

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

SUBJECT: PROPOSED AMENDMENT OF SCHOOL BOARD POLICIES: FINAL READING: POLICY 9140, *CITIZENS' ADVISORY COMMITTEES*, POLICY 6840, *AUDIT & BUDGET ADVISORY COMMITTEE*, POLICY 9142, *DIVERSITY EQUITY & EXCELLENCE ADVISORY COMMITTEE*

COMMITTEE: SCHOOL SUPPORT AND ACCOUNTABILITY

LINK TO STRATEGIC FRAMEWORK: SCHOOL/DISTRICT LEADERSHIP

At the School Board meeting of March 7, 2012, the School Board approved agenda Item G-2 ("Initial Reading"), as amended, requesting authorization for the Superintendent to initiate rulemaking to allow the Miami-Dade County PTAs/PTSAs Council to (1) appoint a member and an alternate to certain advisory committees, (2) restrict lobbyists from serving and/or voting on certain advisory committees and issues, and (3) eliminate the authority of a Board member to request waivers of Board established criteria for Board advisory committee members.

At the December 14, 2011, Board meeting, the Board initially authorized the initiation of rulemaking pursuant to Agenda Items H-7 ("PTA/PTSA Appointments to Advisory Committees"), and H-8 ("Prohibiting Lobbyists from Serving on Advisory Committees"), presented by Board Member Carlos L. Curbelo. 2011, to amend Board policies to allow the Miami-Dade County Council of PTAs/PTSAs to appoint a parent member of a currently enrolled student to certain Board advisory committees and to restrict lobbyists from serving on Board advisory committees. On February 9, 2012, the School Support Accountability Committee recommended revised language to both proposals which would allow the Miami-Dade County Council of PTAs and PTSAs to appoint any member and alternate to certain Board advisory committees and to restrict lobbyists from serving on certain committees and voting on issues that pose a conflict.

Both the original proposed language and the Committee's suggested revisions were presented to the Board in Agenda Item G-2 on March 7, 2012 on initial reading. The Board approved the School Support Accountability Committee's suggested revisions and also voted to eliminate the authority of a Board member to request waivers of Board established criteria for Board member advisory committee appointees.

This item requests that the Board amend School Board Policy 9140, *Citizens' Advisory Committees*, to allow the Miami-Dade County Council of PTAs/PTSAs to appoint a member and alternate to certain Board advisory committees and to prohibit lobbyists from serving on advisory committees if they have a recurring and continuous conflict between their private interests and public duties and to abstain from voting on committee recommendations that directly impact a client's interest for which the lobbyist was retained. It is also requested that Board Policy 6840, *Audit & Budget Advisory Committee*, and Policy 9142, *Diversity Equity and Excellence Advisory Committee*, to add a member appointed by the Miami-Dade Council PTAs/PTSAs.

The Notice of Intended Action was published in the *Miami Daily Business Review* on March 12, 2012, posted in various places for public information and mailed to organizations representing persons affected by these amendments and to individuals requesting notification. The time to request a hearing or to protest the amended policies has elapsed.

Accordingly, pursuant to the Administrative Procedure Act, the amendments to School Board Policy 9140, *Citizens' Advisory Committees*, Policy 6840, *Audit & Budget Advisory Committee*, and Policy 9142, *Diversity Equity and Excellence Advisory Committee*, are presented to the School Board of Miami-Dade County, Florida for adoption and authorization to file the amended policies in the official records of The School Board of Miami-Dade County, Florida.

Attached are the Notice of Intended Action and proposed policy amendments. Changes from the current Policies 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 pursuant to the Administrative Procedure Act to amend School Board Policy 9140, *Citizens' Advisory Committees*, Policy 6840, *Audit & Budget Advisory Committee*, and Policy 9142, *Diversity Equity and Excellence Advisory Committee*.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, adopt amended Board Policies 9140, *Citizens' Advisory Committees*, Policy 6840, *Audit & Budget Advisory Committee*, and Policy 9142, *Diversity Equity and Excellence Advisory Committee*, and authorize the Superintendent to file the policy with The School Board of Miami-Dade County, Florida to be effective April 18, 2012.

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on March 7, 2012, its intention to amend Board Policy 9140, *Citizen's Advisory Committees*, Policy 6840, *Audit and Budget Advisory Committee*, and Policy 9142, *Diversity Equity and Excellence Advisory Committee*, at its meeting of April 18, 2012.

PURPOSE AND EFFECT: The purpose of the recommended amendments is to allow the Miami-Dade County Council of PTAs/PTSAs to appoint a member and alternate to certain School Board Advisory Committees and to require lobbyists serving on advisory committees to abstain from voting on recommendations that directly impact a client's interest for which the lobbyist was retained and that registered lobbyists resign when there is a recurring conflict. In addition, these amendments eliminate the ability for a Board member to seek a waiver for persons who do not meet the residency, conflict of interest or multiple appointments requirements. } PURSUANT TO BOARD DIRECTION ON 3/7/12

SUMMARY: The amendments will allow the Miami-Dade County Council of PTAs/PTSAs to appoint a member and alternate to any School Board Advisory Committee that is (1) established by a specific Board policy, and (2) has a member appointed by each Board member and the Superintendent and (3) any other committee deemed appropriate by the Board. In addition, lobbyists serving on advisory committees would be required to abstain from voting on committee recommendations that directly impact a client's interest for which the lobbyist was retained and must resign in the event of a recurring conflict. In addition, these amendments eliminate the ability for a Board member to seek a waiver for persons who do not meet the residency, conflict of interest or multiple appointments requirements. } PURSUANT TO BOARD DIRECTION ON 3/7/12

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: 1001.32(2); 1001.41(2)(5); 1001.43 (10) F.S.

IF REQUESTED, A HEARING WILL BE HELD DURING THE SCHOOL BOARD MEETING OF April 18, 2012, 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 April 2, 2012, 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)

A COPY OF THE PROPOSED AMENDED POLICIES are 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: Mr. Carlos L. Curbelo, Board Member
Date: March 8, 2012

1 B. Conflict of Interest
2

3 All advisory committee members must comply with the Code of
4 Ethics of Public Officers and Employees in F.S. Chapter 112, as it
5 applies to employees, and certify in writing that they will comply
6 with applicable ethical guidelines. In addition, the following
7 requirements shall apply.

8 1. No person shall be appointed if, at the time of appointment,
9 the person has filed a lawsuit against the Board that is
10 pending and/or a challenge to a Board policy. ~~The Board
11 may waive this requirement for an individual member by a
12 2/3 vote of the membership.~~ } PURSUANT
TO BOARD
DIRECTION
ON 3/7/12

13 2. Appointees shall not serve on a committee that regulates or
14 monitors their livelihood. ~~The Board may waive this
15 requirement for an individual member by a 2/3 vote of the
16 Board membership.~~ } PURSUANT
TO BOARD
DIRECTION
ON 3/7/12

17 3. If an appointee qualifies as a candidate for elective political
18 office during the appointed term, the qualification shall be
19 deemed a resignation from the committee.

20 4. No person shall be appointed in violation of State or Federal
21 law, or Board policies.

22 C. Multiple Appointments
23

24 No person shall be appointed by the Board or an individual Board
25 member to serve simultaneously on more than two (2) advisory
26 committees. A person may be appointed to serve simultaneously on
27 more than two (2) committees if appointed by different Board
28 members. ~~After being advised of all other committees to which a
29 person has been appointed, the Board may waive this requirement
30 for an individual appointee by a 2/3 vote of the Board membership.
31 This waiver must be renewed when the appointee's term on any
32 committee expires and s/he is reappointed to the same committee or
33 another one.~~ } PURSUANT
TO BOARD
DIRECTION
ON 3/7/12

34 These requirements apply to Board appointments to all advisory committees unless
35 there are alternate criteria provided in Board policies that establish a specific
36 advisory committee. These requirements, however, do not apply to Board
37 appointments of Board members to District advisory committees.

38 **Expenditures**

39 Expenditure of District funds by an advisory committee shall be made only upon the
40 prior approval of the Superintendent. Supplies, equipment, and personnel from

1 within the School District may be obtained through the appointed staff resource
2 person.

3 Correspondence between the Board and its committees shall ordinarily be conducted
4 by the Superintendent.

5 The Superintendent should transmit the contents of any communication or report
6 from a committee to the Board, as appropriate.

7 **Board Authority**

8 The Board shall have the sole power to dissolve any of its advisory committees and
9 shall reserve the right to exercise this power at any time during the life of any
10 committee.

11 Board members shall have the right to attend and may participate in any District or
12 Board advisory committee.

13 ~~F.S. 165.041 (3)(c), 1001.452~~ F.S. 1001.41(1), (2), (5); 1001.42(25); 1001.43(10)

14

15 Revised 10/19/11

**THE SCHOOL BOARD OF
MIAMI-DADE COUNTY**

FINANCES
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1 B. ~~One~~ (1) voting Board member appointed by the Chair of the Board;

2
3 The Board member appointed to the Audit and Budget Advisory
4 Committee shall vote on all matters that come before the Audit and
5 Budget Advisory Committee.
6

7 ~~C. one (1) voting member from the community to be appointed by the~~
8 ~~Superintendent;~~
9

10 ~~D.~~ ~~One~~ (1) non-voting member from the District to be appointed by the
11 Superintendent;
12

13 ~~E.~~ ~~The~~ Chief Auditor shall serve as the District's liaison and provide
14 administrative and logistical support to the Audit and Budget
15 Advisory Committee.

16 The Audit and Budget Advisory Committee shall elect a chair and vice-chair from its
17 community members. An Audit and Budget Advisory Committee member may not
18 serve more than four (4) consecutive years as either chair or vice-chair.

19 **Term of Service**

20 The term of service is two (2) fiscal years. The terms of community members
21 nominated by Board members shall be consistent with the terms of their respective
22 nominating Board members. Newly appointed Board members shall have the
23 discretion to retain the former Board member's appointee or to nominate a new
24 committee member. A member's term may be extended beyond the two (2) year term
25 by nomination by any Board member. Community members may be removed
26 should they miss three (3) consecutive regular meetings without good cause upon a
27 majority vote of the audit committee.

28 **Meetings**

29 The Audit and Budget Advisory Committee will meet on a regular basis throughout
30 the fiscal year with the first meeting to be scheduled in early September and the last
31 meeting in late June. The committee will meet at least six (6) times during the fiscal
32 year, subject to any unforeseen circumstances such as natural disasters,
33 emergencies, etc.

34 When deemed necessary and appropriate, special meetings of the Audit and Budget
35 Advisory Committee may be called by the Chief Auditor or by the chair of the Audit
36 and Budget Advisory Committee. Such special meetings shall require at least
37 two (2) days prior public notice.

38 A majority of the voting members shall constitute a quorum for the committee in
39 order to conduct business.

1 All committee and subcommittee meetings are governed by the Florida's Government
2 in the Sunshine and Public Records Laws, F.S. Chapter 119 and 286.011. Meetings
3 will be held in open public sessions and all materials made or received by the Audit
4 and Budget Advisory Committee in connection with official business are available for
5 public inspection.

6 The Office of Management and Compliance Audits is responsible for providing
7 administrative support to the committee, including publishing meeting notices,
8 keeping its minutes, establishing the agenda in collaboration with the chair of the
9 Audit and Budget Advisory Committee, and gathering the supporting documentation
10 for distribution, and ensuring the smooth operation of the committee affairs.

11 **Authority**

12 The Audit and Budget Advisory Committee is advisory in nature. Its
13 recommendations regarding audit findings and exceptions, and other items will be
14 provided in writing to the Board and Superintendent. In its advisory role, the Audit
15 and Budget Advisory Committee is subject to the control and direction of the Board.

16 **Duties and Responsibilities**

17 The duties and responsibilities of the Audit and Budget Advisory Committee are:

- 18 A. with regard to the external auditor:
- 19 1. serve as the committee to select and recommend the hiring of
20 the external auditing firm to conduct the District's annual
21 audit according to Florida statutes and assist in the
22 development of the external audit contract;
 - 23 2. oversee the work and evaluate the qualifications,
24 performance, and independence of the external auditor and
25 recommend the termination or replacement of the external
26 auditor;
 - 27 3. review with the external auditor their annual audit plan;
 - 28 4. review the Consolidated Annual Financial Report (CAFR),
29 Management Letter, and Single Audit Report with the external
30 auditor and District staff and make recommendations as
31 appropriate;
 - 32 5. the Chief Auditor will provide administrative support to the
33 committee for all external audit contracts.

- 1 B. with regard to the District's budgeting and financial management:
- 2 1. with the Chief Financial Officer, review proposed annual
3 budgets, revenues, and expense forecasts and forecast
4 assumptions, and budget amendments;
- 5 2. receive periodic progress reports from the Chief Financial
6 Officer regarding the District administration's collection and
7 disbursement of financial resources pursuant to the District's
8 budget;
- 9 3. receive periodic reports from and consult with the Chief
10 Financial Officer on the adequacy of the District's budget and
11 tracking system;
- 12 4. make recommendations to the Superintendent and Board to
13 improve the quality and reliability of budgeting and
14 accounting for the results of financial operations and not
15 opine on the policy and programmatic implications of budget
16 proposals and amendments.
- 17 C. with regard to the Chief Auditor and the Office of Management and
18 Compliance Audits:
- 19 1. review the annual budget of the Office of Management and
20 Compliance Audits and make recommendations to the Board
21 and the Superintendent as to the sufficiency of the budget;
22
23 The budget shall make adequate provisions for external
24 auditing fees, staffing of the office, required continued
25 professional education/staff development, equipment, and
26 supplies. The committee should review the costs of the use of
27 outside professional services deemed necessary by the Chief
28 Auditor and make recommendations to the Board.
- 29 2. review, provide feedback and approve the annual Audit Plan
30 presented by the Chief Auditor;
31
32 Receive periodic updates on the progress in completing the
33 Audit Plan and confer with the Chief Auditor on any
34 significant changes in the required planned scope of the
35 annual Audit Plan.

- 1 3. review the operations and projects against the Audit Plan to
2 determine the progress made in the execution of the Audit
3 Plan;
- 4 4. review internal audit reports with the Chief Auditor and
5 District administration and make recommendations regarding
6 audit findings, recommendations, and management
7 responses;
- 8 5. serve as the committee, in consultation with the
9 Superintendent, to make recommendations to the Board on
10 the person to fill the position;
- 11 At the request of the Board, the committee will provide
12 recommendations on the contractual provisions for the
13 position of Chief Auditor. Prior to negotiation of the
14 employment contract, the Board shall conduct a workshop to
15 provide guidance to the Board's designated negotiator.
16
- 17 6. any recommendation for the removal or transfer of the Chief
18 Auditor not made by the Audit Committee and the reasons for
19 such removal or transfer shall be brought before the
20 committee to obtain its recommendation to the Board;
- 21 7. review the Chief Auditor's performance and provide input to
22 the Superintendent and Board in connection with
23 performance evaluations of the Chief Auditor. Written
24 evaluations will be kept on file.
- 25 D. review and make recommendations on the audited financial
26 statements of the District's charter schools, community-based
27 organizations, direct support organizations and audits of impact
28 fees, and any other relevant external audits brought before the
29 committee;
- 30 E. review and make recommendations on District-related audit reports
31 prepared by Federal and State auditors;
- 32 F. provide an effective communication link between the external and
33 internal auditors, the Board, and the Superintendent to accomplish
34 the following objectives:
- 35 1. completeness of audit coverage;

- 1 2. reduction of redundant efforts; and
- 2 3. effective use of audit resources.
- 3 G. receive and comment on periodic updates of selected audit follow-up
4 regarding corrective action(s) being taken by the administration to
5 implement audit recommendations;
- 6 H. submit periodic reports, at least annually, on the work of the Audit
7 and Budget Advisory Committee, to the Board and the
8 Superintendent;
- 9 I. review and make recommendations on any amendments to
10 Policy 6835, Policy 6840, and Policy 0157;
- 11
- 12 At the request of the Board, provide input to the Board with respect
13 to the selection of the Inspector General, and with regard to the
14 operation of the Inspector General as more specifically outlined in
15 Policy 0157.
- 16 J. receive and review reports from the Inspector General and receive,
17 review, and monitor corrective action plans and responses
18 submitted pursuant to Inspector General reports or
19 recommendations.

20 F.S. 119.07(3)(y), 286.011, 1001.32, 1001.41(1)(2), 1012.31

21 Revised 10/19/11

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1 DIVERSITY EQUITY AND EXCELLENCE ADVISORY COMMITTEE

2 The purpose of the Diversity, Equity and Excellence Advisory Committee (“DEEAC”)
3 is to review issues and make recommendations to the School Board and
4 Superintendent with the goal of eliminating disparities and educational barriers and
5 continue progressing toward racial parity and diversity. The core purpose and
6 objective of the DEEAC is to assist the District with creating and maintaining a
7 multicultural school system.

8 Pursuant to the United States District Court order, issued by Judge William
9 Dimitrouleas issued on June 21, 2001, and modified on August 16, 2001, which
10 declared the District unitary, the Diversity Equity and Excellence Advisory
11 Committee was established.

12 Nationally known experts consulted by the Board during the desegregation process
13 concluded that disparities remained in Black, White, and Hispanic student
14 participation in the areas of special education, advanced academics, and in the
15 frequency these students encountered educational barriers such as suspension,
16 expulsion and retention.

17 **Responsibilities**

- 18 A. The DEEAC’s responsibilities include reviewing and making
19 recommendations regarding the:
- 20 1. implementation of Board rules which relate to the District’s
21 unitary status and diversity;
 - 22 2. student enrollment;
 - 23 3. attendance boundary zones;
 - 24 4. regional administrative centers;
 - 25 5. recruitment and diversity of personnel;
 - 26 6. transportation of students;
 - 27 7. selection of school sites;

- 1 8. equitable distribution of educational resources and services;
- 2 9. annual District diversity compliance reports; and
- 3 10. other matters as may be assigned by Board and/or the
4 Superintendent.
- 5 B. DEEAC reviews and recommendations shall be reported on an
6 annual basis to the Board by November 30th of each school year.
7 This annual report shall assess the implementation of Board policies
8 to ensure that the District maintains its commitment to provide a
9 high-quality education to all students --a commitment that was
10 made to the Court and the community upon receiving unitary
11 status.
- 12 C. DEEAC members shall also:
- 13 1. facilitate and/or attend public meetings and Board
14 conference sessions and meetings related to DEEAC's
15 purpose; and
- 16 2. serve on other District advisory committees to represent
17 DEEAC's purpose.

18 **Membership**

- 19 A. Membership shall be comprised of eleven members, one to be
20 appointed by each Board member and two (2) to be appointed by the
21 Superintendent.
- 22 B. The term of service for each member shall be four (4) years and shall
23 run concurrently with the term of service of the respective Board
24 member or Superintendent. If a vacancy occurs, the respective
25 Board member or Superintendent shall appoint or reappoint a
26 member to the committee.

1 C. Newly elected or appointed Board members and/or Superintendent
2 shall have the discretion to reappoint the former Board member's or
3 Superintendent's appointee or to appoint a new member. An
4 incumbent member may remain on the DEEAC until a new member
5 is appointed.
6

7 D. The Miami-Dade County Council of PTAs/PTSAs may appoint a
8 member and an alternate.
9

10
11 E. The DEEAC shall elect a chair and vice-chair. The term of office is
12 two (2) years.

13 **Meetings**

14 A. The DEEAC shall meet at least six (6) times throughout the school
15 year and shall meet all of the requirements of the Sunshine and
16 Public Records laws, F.S. Chapter 119 and 286.011.

17 B. Meeting dates and times shall be determined by the DEEAC at the
18 first meeting of every school year.

19 C. Six (6) members shall constitute a quorum for the DEEAC to
20 conduct business.

21 D. The DEEAC shall conduct its meetings pursuant to Robert's Rules of
22 Parliamentary Procedure.

23 E. District staff, as assigned by the Superintendent, shall provide
24 administrative support to the DEEAC, including arranging and
25 scheduling meetings per DEEAC direction, publishing meeting
26 notices, establishing the agenda in collaboration with the chair,
27 keeping the minutes, and gathering relevant documentation for
28 distribution to members.

29 F.S. 1001.41(1)(2), 1001.42(26), 1001.43(10)
30 *Pate v. The School Board of Miami-Dade County, Florida*, Case No. 69-1020-
31 CIV-Dimitrouleas, Order of June 21, 2001 as modified by order of August 16,
32 2001.