

Office of School Board Attorney
Johnny Brown, School Board Attorney

**SUBJECT: PROPOSED AMENDMENT OF SCHOOL BOARD RULE: INITIAL
READING 6Gx13- 4A-1.15, ASSIGNMENT, TRANSFER, AND
APPOINTMENT -- EXECUTIVE LEVEL ADMINISTRATIVE
POSITIONS**

**COMMITTEE: LEGISLATIVE RELATIONS, PUBLIC RELATIONS AND
PERSONNEL SERVICES**

This item is submitted for consideration by the Board to amend School Board Rule 6Gx13-4A-1.15, Assignment, Transfer, and Appointment - - Executive Level Administrative Positions. At its meeting of May 14, 2003, the Board Attorney was directed to initiate rulemaking proceedings by proposing language to require that future recommendations made by the Superintendent for the reorganization of personnel and offices be provided to the Board prior to the School Board meeting where the matter will be considered by the Board. In addition, the proposed amendment requires that information be provided on how the reorganization meets or enhances the school district's strategic plan; the improvement it brings in the operations of the school district, if any; and the budgetary impact. In addition, the proposed amendment clarifies an employee's property rights in a reassignment.

Attached are the Notice of Intended Action and the rule proposed for amendment. Changes from the current rule are indicated by underscoring words to be added and ~~striking through~~ words to be deleted.

Authorization of the Board is requested for the Superintendent to initiate rulemaking proceedings in accordance with the Administrative Procedure Act for the amendment of Board Rule 6Gx13- 4A-1.15, Assignment, Transfer, and Appointment - - Executive Level Administrative Positions.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, authorize the Superintendent to initiate rulemaking proceedings in accordance with the Administrative Procedure Act to amend School Board Rule 6Gx13- 4A-1.15, Assignment, Transfer, and Appointment - - Executive Level Administrative Positions.

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on February 11, 2004, its intention to amend Board Rule 6Gx13- 4A-1.15, Assignment, Transfer, and Appointment - - Executive Level Administrative Positions, at its meeting of March 17, 2004.

PURPOSE AND EFFECT: The amendment to the Board Rule sets forth the information to be provided by the Superintendent to the Board in a personnel reorganization, and to clarify the employee's property rights in a reassignment based upon a recent appellate decision.

SUMMARY: The amended rule states the authority of the Board and the Superintendent on the assignment, transfer, and appointment of managerial exempt positions, and the provisions in the event of a personnel reorganization.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: 1001.41(1)(2); 1001.42(22); 1001.43(10) F.S.

LAW IMPLEMENTED, INTERPRETED, OR MADE SPECIFIC: 1001.42(5)(a); 1001.49(3); 1001.51(7); 1012.01(3); 1012.22(1)(a); 1012.27(4); 1012.32 F.S.

IF REQUESTED, A HEARING WILL BE HELD DURING THE BOARD MEETING OF March 17, 2004, 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 by Section 120.541(1), F.S., must do so in writing by March 9, 2004, to the Superintendent of Schools, 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, Florida Statutes)

A COPY OF THE PROPOSED AMENDED RULE is available to the public for inspection and copying at cost in the Citizen Information Center, Room 158, 1450 N.E. Second Avenue, Miami, Florida 33132.

Originator: Mr. Frank J. Bolaños
Date: February 3, 2004

Permanent Personnel**ASSIGNMENT, TRANSFER, AND APPOINTMENT – EXECUTIVE LEVEL ADMINISTRATIVE POSITIONS**

The Superintendent of Schools may use the prerogative of the position in ~~determining the qualifications preferred, except as may be established by State law and Board policy, and the procedures deemed appropriate for interviewing and selecting~~ nominating qualified candidates to be submitted to the Board for assignment, transfer, and/or appointment to the ~~executive managerial exempt~~ level positions identified below.

~~Executive level administrative positions are:~~

~~Deputy Superintendent of Schools
Deputy Superintendent or equivalent pay grade;
Associate Superintendent or equivalent pay grade;
Assistant Superintendent or equivalent pay grade.~~

The School Board may reject for good cause a candidate nominated by the Superintendent as provided in §1012.22(1)(a)2. Good cause exists when the nominee is morally or professionally unqualified.

Managerial exempt employees reassigned to another job position are not entitled to a hearing. (Mathos v. School Board of Miami-Dade County, Florida, 29 FLW D1, 3rd DCA, December 17, 2003)

In the event of a personnel reorganization, the agenda item shall be presented at the appropriate School Board Committee. In addition, the Superintendent of Schools shall provide the School Board, no later than three (3) business days prior to the regular School Board meeting where the matter will be considered by the Board, the following information:

1. An explanation as to how the proposed job positions to be established, abolished or reclassified in the reorganization meet or enhance the school district's strategic plan.
2. A statement of what improvements, if any, the reorganization will bring in the operations of the school district stating the objectives and desired outcomes of the reorganization.
3. A statement as to the budgetary impact of the proposed positions to be established, abolished or reclassified.
4. No employee names shall be provided in the information mentioned above.

Specific Authority: ~~230.22(2); 230.23 (17)~~ 1001.41(1)(2); 1001.42(22); 1001.43(10)
F.S.
Law Implemented, Interpreted, or Made Specific: ~~230.23(5)(a) and (f); 230.33(7)(a);~~
~~231.02~~ 1001.42(5)(a); 1001.49(3); 1001.51(7); 1012.01(3); 1012.22(1)(a); 1012.27(4);
1012.32 F.S.

History

Repromulgated: 12-11-74
Technical Changes: 12-11-96
Amended: 5-21-97; 8-25-99

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA