

Office of Superintendent of Schools
Board Meeting of October 22, 2003

October 8, 2003

Office of School Board Attorney
Johnny Brown, School Board Attorney

**SUBJECT: PROPOSED AMENDMENT OF SCHOOL BOARD RULE: FINAL
 READING 6Gx13- 4A-1.212, CONFLICT OF INTEREST**

**COMMITTEE: LEGISLATIVE RELATIONS, PUBLIC RELATIONS AND
 PERSONNEL SERVICES**

The School Board of Miami-Dade County, Florida, announced on September 10, 2003, its intention to amend School Board Rule 6Gx13- 4A-1.212, Conflict of Interest, to provide greater specificity regarding standards for ethical behavior applicable to employees of the school district, at the meeting of October 22, 2003.

The Notice of Intended Action was published in the *Miami Daily Business Review* on September 15, 2003, posted in various places for public information and mailed to various organizations representing persons affected by the new rule and to individuals requesting notification.

The time to request a hearing or protest the adoption of this rule has elapsed.

In accordance with the provisions of the Administrative Procedure Act, this amended rule is presented to The School Board of Miami-Dade County, Florida, for adoption and authorization to file the rule in the official records of The School Board of Miami-Dade County, Florida.

Attached are the Notice of Intended Action and the rule proposed for amendment. Changes from the current rule is 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 amended School Board Rule 6Gx13- 4A-1.212, Conflict of Interest, and authorize the Superintendent to file the rule with The School Board of Miami-Dade County, Florida, to be effective October 22, 2003.

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NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on September 10, 2003, its intention to amend School Board Rule 6Gx13- 4A-1.212, Conflict of Interest, at its meeting of October 22, 2003.

PURPOSE AND EFFECT: To provide specific guidance to all employees regarding the standards for ethical behavior expected and penalties associated with violations.

SUMMARY: To provide specific standards on the adherence to the Code of Ethics and avoidance of conflicts of interest.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: 1001.41(1)(2); 1001.42(22); 1001.43(10) F.S.

LAW IMPLEMENTED, INTERPRETED, OR MADE SPECIFIC: 112.313; 112.317, F.S.

IF REQUESTED, A HEARING WILL BE HELD DURING THE BOARD MEETING OF October 22, 2003, 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 by Section 120.541(1), F.S., must do so in writing by October 6, 2003, to the Superintendent of Schools, 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)

A COPY OF THE PROPOSED NEW RULE is available for inspection and copying at cost by the public in the Citizen Information Center, Room 158, 1450 N.E. Second Avenue, Miami, Florida 33132.

Originator: Ms. Perla Tabares Hantman
Date: August 27, 2003

Permanent Personnel**CONFLICT OF INTEREST****I. Statutory Provisions and Policy**

School Board employees are governed by the statutory provisions contained in the "Code of Ethics for Public Officers and Employees," Part III of Chapter 112, Florida Statutes, and by certain other statutes in the School Code. The following sections of this rule set forth the principles, in simplified form, in the statutory mandates. They cannot be used as definitive rules to apply to different sets of circumstances or factual situations. In any given situation, the full statutory language must be consulted for applicable definitions, and for exemptions, if any.

School Board employees are required to comply with all provisions of the Code of Ethics, including those provisions outlined below. This requirement discourages the appearance of impropriety and the perception of undue influence upon the business functions of the school district.

This Board rule applies specifically to conflicts of interest. Employees are reminded that other Board rules exist that may also address an employee's particular issue or question. It is an employee's responsibility to refer to and observe all School Board Rules that may be applicable to his or her individual situation.

~~Section 112.313(13), Florida Statutes, provides that the governing body of any school district may adopt a resolution providing that a school district employee may not personally represent another person or entity for compensation before the school district of which the individual was an employee for a period of two (2) years following termination of employment, except for the purpose of collective bargaining.~~

II. Policy Provisions

~~The policy of restricting business relationships between school district employees and the school district upon termination of employment discourages the appearance of impropriety associated with the school district employees' prior knowledge contacts or relationship with school district personnel, and the perception of undue influence upon the business functions of the school district.~~

A. Gifts

1. School Board employees are prohibited from soliciting or accepting anything of value, such as a gift, loan, reward, promise of future employment, favor, or service, that is based on an understanding that their official action or judgment would be influenced by such gift. Section 112.313(2), Florida Statute (2002).
2. No School Board employee or his or her spouse or minor child shall accept any compensation, payment, or thing of value when he or she knows, or with the exercise of reasonable care should know, that it was given to influence an action in which the employee was expected to participate in his or her official capacity. Section 112.313(4), Florida Statute (2002).

B. Misuse of Public Position

No School Board employee shall corruptly use or attempt to use his or her official position or perform his or her official duties to secure a special privilege, benefit, or exemption for himself, herself, or others. Section 112.313(6), Florida Statute (2002).

C. Doing Business with the School Board

1. No School Board employee acting in his or her official capacity shall directly or indirectly purchase, rent, or lease any goods or services for the School Board from any business entity of which the employee or his or her spouse or child is an officer, partner, director or proprietor, or in which such employee or his or her spouse or child, or any combination of them, has a material interest. Section 112.313(3), Florida Statute (2002).
2. Some case-specific exceptions to this provision may apply. School Board employees should review Section 112.313(12), Florida Statutes, for exemptions that may be applicable to their particular situations.

D. Conflicting Employment or Contractual Relationship

1. In addition to the restrictions on outside employment that School Board Rule 6Gx13- 4C-1.17, Employment - Nonschool, places on employees, no School Board employee shall hold any employment or contract with any business entity or any agency that is doing business with

the School Board. This provision does not apply to organizations and their officers who, acting in their official capacity, enter into or negotiate a collective bargaining contract with the School Board. Section 112.313(7), Florida Statute (2002).

2. In addition to the restrictions on outside employment that School Board Rule 6Gx13- 4C-1.17, Employment - Nonschool, places on employees, no School Board employee shall have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties, or that would impede the full and faithful discharge of his or her public duties. Section 112.313.(7)(a), Florida Statute (2002).

E. Disclosure or Use of Certain Information

No School Board employee shall disclose or use information not available to members of the general public and gained by reason of his or her official position for his or her personal gain or benefit or for the personal gain or benefit of any other person or business entity. Section 112.313(8), Florida Statutes (2002).

F. Employment After Termination

School Board employees are prohibited from personally representing another person or entity or acting as an agent or attorney for compensation in connection with any matter in which Miami-Dade County Public Schools is interested for two (2) years after the School Board employees' service terminates. Section 112.313(9), Florida Statutes (2002).

1. This restriction applies to all school senior level employees classified as Managerial Exempt Personnel, Pay Grade 22 and above, Dade County School Administrators Association, Pay Grade 47 and above, and other equivalent positions.
2. Exception to this provision is provided by statute for the purpose of collective bargaining, and may be granted to former school district employees who are employees or agents of not-for-profit organizations, other governmental agencies or those whose business relationship is determined by the School Board to be in the best interest of the school district.

3. Miami-Dade County Public Schools shall be prohibited from entering into any business relations or continue an existing business relationship with any person or entity determined to have engaged in a violation of the restriction contained in this provision.
4. In addition to penalties outlined in Section IV below, penalties for violation of this provision include a civil penalty equal to the compensation that the employee received for the prohibited conduct.

III. Provisions Self-Reporting Requirement

- ~~A: School Board employees are prohibited from personally representing another person or entity or acting as an agent or attorney for compensation in connection with any matter in which Miami-Dade County Public Schools is interested for two (2) years after the School Board employees' service terminates.~~
- ~~B: The restriction applies to all school senior level employees classified as Managerial Exempt Personnel, Pay Grade 22 and above, Dade County School Administrators Association, Pay Grade 47 and above, and other equivalent positions.~~
- ~~C: Miami-Dade County Public Schools shall be prohibited from entering into any business relationship or continue an existing business relationship with any person or entity determined to have engaged in a violation of the restriction contained in this provision.~~
- ~~D: Exception to this provision is provided by statute for the purpose of collective bargaining, and may be granted to former school district employees who are employees or agents of not-for-profit organizations, other governmental agencies or those whose business relationship is determined by the School Board to be in the best interest of the school district.~~

All School Board employees, upon initial hire and annually thereafter, shall certify that they will abide by the requirements of this Board rule, and that they will self-report any relationship that may implicate a potential conflict of interest or other violations of this rule. The certification shall be according to a process determined by the Office of Human Resources, Miami-Dade County Public Schools.

IV. Penalties

Penalties for violation of this rule and/or violations of the Code of Ethics include dismissal from employment; suspension from employment for not more than ninety (90) days without pay; demotion; reduction in salary level; forfeiture of no more than one-third salary per month for no more than twelve (12) months; civil penalty not to exceed \$10,000; restitution of any pecuniary benefits received because of the violation committed; and public censure and reprimand. Section 112.317, Florida Statutes (2002).

Specific Authority: ~~230.22(2); 230.23(22)~~ 1001.41(1)(2); 1001.42(22); 1001.43(10) F.S.
Law Implemented, Interpreted, or Made Specific: ~~112.313 (13);~~ 112.317 F.S.

History

New: 8-21-02

Amended:

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA