

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

**SUBJECT: INITIAL READING: TO AMEND BYLAWS 0100, *DEFINITIONS*;
0165, *PUBLIC MEETINGS*; AND POLICY 5440, *INVESTIGATIONS*
*INVOLVING STUDENTS***

COMMITTEE: PERSONNEL, STUDENT, SCHOOL, AND COMMUNITY SUPPORT

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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 proceedings to amend several Board policies related to Board governance and direct reports. These amendments have been developed after review of current statutes and regulations, recommendations by NEOLA, Inc., the Board’s policy consultant, District practices, and Board member agenda items. Applicable policies have been reviewed by the Superintendent, Cabinet, and District staff of departments that will implement them.

Bylaw 0100, *Definitions*

The 2019 Florida Legislature amended the state anti-discrimination statute, Section 1000.05, F.S., to add a definition of anti-Semitism as “a certain perception of the Jewish people which may be expressed as hatred toward Jewish people, rhetorical and physical manifestations of anti-Semitism directed toward a person, his/her property, or toward Jewish community institutions or religious facilities.” The law further states that discrimination based on anti-Semitism must be treated identically to discrimination based on race. The statute lists several examples of acts considered to be anti-Semitism. This item proposed to add the definition of Semitism to Bylaw 0100 *Definitions*, so that it will apply to all of the numerous policies and provisions throughout the Policy Manual that prohibit discrimination on the basis of race and religion.

In addition, technical corrections are proposed to the definitions of “Superintendent” and “Principal” to indicate that use of these terms indicates authorization to delegate responsibilities “unless expressly prohibited by law or policy.”

Policy 5540, Investigations Involving Students

On July 24, 2019, at its regular meeting, the Board approved Revised Agenda Item H-11 (Student Arrests), sponsored by Board Vice-Chair Dr. Steve Gallon, III, which included a direction to the Superintendent to initiate rulemaking proceedings to require student arrest data to be reported to the Board on an annual basis. This item proposes that Policy 5540, *Investigations Involving Students*, be amended to add the requirement.

Bylaw 0165, Public Meetings

In addition, at its regular meeting of October 2, 2019, the Board approved Revised Agenda Item H-8 (Emergency Meetings), sponsored by Dr. Lubby Navarro, Board Member, which authorized the Superintendent to revise Bylaw 0165, *Public Meetings*, to clarify that a cancellation of a Board meeting shall take place if a state of emergency exists and schools and/or district offices are closed by the Superintendent and should specify the process for cancellation. This item proposes to amend Bylaw 0165, *Public Meetings*, to provide that any Board meeting scheduled to take place during a state of emergency declared by the governor, and when schools have been closed under Policy 8420, shall be cancelled. Both conditions must be present for a meeting to be automatically cancelled. The new language states that the Board Chair shall notify the Board and the Superintendent of the cancellation. Current language remains that the Board Chair shall poll the Board members to reschedule a cancelled meeting and added language clarifies that both the cancelled and rescheduled meetings will be appropriately noticed by the Superintendent in accordance with law and Bylaw 0164, *Notice*.

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 Bylaws 0100, *Definitions*; 0165, *Public Meetings*; and Policy 5540, *Investigations Involving Students*.

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 Board Bylaws 0100, *Definitions*; 0165, *Public Meetings*; and Policy 5540, *Investigations Involving Students*..

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on February 12, 2020, its intention to amend Board Bylaws 0100, *Definitions*; 0165, *Public Meetings*; and Policy 5540, *Investigations Involving Students* at its regular meeting on March 18, 2020.

PURPOSE AND EFFECT: Bylaw 0100 *Definitions*, is proposed to be amended to add definition of anti-Semitism in Section 1000.05, F.S., and the statement that discrimination based on anti-Semitism must be treated identically to discrimination based on race. It will apply to all of the numerous policies and provisions throughout the Policy Manual that prohibit discrimination on the basis of race and religion. Technical corrections are also proposed to the definitions of "Superintendent" and "Principal" to indicate that use of these terms indicates authorization to delegate responsibilities "unless expressly prohibited by law or policy."

Policy 5540, *Investigations Involving Students*, is proposed to be amended to require student arrest data be reported to the Board on an annual basis.

Bylaw 0165, *Public Meetings*, is proposed to be amended to provide that any Board meeting scheduled to take place during a state of emergency declared by the governor, and when schools have been closed under Policy 8420, shall be cancelled. Both conditions must be present for a meeting to be automatically cancelled. The new language states that the Board Chair shall notify the Board and the Superintendent of the cancellation.

SUMMARY: The Florida statutory definition of anti-Semitism is proposed to be added to the bylaws Definition section of the Policy Manual. Policy 5540, *Investigations Involving Students*, is proposed to be amended to require student arrest data be reported to the Board on an annual basis. Language is proposed to Bylaw 0165, *Public Meetings*, to clarify when emergency meetings shall be automatically cancelled and that the Board chair shall notify the Board and the Superintendent of the cancellation.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: 1001.41 (1), (2); 1001.42 (6),(7); 1001.43 (10), (11), F.S.

LAWS IMPLEMENTED INTERPRETED OR MADE SPECIFIC: 1000.05(7); 1001.43(10), F.S.

IF REQUESTED, A HEARING WILL BE HELD DURING SCHOOL BOARD MEETING OF March 18, 2020, 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 11, 2020, 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 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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Book	Policy Manual
Section	February 12, 2020 - <u>Initial</u> Reading
Title	DEFINITIONS
Code	0100
Adopted	May 11, 2011

0100 - **DEFINITIONS**

The following definitions apply to these policies:

Administrative Procedures

A statement, based on policy, usually written, which outlines and/or describes the means by which a policy should be implemented and provides for the management cycle of planning, action, and assessment or evaluation.

Anti-Semitism

A certain perception of the Jewish people, which may be expressed as hatred toward Jewish people, rhetorical and physical manifestations of anti-Semitism directed toward a person, his/her property, or toward Jewish community institutions or religious facilities. Discrimination against employees and students or resulting from institutional policies that is motivated by anti-Semitic intent must be treated identically to discrimination motivated by race under state law. Examples of acts considered to be anti-Semitism are set forth in F.S. 1000.05.

Board

The School Board of Miami-Dade County.

Bylaw

Policy of the Board for its own governance.

Chair

The presiding officer of the Board. (See Bylaw 0163)

Compulsory School Age

All children who have attained the age of six (6) years or who will have attained the age of six (6) years by February 1st of any school year or who are older than six (6) years of age but who have

not attained the age of sixteen (16) years, except as otherwise provided in Florida statute, who are required to attend school regularly during the entire school term. F.S. 1003.21

District

The School District. When referencing this School District, District will be capitalized.

District-Based Noninstructional Administrators

Persons with District-level administrative or policymaking duties who have broad authority for the management of policies and general District operations related to the noninstructional program. These personnel often report directly to the Superintendent and supervise other administrative employees. Also includes assistant, associate, or deputy superintendents and directors of major noninstructional areas, such as personnel, construction, facilities, transportation, data processing, and finance. (F.S. 1012.01(2)(b))

Due Process

Legal safeguards to which a person is entitled in order to protect his/her rights.

Full Board

Authorized number of voting members entitled to govern the District. There are nine (9) voting members of the Board.

Major Tangible Personal School Property

Any tangible personal property, of a nonconsumable nature, owned by the Board which has a capitalized value equal to or greater than the value defined in Florida statute and a normal life expectancy of one (1) year or more. (F.S. 274)

May

This word is used when an action by the Board or its designee is permitted but not required.

Meeting

Any gathering attended by or open to all members of the Board and held with the intent on the part of the members of the body present to discuss or act as a unit upon the specific public business of that body. All meetings shall comply with the Florida Sunshine Laws.

Minor Tangible Personal School Property

Items that are tangible, of a nonconsumable nature, with a life expectancy of one (1) year or more and with a value less than that amount defined in Florida statute. (F.S. 274)

Parent

The natural, adoptive, foster or surrogate parents, the party designated by the courts as the legal guardian or custodian of a student, any person in a parental relationship to a student or any person exercising supervisory authority over a student in place of the parent.

F.S. 1000.21
34 C.F.R. 99.3

Policy

A general written statement by the Board defining its expectations or position on a particular matter and authorizing appropriate action that must or may be taken to establish and/or maintain those

expectations. The term policy and rule have the same meaning.

Principal

The administrative and supervisory head of the school assigned by the Board and responsible for the enforcement of all Board regulations and Florida statutes which pertain to the office.

In policy, the use of the word "Principal" or "principal" authorizes delegation of responsibilities to appropriate staff members unless expressly prohibited by law or policy. (F.S. 1001.41, 1012.28)

Property

All buildings, grounds, and other real or personal school property belonging to, held by, or used by the Board.

Real Property

Property used as a site or school plant for purposes of carrying out the District's program or mission including any equipment which is permanently attached to or is an integral part of the building or site.

Relative

A father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, domestic partner, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, grandfather, grandmother, grandchild or any person who resides in the same residence.

Rule

A statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of the District, including any form which imposes any requirement or solicits any information not specifically required by statute or existing rule. The term "rule" and "policy" have the same meaning.

F.S. 120.52(16)

School Property Custodian

The person responsible for the custody of property under his/her control as delegated by the Superintendent or the Board. This is not to be confused with the building custodian who is responsible for cleaning and maintaining the building and grounds.

Shall

Word used when an action by the Board or its designee is required. The words "will" or "must" also signify a required action.

Student

A person who is officially enrolled in a school or program of the District.

Superintendent

A constitutional officer under the Florida Constitution and the chief executive officer of the District. In policy, the use of the word "Superintendent" or "superintendent" authorizes delegation of responsibilities to appropriate staff members unless expressly prohibited by law or policy.

Textbook

Learning material duly adopted and required as standard work for the study of a particular subject. It may be bound and printed with a hard or soft cover, or it may be electronic, e.g., computer software, interactive videodisc, magnetic media, CD ROM, computer courseware, on-line service, electronic medium, or other means of conveying information.

Vice-Chair

The Vice-Chair of the Board.

Workshop

A meeting called by the Board Chair, Superintendent, or a majority of the Board for the purpose of exploring matters that constitute the business of the District.

Statutory and Code of Notations - A. Citations to Florida statute are noted as F.S. B. Citations to the rules of the State Board of Education are noted as F.A.C. (Florida Administrative Code) C. Citations to the Federal Register are noted as F.R. D. Citations to the Code of Federal Regulations are noted as C.F.R. E. Citations to the United States Code are noted as U.S.C.

Effective 7/1/11

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Legal	F.S. 120.52(16)
	F.S. 274
	F.S. 1000.21
	F.S. 1001.41
	F.S. 1003.21
	F.S. 1000.05(7)
	F.S. 1012.01(2)(b)
	F.S. 1012.28
	34 C.F.R. 99.3



Book	Policy Manual
Section	February 12, 2020 - <u>Initial</u> Reading
Title	PUBLIC MEETINGS
Code	0165
Adopted	May 11, 2011
Last Revised	April 25, 2018

0165 - PUBLIC MEETINGS

All meetings at which official acts are to be taken are open public meetings, and no resolution, rule, policy, regulation, or formal action shall be considered binding except as taken or made at such a meeting. All meetings of the School Board shall be open to the public, except as provided by Florida law, and the order of business of any regular meeting shall include an opportunity for the public to address the Board. The purpose of the public portion of the Board meeting, however, is to allow the public to address specific agenda items and general matters within the Board's jurisdiction.

The Board shall first consider Wednesdays to schedule all meetings in which Board members are requested to attend, recognizing that certain factors may impede consideration for Wednesdays including, but not limited to, advertisements, agenda publication deadlines, emergency meetings, annual organizational meeting, legislatively mandated periods for special meetings and budget public hearings, religious holidays, previously scheduled calendared conflicts and travel, legislative session, Dade Days, and graduations.

A. Regular Meeting

The Board shall hold at least one (1) regular meeting each month according to a schedule approved by the Board at its organization meeting.

All regular meetings will begin at 11:00 a.m. in the Board Administration Building Auditorium, 1450 Northeast Second Avenue, Miami, Florida. At 11:00 a.m., the Board will address Board member agenda items designated by the Board Chair and seeking approval of recognitions, resolutions, endorsements, or proclamations. Board members are limited to one (1) presentation of these types of items per Board meeting. A quorum is not necessary for these presentations. All persons signed up to speak to these items may do so at this time. Whenever practicable as determined by the Board Chair, these types of presentations should be given to students prior to any others during this portion of the meeting. However, if there are other extenuating circumstances, any Board member may request that their presentation be made before any other presentation.

The Superintendent's Special Orders shall follow the Board member presentations. The Board may

then recess for lunch if time permits. The Board meeting will reconvene at 1:00 p.m., at which time a quorum must be present. The Board shall first ratify by majority vote any recognitions, resolutions, endorsements, or proclamations that were presented at the 11:00 a.m. portion of the meeting and then complete the remainder of the regular Board meeting agenda.

Upon public notice, regular meetings of the Board may be held at any appropriate public place in the county. Public notice shall consist of publication in a newspaper of general circulation in the county.

Any change in the date or time for these meetings shall be by an action of the Board.

B. Board Committee Meetings

Board committee meetings addressing the monthly Board agenda shall occur after the publication of the official agenda and prior to the regularly scheduled monthly Board meetings. Unless otherwise noticed, these meetings shall be held in Room 726, Board Administration Building, 1450 NE 2 Ave., Miami, Florida.

C. Special Meeting

Special meetings may be called for official action on topics specified in the call and agenda for the meeting by the Superintendent, the Chair of the Board through the Superintendent, or by request of a majority of the members of the Board. A majority of the members of the Board may only request the convening of a special meeting of the full Board by seeking the approval of a majority of the members present at a regular or special Board meeting.

Unless otherwise noticed, all special meetings will be held in the Board Administration Building Auditorium, 1450 NE 2 Ave., Miami, Florida. The date and time shall be specified in the call and agenda for each meeting.

D. Emergency Meeting

If the Board finds that an immediate danger to the public health, safety, or welfare requires immediate action, it may hold an emergency public meeting in accordance with State law.

E. Public Hearings

Public hearings may be scheduled on a specific topic, document, or proposal which is to be the subject of Board action that will be taken at the public hearing or at an upcoming regular Board meeting, either to comply with State law or to hear citizens on an issue of great public interest.

F. Conference Session

Conference sessions may be conducted to receive information and confer with the Superintendent on issues requiring in-depth consideration and discussion with a possible proposed recommended action to be taken by the Board at an upcoming regular meeting. Citizens will not be heard at conference sessions unless the Board determines otherwise in advance of the session. A conference session shall be scheduled in the same manner as a regular Board meeting.

G. Workshop

Workshops may be scheduled to receive information and confer with the Superintendent on issues requiring in-depth consideration and discussion, with a possible proposed recommended action to be taken by the Board at an upcoming regular meeting. Only after a minimum of six (6) Board members, upon being polled by the Chair through his/her designee, have advised of their intent to attend a workshop on a given date, shall the workshop be scheduled, noticed, and advertised. Once

the workshop is advertised, noticed, and the meeting is conducted in accordance with the requirements of this rule and with any applicable provisions of the Sunshine Law, the workshop may be held even if a quorum is not present.

Workshops will be conducted in Conference Room 726B of the Board Administration Building, 1450 Northeast Second Avenue, Miami, Florida, unless otherwise noticed. If a greater than normal attendance by the public is anticipated for any specific Board workshop, the workshop may be held at the Board auditorium. The date and time shall be specified in the call and agenda for the meeting.

H. Member Conferences

Individual Board members may sponsor conference-type discussions, inviting Board members, staff and members of the public to engage in a voluntary and informal discussion of topics of vital concern to the member in an effort to foster a free flowing exchange of information and ideas. These conferences must be open to the public and otherwise satisfy Florida law governing public meetings and applicable Board policies.

These are voluntary forums for discussion purposes only, are not official Board meetings, and no action may be taken on the topics discussed. Agendas for these meetings will be proposed by the Board member calling the meeting and may be changed or amended as provided by the Sunshine Law, Board policies, and the Administrative Procedure Act.

I. Cancellation and Rescheduling of Board Meetings Due to Emergencies

Whenever the governor declares a state of emergency and ~~consistent with such a declaration,~~ the Superintendent ~~subsequently initiates the closing of~~ schools, or District offices when school is not in session, under Policy 8420, *Emergency Closing of Schools*, any Board meeting scheduled to take place during ~~the state of emergency that time~~ shall be cancelled. Both conditions must be present on the day of the meeting in order for a meeting to be cancelled. The Chair of the Board shall notify the Board and the Superintendent of the meeting cancellation.

The Chair of the Board shall poll the Board to reschedule the cancelled meeting as soon as practicable after the state of emergency is lifted or on a date that will not adversely affect the health, safety, and welfare of District employees and of the general public.

The cancelled and rescheduled meetings shall be appropriately noticed by the Superintendent in accordance with law and Bylaw 0164, Notice.

Effective 7/1/11
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Revised 10/16/13
Revised 6/18/14
Revised 9/9/15
Revised 1/17/18
Revised 4/25/18

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Legal F.S. 286.011
F.S. 286.0114



Book	Policy Manual
Section	February 12, 2020 - <u>Initial</u> Reading
Title	INVESTIGATIONS INVOLVING STUDENTS
Code	5540
Adopted	May 11, 2011

5540 - INVESTIGATIONS INVOLVING STUDENTS

School administrators shall respond to incidents involving students occurring on school grounds or at school-sponsored events. When conducting an initial fact inquiry, if an administrator suspects that a crime has been committed, s/he must report the matter to School Police or another appropriate law enforcement agency to assume the investigative responsibilities. If it is determined that the matter is not criminal in nature, the administrator must process the matter according to the Code of Student Conduct (Policy 5500) and administrative procedures established by the Superintendent.

If the matter involves an employee as the alleged subject, administrators must refer to the Personnel Investigative Model (PIM) Manual for the proper reporting procedures.

If the matter involves suspected child abuse, the administrator must comply with Policy 8462.

Police Investigations

Law enforcement agencies have the right to confer with and take students into custody. Where practical, law enforcement agencies shall confer with students at a time when the student is not under the jurisdiction of the school. Administrators must comply with administrative procedures developed by the Superintendent when law enforcement officers exercise their authority on school grounds or at school-sponsored events.

All employees and agents of the School Board have an affirmative duty to cooperate with law enforcement agencies according to administrative procedures developed by the Superintendent.

Investigations involving student incidents conducted by School Police shall be conducted according to the School Police Standard Operating Procedures.

[Student arrest data shall be reported annually to the School Board.](#)

Effective 7/1/11

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Fla. Const. Art. I, Sect. 9

F.S. 1006.061