

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

SUBJECT: **FINAL READING: TO AMEND BYLAWS 0165.1, *AGENDAS*; AND 0122, *BOARD POWERS***

COMMITTEE: **FISCAL ACCOUNTABILITY AND GOVERNMENT RELATIONS**

LINK TO STRATEGIC BLUEPRINT: **EFFECTIVE AND SUSTAINABLE BUSINESS PRACTICES**

At its regular meeting of November 18, 2020, the Board approved Revised Agenda Item G-1 (Timely Agenda Materials/Service of Process), which authorized rulemaking to amend Board Bylaw 0165.1, *Agendas*, to require that backup materials and presentations be submitted to the School Board Members and made available to the public at least 48 hours before the presentation to the Board.

The agenda item, originally sponsored by Ms. Perla Tabares Hantman, Board Chair, states that these amendments are necessary to improve the efficiency and transparency of Board meetings and Board presentations as well as to adequately inform the public. This item requests authorization to amend Board Bylaw 0165.1, *Agendas*, to require reports and presentation materials for any public meeting of the Board, including workshops, be provided to Board members and posted on the Board's website at least forty-eight (48) hours prior to the meeting.

In addition, this item requests the Board approve revisions to Bylaw 0122, *Board Powers*, to incorporate the statutory requirements of service of process for lawsuits against the School Board, and to reflect current practice in which the School Board Attorney's Office is designated to receive service of process in all suits against the School Board, as well as any suits against any Board member or the Superintendent in their official capacity.

The Notice of Intended Action was published in the Miami Daily Business Review on November 23, 2020, and posted in various places for public information and mailed to various organizations representing persons affected by the amended Board Bylaws and individuals requesting notification. The time to request a hearing or protest the adoption of these amendments has elapsed.

Attached are the Notice of Intended Action and Board Bylaw amendments. Changes are indicated by underscoring words to be added and ~~striking through~~ words to be deleted.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, adopt the proposed amendments to Board Bylaws 0165.1, *Agendas*, and 0122, *Board Powers*, and authorize the Superintendent to file the amended Board Bylaws with The School Board of Miami-Dade County, Florida to be effective January 13, 2021.

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on November 18, 2020, its intention to amend Board Bylaws 0165.1, *Agendas*, and 0122, *Board Powers*, at its regular meeting on January 13, 2021.

PURPOSE AND EFFECT: In order to improve the efficiency and transparency of Board meetings and Board presentations as well as to adequately inform the public, this item requests authorization to amend Board Bylaw 0165.1, *Agendas*, to require reports and presentation materials for any public meeting of the Board, including workshops, be provided to Board members and posted on the Board's website at least forty-eight (48) hours prior to the meeting.

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In addition, revisions are proposed to Bylaw 0122, *Board Powers*, to incorporate the statutory requirements of service of process for lawsuits against the School Board, and to reflect current practice in which the School Board Attorney's Office is designated to receive service of process in all suits against the School Board, as well as any suits against any Board members or the Superintendent in their official capacity.

SUMMARY: In order to improve the efficiency and transparency of Board meetings and Board presentations as well as to adequately inform the public, this item requests authorization to amend Board Bylaw 0165.1, *Agendas*, to require reports and presentation materials for any public meeting of the Board, including workshops, be provided to Board members and posted on the Board's website at least forty-eight (48) hours prior to the meeting. Revisions are also proposed to Bylaw 0122, *Board Powers*, to incorporate the statutory requirements of service of process for lawsuits against the School Board, and to reflect current practice in which the School Board Attorney's Office is designated to receive service of process in all suits against the School Board, as well as any suits against any Board member or the Superintendent in their official capacity.

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SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: 1001.40; 1001.41 (1); 1001.43 (10), F.S.

LAWS IMPLEMENTED INTERPRETED OR MADE SPECIFIC: 120.525, 120.81(1)(j), 768.28(7); 1001.40, F.S.

IF REQUESTED, A HEARING WILL BE HELD DURING THE SCHOOL BOARD MEETING OF January 13, 2021, 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 December 16, 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 BYLAWS 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.



Book	Policy Manual
Section	<u>Final</u> Reading January 13, 2021
Title	AGENDAS
Code	0165.1
Status	<u>Final</u> Reading
Adopted	May 11, 2011
Last Revised	September 22, 2020

0165.1 - **AGENDAS**

A. Preparation and Distribution

The Superintendent shall be responsible for the preparation and distribution of the agenda for regular and special meetings of the School Board. The agenda shall contain, in order of presentation, a listing of each subject and, if appropriate, the recommendation(s) for each item to be considered by the Board.

The agenda for each Board meeting shall be prepared and distributed in accordance with the requirements of the State of Florida Administrative Procedure Act. Complete agenda items must include at least one (1) named sponsor, heading, Board committee designation, link to strategic plan, subject, explanation, recommended action, and any required attachments.

On occasion, a proposed agenda item may be submitted as a "holder" when there is insufficient information to provide a full description of the action being proposed. Holder agenda items shall, at a minimum, describe the purpose and intent of the item in as much detail as possible. However, except for information items, resolutions, endorsements and proclamations, these proposed holder agenda items cannot be published unless they are complete. Any holder agenda item, except those for information, resolutions, endorsements, and proclamations, that is not completed and submitted at least two (2) days before the Board committee meetings and no later than seven (7) days before the Board meeting shall not be published and the Board may not take action on the item.

The Superintendent shall submit all agenda items recommending that a Board policy be amended or a new policy be adopted, for both initial and final

reading, to the Board Attorney's Office for review and approval as to form and legal sufficiency prior to agenda publication.

B. Items Board Member Wish to Include in the Agenda

Board members who sponsor items, including recognition, resolution, endorsement, and proclamation items, which they wish to have considered at regular Board meetings should submit them to the Superintendent for inclusion in the agenda at least nine (9) calendar days prior to a regular Board meeting. Proposed Board member items are to be submitted for each subsequent meeting no earlier than the next regular business day after the conclusion of the prior regular Board meeting. In order to ensure that items proposed by Board members are numbered in the order in which they are received by the Board Office Manager or anyone designated by the Superintendent for this purpose, all proposed items by Board members will be date-stamped and numbered in the sequence in which they are received. All proposed items submitted must contain, at a minimum, a subject heading specifying the topic that is being proposed for discussion. Board members shall submit Board member agenda action items and resolutions seeking a call to action to the Board Attorney's Office for review and approval as to form and legal sufficiency prior to agenda publication.

C. Agenda Changes

The agenda shall contain the items to be considered in the order of presentation. After the agenda has been made available, a change shall be made only for good cause, as determined by the Chair, and stated in the record. Notification of such change shall be at the earliest practicable time.

D. Co-Sponsorship of Board Member Agenda Items

Board members may co-sponsor another Board member's agenda item after it has been published by publicly expressing their desire to co-sponsor the item at the Board committee meeting prior to the Board meeting in which the item will be considered. If the prime sponsor accepts the co-sponsor(s), the prime sponsor will revise and resubmit the item with the addition of the co-sponsor(s).

Board members may also express their desire to co-sponsor an item at the regular meeting in which the item is presented for Board approval. If co-sponsorship is requested at a Board meeting, the Board shall treat the request pursuant to Robert's Rules of Order as a motion to amend the item to indicate the co-sponsorship(s).

Board members may only co-sponsor other Board members' regular Board meeting agenda items. Co-sponsorship of another Board member's recognition, resolution, endorsement, or proclamation will not be counted towards the co-sponsoring member's one (1) item limit for these types of agenda items as described in Policy 0165.

E. Consent Agenda

At the beginning of regular Board meetings, the Chair will call for items which the Board members would like to address and announce those items. The items not selected by Board members to address constitute the consent agenda. The Chair shall call on speakers who have signed up to speak to those items pursuant to Board Bylaw 0169.1, Public Participation, and provide them the opportunity to speak. The Chair will then call for a vote on the consent agenda. Rule-making items on which a public hearing has been timely requested pursuant to Bylaw 0131 may not be approved on consent.

F. Distribution of the Agenda

1. Board Members

The agenda of regular meetings shall be distributed to members of the Board and the student advisor and posted on the Board's website at least seven (7) days in advance of the meeting date. Copies also will be made available to the Board members' administrative assistants. The final versions of all items and all relevant agenda related material and back-up documentation, ~~must be presented~~ provided to Board members and posted on the Board's website at least two (2) days before the Board committee meetings. Agenda items requiring non-substantive revisions only, such as typos and grammatical errors, may be distributed within the two (2) day distribution period. This requirement shall not apply to items dealing with personnel appointments and assignments, matters that are not appropriate for review by Board committees, and items presented at special or emergency meetings of the Board. However, the final version of these agenda items, including all relevant and supporting material and/or supplemental information, shall be provided to Board members and the student advisor at least forty-eight (48) hours prior to any meeting of the Board.

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The agenda for special meetings called by the Superintendent, or by the Superintendent on request of the Board Chair, or on the request of a majority of the Board members, shall be prepared upon the calling of the meeting, distributed to each Board member and the student advisor and posted to the Board's website not less than forty-eight (48) hours prior to the meeting.

2. Administrative Staff and Recognized Employee Organizations

The Superintendent shall determine the administrative staff of the school system to whom the agenda for regular and special meetings of the Board will be distributed in advance of the meetings and shall distribute the agenda to employee organizations as provided for in the collective bargaining agreements with approved bargaining units.

3. Individuals and Community Organizations

- a. A copy of the agenda may be examined and/or obtained by an interested person at the Citizen Information Center after the agenda is published.

For news media representatives, the County Council PTA/PTSA Executive Board, the Miami- Dade County Association of Student Government Presidents, and other governmental education-related community organizations, copies of the agenda will be made available at no cost through the Citizen Information Center. Requests for other distribution may be made by the Superintendent or any Board member.

- b. A copy of the agenda also will be available at the Citizen Information Center prior to and during Board meetings.
- c. The agenda and accompanying materials, reports and presentations, may shall be ~~accessed~~ accessible via the Board's website.

G. Distribution of Agenda-related Supplemental Materials and Documents, Presentations, and Reports

1. Board Members

At least two (2) days prior to each regular meeting of the Board, the Superintendent will shall distribute to each Board member and the student advisor supporting materials and documents, including but not limited to, all relevant memoranda and/or supplemental information or documentation prepared to accompany the items which are included on the agenda, and post them on the Board's website. The final versions of all items, along with all relevant agenda related material and back-up documentation must be presented to Board members at least two (2) days before the Board committee meetings. Agenda items requiring non-substantive revisions only, such as typos and grammatical errors, may be distributed within the two (2) day distribution period. Copies of the supporting materials and documents also will be made available to the administrative assistants to the members of the Board.

For all public Board meetings as identified in Policy 0165, Public Meetings, including regular, committee, special, and emergency meetings and workshops, all reports and power point presentations and any other materials used in any presentation at a public meeting of the Board, shall be distributed to all Board members and the student advisor and posted to the Board's website no less than forty-eight (48) hours prior to the meeting or workshop, even if the materials are for information only and no formal action will be taken at the meeting.

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INITIAL
READING

2. Administrative Staff and Recognized Employee Organizations

The document containing supplemental materials to the agenda will be distributed to the administrative staff of the school system as determined by the Superintendent. The Superintendent shall distribute this document to employee organizations as provided for in the collective bargaining agreements with approved bargaining units.

The distribution of this document, though, shall be kept to an absolute minimum because of the expense involved in preparing copies of all documents and materials.

3. For news media representatives, the County Council PTA/PTSA Executive Board, the Miami-Dade County Association of Student Government Presidents, and other governmental and education-related community agencies, copies of the supplemental materials will be **made** available on the Board's website and at no cost through the Citizen Information Center. The distribution of these materials shall be kept to an absolute minimum because of the expense involved in preparing copies of all documents and materials.

A copy of these materials will be available at the Citizen Information Center prior to and during Board meetings.

- H. The Board shall transact business according to the agenda prepared by the Superintendent and submitted to all Board members in advance of the meeting. The order of business may be altered by a majority vote of the members present and items added for good cause as determined by the Chair.
- I. ~~The agenda for special meetings called by the Superintendent, or by the Superintendent on request of the Board Chair, or on the request of a majority of the Board members, shall be prepared upon the calling of the meeting not less than forty eight (48) hours prior to such a meeting.~~

Effective 7/1/11
Revised 4/17/13
Revised 10/16/13
Revised 6/18/14
Revised 9/6/17
Revised 4/25/18
Revised 4/17/19
Technical Change 9/22/20

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Legal F.S. 120.525
 F.S. 120.81



Book	Policy Manual
Section	<u>Final</u> Reading January 13, 2021
Title	BOARD POWERS
Code	0122
Status	<u>Final</u> Reading
Adopted	May 11, 2011

0122 - BOARD POWERS

The School Board shall be a body politic and corporate, capable of suing and being sued; contracting and being contracted with; acquiring, holding, possessing, and disposing of real and personal property; taking and holding in trust for the use and benefit of the District any grant or devise of land and any donation or bequest of money or other personal property. In all suits against the School Board, service of process shall be on the School Board Chair, or in the Chair's absence, the Superintendent, or, in the absence of the Chair and the Superintendent, on any other School Board member, at 1450 NE 2nd Avenue, Miami, FL, 33132. The School Board Attorney is also designated to receive service of process at 1450 NE 2nd Ave., Miami, FL 33132, on behalf of the School Board, the Chair, the Superintendent, and any School Board member in all suits against the School Board or against any Board member or the Superintendent in their official capacity.

The general powers of the Board are the determination of educational policies; the adoption of such rules and regulations to supplement those prescribed by the State Board as will contribute to the more orderly and efficient operation of the school system; the determination of minimum standards; and the performance of any duties that are assigned to it by law or by State Board regulations and that are found by it to be necessary for the improvement of the school system in carrying out the purposes and objectives of the Florida Constitution and Florida statutes.

The Board shall perform all duties found in Florida statutes and shall provide educational opportunity as required.

Effective 7/1/11

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Legal F.S. 768.28(7)
F.S. 1001.40, 1001.41, 1001.42, 1001.43