

Dr. Marta Pérez, Board Member

**SUBJECT: REQUEST THAT SUPERINTENDENT INITIATE
RULEMAKING PROCEEDINGS TO CODIFY AND
FORMALIZE THE ESTABLISHMENT OF THE ETHICS
ADVISORY COMMITTEE**

**COMMITTEE: INSTRUCTIONAL EXCELLENCE AND COMMUNITY
ENGAGEMENT**

**LINK TO STRATEGIC
FRAMEWORK: EDUCATION**

Pursuant to the recommendation and unanimous approval of the Ethics Advisory Committee ("EAC") members at their last meeting of October 14, 2010, this item is submitted to request the School Board's approval to initiate rulemaking proceedings for codifying and incorporating into School Board Rules the establishment of the Ethics Advisory Committee.

The proposed rule will serve to formalize the practices, guidelines and the role of the EAC, whose governance will focus on addressing matters of School Board policy in an advisory capacity. The language and provisions of this rule are based on the Commission on Ethics Policy previously adopted by the School Board on October 24, 2001.

The School Board created the Commission on Ethics Policy to help ensure the integrity of the Board's decision-making processes and to restore public confidence in our public schools. Its purpose is to serve as the guardian of the public trust by, among other things, informing the public and educating candidates for the election to the School Board, members of the School Board and employees of Miami-Dade County Public Schools (M-DCPS) as to the required standards of ethical conduct and interpreting and informing stakeholders on those standards of conduct.

The proposed Rule contains provisions for, among other things, the purpose, role and function of the EAC, the qualifications, selection and terms of EAC members, scheduling and conduct of its meetings, its powers and duties. The proposed rule also provides for the EAC to, at its discretion, review complaints presented before the EAC, render advisory opinions on ethical issues and personnel matters (after the District has concluded any applicable and related administrative proceedings). The proposed Rule also requires that the Board take action on recommendations issued by the EAC.

**Revised
Replacement
H-5**

(Withdrawn – 11/22/2010)

**ACTION PROPOSED BY
DR. MARTA PÉREZ:**

That, consistent with its adoption of the Commission on Ethics Policy, The School Board of Miami-Dade County, Florida direct the Superintendent to initiate rulemaking proceedings in accordance with the Administrative Procedures Act to codify and formalize the establishment of the Ethics Advisory Committee.

Participation by the Public

ETHICS ADVISORY COMMITTEE

I. Purpose

The purpose of the Ethics Advisory Committee (EAC) is to serve as the guardian of the public trust by, among other things, informing the public, and educating candidates for the election to The School Board of Miami-Dade County, Florida (the School Board), members of the School Board and employees of Miami-Dade County Public Schools (M-DCPS) as to the required standards of ethical conduct and interpreting and applying those standards of conduct.

It is not the intent of the School Board that the EAC serve as a personnel board resolving personnel matters involving employees of M-DCPS or that it have jurisdiction over claims for money damages against M-DCPS or over members of the School Board.

The provisions of this Rule shall be deemed supplemental to any other applicable M-DCPS rule, state, or federal law and are not intended to replace or repeal any provision of state or federal law or any other rules of the School Board.

The EAC shall advise on the application of the authorities listed below, and its jurisdiction shall extend to any person required to comply with those authorities:

- (a) The Code of Ethics and the Principles of Professional Conduct of the Education Profession in Florida (State Board of Education Rules 6B-1.001 and 6B-1.006 FAC);
- (b) School Board Rule 6Gx13-8A-1.041, Conflict of Interest;
- (c) All rules of M-DCPS; and
- (d) The Code of Ethics for Public Officers and Employees set forth in Chapter 112 of the Florida Statutes.

II. Membership

A. Selection of Members

The EAC shall be composed of seven (7) members. The members of the EAC shall be appointed as follows:

1. The Chief Judge of the Eleventh Judicial Circuit of Florida shall be requested to appoint one (1) former federal judge, or former United States magistrate or former state court judge;

Added

2. The Chief Judge of the Eleventh Judicial Circuit of Florida shall be requested to appoint one (1) former U.S. Attorney or Assistant U.S. Attorney, former State Attorney or Assistant State Attorney;
3. The dean of the school of education of the University of Miami, St. Thomas University, Barry University, or Florida International University shall on a rotating basis be requested to appoint one (1) faculty member from his or her school who has taught a course in professional ethics for educators or has published or performed services in the field of professional ethics for educators. The dean of the school of education of the University of Miami shall be requested to appoint the first faculty member to sit on the EAC. Upon the expiration of said member's term, the dean of the school of education of St. Thomas University shall be requested to appoint a faculty member to sit on the EAC. Upon the expiration of said member's term, the dean of the school of education of Barry University shall be requested to appoint a faculty member to sit on the EAC. Upon the expiration of said member's term, the dean of the school of education of Florida International University shall be requested to appoint a faculty member to sit on the EAC. Thereafter, each dean shall on a rotating basis select a faculty member from his or her school of education.
4. The presidents of the University of Miami, St. Thomas University, Barry University and Florida International University shall on a rotating basis be requested to appoint one (1) faculty member from either the school of law or the school of business administration or management who has taught a course in professional ethics or has published or performed services in the field of professional ethics. The president of Florida International University shall be requested to appoint the first faculty member to sit on the EAC. Upon the expiration of said member's term, the president of St. Thomas University shall be requested to appoint a faculty member to sit on the EAC. Upon the expiration of said member's term, the president of the University of Miami shall be requested to appoint a faculty member to sit on the EAC. Upon the expiration of said member's term, the president of Barry University shall be requested to appoint a faculty member to sit on the EAC.
5. The Dade County Council PTA/PTSA shall be requested to appoint one (1) parent who has or has had a child in a Miami-Dade County public school.
6. The chairperson of the Greater Miami Chamber of Commerce shall be requested to appoint one (1) person from the business community.

Added

7. The director of the Center for Labor Studies at Florida International University shall be requested to appoint (1) retired public school employee.

B. Additional Qualifications

Each member of the EAC shall be a United States citizen, resident of Miami-Dade County and shall be of outstanding reputation for integrity, responsibility and commitment to serving the community. The membership of the EAC should be representative of the community-at-large and should reflect the diversity, gender and makeup of the community. Prior to final selection of each member of the EAC those persons empowered herein to appoint members shall meet and evaluate the qualifications of each person under consideration to ensure (a) that said person is qualified to serve on the EAC and (b) that the membership of the EAC will be representative of the community-at-large and reflect the diversity, gender and makeup of the community.

Before entering upon the duties of office, each appointee to the EAC shall take an oath of office. Members of the EAC shall serve without compensation.

C. Terms

The members of the EAC shall serve staggered terms of four (4) years each. Upon expiration of said term, any member may be re-appointed to additional four (4) year terms.

D. Vacancies

A vacancy occurring during, or at the expiration of a member's term on the EAC shall be filled in accordance with the provisions of subsections A and B.

E. Additional Requirements

No individual, while a member of the EAC, shall:

1. Seek or hold an appointed or elected political office or campaign for a position on the School Board;
2. Actively participate in or contribute to any campaign for election to the School Board or any political action committee which contributes to such a campaign;
3. Be employed by M-DCPS or be an officer, director or owner of a one percent (1%) or greater interest in a business entity, whether or not for-profit, that has a contractual relationship with, or is regulated by, M-DCPS;
4. Grant permission for his or her name to be used by a campaign in support of or against any candidate for a position on the School

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Board or any referendum or other ballot question related to the School Board, or its business;

5. Lobby a member of the School Board or an employee of the M-DCPS on any issue.

Nothing herein shall preclude a member of the EAC from signing a petition in support of or against any referendum or other ballot question not related to the School Board, or its business.

F. Selection of Chair

The EAC shall elect one (1) of its voting members as chairperson who shall serve a term of two (2) years. No chairperson shall be permitted to serve two (2) consecutive terms.

G. Emeritus Members

Whenever a member's term on the EAC shall expire or end through voluntary resignation or retirement, the remaining members may vote to offer the departing member the honorary title of "Emeritus" member of the EAC. Should such an offer be approved by majority vote of the existing membership of the EAC and accepted by the departing member, the individual bestowed the title of Emeritus EAC member may hold such title perpetually unless rescinded or unless its duration is limited by the by-laws. An Emeritus EAC member shall have the right to attend and speak at all EAC meetings, but shall not make motions or vote on any measure appearing before the EAC. The EAC may also request that a member holding the distinction of Emeritus EAC member appear at specified meetings of the EAC or sub-committee meeting to speak and provide his or her opinion on matters deliberated upon by the EAC. All Emeritus members will be provided with advance notice of upcoming or future meetings of the EAC.

Added

III. Meetings

The EAC shall hold regular meetings in accordance with the by-laws of the EAC, and the EAC may hold such other meetings as it deems necessary. All meetings of the EAC shall be public and written minutes of the proceedings thereof shall be maintained by the School Board.

The EAC shall make, adopt and amend by-laws, rules of procedure which are consistent with the provisions of this rule and regulations for the EAC's governance.

IV. Powers and Duties of the Ethics Advisory Committee

- A. The EAC shall be authorized to exercise such powers and shall be required to perform such duties as are set forth in this Rule.
- B. The EAC shall be empowered to review, interpret, render advisory opinions, and make recommendations to the School Board regarding the applicability of the matters contained in Section I above.
- C. The EAC shall be empowered to recommend changes to the rules it is charged with reviewing to the School Board.
- D. The EAC shall prepare and make available to any person a copy of rules within the EAC's jurisdiction.
- E. The EAC shall hear and make recommendations on complaints that are self-initiated or brought to the Ethics Advisory Committee by citizens.

V. School Board Action

Any recommendation or opinion issued by the Ethics Advisory Committee shall be forwarded to the School Board and the School Board shall take action upon it.

VI. Procedures on Complaint of Violation or Request for Advisory Opinion Within EAC's Jurisdiction.

The EAC shall make, adopt and amend by-laws and rules of procedure subject to the following provisions:

A. Counsel

The EAC may request the School Board Attorney to render opinions relating to its duties, jurisdiction or power.

B. Public Meetings and Public Records

All proceedings conducted pursuant to this subsection shall be public meetings within the meaning of Chapter 286, Florida Statutes, and all other documents made or received by the EAC shall be public records within the meaning of Chapter 119, Florida Statutes.

C. Quorum

A majority of the voting members of the EAC in attendance shall constitute a quorum. A quorum must be present before a vote is taken on any matter appearing before the EAC. Proxy or absentee votes are not permitted.

Added

D. Scheduling and Conduct of Meetings

Meetings shall be held in accordance with Section III above and must comply with the requirements of the Sunshine Law. At the beginning of each fiscal year, the EAC shall establish a schedule of its meetings for the year; such schedule may be changed as deemed appropriate by a majority of the members of the EAC. Notice of the date, time, and location of each meeting shall be provided to each member. All meetings of the EAC must be noticed at least five (5) business days before each meeting. An Agenda shall be prepared for each meeting and shall be made available to anyone upon request. The EAC shall conduct all its meetings pursuant to Robert's Rules of Order, the most current revised edition. The Chair of the EAC, in consultation with the designated school district liaison, shall develop the Agenda for each meeting.

E. Personnel Proceedings

Where an employee of M-DCPS is alleged to have violated a rule within the jurisdiction of the EAC and a written complaint is filed with the EAC, based upon the same set of facts, and is subject to an ongoing disciplinary action initiated by M-DCPS, the EAC shall stay consideration of a complaint until the conclusion of the personnel proceedings. Anything to the contrary notwithstanding, recommendations with respect to the appropriate discipline of an employee shall be the sole province of the School Board and shall be in accordance with the applicable collective bargaining agreement or law.

F. Annual Report

The EAC shall prepare and present an annual report to the School Board summarizing the EAC's accomplishments for the past year. The report shall also state the goals and objectives for the coming year.

Added

Specific Authority: 1001.41(1)(2); 1001.42(25); 1001.43(10), F.S.
Law Implemented, Interpreted, or Made Specific: 119.07; 286.011; 1001.32;
1001.41(1)(2); 1001.42 F.S.

History

New:

Amended:

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA