

Office of Superintendent of Schools
Board Meeting of March 25, 2009

March 4, 2009

Office of School Facilities
Jaime G. Torrens, Chief Facilities Officer

**SUBJECT: PROPOSED PROMULGATION OF NEW BOARD RULE: FINAL
 READING 6Gx13- 7A-1.12, UTILITY EASEMENTS**

COMMITTEE: FACILITIES AND CONSTRUCTION REFORM

LINK TO

STRATEGIC PLAN: IMPROVE CONSTRUCTION SERVICES

The School Board of Miami-Dade County, Florida, announced on February 11, 2009, its intention to promulgate new School Board Rule 6Gx13- 7A-1.12, Utility Easements, at its meeting of March 25, 2009.

The Notice of Intended Action was published in *The Miami Daily Business Review* on February 17, 2009 and March 13, 2009, posted in various places for public information, and mailed to various organizations representing persons affected by the new rule and 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 Procedures Act, this new 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 proposed new rule.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, adopt new School Board Rule 6Gx13- 7A-1.12, Utility Easements, and authorize the Superintendent to file the rule with The School Board of Miami-Dade County, Florida, to be effective March 25, 2009.

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NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on February 11, 2009, its intention to promulgate new School Board Rule 6Gx13- 7A-1.12, Utility Easements, at its meeting of March 25, 2009.

PURPOSE AND EFFECT: To make the process of granting or vacating utility easements more timely and efficient by allowing the Chief Facilities Officer to determine the need for such an easement, and forward the necessary documents for execution by the School Board Chair and Superintendent of Schools, with subsequent ratification by the School Board. Additionally, any utility easements that impose a cost to the School Board, other than routine costs which are already contemplated as part of the project's cost of surveying, preparation of legal descriptions and related application fees, must be presented to the School Board for review and approval prior to entering into same.

Revised
Subsequent 1
Initial Reading
on 2/11/09

SUMMARY: As part of capital projects, utility easements are often required to provide utility services to a School Board facility. In certain instances, a capital project may necessitate vacating an existing utility easement in order to either relocate or abandon such easement. The new School Board Rule will make the process of granting or vacating utility easements more efficient and timely by allowing the District to effectuate such easements and seek subsequent ratification by the School Board, with the exception of those easements that impose a cost to the School Board, which must be approved by the School Board prior to execution.

Revised
Subsequent 1
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SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: 1001.41(1), (2); 1001.42(25); 1001.43(10) F.S.

LAW IMPLEMENTED, INTERPRETED, OR MADE SPECIFIC: 1001.41(1); 1001.42(2) F.S.

IF REQUESTED, A HEARING WILL BE HELD DURING THE BOARD MEETING OF March 25, 2009, which begins at 1:00 p.m., in the School Board Administration Building, 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., were requested to do so in writing by March 10, 2009, 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 at cost to the public for inspection and copying in the Citizen Information Center, Room 158, 1450 Northeast Second Avenue, Miami, Florida 33132.

Originator: Ms. Ana Rijo-Conde
Supervisor: Mr. Jaime G. Torrens
Date: March 4, 2009

Revised
Subsequent to
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Planning**UTILITY EASEMENTS****I. General Statement of Policy**

As part of capital projects, utility easements are often required to provide utility services to a School Board facility. In certain instances, a capital project may necessitate vacating an existing utility easement in order to either relocate or abandon such easement.

II. Intent – The intent of this Board Rule is as follows:

- a. To make the process of granting or vacating utility easements more efficient and timely by allowing the Chief Facilities Officer to determine such a need, and forward the necessary documents for execution by the School Board Chair and Superintendent of Schools, without additional action by the School Board.

III. Type of Easements – The type of utility easements to be granted or vacated under this Board Rule shall include:

- a. Those required by Florida Power & Light Company or other such similar electrical service provider;
- b. Those required by the Miami-Dade Water and Sewer Department or other such similar water and/or sewer provider (see Section V below);
- c. Those required by any communications service provider for telephone, cable and/or internet service;
- d. Those required by any natural gas supplier; and
- e. Any other utility easements that the Chief Facilities Officer deems necessary in connection with a Board authorized capital project.

IV. Grant of Easement – Utility easements, except those for water and/or sewer, shall be processed for execution by the School Board Chair and Superintendent of Schools in accordance with the following provisions:

- a. The need for a utility easement shall be established by the Office of Capital Improvement Projects;

- b. The Office of Capital Improvement Projects shall forward the legal description and sketch of the easement area, along with all pertinent documentation, including purpose of easement, to the Facilities Planning Department for processing;
- c. The Facilities Planning Department shall route the proposed utility easement for review and approval to all appropriate District staff, including the Chief Facilities Officer;
- d. Upon securing approval from the Chief Facilities Officer, the Facilities Planning Department shall forward the grant of easement instrument for execution by the School Board Chair and Superintendent of Schools. Prior to execution, the actual instrument will be forwarded to the School Board Attorney's Office and the Office of Risk and Benefits Management for review and approval; and
- e. The Facilities Planning Department shall secure a recorded copy of the grant of easement instrument for placement in the project file.

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- ~~f. The School Board will be notified of any easements executed by the School Board Chair and the Superintendent of Schools.~~

Delete

V. Grant of Easement for Water and/or Sewer Services – Easements for water and/or sewer services shall be processed for execution by the School Board Chair and Superintendent of Schools in accordance with the following provisions:

- a. The need for a water and/or sewer easement shall be established by the Offsite Utilities Planning and Development Department;
- b. The legal description and sketch of the easement area, along with the offsite as-builts, shall be provided to the utility department having jurisdiction prior to a final inspection;
- c. After review and acceptance by the utility department having jurisdiction, the original of the approved legal description and sketch of the water and/or sewer easement shall be provided to the Offsite Utilities Planning and Development Department;
- d. The Offsite Utilities Planning and Development Department shall secure the written approval of the Chief Facilities Officer to enter into the proposed easement, and upon securing approval, shall forward the grant of easement instrument for execution by the School Board Chair and Superintendent of Schools. Prior to execution, the actual instrument will be forwarded to the School Board Attorney's Office and the Office of Risk and Benefits Management for review and approval;

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e. The executed grant of easement instrument shall be submitted to the utility department for recording with the Clerk of County Courts; and

f. The Offsite Utilities Planning and Development Department shall secure a recorded copy of the grant of easement instrument for placement in the project file.

~~g. The School Board will be notified of any easements executed by the School Board Chair and the Superintendent of Schools.~~

Delete

VI. Vacation of Easement – Upon a determination that a utility easement is to be vacated, and after securing the concurrence of the subject utility company, the Facilities Planning Department, or the Offsite Utilities Planning and Development Department, shall facilitate this task in a similar fashion as outlined in Sections IV or V above, including acquiring the approval of the Chief Facilities Officer.

VII. Ratification - All utility easements executed under this Board Rule shall be subsequently presented to the School Board for ratification.

Added
Subsequent
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VIII. Exception – Any utility easements that impose a cost to the School Board, other than routine costs which are already contemplated as part of the project's cost of surveying, preparation of legal descriptions and related application fees, must be presented to the School Board for review and approval prior to entering into same.

Specific Authority: 1001.41(1), (2); 1001.42(25); 1001.43(10) F.S.

Law Implemented, Interpreted or Made Specific: 1001.41(1); 1001.42(2) F.S.

History

New:

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA