

Office of School Board Attorney
Johnny Brown, School Board Attorney

**SUBJECT: PROPOSED AMENDMENT OF SCHOOL BOARD RULE: FINAL
 READING 6Gx13- 8C-1.17, CITIZEN APPEARANCES – BOARD
 MEETINGS**

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

The School Board of Miami-Dade County, Florida, announced on February 11, 2004, its intention to amend School Board Rule 6Gx13- 8C-1.17, Citizen Appearances - Board Meetings, to establish that Board members present at the meeting must vote by a majority to permit a person not scheduled in advance to speak on a non-agenda topics, at the meeting of March 17, 2004. Additionally, the School Board directed the School Board Attorney, at the meeting of February 11, 2004, to amend the rule to permit citizens to be heard at approximately 6:30 p.m., on matters not on the Board agenda.

The Notice of Intended Action was published in the *Miami Daily Business Review* on February 17, 2004 and February 25, 2004, posted in various places for public information and mailed to various organizations representing persons affected by the new rule and to individuals requesting notification.

The time to request a hearing or protest the adoption of this rule has elapsed.

In accordance with the provisions of the Administrative Procedure Act, this amended rule is presented to The School Board of Miami-Dade County, Florida, for adoption and authorization to file the rule in the official records of The School Board of Miami-Dade County, Florida.

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.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, adopt amended School Board Rule 6Gx13- 8C-1.17, Citizen Appearances - Board Meetings, and authorize the Superintendent to file the rule with The School Board of Miami-Dade County, Florida, to be effective March 17, 2004.

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on February 11, 2004, its intention to amend Board Rule 6Gx13- 8C-1.17, Citizen Appearances – Board Meetings, at its meeting of March 17, 2004.

PURPOSE AND EFFECT: The revision to the Board Rule establishes that Board members present at the meeting must vote by a majority to permit a person not scheduled in advance to speak on a non-agenda topic, and permits citizens to be heard at approximately 6:30 p.m., on matters not on the Board agenda.

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ON
2/11/04
ITEM D-20

SUMMARY: To establish that the Board must vote by a majority for a person to be heard when not scheduled in advance on non-agenda topics at "Scheduled Public Hearings," and for citizens to be heard on matters not on the Board agenda at approximately 6:30 p.m.

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: 1001.43(10) 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 for inspection and copying at cost by the public in the Citizen Information Center, Room 158, 1450 N.E. Second Avenue, Miami, Florida 33132.

Originator: Mr. Frank J. Cobo
Date: February 12, 2004

) REVISED

School Board--Methods of Operation**CITIZEN APPEARANCES--BOARD MEETINGS**

Any citizen may address the Board directly concerning any subject that lies within the jurisdiction of the Board in accordance with the procedures stated below.

Individuals who wish to be heard by the Board on a topic which is not on the agenda for the meeting shall be scheduled for an appearance only at the first regularly scheduled Board meeting each month. However, citizens who wish to speak to a topic which is on the agenda may be scheduled to appear at any meeting for which such topic is listed as an item.

Citizens scheduled to speak shall be called by the Board Chair at the appropriate time during the meeting. Each individual shall state for the record his or her name, address, (the address may be given orally or in writing, at the speaker's option), organization or persons represented (if any), and whether he or she is being compensated for the appearance. Substitutions for scheduled speakers will not be allowed, except in unusual circumstances determined and approved by majority vote of Board members present at the meeting.

I. Appearances in Reference to Topics not on Board Agenda

Except as noted in Section III., IV., and V. below, citizens will be heard at approximately 6:30 p.m. on matters not on the Board agenda at the first regularly scheduled meeting of the Board each month immediately following the conclusion of the regular agenda.

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A. Procedures to be Scheduled under "Scheduled Public Hearings"

1. To be scheduled for appearance under "Scheduled Public Hearings," any citizen who wishes to be heard must present a written request to the Superintendent of Schools not later than 4:30 p.m. of the Monday preceding a regular Wednesday Board meeting. The request shall contain the following information:
 - a. Name, address and telephone number of person who is to appear;
 - b. Organization or persons represented (if any), and whether the person to appear is being compensated;
 - c. Topic to be presented;
 - d. Board action requested, if any.

Forms to be used in submitting these requests are available at all Region Offices and the Office of Citizen Information at the School Board Administration Building.

2. The Superintendent of Schools or his/her representative shall acknowledge such request by notifying the individual of the date of meeting and place on the agenda.
3. The Superintendent of Schools shall provide for the information of each Board member a list of the persons scheduled to speak and, when necessary for full understanding of a given subject, a report from the administration regarding the subject to be presented.
4. The total time allotted for individuals who request to be heard shall not exceed one and one-half hours. Any one speaker or spokesperson for a group shall be permitted to speak no more than three (3) minutes at the Scheduled Public Hearings no matter how many issues that individual addresses, nor more than a total of ten (10) minutes during the Board meeting, including time on agenda items, except in unusual circumstances determined and approved by unanimous vote of Board members present at the meeting.

Any person who feels that the subject matter has not been adequately covered in the time allotted may present additional information in writing.

B. Procedures when not Scheduled under "Scheduled Public Hearings"

~~Generally, only on matters of grave public importance will the Board consent to permit a person not scheduled in advance to speak on a non-agenda topic.~~

1. A person seeking such consent to speak must submit, either before or during the meeting, a written request to the Superintendent of Schools ~~not later than 10:00 a.m. on the day of a regular Wednesday Board meeting~~ Board Chair.
2. The request must state the person's name, address, subject and reason for asking emergency handling of the request, reason demonstrating good cause why the 4:30 p.m. Monday deadline was not met, and Board action requested.
3. Board members present at the meeting must vote by a ~~two-thirds (2/3)~~ majority for the person to be heard.

4. If such request is approved, the Board Chair shall allot the individual a maximum of three (3) minutes time.

II. Appearances in Reference to Items on Board Agenda

A. Procedures to be Scheduled under "Requests to Speak to Agenda Items"

1. Except as noted in Sections III., IV., and V. below, any person who wishes to address the Board in reference to an item or items on the agenda may be scheduled under "Requests to Speak to Agenda Items" by presenting a written request in accordance with the procedure outlined in Section I. above. In the case of a special Board meeting, the deadline shall be noon on the last business day preceding the date of the meeting.
2. The total time allotted for all individuals who request to be heard on the same agenda item shall be determined by majority vote of the Board members present at the meeting. Any one speaker or spokesperson for a group shall be permitted to speak no more than two (2) minutes on any one agenda item, nor more than a total of ten (10) minutes during the Board meeting, including speaking time during a public hearing, regardless of the number of agenda items to be addressed, except in unusual circumstances determined and approved by unanimous vote of Board members present at the meeting. Additional comments may be presented in writing.

B. Procedures when not Scheduled under "Requests to Speak to Agenda Items"

Persons not scheduled in advance to speak to agenda items may request approval of the Board to be heard, as follows:

1. Before or during the meeting, place name, address and number of agenda item in which interested on a slip of paper and hand to the Board Chair before the item is considered by the Board.
2. Receive approval to be heard by a majority vote of Board members present at the meeting and voting.
3. The Chair may designate a particular time prior to Board action on the agenda item for such persons to be heard.
4. If Board approval is granted for the person to be heard, the Chair shall allow a maximum of two (2) minutes. Additional comments may be presented in writing.

III. Public Hearings on Specific Topics

The Board from time to time schedules a meeting which is designed solely as a public hearing on a specific document or proposal which is to be the subject of later Board action, either to comply with State Statutes or to hear citizens on an issue of great public interest. Persons desiring to address the Board at such public hearings shall follow and be governed by the procedures set forth in Section II. above, as for a special Board meeting. When the Board schedules such a public hearing meeting on an issue which is the subject of rulemaking or subsequent Board action, citizens will not be heard at the first reading of the rule or at the time of initial Board action on this issue. Citizens will not be heard at the final reading of the rule or at the time of final Board action, except as to changes made at or subsequent to the public hearing or except in unusual circumstances determined and approved by majority vote of Board members present at the meeting. The public hearing meeting will be the sole forum provided citizens by this section of this Board rule.

IV. Conference Sessions of the Board

Meetings of the Board which are designated as conference sessions are normally held for the purpose of enabling the Board to receive information and confer with the Superintendent of Schools and his/her staff on issues requiring in-depth consideration and discussion. Citizens will not be heard at any conference session unless the Board so determines in advance of the session.

V. Suspension, Dismissal or other Discipline of Personnel and/or Expulsion or Assignment of Students

Board actions at every stage of proceedings for the suspension, dismissal or other discipline of staff members, and for the expulsion or assignment of specific students, are quasi-judicial in nature, and the Board's decisions in these cases should be free of improper and extraneous comment. Citizens will not be heard in such cases, except in unusual circumstances determined and approved by majority vote of Board members present at the meeting.

VI. Students Who Request a Hearing before the Board

Any student in the Miami-Dade County Public Schools who wishes a hearing before the Board must comply with the following guidelines:

- A. Follow all procedures as indicated above.
- B. If the time of the student's hearing before the Board is scheduled during his/her school hours, the student must secure the permission of the principal to be absent from classes.

Specific Authority: ~~230.22(2); 230.23(22)~~ 1001.41(1)(2); 1001.42(22); 1001.43(10) F.S.
Law Implemented, Interpreted, or Made Specific: ~~230.23005(10)~~ 1001.43(10) F.S.

History THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA
Repromulgated: 12-11-74
Amended: 10-22-75; 4-15-76; 8-23-78; 10-18-78; 6-6-79; 9-23-81; 5-18-83; 2-19-86;
6-10-87; 1-20-88; 6-4-92; 8-18-93; 3-17-99; 6-20-01; 10-24-01