitted at the hearing shall be considered by the School Board and made a part of the record of the rulemaking proceeding.

3. Persons requesting to present evidence or argument will be given 15 minutes to do so unless the School Board directs otherwise.
 4. The School Board may proceed to adopt the rule as published at the time of notice or as modified at the hearing at any meeting which is at least 28 days after notice was given (the meeting of the hearing, if appropriate).
- B. Persons requesting an administrative determination, as set forth in V. B. above, shall be afforded the procedures set forth in the Florida Administrative Procedure Act.
- VII. A person regulated by the School Board, or, having a substantial interest in a School Board Rule may petition the School Board to adopt, amend or repeal a rule or to provide the minimum public information required by the Administrative Procedure Act. The petition shall specify the proposed rule and action requested.

In such case, the School Board within 30 days from the date of the filing of the petition shall:

- A. Initiate rulemaking proceedings,
 - B. Otherwise, comply with the requested action, or
 - C. Deny the petition with a written statement of the reasons for the denial.
- VIII. Procedure Relating to Existing Rules
- A. Any person may petition the School Board to issue a "declaratory statement" as to the applicability of any statutory provision or of any rule or order of the School Board, in accordance with the Administrative Procedure Act, and the School Board will respond in writing to such a petition within 90 days of filing of petition. The School Board shall give notice of each petition and its disposition in accordance with the Florida Administrative Procedure Act.
 - B. Administrative Determination of Rule
 1. If any individual determines that he/she is substantially affected by a rule, he/she may seek an administrative determination of the invalidity of the rule on the grounds that the rule is an invalid exercise of delegated legislative authority.
 2. This petition shall be filed with the "Division of Administrative Hearings," and governed by the provisions of The Florida Administrative Procedure Act.

IX. Form of Rules

Each rule shall:

- A. Make reference to the rulemaking authority under which it was adopted and to the section or subsection of the Florida Statutes or Laws of Florida being implemented, interpreted or made specific;
- B. Contain only one subject.

X. Amending or Repealing Rules

Rules may not be amended or repealed by reference only. Amendment must set out the amended rule in full. A rule which the School Board proposes to repeal shall be set out in full.

XI. Emergency Rules

If the School Board finds that an immediate danger to the public health, safety, or welfare requires emergency action, it may adopt any rule necessitated by the immediate danger by a procedure which is fair under the circumstances and is necessary to protect the public interest, provided that:

- A. The procedure provides at least the procedural protection given by other statutes, the Florida Constitution or the United States Constitution;
- B. The School Board takes only that action necessary to protect the public interest under the emergency procedure; and
- C. The School Board publishes in writing at the time of or prior to its action the specific facts and reasons for finding an immediate danger to the public health, safety or welfare, and its reasons for concluding that the procedure used is fair under the circumstances.

An emergency rule adopted under this section shall not be effective for a period longer than 90 days and shall not be renewable except during the pendency of a challenge to proposed rules addressing the subject of the emergency rule. However, the School Board may take identical action by normal rulemaking procedures.

Subject to applicable constitutional and statutory provisions, an emergency rule becomes effective immediately on filing, or at a date less than 20 days thereafter, if specified in the rule, if the School Board finds that such effective date is necessary because of immediate danger to the public health, safety or welfare.

XII. Filing Rules

Once a rule has been adopted, amended or repealed by the School Board, one certified copy must be filed with the Clerk of The School Board of Dade County, Florida.

XIII. Indexing Rules

A. A current hierarchical subject matter index shall be made available for public inspection and copying, at no more than cost, identifying for the public any rule adopted under '120.54, Florida Statutes.

B. The indexing of Board rules shall be done in accordance with '120.53, Florida Statutes.

XIV. All petitions, requests for hearings, and other documents herein provided for shall be submitted to the School Board Clerk.

XV. Action to adopt, amend or repeal a rule shall be by majority vote of those School Board members present and voting.

XVI. Proposals for new Board rules and suggested revisions or repeals of existing Board rules shall be submitted to all members of the Board and to the Superintendent of Schools, in writing, prior to a regularly scheduled Board meeting.

XVII. Variances and waivers of School Board Rules may be granted in accordance with the Administrative Procedure Act.

Specific Authority: 230.22(2) F.S.

Law Implemented, Interpreted, or Made Specific: 120.53; 120.54; 120.56 F.S.

History: THE SCHOOL BOARD OF DADE COUNTY, FLORIDA

Repromulgated: 12-11-74

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