

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

SUBJECT: FINAL **READING: TO AMEND BYLAW 0165, PUBLIC MEETINGS**

COMMITTEE: **PERSONNEL, STUDENT, SCHOOL, AND COMMUNITY SUPPORT**

LINK TO STRATEGIC BLUEPRINT: **INFORMED, ENGAGED & EMPOWERED STAKEHOLDERS**

At its regular meeting of June 17 2020, the Board approved Revised Agenda Item G-2 (Emergency Meetings), which authorized the initiation of rulemaking proceedings to revise Bylaw 0165, *Public Meetings*, to clarify that a cancellation of a Board meeting shall take place if a state of emergency exists and schools and/or district offices are closed by the Superintendent and should specify the process for cancellation. The amendments provide that any Board meeting scheduled to take place during a state of emergency declared by the Governor and the Superintendent closes schools and/or district offices under Policy 8420, shall be cancelled. Both conditions must be present for a meeting to be automatically cancelled. The new language states that the Board Chair shall notify the Board and the Superintendent of the cancellation. Current language remains that the Board Chair shall poll the Board members to reschedule a cancelled meeting and added language clarifies that both the cancelled and rescheduled meetings will be appropriately noticed by the Superintendent in accordance with law and Bylaw 0164, *Notice*.

In addition, Bylaw 0165 is proposed to be amended to add a new section that will allow the Board to hold virtual meetings in the future when the Governor declares a statewide emergency and suspends the quorum and location requirements for Board meetings without the necessity of adopting an emergency policy.

The Notice of Intended Action was published in the *Miami Daily Business Review* on June 22, 2020 and posted in various places for public information and mailed to various organizations representing persons affected by the amended policies and individuals requesting notification. The time to request a hearing or protest the adoption of these amendments has elapsed.

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.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, adopt the proposed amendments to Board Bylaw 0165, *Public Meetings*, and authorize the Superintendent to file the amended policy with The School Board of Miami-Dade County, Florida, to be effective August 12, 2020.

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on June 17, 2020, its intention to amend Board Bylaw 0165, *Public Meetings* at its regular meeting on August 12, 2020.

PURPOSE AND EFFECT: Bylaw 0165, *Public Meetings*, is proposed to be amended to provide that any Board meeting scheduled to take place during a state of emergency declared by the governor, and when schools have been closed under Policy 8420, shall be cancelled. Both conditions must be present for a meeting to be automatically cancelled. The new language states that the Board Chair shall notify the Board and the Superintendent of the cancellation. In addition, a new section is added to allow the Board to meet virtually when the Governor declares a statewide emergency and suspends statutory quorum and location requirements for Board meetings.

SUMMARY: Language is proposed to be added to Bylaw 0165, *Public Meetings*, to clarify when emergency meetings shall be automatically cancelled and that the Board Chair shall notify the Board and the Superintendent of the cancellation. In addition, a new section is added to allow the Board to meet virtually when the Governor declares a statewide emergency and suspends statutory quorum and location requirements for Board meetings.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: 1001.41 (1), (2); 1001.42 (6),(7); 1001.43 (10), (11), F.S.

LAWS IMPLEMENTED INTERPRETED OR MADE SPECIFIC: 1000.05(7); 1001.43(10), F.S.

IF REQUESTED, A HEARING WILL BE HELD DURING THE SCHOOL BOARD MEETING OF August 12, 2020, 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 14, 2020, 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 POLICY 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.



DadeSchools.net
Giving our students the world

Book	Policy Manual
Section	August 12, 2020 - <u>Final</u> Reading
Title	PUBLIC MEETINGS
Code	0165
Status	<u>Final</u> Reading
Adopted	May 11, 2011

0165 - PUBLIC MEETINGS

All meetings at which official acts are to be taken are open public meetings, and no resolution, rule, policy, regulation, or formal action shall be considered binding except as taken or made at such a meeting. All meetings of the School Board shall be open to the public, except as provided by Florida law, and the order of business of any regular meeting shall include an opportunity for the public to address the Board. The purpose of the public portion of the Board meeting, however, is to allow the public to address specific agenda items and general matters within the Board's jurisdiction.

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

A. Regular Meeting

The Board shall hold at least one (1) regular meeting each month according to a schedule approved by the Board at its organization meeting.

All regular meetings will begin at 11:00 a.m. in the Board Administration Building Auditorium, 1450 Northeast Second Avenue, Miami, Florida. At 11:00 a.m., the Board will address Board member agenda items designated by the Board Chair and seeking approval of recognitions, resolutions, endorsements, or proclamations. Board members are limited to one (1) presentation of these types of items per Board meeting. A quorum is not necessary for these presentations. All persons signed up to speak to these items may do so at this time. Whenever practicable as determined by the Board Chair, these types of presentations should be given to students prior to any others during this portion of the meeting. However, if there are other extenuating circumstances, any Board member may request that their presentation be made before any other presentation.

The Superintendent's Special Orders shall follow the Board member presentations. The Board may then recess for lunch if time permits. The Board meeting will reconvene at 1:00 p.m., at which time a quorum must be present. The Board shall first ratify by majority vote any recognitions, resolutions, endorsements, or proclamations that were presented at the 11:00 a.m. portion of the meeting and then complete the remainder of the regular Board meeting agenda.

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

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

B. Board Committee Meetings

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

C. Special Meeting

Special meetings may be called for official action on topics specified in the call and agenda for the meeting. Special meetings may be convened when called by the Superintendent, or by the Superintendent on request of the Chair of the Board, ~~through the Superintendent;~~ or by on request of a majority of the members of the Board. A majority of the members of the Board may only request the convening of a special meeting of the full Board by seeking the approval of a majority of the members present at a regular or special Board meeting.

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

D. Emergency Meeting

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

E. Public Hearings

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

F. Conference Session

Conference sessions may be conducted to receive information and confer with the Superintendent on issues requiring in-depth consideration and discussion with a possible proposed recommended action to be taken by the Board at an upcoming regular meeting.

Citizens will not be heard at conference sessions unless the Board determines otherwise in advance of the session. A conference session shall be scheduled in the same manner as a regular Board meeting.

G. Workshop

Workshops may be scheduled to receive information and confer with the Superintendent

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

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

H. Member Conferences

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

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

I. Cancellation and Rescheduling of Board Meetings Due to Emergencies

Whenever the governor declares a state of emergency and ~~consistent with such a declaration,~~ the Superintendent ~~subsequently initiates the closing of~~ schools, or District offices when school is not in session, under Policy 8420, *Emergency Closing of Schools*, any Board meeting scheduled to take place during ~~the state of emergency, that time~~ shall be cancelled. Both conditions must be present on the day of the meeting in order for a meeting to be cancelled. The Chair of the Board shall notify the Board and the Superintendent of the meeting cancellation.

The Chair of the Board shall poll the Board to reschedule the cancelled meeting as soon as practicable after the state of emergency is lifted or on a date that will not adversely affect the health, safety, and welfare of District employees and of the general public.

The cancelled and rescheduled meetings shall be appropriately noticed by the Superintendent in accordance with law and Bylaw 0164, Notice.

J. Virtual Meetings During Declared Statewide Emergencies

Whenever the Governor, during a declared statewide emergency, suspends state statutes requiring a physical quorum be present for Board meetings and that Board meetings must take place in a specific location, the Board may meet virtually and all provisions of this policy that require a physical quorum of the Board be present or that the Board meetings take place in a physical location are automatically waived. Provision must be made for public access and participation in any virtual public Board meeting in accordance with applicable law and policy. Portions of the meeting required under Board policy such as the public hearing may be eliminated to protect the health, safety, and welfare of the Board,

Students, District staff, and the public. Appropriate notice of virtual Board meetings must be made in accordance with Board policies, the Administrative Procedure Act, and the Sunshine Law. Board Advisory Committees may also meet virtually under these circumstances and must meet the same requirements for notice, public access and participation.

Effective 7/1/11
Revised 9/7/11
Revised 10/16/13
Revised 6/18/14
Revised 9/9/15
Revised 1/17/18
Revised 4/25/18

© **Miami-Dade 2018**

Legal Attorney General Advisory Legal Opinion 2020-03
F.S. 286.011
F.S. 286.0114
F.S. 1001.371