SUBJECT: INITIAL READING: TO ADOPT NEW POLICY 8805, RELIGIOUS EXPRESSION; AND PROPOSED AMENDMENTS TO POLICIES 2270, RELIGION IN THE CURRICULUM; 5730, EQUAL ACCESS FOR NON DISTRICT-SPONSORED STUDENT CLUBS AND ACTIVITIES; 8800, RELIGIOUS/PATRIOTIC CEREMONIES AND OBSERVANCES; AND 8810, THE AMERICAN FLAG

COMMITTEE: PERSONNEL, STUDENT, SCHOOL, AND COMMUNITY SUPPORT

LINK TO STRATEGIC BLUEPRINT: SAFE, HEALTHY & SUPPORTIVE LEARNING ENVIRONMENT

Consistent with the Board’s statutory responsibility to periodically review and update its policies to conform to legislative changes and District practices, authorization is requested for the Superintendent to initiate rulemaking to amend several Board policies related to religious expression and displaying the state motto. These amendments have been recommended by NEOLA, Inc., the Board’s policy consultant, and all have been drafted in collaboration with, and reviewed by, the Superintendent, Cabinet, and District staff of departments that will implement them.

In 2017, the Florida Legislature approved amendments to Section 1002.206, F.S., which mandated that every school district adopt a religious expression policy developed by the Florida Department of Education (DOE). The new policy, 8805, Religious Expression, addresses student expression of religious viewpoints, religious clothing and accessories worn by students, student and employee engagement in religious activities, equal access to school facilities by religious student organizations, and student speakers in the public forum. In addition and in compliance with federal court decisions, employees may not be prevented from participating in religious activities on campus when they are initiated by students, are outside of school time, and do not conflict with the employee’s responsibilities. Lastly, the District must establish a limited public forum for student speakers at school events open to the public. Neutral criteria must be used in selection of the student speaker and the student may not be discriminated against for his/her religious viewpoint.

Board Policy 2270, Religion in the Curriculum, is proposed to be amended to conform to new Policy 8805 by removing duplicative language about the treatment of students
when expressing religious beliefs through academic assignments. Amendments to Board Policies 5730, Equal Access for Non District-Sponsored Student Clubs and Activities, and 8800, Religious/Patriotic Ceremonies and Observances, are proposed in order to conform to new Policy 8805.

Finally, Board Policy 8810, The American Flag, adds the new statutory requirement in Section 1003.44(4), F.S., that the official motto of the State of Florida be displayed in a conspicuous place in all schools in the District and in each building used by the School Board. The title of the policy is proposed to be revised to The American Flag and Official Motto of the State of Florida.

Attached are the Notice of Intended Action and 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 Board Policies 2270, Religion in the Curriculum; 5730, Equal Access for Non District-Sponsored Student Clubs and Activities; 8800, Religious/Patriotic Ceremonies and Observances; 8810, The American Flag; and to adopt new Board policy 8805, Religious Expression.

**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 initiate rulemaking proceedings to adopt new Policy 8805, Religious Expression, and to amend Board Policies 2270, Religion in the Curriculum; 5730, Equal Access for Non District-Sponsored Student Clubs and Activities; and 8800, Religious/Patriotic Ceremonies and Observances; and, 8810, The American Flag.
NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on February 13, 2019, its intention to adopt new Board policy 8805, Religious Expression, and amend Board Policies 2270, Religion in the Curriculum; 5730 Equal Access for Non District-Sponsored Student Clubs and Activities; 8800, Religious/Patriotic Ceremonies and Observances; and 8810, The American Flag; at its regular meeting on April 17, 2019.

PURPOSE AND EFFECT: New policy, 8805, Religious Expression, mandated by Section 1002.206, F.S., addresses student expression of religious viewpoints, religious clothing and accessories worn by students, student and employee engagement in religious activities, equal access to school facilities by religious student organizations, and student speakers in the public forum. Board Policies 2270, Religion in the Curriculum, 5730, Equal Access for Non District-Sponsored Student Clubs and Activities, and 8800, Religious/Patriotic Ceremonies and Observances, are proposed to be amended to removes provisions that are duplicative or contradictory to provisions in new Policy 8805.

Board Policy 8810, The American Flag, incorporates the new statutory mandate in Section 1003.44(4), F.S., that the official motto of the State of Florida be displayed in a conspicuous place in all schools in the District and in each building used by the School Board. The policy is proposed to be renamed The American Flag and Official Motto of the State of Florida.

SUMMARY: New policy, 8805, Religious Expression, mandated by Section 1002.206, F.S., addresses student expression of religious viewpoints, religious clothing and accessories worn by students, student and employee engagement in religious activities, equal access to school facilities by religious student organizations, and student speakers in the public forum. Board Policies 2270, Religion in the Curriculum, 5730, Equal Access for Non District-Sponsored Student Clubs and Activities, and 8800, Religious/Patriotic Ceremonies and Observances, are proposed to be amended to removes provisions that are duplicative or contradictory to provisions in new Policy 8805.

Board Policy 8810, The American Flag, incorporates the new statutory mandate in Section 1003.44(4), F.S., that the official motto of the State of Florida be displayed in a conspicuous place in all schools in the District and in each building used by the School Board. The policy is proposed to be renamed The American Flag and Official Motto of the State of Florida.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: 1001.41 (1), (2), (3); 1001.42 (6), (9), (12); 1002.206; 1003.44(4), F.S.

LAWS IMPLEMENTED INTERPRETED OR MADE SPECIFIC: 15.0301; 1002.206; 1003.44(4); F.S.

IF REQUESTED, A HEARING WILL BE HELD DURING SCHOOL BOARD MEETING OF April 17, 2019, 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 March 12, 2019, 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, Florida Statutes)

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.
NEW POLICY

RELIGIOUS EXPRESSION

The School Board will not discriminate against a student, parent, or school personnel on the basis of a religious viewpoint or religious expression.

Student Expression of Religious Viewpoints

A. The District will treat a student’s voluntary expression of a religious viewpoint on an otherwise permissible subject in the same manner that the District treats a student’s voluntary expression of a secular viewpoint.

B. A student may express his/her religious beliefs in coursework, artwork, and other written and oral assignments free from discrimination. A student’s homework and classroom assignments shall be evaluated, regardless of their religious content, based on expected academic standards relating to the course curriculum and requirements.

C. A student may not be penalized or rewarded based on the religious content of his/her work if the coursework, artwork, or other written or oral assignments require a student’s viewpoint to be expressed.

Religious Clothing, Jewelry, and Accessories

A student may wear clothing, accessories, and jewelry that display a religious message or symbol in the same manner and to the same extent that secular types of clothing, accessories, and jewelry that display messages or symbols are permitted to be worn.
Students Engaging in Religious Activities and Expression at School

A. A student may pray or engage in religious activities or religious expression before, during, and after the school day in the same manner and to the same extent that a student may engage in secular activities or expression.

B. A student may organize prayer groups, religion clubs, and other religious gatherings before, during, and after the school day in the same manner and to the same extent that a student is permitted to organize secular activities and groups.

Employees Engaging in Religious Activities and Expression at School

A. School personnel may not be prevented from participating in religious activities on school grounds that are initiated by students at reasonable times before or after the school day if such activities are voluntary and do not conflict with the responsibilities or assignments of such personnel.

B. The District must comply with the Federal requirements in Title VII of the Civil Rights Act of 1964, which prohibits an employer from discriminating against an employee on the basis of religion.

Equal Access to School Facilities

A. The District shall give religious groups access to the same school facilities for assembling as given to secular groups without discrimination based on the religious content of the group's expression. See Policy 5730.

B. A group that meets for prayer or other religious speech may advertise or announce its meetings in the same manner and to the same extent that a secular group may advertise or announce its meetings.
Limited Public Forum Required for Student Speakers

The District is required to establish a limited public forum for student speakers at any school event where a student is to speak publicly. Where student speakers are permitted, the District must:

A. provide the forum in a manner that does not discriminate against a student's voluntary expression of a religious viewpoint on an otherwise permissible subject;

B. provide a method based on neutral criteria for the selection of student speakers at school events, activities, and graduation ceremonies;

C. ensure that a student speaker does not engage in obscene, vulgar, offensively lewd, or indecent speech; and

D. state in oral or written form that the student's speech does not reflect the endorsement, sponsorship, position, or expression of the School District. The District must deliver this required disclaimer at all graduation events and at any other event where a student speaks publicly.

Student expression of a religious viewpoint on an otherwise permissible subject may not be excluded from the limited public forum.

F.S. 1002.206
REligion in the Curriculum

Curriculum may include instruction about the religions of the world as appropriate to the various ages and educational level of the students. It is also permissible to consider religious influences on art, music, literature, and social studies. Although the District may teach about religious holidays, including their religious aspects, and may celebrate the secular aspects of holidays, schools may not observe holidays as religious events or promote such observance by students. (See Policy 8800)

Students should receive unbiased instruction so they may privately accept or reject the knowledge according to their own religious beliefs. (See Policies 8800 and 8805)

Students may express their religious beliefs in homework, artwork, and other written and oral assignments free of discrimination based on the religious content of their submissions. Home and classwork should be judged by ordinary academic standards of substance and relevance, and against other legitimate pedagogical concerns identified by the school.

No student shall be exempted from attendance in a required course of study on the grounds that the instruction interferes with the free exercise of his/her religion.

F.S. 1002.206, 1003.45
U.S. Consti. Amend. 1
EQUAL ACCESS FOR NONDISTRICT-SPONSORED, STUDENT CLUBS AND ACTIVITIES

School Board facilities shall not be used by nondistrict-sponsored student clubs and activities or District-sponsored, noncurriculum-related clubs and activities during instructional hours. During noninstructional time, however, no group of students, regardless of the size of the group, will be denied an opportunity to meet on the basis of the religious, political, philosophical, or other content of the activity. [See Policies 8800, 8805]

An application for permission for nondistrict-sponsored student clubs and activities to meet on school premises shall be made to the Principal who shall grant permission if:

A. the activity has been initiated by students;
B. attendance at the meeting is voluntary;
C. no agent or employee of the District will promote, lead, or participate in the meeting;
D. the meeting does not materially and substantially interfere with the orderly conduct of instructional activities in the school;
E. nonschool persons do not direct, conduct, control, or regularly attend the activity.
F. it does not require additional tax funds;
G. is not unlawful; and
H. admission fees are not charged during the course of the meeting.

A student-initiated group granted permission to meet on school premises shall be provided the same rights and access and shall be subject to the same administrative procedures that govern the meetings of student organizations sponsored by the Board, except as provided by this policy. Participation in a student-initiated meeting must be available to all students who wish to attend and cannot be denied on the basis of a student's sex, race, color, ethnic or national origin, religion, marital status, disability, genetic information, age, political beliefs, sexual orientation, gender, gender identification, social and family background, linguistic preference, pregnancy, or any other basis prohibited by law.
Fraternities, sororities, and secret societies are prohibited. The Superintendent may exclude nonstudents from directing, controlling, or attending any meetings of students.

An instructional staff member may be assigned to attend a student-initiated meeting in a custodial capacity but shall not participate in the activity. No instructional staff member shall be compelled to attend or participate in a student-initiated meeting if the content of the speech at the meeting is contrary to his/her beliefs.

The principal may take necessary action to maintain order and discipline on school premises and protect the safety and well-being of students and staff members.

Denial by the principal of the use of school premises to any student-initiated group for the purposes of conducting a meeting during non-instructional time may be appealed to the Superintendent.

F.S. 1002.206, 1006.14
42 U.S.C. 2000e, Civil Rights Act of 1964
**RECOMMENDATIONS FOR APPLICABILITY OF COURT DECISIONS TO THE MIAMI-DADE COUNTRY SCHOOL BOARD**

**POLICIES AND REGULATIONS INVOLVING RELIGIOUS/ PATRIOTIC CEREMONIES AND OBSERVANCES**

Religious expression and activity are permitted in the schools as outlined in Policies 2270, 5730, 8805 and as follows:

A. Graduation prayer and baccalaureates: School officials may not mandate or organize prayer at graduation, nor organize religious baccalaureate ceremonies. If a school generally opens its facilities to private groups, it must make its facilities available on the same terms to organizers of privately sponsored religious baccalaureate services. A school may not endorse such ceremonies.

B. Official neutrality regarding religious activity: Teachers and school administrators, when acting in those capacities, are representatives of the State and are prohibited by the establishment clause from soliciting or encouraging religious activity and from participating in such activity with students. Teachers and administrators also are prohibited from discouraging activity because of its religious content and from soliciting or encouraging antireligious activity.

C. Religious Literature: Students have a right to distribute religious literature to other students on the same terms as they are permitted to distribute other literature that is unrelated to school curriculum or activities. Schools may impose the same reasonable time, place, and manner or other constitutional restrictions on distribution of religious literature as they do on nonschool literature generally, but they may not single out religious literature for special regulation.

D. Student garb: Students may wear religious attire and may not be forced to wear gym clothes that they regard, on religious grounds, as immodest.

E. The Equal Access Act: Student religious activities are allowed the same access to public school facilities as are student secular activities. See Policy 5730.

District staff shall not use prayer, religious readings, or religious symbols as a devotional exercise or in an act of worship or celebration. The District shall not act as a disseminating agent for any person or outside agency for any religious or anti-religious document, book, or article.
The School Board shall not adopt any policy or rule respecting or promoting an establishment of religion or prohibiting any student from the free, individual, and voluntary exercise or expression of the student’s religious beliefs. However, such exercise or expression may be limited to lunch periods or other non-instructional time periods when students are free to associate.

Observance of religious holidays through devotional exercises or acts of worship is also prohibited. Acknowledgement of, explanation of, and teaching about religious holidays of various religions is permitted. Celebration activities involving nonreligious decorations and use of secular works are permitted, but it is the responsibility of all faculty members to ensure that such activities are strictly voluntary, do not place an atmosphere of social compulsion or ostracism on minority groups or individuals, and do not interfere with the regular school program.

A. Religious symbols created by the children to be displayed on the public schools on a temporary basis are permitted. Children may display, upon their own person, such religious symbols as they desire.

B. Singing religious hymns is permitted.

C. Showing motion pictures which are to some degree religious in nature and which depict various religious happenings, principles, ideals, and teachings are prohibited.

D. The observance of religious holiday ceremonies, such as plays around Christmas time depicting the birth of Christ, and around Easter of the Crucifixion of Christ, Hanukkah ceremonies, and other religious ceremonies on school property, is prohibited.

E. The traditional holiday parties and symbols such as the Christmas tree, together with other decorations which are not religious in nature are permitted.

If a parent determines that any nonacademic activity in the public schools violates their religious conscience, the Parent shall have the right to request the release of his/her child from participating in the activity. The Principal shall grant the request and provide for the orderly care of the released child.
A brief interval of silent meditation shall be observed each day in the schools. However, under no circumstances shall students be compelled to participate.

F.S. 1000.06, 1002.20, 1002.206
20 U.S.C. 4071 et seq.
Lee vs. Weisman, 112 S. Ct. 2649, 120 L. Ed.2d 467 (1992)
THE AMERICAN FLAG AND OFFICIAL MOTTO OF THE STATE OF FLORIDA

The Pledge of Allegiance shall be recited at the beginning of the day in every school. The Pledge will be as follows, “I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.” Students will be taught not to pause after “one nation”. Students shall stand with right hand over the heart while reciting the Pledge.

A student has the right not to participate in reciting the pledge. Upon written request by his/her parent, the student must be excused from reciting the pledge, including standing and placing the right hand over his/her heart. A written notice shall be published in a Student Handbook and/or the Code of Student Conduct.

School personnel:

A. cannot discipline a student for failing to stand and/or recite the Pledge, but

B. may take disciplinary action if a student materially disrupts the Pledge.

Display of the Flag

A. Outside

The flag of the United States shall be raised above each school and/or at other appropriate places during all school sessions, weather permitting. The flag shall be raised before the opening of school and taken down at its close every day. The flag is to be flown at half-staff in mourning for designated principal government leaders and upon presidential or gubernatorial order.
policy

THE SCHOOL BOARD OF
MIAMI-DADE COUNTY

B. In the Classroom

Each classroom shall display a flag of the United States that is at least two (2) feet by three (3) feet.

Display of the Official Motto of the State of Florida

The official motto of the State of Florida, “In God we Trust”, shall be displayed in a conspicuous place in all schools in the District and in each building used by the School Board.

F.S. 15.0301
F.S. 1000.06
F.S. 1001.41
F.S. 1002.20(12)
F.S. 1003.44(1)(4)
U.S. Public Law No. 623, as amended by U.S. Public Law No. 829

Revised 3/15/17

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