

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

SUBJECT: INITIAL READING: PROPOSED AMENDMENTS TO SCHOOL BOARD POLICIES 0158, ETHICS ADVISORY COMMITTEE; 6460, BUSINESS CODE OF ETHICS; AND 8150, LOBBYISTS

COMMITTEE: FISCAL ACCOUNTABILITY & GOVERNMENT RELATIONS

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Pursuant to School Board Policy 0158, *Ethics Advisory Committee* ("EAC"), which authorizes the EAC "to review, interpret, render advisory opinions, and make recommendations to the Board," throughout the course of the past year, the EAC reviewed several Board Policies related to the mission of the EAC in order to ascertain whether they should be updated and revised. Mr. Frank Silva, Chair of the EAC, has transmitted to the Superintendent—on behalf of the EAC—proposed recommended revisions to School Board Policies 0158, *Ethics Advisory Committee*, 6460, *Business Code of Ethics*, and 8150, *Lobbyists*, for the Superintendent's consideration. The Superintendent concurs with and supports the EAC's proposed amendments to the enumerated policies.

The following is a brief summary of the proposed amendments:

The EAC recommends that Policy 0158, *Ethics Advisory Committee*, be amended to increase the membership on the EAC by adding representatives from Miami-Dade College and Florida Memorial University. New members to the EAC are appointed on a staggered and rotating basis among the appointing entities. It is also requested that the policy be amended to allow the terms of the Chair and Vice-Chair of the EAC be extended beyond the current two year term by majority vote of the members. This will be the first time, since the inception of the EAC, that the membership is being expanded.

The recommended revisions of Policy 6460, *Business Code of Ethics*, would require entities subject to the policy to also comply with Policy 6325, *Code of Silence*.

Lastly, an amendment to Policy 8150, *Lobbyists*, is being recommended to provide that, consistent with the current policy, investigations finding a substantiated violation of the Policy be referred to the EAC for review and for the recommendation of an appropriate penalty.

Attached is the Notice of Intended Action and the proposed policy amendments. Changes 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 to amend Policies 0158, *Ethics Advisory Committee*, 6460, *Business Code of Ethics*, and 8150, *Lobbyists*.

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 Policies 0158, *Ethics Advisory Committee*, 6460, *Business Code of Ethics*, and 8150, *Lobbyists*.

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on January 17, 2018, its intention to amend Board policies 0158, *Ethics Advisory Committee*; 6460, *Business Code of Ethics*; and 8150, *Lobbyists*, at its regular meeting on February 21, 2018.

PURPOSE AND EFFECT: Consistent with the Ethics Advisory Committee's mission: "to review, interpret, render advisory opinions, and make recommendations to the Board," over a period of a year, the Ethics Advisory Committee reviewed several school district policies to ascertain whether they should be revised or updated. The proposed amendments to these existing policies will serve to clarify and improve the purpose and provisions of each of the three specified policies.

The proposed amendments to Board Policy 0158, *Ethics Advisory Committee* ("EAC"), will increase the membership on the EAC by adding representatives from Miami-Dade College and Florida Memorial University. New members to the EAC are appointed on a staggered and rotating basis among the appointing entities. It is also requested that the policy be amended to allow the terms of the Chair and Vice-Chair of the EAC be extended beyond the current two year term by majority vote of the members.

Board Policy 6460, *Business Code of Ethics*, is being recommended for amendment to require entities subject to the policy to also comply with Policy 6325, *Cone of Silence*.

Finally, the proposed amendment to Board Policy 8150, *Lobbyists*, provides that school district investigations that substantiate a violation of this Policy be referred to the EAC for review and for the recommendation of an appropriate penalty.

SUMMARY: The proposed amendments to these existing policies will serve to clarify and improve the provisions of the policies being recommended for amendment. The proposed amendment to Board Policy 0158, *Ethics Advisory Committee*, will increase the membership on the EAC by adding representatives from Miami-Dade College and Florida Memorial University and will allow the terms of the Chair and Vice-Chair of the EAC to be extended beyond the current two year term by majority vote of the members. The proposed amendment to Board Policy 6460, *Business Code of Ethics*, will require entities subject to the policy to also comply with Policy 6325, *Cone of Silence*. Lastly, the proposed change to Board Policy 8150, *Lobbyists*, will refer investigative findings that substantiate a violation of the Policy to the EAC for review and for the recommendation of an appropriate penalty.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: 1001.41(1), (2), (3); 1001.42 (6), (15), (28); 1001.43 (10), (11); 1001.49 (3), F.S.

LAWS IMPLEMENTED INTERPRETED OR MADE SPECIFIC: 112.313; 1001.41(1), (2), (3); 1001.42 (6), (15), (28); 1001.43 (10), (11); 1001.49 (3), F.S.

IF REQUESTED, A HEARING WILL BE HELD DURING THE SCHOOL BOARD MEETING on February 21, 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 February 12, 2018, 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 NEW AND AMENDED POLICIES 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.

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ORGANIZATION

2 0158

Ethics Advisory Committee

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A. Purpose

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The purpose of the Ethics Advisory Committee 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 Board and employees of the District as to the required standards of ethical conduct and interpreting and applying those standards of conduct.

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It is not the intent of the Board that the Ethics Advisory Committee serve as a personnel board resolving personnel matters involving employees of the District or that it have jurisdiction over claims for money damages against the District or over members of the Board.

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B. Membership

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1. Selection of Members

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The Ethics Advisory Committee shall be composed of seven ~~(7)~~ nine (9) members. Members appointed by a university or college may not have two members of their college or university serving on the Committee at the same time. The members of the Ethics Advisory Committee shall be appointed as follows:

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a. 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;

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b. 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;

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- c. The dean of the school of education of the University of Miami, St Thomas University, Barry University, or Florida International University, Miami-Dade College, or Florida Memorial University shall on a rotating basis be requested to appoint one (1) faculty member from his/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 Ethics Advisory Committee. The deans of the schools of education of the Miami-Dade College and of Florida Memorial University shall also be requested to appoint the second and third faculty members to sit on the Ethics Advisory Committee. 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 Ethics Advisory Committee. 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 Ethics Advisory Committee. 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 Ethics Advisory Committee. Upon the expiration of said member's term, the dean of the school of education of Miami-Dade College shall be requested to appoint a faculty member to sit on the Ethics Advisory Committee. Upon the expiration of said member's term, the dean of the school of education of Florida Memorial University shall be requested to appoint a faculty member to sit on the Ethics Advisory Committee. Thereafter, each dean shall on a rotating basis select a faculty member from his or her school of education.

The use of the word "dean" in this provision shall mean "the dean or her or his designee."

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- d. The presidents of the University of Miami, St. Thomas University, Barry University, ~~and~~ Florida International University, Miami-Dade College, and Florida Memorial 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 Ethics Advisory Committee. 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 Ethics Advisory Committee. 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 Ethics Advisory Committee. 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 Ethics Advisory Committee. Upon the expiration of said member's term, the president of Florida Memorial University shall be requested to appoint a faculty member to sit on the Ethics Advisory Committee. Upon the expiration of said member's term, the president of Miami-Dade College shall be requested to appoint a faculty member to sit on the Ethics Advisory Committee. Thereafter, each president shall on a rotating basis select a faculty member from his/her school of law, business administration or management.
- e. The Dade County Council PTA/PTSA shall be requested to appoint one (1) parent who has or has had a child in a District school.
- f. The chairperson of the Greater Miami Chamber of Commerce shall be requested to appoint one (1) person from the business community.

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

2. Additional Qualifications

Each member of the Ethics Advisory Committee 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 Ethics Advisory Committee 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 Ethics Advisory Committee 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 Ethics Advisory Committee and (b) that the membership of the Ethics Advisory Committee will be representative of the community-at-large and reflect the diversity, gender, and makeup of the community.

Members of the Ethics Advisory Committee shall serve without compensation.

3. Terms

The members of the Ethics Advisory Committee shall serve terms of four (4) years each. Upon expiration of said term, any member may be re-appointed to additional four (4) year terms. Members of the Ethics Advisory Committee may be removed, upon majority vote of the Committee's voting members, if they fail to attend three (3) consecutive regular meetings without good cause.

4. Vacancies

A vacancy occurring during, or at, the expiration of a member's term on the Ethics Advisory Committee shall be filled in accordance with the provisions above. Appointing entities must appoint a new member within ninety (90) days from the date a member completes his or her term or otherwise vacates his or her position on the Ethics Advisory Committee. If the appointment is not made within the period of time prescribed herein,

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the entity entitled to make the succeeding appointment in accordance with this policy, will be asked to fill the vacancy.

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5. Additional Requirements

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No individual, while a member of the Ethics Advisory Committee, shall:

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a. seek or hold an appointed or elected political office or campaign for any elective political office a position on the Board;

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b. actively participate in or contribute to any campaign for election to the Board or any political action committee which contributes to such a campaign;

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c. be employed by the District 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, the District;

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d. grant permission for his/her name to be used by a campaign in support of or against any candidate for political office a position on the Board or any referendum or other ballot question related to the Board, or its business;

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e. lobby a member of the Board or an employee of the District on any issue.

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

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6. Selection of Chair and Vice-Chair

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The Ethics Advisory Committee 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.~~ A vice-chair shall also be selected in the same manner and with the same length of term as the chair. The terms of the Chair and

1 Vice-Chair may be extended beyond the two year term
2 by a majority vote of the Committee.

3 7. Emeritus Members

4 Whenever a member's term on the Ethics Advisory
5 Committee shall expire or end through voluntary
6 resignation or retirement, the remaining members may
7 vote to offer the departing member the honorary title of
8 "Emeritus" member of the Ethics Advisory Committee.
9 Should such an offer be approved by majority vote of
10 the existing membership of the Ethics Advisory
11 Committee and accepted by the departing member, the
12 individual bestowed the title of Emeritus Ethics
13 Advisory Committee member may hold such title
14 perpetually unless rescinded or unless its duration is
15 limited by the bylaws. An Emeritus Ethics Advisory
16 Committee member shall have the right to attend and
17 speak at all Ethics Advisory Committee meetings, but
18 shall not make motions or vote on any measure
19 appearing before the Ethics Advisory Committee. The
20 Ethics Advisory Committee may also request that a
21 member holding the distinction of Emeritus Ethics
22 Advisory Committee member appear at specified
23 meetings of the Ethics Advisory Committee or sub-
24 committee meeting to speak and provide his/her
25 opinion on matters deliberated upon by the Ethics
26 Advisory Committee. All Emeritus members will be
27 provided with advance notice of upcoming or future
28 meetings of the Ethics Advisory Committee.

29 C. Meetings

30 The Ethics Advisory Committee shall hold regular meetings in
31 accordance with this policy, and the Ethics Advisory
32 Committee may hold such other meetings as it deems
33 necessary. All meetings of the Ethics Advisory Committee
34 shall be public and written minutes of the proceedings thereof
35 shall be maintained by the Board.

36 The Ethics Advisory Committee shall make, adopt and amend
37 bylaws, rules of procedure which are consistent with the
38 provisions of this rule and regulations for the Ethics Advisory
39 Committee's governance.

1 D. Authority

2 The Ethics Advisory Committee was created as a result of the
3 Board's adoption on October 24, 2001 of a Commission on
4 Ethics Policy. This rule incorporates and includes pertinent
5 provisions of those policy guidelines.

6 The provisions of this policy shall be deemed supplemental to
7 any other applicable District rule, State, or Federal law and
8 are not intended to replace or repeal any provision of State or
9 Federal law or any other rules of the Board.

10 The Ethics Advisory Committee shall advise on the
11 application of the authorities listed below, and its jurisdiction
12 shall extend to any person required to comply with those
13 authorities:

- 14 1. The Code of Ethics and the Principles of Professional
15 Conduct of the Education Profession in Florida (State
16 Board of Education Rules F.A.C. 6B-1.001 and
17 6B-1.006);
- 18 2. Board Policy 1129, Policy 3129, and Policy 4129
19 (Conflict of Interest);
- 20 3. All rules of the District; and
- 21 4. The Code of Ethics for Public Officers and Employees
22 set forth in F.S. Chapter 112.

23 E. Powers and Duties of the Ethics Advisory Committee

- 24 1. The Ethics Advisory Committee shall be authorized to
25 exercise such powers and shall be required to perform
26 such duties as are set forth in this policy.
- 27 2. The Ethics Advisory Committee shall be empowered to
28 review, interpret, render advisory opinions, and make
29 recommendations to the Board regarding the
30 applicability of the matters contained above.
- 31 3. The Ethics Advisory Committee shall be empowered to
32 recommend changes to the rules it is charged with
33 reviewing to the Board.

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2. Public Meetings and Public Records

All proceedings conducted pursuant to this subsection shall be public meetings within the meaning of F.S. Chapter 286, and all other documents made or received by the Ethics Advisory Committee shall be public records within the meaning of F.S. Chapter 119.

3. Quorum

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

4. Scheduling and Conduct of Meetings

Meetings shall be held in accordance with above and must comply with the requirements of the Sunshine Law. At the beginning of each fiscal year, the Ethics Advisory Committee 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 Committee. Notice of the date, time, and location of each meeting shall be provided to each member. All meetings of the Committee 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 Committee shall conduct all its meetings pursuant to Robert's Rules of Order, the most current revised edition. The chair of the Ethics Advisory Committee, in consultation with the designated School District liaison, shall develop the agenda for each meeting. All meetings shall be accessible and open to the public.

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5. Personnel Proceedings

Where an employee of the District is alleged to have violated a rule within the jurisdiction of the Ethics Advisory Committee and a written complaint is filed with the EAC, based upon the same set of facts, is subject to an ongoing disciplinary action initiated by the District, the Ethics Advisory Committee 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 Board and shall be in accordance with the applicable collective bargaining agreement or law.

F.S. 119.07, 286.011, 1001.32, 1001.41(1)(2), 1001.42, 1001.42(25)
F.S. 1001.43(10)

Adopted 8/3/11

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BUSINESS CODE OF ETHICS

2 This Business Code of Ethics ("Code") shall govern the conduct of all contractors,
3 lobbyists, and consultants under contract with the School Board. These standards
4 of conduct supersede all prior written ethics policies adopted by the Board which
5 may be in conflict with these standards and are to be read in conjunction with the
6 latest applicable Board contracting and procurement policies and procedures. All
7 contractors shall ensure that their subcontractors comply with this Code. The
8 Board will accept bids and proposals for contracts and procurement of goods or
9 services only from firms or entities which agree to comply with this Code and all
10 applicable Board contracting and procurement policies and procedures.

11 **Definitions**

- 12 A. Consultant - an individual providing information and advice in an
13 area of expertise, pursuant to a contract with the Board. This may
14 include, but is not limited to, real estate brokers, developers, and
15 experts in their field.
- 16 B. Contractor - an individual, company, joint venture, or other
17 corporate entity who has entered into a contract to provide goods or
18 services to the Board in accordance with an invitation to bid, a
19 request for proposal, or otherwise by the approval of the Board.
- 20 C. Lobbyist - any individual, firm, or corporation compensated by or
21 who contracts for economic consideration from any principal person
22 or organization for the purpose of lobbying. See Policy 8150 for a
23 more complete definition.

24 **Intent and Purpose**

- 25 A. to protect the integrity of the school district's procurement process;
- 26 B. to provide a uniform statement of expected conduct for consultants
27 and contractors doing business with the Board in an effort to ensure
28 a fair and ethical environment throughout the procurement process.

1 **Code is not Exhaustive/Non-Exclusive**

2 This policy does not address all ethical issues that may arise through the School
3 District's procurement process. Nonetheless, each person or entity is expected to
4 act in an ethical manner at all times while engaging in business with the Board.

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Individuals or entities subject to this policy must also comply with the Cone of Silence, Policy 6325, which prohibits any communication regarding a particular Request for Proposal (RFP), bid, invitation to bid, or other competitive solicitation between: any person who seeks an award, including a potential vendor or vendor's representative, an employee, partner, director, or officer of a potential vendor, or consultant, lobbyist, or actual or potential subcontractor or sub-consultant of a vendor, or any other individual acting through or on behalf of any person seeking an award; and any School Board member or the member's staff, the Superintendent, Deputy Superintendent and their respective support staff, or any person appointed by the Board to evaluate or recommend selection in the competitive procurement process. A Cone of Silence shall be applicable to each RFP, bid, invitation to bid, or other competitive solicitation during the solicitation, review and Board action of bid proposals as appropriate.

7 **Enforcement of Code of Conduct**

8 Violations of any provisions of this Code may be investigated by the Board's
9 Inspector General or by any other appropriate enforcement authority. The Board
10 may reject any bid or proposal, or impose other sanctions against any person,
11 contractor, or entity, that has not complied with the requirements of this Code
12 according to State laws or Board policies.

13 **Prohibited Conduct**

14 No bidder, proposer, contractor, or subcontractor shall fraudulently deceive or
15 attempt to deceive any School District official with regard to any material fact
16 pertinent to any pending or proposed Board contract. Nor shall an individual,
17 company, or other entity engage in conduct with the purpose or intent of placing any
18 School District employee, official, or agent under personal obligation to the bidder,
19 proposer, contractor or subcontractor by engaging in, but not limited to, the
20 following acts or conduct: providing gifts or monetary compensation to a Board
21 employee or promising gifts, or other compensation in return for a contract, or any
22 other conduct that would place the employee in violation of the prohibitions
23 contained in F.S. 112.313.

24 **Avoidance of the Appearance of Impropriety**

**THE SCHOOL BOARD OF
MIAMI-DADE COUNTY**

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1 All contractors shall refrain from conduct which they know or reasonably should
2 know is likely to create in the minds of reasonable, objective, fair-minded observers
3 an appearance of impropriety.

4 **Lobbyist Registration**

5 All consultants and contractors must ensure that any lobbyist working on their
6 behalf comply with Policy 8150.

1 **Gifts and Offers of Employment to School Personnel**

2 No consultant, bidder, proposer, or contractor shall offer, give, or promise to offer or
3 give directly or indirectly, any money, gift or gratuity to any School Board employee
4 whose duties involve authorizing and/or procuring contracts for goods and services
5 for the school district. Policy 1210.01, Policy 3210.01, and Policy 4210.01 regarding
6 gifts to school personnel are incorporated by reference in this policy.

7 Similarly, no person or entity covered by this Code, including, but not limited to,
8 consultant, bidder, proposer, or contractor shall offer, or promise to offer, either
9 directly or indirectly, any future employment or business opportunity to any Board
10 employee or consultant, their immediate family, spouse, significant other, or
11 business associates of such persons, if such offer of employment is conditioned
12 expressly or implicitly on the awarding of a present or future contract, or preference
13 in the awarding of a contract to anyone at any time by the Board.

14 **Disclosure of Employment of Former Board Employees**

15 To prevent current or former Board employees from using their relationship with the
16 Board from improperly influencing procurement decision-making, all bidders,
17 proposers, consultants, and contractors are required to disclose the names of any of
18 their employees who serve as agents or principals for the bidder, proposer or
19 contractor, and who within the last two (2) years, have been or are employees of the
20 Board. Such disclosures shall comply with current Board rules, but will include, at
21 a minimum, the name of the former Board employee, a list of the positions the
22 employee held in the last two years of his/her employment with the Board, and the
23 dates the employee held those positions.

24 In addition, the Board will not contract with any bidder, proposer, consultant, or
25 contractor that compensates any former Board employee or consultant to influence
26 any action on a matter pending with the Board if that employee, within the last
27 twelve (12) months, held a Board position in which they personally and substantially
28 participated in the matter.

29 The Board will not contract with any bidder, proposer, contractor or sub-contractor
30 that employs a former Board employee or consultant who, while serving in a Board
31 position within the last two (2) years, substantially participated in the development
32 of the invitation to bid or request for proposal's requirements or specifications, or
33 who took part in contracting process for the specific goods or services being solicited
34 by the Board. The Superintendent may waive this prohibition in writing for good
35 cause with notification to the Board prior to awarding the contract. Good cause may
36 be shown in circumstances where awarding the contract to another party will not be
37 in the best interest of the Board.

1 **Preclusion from Contracting for Individuals or Firms Involved in the**
2 **Development of the Bid, Proposal, or Contract Specifications**

3 No contractor or consultant who participates in the development of the scope of
4 work, solicitation documents, contractual instruments, or of the technical
5 specifications on behalf of the School District may participate as a proposer or
6 sub-proposer or perform any work associated with that particular procurement. The
7 Superintendent may waive this prohibition for good cause in writing prior to the
8 award of the contract.

9 **Conflicts of Interest**

10 All individuals, firms, contractors, and consultants, must take steps to avoid
11 conflicts of interest, for example, but not limited to, those conflicts delineated in
12 Policy 0141.2, Policy 1129, Policy 3129, and Policy 4129. The Superintendent, in
13 consultation with legal counsel, shall determine whether a conflict of interest exists
14 and recommend appropriate action that will resolve the conflict. If it is determined
15 that an actual or apparent conflict of interest exists, the Superintendent shall notify
16 the contractor in writing of this finding and the actions that will be recommended to
17 the Board in order to resolve the conflict of interest.

18 **Non-Retaliation Policy**

19 The Board encourages good faith reporting of all suspected violations of this Code.
20 Anyone making a good faith report of a suspected violation of this Code shall not be
21 subjected to any adverse action by the Board, nor shall anyone or any company,
22 accused of violating this Code and subsequently found not to have committed a
23 violation of this Code, be subjected to any adverse sanctions or penalties by the
24 Board. The identity of any persons reporting violations of this Code shall be kept
25 confidential to the extent permitted by law.

26 All suspected violations shall be reported to the Office of the Inspector General for
27 investigation. If the Inspector General determines that the allegations have merit,
28 the matter will be referred to the appropriate authorities. If the Inspector General
29 determines that the matter should be investigated by another department or by an
30 outside entity, the Inspector General may refer the matter to the other department
31 or outside entity for investigation or final disposition.

1 **Resolving Violations of the Code**

2 If it is determined that a violation of this Code has taken place, the Board may take
3 one or more of the following actions:

- 4 A. meeting with the consultant or contractor to discuss the violation,
5 and any and all possible resolutions to the violation(s);
- 6 B. suspending the consultant or contractor in accordance with the
7 provisions of the contract in question, or by initiating debarment
8 procedures as established by Policy 6320.04;
- 9 C. directing the prime contractor to remove a subcontractor who has
10 been shown to have intentionally violated the Code from the project;
- 11 D. rescinding, voiding, or terminating the contract as may be permitted
12 by law, Board rules, or the relevant contract; and/or
- 13 E. any other reasonable sanction deemed appropriate, and which is
14 permitted by law, Board rules, and by the provisions of the impacted
15 contract.

16 **Prospective Application**

17 This Code does not apply to contracts, written agreements, or published solicitations
18 in existence at the time this Code was enacted. It will be incorporated into all formal
19 bid solicitations, vendor applications, and to any Request for Proposals issued by
20 the Board.

21 F.S. 112.313, 1001.41(1)(2), 1001.42(23), 1001.43(10)

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LOBBYISTS

2 Responsible government requires that the fullest opportunity be afforded to the
3 people to petition the Board and the District to express freely their opinions on
4 Board actions and issues. To preserve and maintain the integrity of the
5 governmental decision-making process, the identity, expenditures, fees, interests
6 and activities of certain persons who engage in efforts to influence actions of Board
7 members and employees either by direct or indirect communication shall be publicly
8 and regularly disclosed.

9 **Definitions**

10 A. "Lobbyist" means a person, firm or corporation who is employed and
11 receives payment from, or who contracts for economic consideration
12 with, any principal, person or organization for the purpose of
13 lobbying, or a person who is principally employed for governmental
14 affairs by another person or governmental entity to lobby on behalf
15 of that other person or governmental entity. For purposes of this
16 rule, the term "Lobbyist" specifically includes the principal as well as
17 any agent, officer, or employee of a principal regardless of whether
18 they are employees of the principal whose normal scope of
19 employment does not include lobbying activities.

20 B. One who is not an employee of a principal is a "lobbyist" if s/he is
21 retained as an independent contractor or otherwise for payment or
22 economic consideration by a person or governmental entity to lobby
23 an agency on behalf of that person or governmental entity.

24 If a corporation, partnership, firm, or other business organization is
25 retained for payment or economic consideration to lobby on behalf of
26 another person or governmental entity, only the members, partners,
27 associates, or employees of the entity who personally lobby on behalf
28 of that person or governmental entity are "lobbyists."

- 1 C. The terms "payment" or "economic consideration" do not include
2 receiving only reimbursement for actual travel, lodging, and meal
3 expenses.
- 4 D. A lobbyist is not:
- 5 1. a person representing school allied groups, e.g., Parent
6 Teacher Association (PTA); Educational Excellence School
7 Advisory Councils (EESAC); bargaining units; etc.;
- 8 2. an attorney retained to represent individuals or entities in
9 quasi-judicial proceedings; expert witnesses providing
10 information in a public meeting; or representatives of non-
11 profit organizations who only appear at meetings without
12 compensation;
- 13 3. an attorney, or any person, who represents a client in a
14 judicial proceeding or in a formal administrative proceeding
15 conducted pursuant to Chapter 120 or any other formal
16 hearing before the Board, a committee, or administrative law
17 judge;
- 18 4. an employee of a governmental entity or of a legislative,
19 judicial or executive branch entity acting in the normal
20 course of his or her duties;
- 21 5. a confidential informant who is providing, or seeks to provide,
22 confidential information to be used for law enforcement
23 purposes;
- 24 6. a public officer, employee or appointee who only appears in
25 his or her official capacity;
- 26 7. a person who only appears in his or her individual capacity
27 for the purpose of self-representation without compensation
28 or reimbursement, whether direct, indirect or contingent, to
29 express support of or opposition to any item.
30

1 Staff shall transmit this listing to the Clerk's office
2 prior to the oral presentation. For the purpose of this
3 subsection only, the listed members of the
4 presentation team shall not be required to pay any
5 registration fees. No person shall appear before any
6 employee or committee on behalf of an individual or
7 firm unless he or she has been listed as part of the
8 firm's presentation team pursuant to this paragraph or
9 unless he or she is registered with the Clerk's office
10 and has paid all applicable fees.

11 f. File an appropriate notice of withdrawal on behalf of
12 each person who withdraws as a lobbyist for a
13 particular client. Each principal shall also file a form
14 with the Clerk of the Board at the time the lobbyist is
15 no longer authorized to represent the principal.

16 The Clerk shall publish logs on an annual basis reflecting the
17 lobbyist registrations which have been filed in accordance with
18 this subsection. All logs required by this rule shall be prepared
19 in a manner substantially similar to the logs prepared for the
20 Florida Legislature pursuant to F.S. 11.045.

21 B. Business Interests

22 In addition to the information above, every registrant shall be
23 required to state the extent of any business, financial, familial or
24 professional relationship, or other relationship with any current
25 member of the Board or District administration who is sought to be
26 lobbied as identified on the lobbyist registration form filed.

1 C. Filing

2 1. The lobbyist registration form shall be filed by the lobbyist
3 with the Office of the Board Clerk by July 1st of each year, or
4 when an individual becomes a lobbyist. Registration must be
5 renewed by July 1st of each subsequent year or lapse. A
6 separate registration form must be filed for each principal
7 represented. Under no circumstances will any lobbyist be
8 permitted to address the Board at public meetings until the
9 Lobbyist Registration Form is filed. Further, members of the
10 Board, District administration, Board administrative
11 assistants, school administrators and staff and Board
12 Attorneys will not discuss Board business with a lobbyist who
13 is meeting to influence purchasing decisions or Board action
14 until the lobbyist has registered.

15 2. Fee. The fee for annual registration shall be \$250.00,
16 deposited by the Board Clerk into an account, and expended
17 for recording, transcribing, administration and other costs
18 incurred in maintaining these records for availability to the
19 public. There shall be no fee required for filing a notice of
20 withdrawal. The Superintendent may waive or reduce the
21 registration fee upon a finding of financial hardship.

22 D. Prohibited Use

23 No information obtained from lobbying statements required by this
24 article shall be sold or used by any person for the purpose of
25 soliciting campaign contributions or fund-raising or for commercial
26 purposes.

27 E. Duty of Personnel

28 All members of the Board, and all District personnel, shall make
29 every effort to determine whether persons required to register have
30 complied. Board members or District personnel may not knowingly
31 permit a person who is not registered to lobby the Board, the
32 relevant committee, or District employee.

1 Reporting Requirements

2 On July 1st of each year lobbyists shall submit to the Board Clerk an Expenditure
3 Report under oath listing all Board lobbying expenditures in excess of twenty-five
4 dollars (\$25.00) for the preceding calendar year. A statement shall be filed even if
5 there have been no expenditures during the reporting period. A separate statement
6 shall be filed for each principal represented. The statement shall list in detail each
7 expenditure by category, including but not limited to, food and beverage,
8 entertainment, research, communication, media advertising, publications, travel,
9 lodging, and special events.

10 Prior to any lobbyist or principal engaging in any lobbying, each principal must
11 submit to the Board Clerk a statement under oath disclosing the terms and amount
12 of compensation paid, and to be paid, by each principal to the lobbyist with regard
13 to the specific Board matters on which the lobbyist has been engaged to lobby. A
14 statement must be filed even if no compensation has or will be paid concerning the
15 lobbying services.

16 The Clerk shall notify any lobbyist who fails to timely file an expenditure report. In
17 addition to any other penalties which may be imposed, any lobbyist who fails to file
18 the required expenditure report by September 1st shall be automatically suspended
19 from lobbying until all fees are paid unless a review of the fine has been appealed to
20 the Ethics Advisory Committee.

21 Each principal and lobbyist has a continuing duty to supply accurate information
22 and amend registration and reports when necessary.

23 Prohibited Activities

24 Except for a principal's authorized sales or account representatives, no person shall
25 accept employment as a lobbyist on a basis which makes that person's
26 compensation contingent in any manner upon the approval, rejection, or
27 modification of any action, non-action or decision of the Board; Board members;
28 Board Committee; District administrative staff; Board administrative assistants,
29 school site administrators, or Board Attorneys. "Contingency fee" means a fee,
30 bonus, commission, or nonmonetary benefit as compensation which is dependent on
31 or in any way contingent on the passage, defeat, or modification of: (1) a resolution,
32 action or decision of the Board; (2) any action, decision or recommendation of the
33 Superintendent or committee; or (3) any action, decision or recommendation of
34 District personnel during the time period of the entire decisionmaking process
35 regarding such action, decision or recommendation which foreseeably will be heard
36 or reviewed by the Board or staff.

1 Sales/account representatives are full or part time employees of a principal whose
2 primary purpose or responsibility is to promote and sell the principal's products or
3 services.

4 **Investigations**

5 The Inspector General may investigate, or the Ethics Advisory Committee may
6 request an investigation concerning any person engaged in lobbying activities who
7 may be in violation of this rule.

8 **Penalties**

9 If a violation is found to have been committed, the Ethics Advisory Committee may
10 make recommendations to the Board that prohibit the person from lobbying before
11 the Board, any committee or District personnel and may adopt reports by the
12 Inspector General or District personnel in support of its findings and
13 recommendations. If an investigation concludes with the finding of a violation of this
14 policy, the final report with its findings shall be referred to the EAC for review and
15 for a recommendation of an appropriate penalty. Unless more immediate action is
16 requested by the EAC Chair or by the OIG, the EAC's review of the investigative
17 report shall be conducted at the next regularly scheduled EAC meeting.

18 The Board may impose suspensions up to a period of two years from the date of
19 determination of the violation or according to the following schedule:

- 20 A. 1st violation: for a period of 90 days from the date of determination
21 of violation;
- 22 B. 2nd violation: for a period of one (1) year from the date of
23 determination of violation;
- 24 C. 3rd violation: for a period of two (2) years from the date of
25 determination of violation.

26 The above schedule is to be used as a guideline and does not limit the School
27 Board's ability to impose a penalty that is more or less severe based on the facts of
28 each particular case or violation.

29 F.S. 1001.41(1)(2)(5), 1001.42(15)(25), 1001.43(10)