

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

SUBJECT:**INITIAL** **READING: TO AMEND BOARD POLICIES 0166, *NON-PUBLIC MEETINGS*; AND 5112, *ENTRANCE REQUIREMENTS***

COMMITTEE: PERSONNEL, STUDENT, SCHOOL, AND COMMUNITY SUPPORT

**LINK TO
STRATEGIC
BLUEPRINT: SAFE, HEALTHY & SUPPORTIVE LEARNING ENVIRONMENT**

Consistent with the Board's statutory responsibility to periodically review and update its policies to conform to legislative changes and District practices, authorization is requested for the Superintendent to initiate rulemaking proceedings to amend several Board policies related to school and student safety. These amendments have been recommended by NEOLA, Inc., the Board's policy consultant, and have been drafted in collaboration with, and reviewed by, the Superintendent, Cabinet, and District staff of departments that will implement them.

Board Policy 0166, *Non-Public Meetings*, is proposed to be amended to establish in policy the Board's existing statutory authority under Florida's Sunshine law to hold meetings related to security system plans in private. These meetings are not required under Section 281.301, F.S., to be noticed and do not require that minutes be taken or released to the public. In addition, any documents and records relating to security system plans that are reviewed or discussed during the confidential meeting are exempt from disclosure under Section 119.07(3)(a), F.S.

In addition, one of the amendments the Legislature made to Section 1006.07(1)(b), F.S., in response to the Marjory Stoneman Douglas tragedy, was that upon enrollment in a public school, students must disclose any referrals to mental health services they may have had. Board Policy 5112, *Entrance Requirements*, is proposed to be amended to add this requirement.

Attached are the Notice of Intended Action and 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 Board Policies 0166, *Non-Public Meetings*, and 5112, *Entrance Requirements*.

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 Board Policies 0166, *Non Public Meetings*, and 5112, *Entrance Requirements*.

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on February 13, 2019, its intention to amend Board Policies 0166, *Non-Public Meetings*, and 5112, *Entrance Requirements*, at its regular meeting on April 17, 2019.

PURPOSE AND EFFECT: Board Policy 0166, *Non-Public Meetings*, is proposed to be amended to establish in policy the Board's existing statutory authority under Florida's Sunshine law to hold meetings related to security system plans in private. These meetings are not required under Section 281.301, F.S., to be noticed and do not require that minutes be taken or released to the public. In addition, any documents and records relating to security system plans that are reviewed or discussed during the confidential meeting are exempt from disclosure under Section 119.07(3)(a), F.S.

Board Policy 5112, *Entrance Requirements*, is proposed to be amended to add the new statutory requirement in Section 1006.07(1)(b), F.S., that upon enrollment in a public school, students must disclose any referrals to mental health services.

SUMMARY: Board Policy 0166, *Non-Public Meetings*, is proposed to be amended to establish in policy the Board's existing statutory authority under Florida's Sunshine law to hold meetings related to security system plans in private. Board Policy 5112, *Entrance Requirements*, is proposed to be amended to add the new statutory requirement in Section 1006.07(1)(b), F.S., that upon enrollment in a public school, students must disclose any referrals to mental health services.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: 1001.41 (1), (2), (3); 1001.42 (4), (8), (11); 1001.43(1), (4), (7); F.S.

LAWS IMPLEMENTED INTERPRETED OR MADE SPECIFIC: 119.071(3)(a); 281.301; 286.011; 1006.07(1)(b); 1012.584; F.S.

IF REQUESTED, A HEARING WILL BE HELD DURING SCHOOL BOARD MEETING OF April 17, 2019, 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 March 12, 2019, 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)

COPIES OF THE PROPOSED AMENDED POLICIES are available at cost to the public for inspection and copying in the Citizen Information Center, Room 102, 1450 N.E. Second Avenue, Miami, Florida 33132.

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MEETINGS

2 0166

Non-Public Meetings

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A. Attorney-Client Sessions

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The School Board and its attorneys may meet in private to discuss pending litigation to which the Board is presently a party under the following conditions:

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1. The Board Attorney shall advise the Board at a public meeting that s/he desires advice concerning the litigation. Alternatively, the Board Attorney may submit a written request for an attorney-client session to the Board Chair.

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2. The subject matter of the meeting shall be confined to settlement negotiations or strategy sessions related to litigation expenditures.

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3. The Board shall give reasonable public notice on the Board's website and a local newspaper of the time and date of the attorney-client session and the names of persons who will be attending the session. The session shall commence at an open meeting at which the persons chairing the meeting shall announce the commencement and estimated length of the attorney-client session and the names of the persons attending.

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4. The entire session shall be recorded by a certified court reporter. The reporter shall record the times of commencement and termination of the session, all discussion and proceedings, the names of all persons present at any time, and the names of all persons speaking. No portion of the session shall be off the record. The court reporter's notes shall be fully transcribed and filed with the Clerk of the Board within a reasonable time after the meeting.
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5. At the conclusion of the attorney-client session, the meeting shall be reopened, and the person chairing the meeting shall announce the termination of the session.
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6. The transcript shall be made part of the public record upon conclusion of the litigation.
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7. Any discussions held during the attorney-client session and any materials presented at the session are confidential and may not be publicly disclosed, except as provided under F.S. 286.011(8).
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- B. Risk Management Sessions
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- The Board and its attorneys may meet in private to discuss the evaluation of claims filed with the risk management program or which relate solely to offers of compromise of claims filed with the risk management program. Until termination of all litigation and settlement of all claims arising out of the same incident, persons involved in discussions pertinent to the evaluation of a filed claim shall not be subject to subpoena in any administrative or civil proceeding with regard to the content of those discussions.

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1 All risk management sessions held between the Board, its
2 attorneys and members of the School District's Risk
3 Management department shall abide by the recording
4 requirements. The Board Attorney shall communicate the
5 need for a Risk Management session to the Chair of the Board
6 who shall determine the date the meeting will be held.

7 Risk management sessions do not require public notice. Any
8 discussions held during a risk management session and any
9 materials presented at the session are confidential and may
10 not be publicly disclosed until termination of all litigation and
11 settlement of all claims arising out of the same incident,
12 although portions of the claim files may remain exempt from
13 disclosure.

14 C. Executive Sessions

15 The Board may meet privately in confidential executive
16 session to discuss issues related to collective bargaining.

17 All work product developed by the Superintendent or the
18 Board in preparation for negotiations, and during
19 negotiations are confidential and exempt from Public Records
20 laws.

21 The Superintendent shall notify the Board of the need for an
22 executive session at the earliest practical date before the
23 session is scheduled.

24 Executive sessions of the Board do not require public notice,
25 but the memorandum setting the date, time and purpose of
26 the session may be publicly disseminated. Any discussions
27 held during an executive session and any materials presented
28 at the session are confidential, and may not be publicly
29 disclosed.

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1 D. Public-Private Partnerships and Unsolicited Proposals

2 In accordance with F.S. 255.065 and Policy 6327,
3 Public-Private Partnerships and Unsolicited Proposals, any
4 portion of a meeting of the Board during which an unsolicited
5 proposal that is exempt is discussed is non-public. Board
6 meetings to discuss exempt unsolicited proposals shall be
7 conducted in accordance with Policy 0166, Non-Public
8 Meetings, and called and noticed in the same manner as a
9 special meeting under Policy 0164, Notice of Meetings, and
10 Policy 0165, Public Meetings.

11 A complete recording must be made of any portion of an
12 exempt meeting. No portion of the meetings may be held off
13 the record. The recording of, and any records generated
14 during, the exempt meeting are exempt from F.S. 119.07(1)
15 and Section 24(a), Art. I, Fl. Constitution, until such time as
16 the Board provides notice of an intended decision for a
17 qualifying project or 180 days after receipt of the unsolicited
18 proposal by the Board if the Board does not issue a
19 competitive solicitation for the project.

20 If the Board rejects all proposals and concurrently provides
21 notice of its intent to reissue a competitive solicitation, the
22 recording and any records generated at the exempt meeting
23 remain exempt from F.S. 119.07(1) and Section 24(a), Art. I,
24 Florida Constitution, until the Board provides notice of an
25 intended decision concerning the reissued competitive
26 solicitation or until the Board withdraws the reissued
27 competitive solicitation for the project.

28 A recording and any records generated during an exempt
29 meeting are exempt for no longer than ninety (90) days after
30 the initial notice by the Board rejecting all proposals.

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1 E. Security Meetings

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3 The Board may meet privately in confidential session to
4 discuss issues related directly to or that would reveal the
5 security systems for any property owned by or leased to the
6 Board.

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8 All documents related to the meeting that would reveal a
9 security system plan or portion thereof are confidential and
10 exempt under Public Records laws.

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12 The Superintendent shall notify the Board of the need for a
13 confidential session to discuss security issues under this
14 section at the earliest practical date before the session is
15 scheduled. The Board may also convene a confidential
16 session under this section during any public meeting should
17 the need arise.

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19 These meetings are exempt from the requirements of the
20 Sunshine law. No notice of the meeting or recording of the
21 meeting is required. Any discussion held during these
22 sessions and any materials presented are confidential and
23 may not be publicly disclosed.

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25 F. Penalties For Violation of Confidentiality of Closed Sessions

26 All participants attending these non-public meetings must
27 maintain the confidentiality of the information provided and
28 may not disclose this information to the public. Disclosure of
29 confidential information may place the Board in a
30 disadvantageous position in either litigation or in collective
31 bargaining. In addition, disclosure of such confidential
32 information could be a violation of the Code of Ethics for
33 Public Officers and Employees as outlined under F.S.
34 Chapter 112. A complaint shall be filed, if deemed
35 appropriate, by the Ethics Advisory Committee with the
36 Florida Commission on Ethics against any individual who is
37 determined to have disclosed confidential information that
38 was provided solely at an attorney-client, risk management,
39 or executive session. The Florida Commission on Ethics has

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1 the authority to make final determinations with regard to
2 such complaints. Participants at these sessions are not
3 precluded from using the information provided in these
4 sessions to fulfill the duties and responsibilities of their
5 assigned administrative positions.

6 | FG. Settlement Authority

7 Any settlements of civil cases that are reached as a result of
8 an attorney-client session and that are beyond the monetary
9 threshold afforded to the Board Attorney shall be presented to
10 the Board for approval. Settlements of tort cases that are
11 reached as a result of direction given at a risk management
12 session do not require Board authorization if they do not go
13 beyond the previously established monetary thresholds.

14 | GH. Scheduling

15 The Board shall first consider Wednesdays to schedule all
16 meetings in which Board members are requested to attend,
17 recognizing that certain factors may impede consideration for
18 Wednesdays including, but not limited to, advertisements,
19 agenda publication deadlines, emergency meetings, annual
20 organizational meeting, legislatively mandated periods for
21 special meetings and budget public hearings, religious
22 holidays, previously scheduled calendared conflicts and
23 travel, legislative session, Dade Days, and graduations.

24 Revised 6/18/14
25 Revised 1/25/17

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ENTRANCE REQUIREMENTS

2 All children who have attained the age of six (6) years or who will have attained the
3 age of six (6) years by February 1st of any school year or who are older than six (6)
4 years of age but have not attained the age of sixteen (16) years, except as otherwise
5 provided in Florida law, are required to attend school regularly during the entire
6 school term. All children enrolling in a District school shall meet the immunization
7 requirements in F.S. 1003.22 and provide evidence of a physical exam. The person
8 enrolling the student shall report in person to the school to enroll their school age
9 child.

10 A child who attains the age of sixteen (16) during the school year is not subject to
11 compulsory school attendance beyond the date upon which s/he attains that age if
12 the child files a formal declaration of intent to terminate school enrollment with the
13 School Board. The declaration must acknowledge that terminating school
14 enrollment is likely to reduce the student's earning potential and must be signed by
15 the child. The District must notify the parent of the child's declaration of intent to
16 terminate school enrollment.

17 **Kindergarten**

18 Any child who will have attained the age of five (5) years on or before September 1st
19 of the school year shall be eligible to enroll in kindergarten at any time during the
20 year.

21 A transferring kindergarten student is eligible to be enrolled in the District if the
22 entrance age requirements have been met outside Florida and the child had been
23 regularly enrolled there.

24 Children entering kindergarten in the District for the first time must comply with
25 F.S. 1003.21 regarding entry age. A child must be five (5) years old on or before
26 September 1st, in order to meet the Florida age requirement for kindergarten. A
27 child under age six (6) who is enrolled in kindergarten will be considered of
28 compulsory school age.

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1 **First Grade**

2 Any child who has attained the age of six (6) years on or before September 1st of the
3 school year and satisfactorily completed the requirements for kindergarten in a
4 public school according to the District's Student Progression Plan (Policy 5410) or in
5 a nonpublic school from with the Board accepts transfer of academic credit, or who
6 otherwise meets the criteria for admission or transfer in a manner similar to that
7 applicable to other grades shall be admitted or promoted to the first grade at any
8 time during the school year.

9 A transferring first grade student is eligible to be enrolled in the District if the
10 entrance-age requirements have been met outside Florida and the child had been
11 regularly enrolled there.

12 Children entering first grade in the District for the first time must comply with
13 F.S. 1003.21. Any child who has attained the age of six (6) years on or before
14 September 1st of the school year and who has been enrolled in a public school or
15 who has attained the age of six (6) years on or before September 1st and has
16 satisfactorily completed the requirements for kindergarten in a non-public school, or
17 who otherwise meets the criteria for admission or transfer in a manner similar to
18 that applicable to other grades, shall progress according to the District's Student
19 Progression Plan (Policy 5410).

20 **Initial Entry**

21 Every child initially entering a District school must prove age by an authentic
22 document issued by a governmental agency. The school should attempt to verify age
23 at the time of spring registration. State law (F.S. 1003.21) specifies the evidence
24 which may be used for this purpose and also indicates that if the first prescribed
25 evidence is not available, the next evidence obtainable in the order below shall be
26 accepted:

27 A. a duly attested transcript of the child's birth record filed according
28 to law with a public officer charged with the duty of recording births;

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- 1 B. a duly attested transcript of a certificate of baptism showing the
2 date of birth and place of baptism of the child, accompanied by an
3 affidavit sworn to by the parent;
- 4 C. an insurance policy on the child's life which has been in force for at
5 least two (2) years;
- 6 D. a bona fide contemporary Bible record of the child's birth
7 accompanied by an affidavit sworn to by the parent;
- 8 E. a passport or certificate of arrival in the United States showing the
9 age of the child;
- 10 F. a transcript of record of age shown in the child's school record of at
11 least four (4) years prior to application, stating date of birth; or
- 12 G. if none of this evidence can be produced, an affidavit of age sworn to
13 by the parent, accompanied by a certificate of age signed by a public
14 health officer or by a public school physician, or, if neither of these
15 is available in the county, by a licensed practicing physician
16 designated by the Board, which certificate shall state that the health
17 officer or physician has examined the child and believes that the age
18 as stated in the affidavit is substantially correct.
- 19 H. Children entering the District for the first time must comply with
20 F.S. 1003.21 and with the District's Student Progression Plan
21 (Policy 5410). Students must have an immunization record on file
22 at the school. Any student who does not have the proper
23 immunization shall be temporarily excluded from attendance until
24 compliance has been documented.

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1 I. Upon a child's initial entry to a District school, the principal shall
2 require evidence of a physical examination performed within one (1)
3 year prior to the date of entry. An appointment for a physical
4 examination by a county health officer, licensed physician, or
5 chiropractor may be accepted provided the principal is given
6 evidence of the physical examination within one (1) week of such
7 examination. Students transferring into the District from a school
8 within the State of Florida who have completed physical examination
9 form as part of their school record need not be re-examined.
10 Examinations taken out-of-state may be accepted if performed
11 within one (1) year of entry and include documentation and reported
12 on the official forms of the physician.

13 J. A child may be exempt from the required physical examination
14 and/or immunization upon written request of the parent or
15 guardian of such child stating objection to examination and/or
16 immunization on religious grounds or for medical reasons certified
17 by a competent medical authority.

18 **Proof of Age**

19 If acceptable proof of age is not presented when the child first seeks admission, the
20 principal should enroll the student temporarily and give the parent thirty (30)
21 calendar days to secure proper proof.

22 **Birth Certificate**

23 The Division of Attendance Services will supply appropriate forms for making
24 application for a birth certificate. Some parents may need help from school
25 personnel in completing these applications. Providing such assistance will enable
26 the school to be sure that the proper procedure has been followed. Original copies
27 of birth certificates usually have an embossed seal imprinted on them. All
28 photostatic copies not bearing this seal should be carefully evaluated to determine
29 authenticity.

30 If questions arise which the school cannot answer regarding birth certificates, the
31 principal should call the appropriate region director.

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1 **Student Disclosures**

2 Each student at the time of initial registration for school shall note previous school
3 expulsions, arrests resulting in a charge, ~~and~~ juvenile justice actions, and referrals
4 to mental health services, the student has had.

5 **Verification of Residence**

6 Verification of a parent's residence via a Statement of Bonafide Residence - FM-7444
7 shall be required at the time the child registers in a District school. Verification of
8 residence may also be required at any other time at the discretion of the
9 Superintendent. The student shall reside with the parent placing the student in the
10 attendance area of the school.

11 In addition, submission of two (2) of the following items are required:

- 12 A. broker's or attorney's statement of parents' purchase of residence, or
13 properly executed lease agreement;
- 14 B. current Homestead Exemption card;
- 15 C. electric deposit payment receipt or electric bill, bottom portion,
16 showing name and service address.

17 If verification is not provided or acceptable, the Superintendent may verify the
18 student's residence.

19 If an electric deposit payment receipt is used as verification, the electric bill, bottom
20 portion, must also be submitted to the school within forty (40) calendar days after
21 registration. If the parent is unable to furnish the school with the requested electric
22 deposit payment receipt, the student will be allowed to enroll in the new school, but
23 must submit the electric bill, bottom portion, to the school within forty (40) calendar
24 days.

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1 When a change of family residence occurs after ninety (90) school days in which a
2 student is enrolled in a school which would place the student in a different
3 attendance area, the student, upon the request of the parent, may complete the year
4 in the present school. No transportation will be provided.

5 When a change of family residence occurs after ninety (90) days in which a student
6 is enrolled in grades 11 through 12, or is enrolled in the last grade offered at a
7 school, which would place the student in a different attendance area, the student,
8 upon the request of the parent, may remain in the present school through
9 graduation (for grades 11 through 12), or the last grade offered at the school. No
10 transportation will be provided.

11 The Board authorizes the Superintendent to create, generate, communicate, store,
12 process, use, and rely upon electronic signatures from a parent. District staff and
13 parents shall comply with all the provisions of F.S. 668.50 regarding electronic
14 records and electronic signatures.

15 Anyone who knowingly makes a false statement in writing with the intent to mislead
16 a public servant in the performance of his/her official duty is guilty of a
17 second-degree misdemeanor of the second degree under F.S. 837.06. In addition,
18 anyone who knowingly makes a false verified declaration is guilty of perjury, a
19 third-degree felony under F.S. 95.525.

20 F.S. 92.525

21 F.S. 837.06

22 F.S. 1003.01

23 F.S. 1003.21

24 F.S. 1003.22

25 [F.S. 1006.07\(1\)\(b\)](#)

26 [F.S. 1012.584](#)

27 [F.A.C. 6A-1.098](#)

28 F.A.C. 6A-1.0985

29 Revised 4/15/15

30 Revised 3/9/16

31 Revised 4/25/18

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