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Office of Management and Compliance Audits

SUBJECT: **PROPOSED PROMULGATION OF NEW SCHOOL BOARD POLICY: INITIAL READING POLICY 0158, *ETHICS ADVISORY COMMITTEE***

COMMITTEE: **INSTRUCTIONAL EXCELLENCE AND COMMUNITY ENGAGEMENT**

LINK TO STRATEGIC FRAMEWORK: **EDUCATION**

At the School Board meeting of May 11, 2011, the School Board approved Agenda Item H-4, proffered by Dr. Marta Pérez, Board Member, to initiate rulemaking by promulgating a new policy to codify and formalize the establishment of the Ethics Advisory Committee (EAC).

The proposed new policy 0158, *Ethics Advisory Committee*, will serve to formalize the practices, guidelines and the role of the EAC, the governance of which will focus on addressing matters of School Board policy in an advisory capacity. The language and provisions of this policy are based on the Commission on Ethics Policy previously adopted by the School Board on October 24, 2001. The proposed policy contains provisions for, among other things, the purpose, role and function of the EAC, the qualifications, selection and terms of EAC members, scheduling and conduct of its meetings, and its powers and duties. In addition, the policy also provides for the EAC to, at its discretion, review complaints presented before the EAC, and render advisory opinions on ethical issues and personnel matters after the District has concluded any applicable and related administrative proceedings.

The EAC was presented and endorsed the new School Board Policy 0158, *Ethics Advisory Committee* at an EAC special meeting on June 2, 2011. Attached are the Notice of Intended Action and the proposed new policy.

Authorization of the Board is requested for the Superintendent to initiate rulemaking proceedings in accordance with the Administrative Procedure Act to promulgate new School Board Policy 0158, *Ethics Advisory Committee*.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, authorize the Superintendent of Schools to initiate rulemaking proceedings in accordance with the Administrative Procedure Act to promulgate new School Board Policy 0158, *Ethics Advisory Committee*.

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on June 15, 2011 its intention to promulgate new Board Policy 0158, *Ethics Advisory Committee*, at its meeting of August 3, 2011.

PURPOSE AND EFFECT: The recommended promulgation of new School Board Policy 0158, *Ethics Advisory Committee*. Its purpose is to serve as the guardian of the public trust by, among other things, informing the public and educating candidates for the election to the School Board, members of the School Board and employees of Miami-Dade County Public Schools as to the required standards of ethical conduct and interpreting and informing stakeholders on those standards of conduct.

SUMMARY: To help ensure the integrity of the Board's decision-making processes and to maintain public confidence in our public schools.

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

LAWS IMPLEMENTED INTERPRETED OR MADE SPECIFIC: 119.07; 286.011; 1001.32; 1001.41(1)(2); 1001.42 F.S.

IF REQUESTED, A HEARING WILL BE HELD DURING THE SCHOOL BOARD MEETING OF August 3, 2011, 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 July 12, 2011, 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 POLICY is available at cost to the public for inspection and copying in the Citizen Information Center, Room 158, 1450 N.E. Second Avenue, Miami, Florida 33132.

Originator: Dr. Marta Pérez
Date: June 7, 2011

Ethics Advisory Committee

I. Purpose

The purpose of the Ethics Advisory Committee is to serve as the guardian of the public trust by, among other things, informing the public, and educating candidates for the election to the Board, members of the Board and employees of Miami-Dade County Public Schools as to the required standards of ethical conduct and interpreting and applying those standards of conduct.

It is not the intent of the Board that the Ethics Advisory Committee serve as a personnel board resolving personnel matters involving employees of Miami-Dade County Public Schools or that it have jurisdiction over claims for money damages against Miami-Dade County Public Schools or over members of the Board.

II. Membership

A. Selection of Members

The Ethics Advisory Committee shall be composed of seven (7) members. The members of the Ethics Advisory Committee shall be appointed as follows:

1. The Chief Judge of the Eleventh Judicial Circuit of Florida shall be requested to appoint one (1) former federal judge, or former United States magistrate or former state court judge;
2. The Chief Judge of the Eleventh Judicial Circuit of Florida shall be requested to appoint one (1) former U.S. Attorney or Assistant U.S. Attorney, former State Attorney or Assistant State Attorney;
3. The dean of the school of education of the University of Miami, St Thomas University, Barry University, or Florida International University shall on a rotating basis be requested to appoint one (1) faculty member from his or her school who has taught a course in professional ethics for educators or has published or performed services in the field of professional ethics for educators. The dean of the school of education of the University of Miami shall be requested to appoint the first faculty member to sit on the Ethics Advisory Committee. Upon the expiration of said member's term, the dean of the school of education of St. Thomas University shall be requested to appoint a faculty member to sit on the Ethics Advisory Committee. Upon the expiration of said member's term, the dean of the school of education of Barry University shall be requested to appoint a faculty member to sit on the Ethics Advisory Committee. Upon the expiration of said member's term, the dean of the school of education of Florida international University shall be requested to appoint a faculty member to sit on the Ethics Advisory Committee. Thereafter, each dean shall on a rotating basis select a faculty member from his or her school of education.

4. The presidents of the University of Miami, St. Thomas University, Barry University and Florida International University shall on a rotating basis be requested to appoint one (1) faculty member from either the school of law or the school of business administration or management who has taught a course in professional ethics or has published or performed services in the field of professional ethics. The president of Florida International University shall be requested to appoint the first faculty member to sit on the Ethics Advisory Committee. Upon the expiration of said member's term, the president of St. Thomas University shall be requested to appoint a faculty member to sit on the Ethics Advisory Committee. Upon the expiration of said member's term, the president of the University of Miami shall be requested to appoint a faculty member to sit on the Ethics Advisory Committee.
5. The Dade County Council PTA/PTSA shall be requested to appoint one (1) parent who has or has had a child in a Miami-Dade County public school.
6. The chairperson of the Greater Miami Chamber of Commerce shall be requested to appoint one (1) person from the business community.
7. The director of the Center for Labor Studies at Florida International University shall be requested to appoint (1) retired public school employee.

B. Additional Qualifications

Each member of the Ethics Advisory Committee shall be a United States citizen, resident of Miami-Dade County and shall be of outstanding reputation for integrity, responsibility and commitment to serving the community. The membership of the Ethics Advisory Committee should be representative of the community-at-large and should reflect the diversity, gender and makeup of the community. Prior to final selection of each member of the Ethics Advisory Committee those persons empowered herein to appoint members shall meet and evaluate the qualifications of each person under consideration to ensure (a) that said person is qualified to serve on the Ethics Advisory Committee and (b) that the membership of the Ethics Advisory Committee will be representative of the community-at-large and reflect the diversity, gender and makeup of the community.

Members of the Ethics Advisory Committee shall serve without compensation.

C. Terms

The members of the Ethics Advisory Committee shall serve terms of four (4) years each. Upon expiration of said term, any member may be re-appointed to additional four (4) year terms. Members of the Ethics Advisory Committee may be removed, upon majority vote of the Committee's voting members, if they fail to attend three (3) consecutive regular meetings without good cause.

D. Vacancies

A vacancy occurring during, or at, the expiration of a member's term on the Ethics Advisory Committee shall be filled in accordance with the provisions of Section II above.

E. Additional Requirements

No individual, while a member of the Ethics Advisory Committee, shall:

1. Seek or hold an appointed or elected political office or campaign for any elective political office a position on The School Board of Miami-Dade County, Florida;
2. Actively participate in or contribute to any campaign for election to the Board or any political action committee which contributes to such a campaign;
3. Be employed by Miami-Dade County Public Schools or be an officer, director or owner of a one percent (1%) or greater interest in a business entity, whether or not for-profit, that has a contractual relationship with, or is regulated by, Miami-Dade County Public Schools;
4. Grant permission for his or her name to be used by a campaign in support of or against any candidate for political office a position on the School Board of Miami-Dade County, Florida or any referendum or other ballot question related to The School Board of Miami-Dade County, Florida, or its business;
5. Lobby a member of the Board or an employee of the Miami-Dade County Public Schools on any issue.

Nothing herein shall preclude a member of the Ethics Advisory Committee from signing a petition in support of or against any referendum or other ballot question not related to The School Board of Miami-Dade County, Florida, or its business.

F. Selection of Chair and Vice-Chair

The Ethics Advisory Committee shall elect one (1) of its voting members as chairperson who shall serve a term of two (2) years. No chairperson shall be permitted to serve two (2) consecutive terms. A Vice-Chair shall also be selected in the same manner and with the same length of term as the Chair.

G. Emeritus Members

Whenever a member's term on the Ethics Advisory Committee shall expire or end through voluntary resignation or retirement, the remaining members may vote to offer the departing member the honorary title of "Emeritus" member of the Ethics Advisory Committee. Should such an offer be approved by majority vote of the existing membership of the

Ethics Advisory Committee and accepted by the departing member, the individual bestowed the title of Emeritus Ethics Advisory Committee member may hold such title perpetually unless rescinded or unless its duration is limited by the bylaws. An Emeritus Ethics Advisory Committee member shall have the right to attend and speak at all Ethics Advisory Committee meetings, but shall not make motions or vote on any measure appearing before the Ethics Advisory Committee. The Ethics Advisory Committee may also request that a member holding the distinction of Emeritus Ethics Advisory Committee member appear at specified meetings of the Ethics Advisory Committee or sub-committee meeting to speak and provide his or her opinion on matters deliberated upon by the Ethics Advisory Committee. All Emeritus members will be provided with advance notice of upcoming or future meetings of the Ethics Advisory Committee.

III. Meetings

The Ethics Advisory Committee shall hold regular meetings in accordance with this Rule, and the Ethics Advisory Committee may hold such other meetings as it deems necessary. All meetings of the Ethics Advisory Committee shall be public and written minutes of the proceedings thereof shall be maintained by The School Board of Miami-Dade County, Florida.

The Ethics Advisory Committee shall make, adopt and amend by-laws, rules of procedure which are consistent with the provisions of this rule and regulations for the Ethics Advisory Committee's governance.

IV. Authority

The Ethics Advisory Committee was created as a result of the School Board's adoption on October 24, 2001 of a Commission on Ethics Policy. This rule incorporates and includes pertinent provisions of those policy guidelines.

The provisions of this Rule shall be deemed supplemental to any other applicable Miami-Dade County Public Schools rule, state, or federal law and are not intended to replace or repeal any provision of state or federal law or any other rules of The School Board of Miami-Dade County, Florida.

The Ethics Advisory Committee shall advise on the application of the authorities listed below, and its jurisdiction shall extend to any person required to comply with those authorities:

- (a) The Code of Ethics and the Principles of Professional Conduct of the Education Profession in Florida (State Board of Education Rules 6B-1.001 and 6B-1.006 FAC);
- (b) School Board Rule 6Gx13-8A-1.041 (Conflict of Interest);
- (c) All rules of Miami-Dade County Public Schools; and
- (d) The Code of Ethics for Public Officers and Employees set forth in Chapter 112 of the Florida Statutes.

V. Powers and Duties of the Ethics Advisory Committee

A. The Ethics Advisory Committee shall be authorized to exercise such powers and shall be required to perform such duties as are set forth in this Rule.

B. The Ethics Advisory Committee shall be empowered to review, interpret, render advisory opinions, and make recommendations to the School Board regarding the applicability of the matters contained in Section I above.

C. The Ethics Advisory Committee shall be empowered to recommend changes to the rules it is charged with reviewing to the School Board.

D. The Ethics Advisory Committee shall prepare and make available to any person a copy of rules within the Ethics Advisory Committee's jurisdiction.

E. The Ethics Advisory Committee shall hear and make recommendations on complaints that are self-initiated or brought to the Ethics Advisory Committee by citizens.

F. Receive and review reports from the Inspector General and receive, review, and monitor corrective action plans and responses submitted to the Inspector General reports and recommendations.

VI. School Board Action

Any recommendation or opinion issued by the Ethics Advisory Committee shall be forwarded to the School Board and the School Board may take action upon it.

VII. Reports and Recommendations to the School Board

The Ethics Advisory Committee may submit periodic reports on the work of the Committee to the Board and the Superintendent. The Committee shall also prepare and present an annual report to the School Board summarizing the Committee's accomplishments for the past year. The report shall include the goals and objectives for the coming year.

VIII. Procedures to be Followed by the Ethics Advisory Committee in the Performance of its Duties and in Rendering Advisory Opinion on Matters Within its Jurisdiction.

The Ethics Advisory Committee shall make, adopt and amend by-laws and rules of procedure within its purview subject to the following provisions:

A. Counsel

The Ethics Advisory Committee may request the School Board Attorney to render opinions relating to its duties, jurisdiction or power.

B. Public Meetings and Public Records

All proceedings conducted pursuant to this subsection shall be public meetings within the meaning of Chapter 286, Florida Statutes, and all other documents made or received by the Ethics Advisory Committee shall be public records within the meaning of Chapter 119, Florida Statutes.

C. Quorum

A majority of the voting members of the Committee shall constitute a quorum. A quorum must be present before a vote is taken on any matter appearing before the Committee. Proxy or absentee votes are not permitted.

D. Scheduling and Conduct of Meetings

Meetings shall be held in accordance with Section II above and must comply with the requirements of the Sunshine Law. At the beginning of each fiscal year, the Ethics Advisory Committee shall establish a schedule of its meetings for the year; such schedule may be changed as deemed appropriate by a majority of the members of the Committee. Notice of the date, time, and location of each meeting shall be provided to each member. All meetings of the Committee must be noticed at least five (5) business days before each meeting. An agenda shall be prepared for each meeting and shall be made available to anyone upon request. The Committee shall conduct all its meetings pursuant to Robert's Rules of Order, the most current revised edition. The Chair of the Ethics Advisory Committee, in consultation with the designated school district liaison, shall develop the agenda for each meeting. All meetings shall be accessible and open to the public.

E. Personnel Proceedings

Where an employee of Miami-Dade County Public Schools is alleged to have violated a rule within the jurisdiction of the Ethics Advisory Committee and a written complaint is filed with the EAC, based upon the same set of facts, is subject to an ongoing disciplinary action initiated by Miami-Dade County Public Schools, the Ethics Advisory Committee shall stay consideration of a complaint until the conclusion of the personnel proceedings. Anything to the contrary notwithstanding, recommendations with respect to the appropriate discipline of an employee shall be the sole province of the School Board and shall be in accordance with the applicable collective bargaining agreement or law.

Specific Authority: 1001.41(1)(2); 1001.42(25); 1001.43(10), F.S.
Law Implemented, Interpreted, or Made Specific: 119.07; 286.011; 1001.32;
1001.41(1)(2); 1001.42 F.S.

History

New:

Amended:

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA