

Office of Superintendent of Schools  
Board Meeting of August 5, 2015

July 23, 2015

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

**SUBJECT:     INITIAL READING: PROPOSED AMENDMENTS TO BOARD  
POLICIES 0169.1, *PUBLIC PARTICIPATION IN BOARD MEETINGS*;  
0165, *PUBLIC MEETINGS*; AND 6325, *CONE OF SILENCE***

**COMMITTEE: INNOVATION, GOVERNMENTAL RELATIONS AND  
COMMUNITY ENGAGEMENT**

**LINK TO  
STRATEGIC  
FRAMEWORK: SCHOOL/DISTRICT LEADERSHIP**

Section 120.74, F.S., requires each School Board to review and revise its rules as often as necessary to ensure that its rules are correct, comply with statutory requirements, clarify and simplify them, and otherwise conform to the law. Pursuant to these requirements, this item is presented for the Board's consideration to amend Board policies related to public participation in Board meetings in order to clarify certain provisions, correct inconsistencies, protect the integrity of the procurement process, and conform to the law.

The law allows the School Board to adopt decorum provisions that are designed to promote the orderly and efficient conduct of public meetings and do not regulate speaker content beyond the limits allowed by law. See Section 286.0114, F.S. Board Policy 0169.1, *Public Participation in Board Meetings*, is proposed to be amended to (1) clarify that the purpose of the public portion of the Board meeting is to allow the public to provide general input on matters within the Board's jurisdiction and not to air or resolve personal grievances, (2) clarify that employees are prohibited from discussing any disciplinary matter that affects them individually unless it is an agenda item, (3) to delete the prohibition against clapping and applauding, and (4) to prohibit any actions or noises during the meeting that cause or create an imminent threat of a disturbance or disruption in the meeting. Board Policy 0165, *Public Meetings*, is proposed to be amended to clarify the purpose of the public participation portion of the meeting in conformance with the amendments proposed above to Board Policy 0169.1.

Board Policy 6325, *Cone of Silence*, is proposed to be amended to (1) correct and clarify several inconsistencies, and (2) prohibit vendors and bidders from discussing matters that are under the cone of silence at the Board meeting.

Attached is the Notice of Intended Action and the proposed policy amendments. Changes 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 in accordance with the Administrative Procedure Act to amend Policies 0169.1, *Public Participation at Board Meetings*; 0165, *Public Meetings*; and 6325, *Cone of Silence*.

**RECOMMENDED:**

That The School Board of Miami-Dade County, Florida, authorize the Superintendent to initiate rulemaking proceedings in accordance with the Administrative Procedure Act to amend Policies 0169.1, *Public Participation at Board Meetings*; 0165, *Public Meetings*; and 6325, *Cone of Silence*.

## NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on August 5, 2015, its intention to amend Board Policies 0169.1, *Public Participation at Board Meetings*; 0165, *Public Meetings*; and 6325, *Cone of Silence*, at its meeting of September 9, 2015.

**PURPOSE AND EFFECT:** These policy amendments related to public participation in Board meetings are being proposed to clarify certain provisions and correct inconsistencies. Board Policy 0169.1, *Public Participation in Board Meetings*, is proposed to be amended to (1) clarify that the purpose of the public portion of the Board meeting is to allow the public to provide general input on matters within the Board's jurisdiction and not to air or resolve personal grievances, (2) clarify that employees are prohibited from discussing any disciplinary matter that affects them individually unless it is an agenda item, (3) to delete the prohibition against clapping and applauding, and (4) to prohibit any actions or noises during the meeting that cause or create an imminent threat of a disturbance or disruption in the meeting. Board Policy 0165, *Public Meetings*, is proposed to be amended to clarify the purpose of the public participation portion of the meeting in conformance with the amendments proposed above to Board Policy 0169.1.

Board Policy 6325, *Cone of Silence*, is proposed to be amended to (1) correct and clarify several inconsistencies, and (2) prohibit vendors and bidders from discussing matters that are under the Cone of Silence at the Board meeting.

**SUMMARY:** Pursuant to Section 120.74, F.S., the School Board is required to review and update its rules as often as necessary. Proposed changes to Policy 0169.1, *Public Participation in Board Meetings*, 0165, *Public Meetings*, and 6325, *Cone of Silence*, are designed to promote the orderly and efficient conduct of public meetings and to maintain the integrity of the Board's procurement processes.

**SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED:** 120.74, 1001.41 (1) (2),(5); 1001.42 (6), 1001.43 (10),(11), F.S.

**LAWS IMPLEMENTED INTERPRETED OR MADE SPECIFIC:** 120.74, 286.0114, 1001.41 (1), (2),(5); 1001.42 (6), 1001.43 (10),(11), F.S.

IF REQUESTED, A HEARING WILL BE HELD DURING SCHOOL BOARD MEETING OF September 9, 2015, 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 August 31, 2015, 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, F. S.

COPIES 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.



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1 | EF. Decorum:  
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3 | The following provisions are designed to promote the orderly  
4 | and efficient conduct of public meetings and not to regulate  
5 | speaker content beyond the limits allowed by law.

6 | 1. Citizen's remarks should be directed to the presiding  
7 | officer or the Board as a whole and not to individual  
8 | Board members. Speakers may not address Board  
9 | members by name and personal attacks against  
10 | individual Board members, the Board as a whole, the  
11 | Superintendent or District staff are prohibited.

12 | 2. Speakers commenting on agenda items shall confine  
13 | their comments solely to the agenda item being  
14 | discussed. During the public hearing, speakers must  
15 | limit their remarks to matters related to the business  
16 | of the District. Unless it is an agenda item, Speakers  
17 | are prohibited from discussing their own pending court  
18 | cases and filed claims or complaints against the  
19 | District or District personnel. Similarly, employees are  
20 | prohibited from discussing any disciplinary matter that  
21 | affects them individually unless it is an agenda item.

22 | 3. Speakers may not use any form of profanity or loud  
23 | abusive comments.  
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25 | 34. Any action or noise that causes or creates an imminent  
26 | threat of a disturbance or disruption, including but  
27 | not limited to, No clapping, applauding, heckling,  
28 | shouting comments from the audience, or verbal  
29 | outbursts in support or opposition to a speaker or  
30 | his/her remarks, shall be permitted is prohibited. No  
31 | signs or placards shall be allowed in the Board  
32 | meeting. Persons exiting the Board meeting shall do so  
33 | quietly.

34 | 45. The Chair may notify and warn speakers that their  
35 | comments have gone beyond the subject matter for  
36 | which they had signed up to address, address matters  
37 | that are not related to the business of the School  
38 | District, constitute personal attacks on individuals or  
39 | otherwise violate this policy.

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56. The Chair may turn off the microphone or recess the meeting if a speaker persists in addressing irrelevant topics or engaging in personal attacks. The Chair has the authority after one warning to order the removal of the speaker from the meetings.

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Following a warning, any person making impertinent or slanderous remarks or engages in boisterous behavior which the Chair or the Board determines constitutes an actual or an imminent threat of a disturbance or disruption, ~~who becomes boisterous while addressing the Board~~ shall be barred from further appearance before the Board for the balance of the meeting.

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67. Personal cellular telephone conversations while in the room when the Board meeting is being conducted is not permitted. Such conversations are permitted only during meeting breaks or recess. Ringers must be set to silent mode to avoid disruption of proceedings. Individuals, including those on the dais, must exit the chambers to answer incoming cell phone calls.

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F. Citizens may be heard on consent agenda items before the Board votes on those items. After the consent agenda is determined by the Board pursuant to Board Bylaw 0165.1, *Agendas*, the Board chair shall call on speakers who have signed up to speak to those items and provide them the opportunity to speak.

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G. Citizens may be heard on matters on the consent agenda or not on the Board agenda at the regularly scheduled meeting of the Board each month at the public hearing which shall begin no later than approximately 6:30 p.m. The Chair may begin calling speakers who are present immediately following the conclusion of the regular agenda. The public hearing shall not conclude before 4:30 p.m. unless all of the speakers signed up to speak are present and have been given the opportunity to speak.

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H. The Board may prohibit public participation on official acts that must be taken to deal with an emergency situation affecting the public health, welfare, or safety, if allowing public speakers would cause an unreasonable delay in the ability of the Board to act. The Board may also prohibit public participation on ministerial acts, including but not limited to, approval of Board minutes and bid-opening lists. The Board may allow public comment on ceremonial proclamations and resolutions.

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I. Scheduled Public Hearings

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1. To appear under "Scheduled Public Hearings," citizens must present a written request to the Superintendent no later than 4:30 p.m. of the Monday preceding a regular Wednesday Board meeting. Forms to be used in submitting these requests are available at all Region Offices, the Office of Citizen Information at the Board Administration Building, and on the District website. The request shall contain the following information:

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a. name, address and telephone number of person who is to appear;

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b. organization or persons represented and whether the person to appear is being compensated; and

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c. topic to be presented.

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2. The Superintendent shall provide to each Board member a list of the persons scheduled to speak.

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- 1 3. Any one speaker or spokesperson for a group shall be  
2 permitted to speak no more than three (3) minutes at  
3 the Scheduled Public Hearings no matter how many  
4 issues that individual addresses, nor more than a total  
5 of ten (10) minutes during the Board meeting,  
6 (including time on agenda items and, later, on consent  
7 or non-agenda items), except in unusual  
8 circumstances determined and approved by  
9 unanimous vote of Board members present at the  
10 meeting. If a speaker signs up to speak to an item  
11 passed on consent or a non-agenda item, then the  
12 speaker will be given additional time during the public  
13 hearing that the speaker would have been given had  
14 they addressed the item during the regular meeting,  
15 provided such additional time does not exceed a total  
16 of ten (10) minutes for the entire meeting.
- 17 4. Speakers may not refuse to yield the podium when the  
18 Chair has advised that their time is up.
- 19 5. The total time allotted for the public hearing shall not  
20 exceed one and one-half (1 1/2) hours. The time limit  
21 on the public hearing portion of the regular Board  
22 meeting may be extended by a majority vote of the  
23 Board.
- 24 6. Pursuant to the rules of parliamentary procedure, the  
25 Board may reconsider any item that passed on consent  
26 during the scheduled public hearing.
- 27 7. Speakers will be recognized in the order the requests  
28 were received.
- 29 8. Any person who feels that the subject matter has not  
30 been adequately covered in the time allotted may  
31 present additional information in writing.
- 32 J. Procedures when not scheduled under Scheduled Public  
33 Hearings
- 34 1. A person in this category seeking consent to speak  
35 must submit, either before or during the meeting, a  
36 written request to the Board Chair.
- 37 2. The request must state the person's name, address,  
38 and subject.





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- b. Receive approval to be heard by a majority vote of Board members present at the meeting and voting.
- c. The presiding officer may designate a particular time prior to Board action on the agenda item for such persons to be heard.
- d. If Board approval is granted for the person to be heard, the Chair shall allow a maximum of two (2) minutes. Additional comments may be presented in writing.

L. Public Hearings on Specific Topics

The Board may schedule a meeting designed solely as a public hearing on a specific document or proposal which is to be the subject of later Board action, either to comply with State statutes or to hear citizens on an issue of great public interest. Persons desiring to address the Board at public hearings shall follow and be governed by the procedures for a special Board meeting.

M. Conference Sessions/Workshops of the Board

Citizens may be heard at any conference session or workshop for a specified amount of time that the Board determines in advance of the session or at the beginning of the session.

N. Quasi-Judicial Proceedings

Board actions at every stage of proceedings for the suspension, dismissal or other discipline of staff members, charter school terminations/nonrenewals, and for the expulsion or assignment of specific students, are quasi-judicial proceedings conducted pursuant to Board Bylaw 0133. Citizens shall not be heard in these cases. All aspects of student expulsion proceedings shall be closed to the public pursuant to F.S. 1006.07(1)(a), unless the parents elect to have the hearing held in compliance with the Sunshine Law.

O. Tape or video recordings are permitted under the following conditions:

- 1. No obstructions are created between the Board and the audience.

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2. No interviews are conducted in the meeting room while the Board is in session.
  3. No commentary, adjustment of equipment, or positioning of operators is made that would distract either the Board or members of the audience while the Board is in session.

7 Revised 6/18/14

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1 if time permits. The Board meeting will reconvene at 1:00  
2 p.m., at which time a quorum must be present, to complete  
3 the remainder of the regular Board meeting agenda.

4 Upon public notice, regular meetings of the Board may be  
5 held at any appropriate public place in the county. Public  
6 notice shall consist of publication in a newspaper of general  
7 circulation in the county.

8 Any change in the date or time for these meetings shall be by  
9 an action of the Board.

10 B. Board Committee Meetings

11 Board committee meetings addressing the monthly Board  
12 agenda shall occur after the publication of the official agenda  
13 and prior to the regularly scheduled monthly Board meetings.  
14 Unless otherwise noticed, these meetings shall be held in  
15 Room 726, Board Administration Building, 1450 NE 2 Ave.,  
16 Miami, Florida.

17 C. Special Meeting

18 Special meetings may be called for official action on topics  
19 specified in the call and agenda for the meeting by the  
20 Superintendent, the Chair of the Board through the  
21 Superintendent, or by request of a majority of the members of  
22 the Board. A majority of the members of the Board may only  
23 request the convening of a special meeting of the full Board  
24 by seeking the approval of a majority of the members present  
25 at a regular or special Board meeting.

26 Unless otherwise noticed, all special meetings will be held in  
27 the Board Administration Building Auditorium, 1450 NE 2  
28 Ave., Miami, Florida. The date and time shall be specified in  
29 the call and agenda for each meeting.

30 D. Emergency Meeting

31 If the Board finds that an immediate danger to the public  
32 health, safety, or welfare requires immediate action, it may  
33 hold an emergency public meeting in accordance with State  
34 law.

1 E. Public Hearings

2 Public hearings may be scheduled on a specific topic,  
3 document, or proposal which is to be the subject of Board  
4 action that will be taken at the public hearing or at an  
5 upcoming regular Board meeting, either to comply with State  
6 law or to hear citizens on an issue of great public interest.

7 F. Conference Session

8 Conference sessions may be conducted to receive information  
9 and confer with the Superintendent on issues requiring in-  
10 depth consideration and discussion with a possible proposed  
11 recommended action to be taken by the Board at an  
12 upcoming regular meeting. Citizens will not be heard at  
13 conference sessions unless the Board determines otherwise in  
14 advance of the session. A conference session shall be  
15 scheduled in the same manner as a regular Board meeting.

16 G. Workshop

17 Workshops may be scheduled to receive information and  
18 confer with the Superintendent on issues requiring in-depth  
19 consideration and discussion, with a possible proposed  
20 recommended action to be taken by the Board at an  
21 upcoming regular meeting. Only after a minimum of six (6)  
22 Board members, upon being polled by the Chair through  
23 his/her designee, have advised of their intent to attend a  
24 workshop on a given date, shall the workshop be scheduled,  
25 noticed, and advertised. Once the workshop is advertised,  
26 noticed, and the meeting is conducted in accordance with the  
27 requirements of this rule and with any applicable provisions  
28 of the Sunshine Law, the workshop may be held even if a  
29 quorum is not present.

30 Workshops will be conducted in Conference Room 726B of  
31 the Board Administration Building, 1450 Northeast Second  
32 Avenue, Miami, Florida, unless otherwise noticed. If a greater  
33 than normal attendance by the public is anticipated for any  
34 specific Board workshop, the workshop may be held at the  
35 Board auditorium. The date and time shall be specified in the  
36 call and agenda for the meeting.

1                   H.    Member Conferences

2                            Individual Board members may sponsor conference-type  
3                            discussions, inviting Board members, staff and members of  
4                            the public to engage in a voluntary and informal discussion of  
5                            topics of vital concern to the member in an effort to foster a  
6                            free flowing exchange of information and ideas.  These  
7                            conferences must be open to the public and otherwise satisfy  
8                            Florida law governing public meetings and applicable Board  
9                            policies.

10                           These are voluntary forums for discussion purposes only, are  
11                           not official Board meetings, and no action may be taken on  
12                           the topics discussed.  Agendas for these meetings will be  
13                           proposed by the Board member calling the meeting and may  
14                           be changed or amended as provided by the Sunshine Law,  
15                           Board policies, and the Administrative Procedure Act.

16                           F.S. 286.011, 286.0114

17                           Revised 9/7/11  
18                           Revised 10/16/13  
19                           Revised 6/18/14

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CONE OF SILENCE

A. "Cone of Silence" means a prohibition on any communication regarding a particular Request for Proposals (RFP), bid, invitation to bid, or other competitive solicitation between:

1. any person who seeks an award, including a potential vendor or vendor's representative, an employee, partner, director, or officer of a potential vendor, or consultant, lobbyist, or actual or potential subcontractor or sub-consultant of a vendor, or any other individual acting through or on behalf of any person seeking an award; and

2. any School Board member or the member's staff, the Superintendent, Deputy Superintendent and their respective support staff, or any person appointed by the Board to evaluate or recommend selection in the competitive procurement process.

B. A Cone of Silence shall be applicable to each RFP, bid, invitation to bid, or other competitive solicitation during the solicitation, review and Board action of bid proposals ~~through final Board action~~ as appropriate. At the time of issuance of the solicitation, the Superintendent shall provide public notice of the Cone of Silence and written notice, including electronic communication, to the Board, District staff and any other person involved in the review, evaluation, recommendation, approval, rejection or award of the responses as appropriate. The Superintendent shall include in any advertisement and public solicitation for goods and services a statement disclosing the requirements of this section.

C. The Cone of Silence shall terminate at the time the item is presented by the Superintendent to the appropriate Board committee immediately prior to the Board meeting at which the Board will award or approve a contract, reject all bids or responses, or take any other action that ends the solicitation and review process.



1 D. This rule shall not prohibit any potential vendor or vendor's  
2 representative:

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- 4 1. from making public representations at duly noticed pre-bid  
5 conferences or before duly noticed selection and negotiation  
6 committee meetings;
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- 8 2. from engaging in contract negotiations during any duly  
9 noticed selection and negotiation committee meetings public  
10 meeting;
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- 12 3. from making a public presentation to the Board during any  
13 duly noticed public meeting on any topic that is not under the  
14 Cone of Silence and is otherwise permitted under Policy  
15 0169.1; or
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- 17 4. from communicating in writing with any school district  
18 employee who is not serving on the applicable evaluation  
19 Committee, or the Board Attorney's office to seek clarification  
20 or additional information, subject to the provisions of the  
21 applicable RFP, or bid documents.

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23 The potential vendor or vendor's representative shall file a copy of  
24 any written communication with the Board Clerk who shall make  
25 copies available to the public upon request.

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27 E. The designated Procurement official ~~Division~~ representative is not  
28 prohibited by this rule from initiating contact with a potential  
29 vendor or vendor's representative and engaging in subsequent  
30 communication related thereto for the purposes of obtaining further  
31 clarification regarding a response to an RFP, or competitive  
32 solicitation. Such contact shall be in writing and shall be provided  
33 to the Board Clerk and the members of the applicable selection and  
34 negotiation committee. ~~Procurement Division,~~ including any  
35 response.

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37 F. Any violation of this rule shall be investigated by the Board's  
38 Inspector General and shall result in the disqualification of the  
39 potential vendor from the competitive solicitation process, rejection  
40 of any recommendation for award to the vendor, or the revocation of  
41 an award to the vendor as being void, rendering void any previous or  
42 prior awards. The potential vendor or vendor's representative  
43 determined to have violated this rule, shall be subject to debarment.  
44 In addition to any other penalty provided by law, violation of this  
45 rule by a school district employee shall subject the employee to  
46 disciplinary action up to and including dismissal.

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**FINANCES**  
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1 F.S. 1001.41(1)(2), 1001.42(15)(25), 1001.43(10), 1001.51(14)

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