

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

SUBJECT: INITIAL READING: AMENDMENT OF BYLAW 0165, PUBLIC MEETINGS

COMMITTEE: FISCAL ACCOUNTABILITY & GOVERNMENT RELATIONS

LINK TO STRATEGIC BLUEPRINT: INFORMED, EMPOWERED & ENGAGED STAKEHOLDERS

At its regular Board Meeting of December 9, 2020, the Board approved Agenda Item H-9 (Revised Good Cause), sponsored by Ms. Mari Tere Rojas, Board Member, and approved for inclusion in the Agenda by the Board Chair, Ms. Perla Tabares Hantman. Item H-9 authorized the Superintendent to initiate rulemaking proceedings to amend Board Bylaw 0165, *Public Meetings*, to authorize Board member participation in public Board meetings through communications media technology under extraordinary circumstances, so long as a physical quorum of Board members is physically present at the meeting.

This item is presented for the Board's consideration to amend Board Bylaw 0165 to provide for the following:

- Permitting School Board members to participate and vote at any public meeting of the Board through communications media technology under extraordinary circumstances as long as a physical quorum of Board members is present at the meeting;
- Requiring that meeting notices include notice that arrangements for access, participation, and voting in public Board meetings utilizing communications media technology will be made available to one or more Board members who are unable to be physically present at the meeting because of extraordinary circumstances, as determined by a majority of Board members physically present;
- Requiring that the Board member who desires to attend a public Board meeting utilizing communications media technology due to extraordinary circumstances transmit the request to the Board in advance of the public meeting and provide a description of the extraordinary circumstances requiring the Board member's participation and voting through communications media technology;
- Requiring the Board to vote at the beginning of the meeting whether to allow the Board member's participation and voting through communications media technology at that meeting.

It is recommended that The School Board of Miami-Dade County, Florida, amend Bylaw 0165, *Public Meetings*, in order to authorize Board member participation in public Board meetings through communications media technology under extraordinary circumstances as long as a physical quorum of Board members is physically present at the meeting.

Attached are the Notice of Intended Action and the proposed amendment to the bylaw.

Authorization of the Board is requested for the Superintendent to initiate rulemaking proceedings in accordance with the Administrative Procedure Act to amend School Board Bylaw 0165, *Public Meetings*.

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 School Board Bylaw 0165, *Public Meetings*.

NOTICE OF INTENDED ACTION TO ADOPT EMERGENCY POLICY

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on January 13, 2021, its intention to amend Board Bylaw 0165, *Public Meetings*, at its regular meeting on March 17, 2021.

PURPOSE AND EFFECT OF AMENDMENT: Board Bylaw 0165, *Public Meetings*, is proposed to be amended to permit School Board members to participate and vote in public Board meetings through communications media technology under extraordinary circumstances.

Board Bylaw 0165, *Public Meetings*, is proposed to be amended to permit School Board members to participate and vote at any public meeting of the Board through communications media technology under extraordinary circumstances as long as a physical quorum of Board members is present at the meeting; require that meeting notices include notice that arrangements for access, participation, and voting in public Board meetings utilizing communications media technology will be made available to one or more Board members who are unable to be physically present at the meeting because of extraordinary circumstances, as determined by a majority of Board members physically present; require that the Board member who desires to attend a public Board meeting utilizing communications media technology due to extraordinary circumstances transmit the request to the Board in advance of the public meeting and provide a description of the extraordinary circumstances requiring the Board member's participation and voting through communications media technology; and require the Board to vote at the beginning of the meeting whether to allow the Board member's participation and voting through communications media technology at that meeting.

SUMMARY: Board Bylaw 0165, *Public Meetings*, is proposed to be amended to permit School Board members to participate and vote in public Board meetings through communications media technology under extraordinary circumstances.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: 120.536; 120.54(1); 120.81(1); 286.011; 286.0114; 1001.41; 1001.43(10), F.S.

LAWS IMPLEMENTED INTERPRETED OR MADE SPECIFIC: 1001.41(1), (2), (5); 1001.43(10); 1001.372, F.S.; Fla. Atty. Gen. Op. 98-28 (1998); Fla. Atty. Gen. Op. 03-41 (2003); Fla. Atty. Gen. Op. 20-03 (2020).

IF REQUESTED, A HEARING WILL BE HELD DURING SCHOOL BOARD MEETING OF March 17, 2021, 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 February 10, 2021, 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 POLICY 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.



Book	Policy Manual
Section	<u>Initial</u> Reading January 13, 2021
Title	PUBLIC MEETINGS
Code	0165
Status	<u>Initial</u> Reading
Adopted	May 11, 2011
Last Revised	August 12, 2020

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, or 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 the Superintendent closes 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 that time shall be canceled. Both conditions must be present on the day of the meeting in order for a meeting to be canceled. 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 canceled 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 canceled 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.

K. Participation and Voting by Board Members at Public Board Meetings Through Communications Media Technology in Extraordinary Circumstances

An individual Board member may make a request to the Board to participate and vote virtually or through teleconferencing means at any public meeting of the Board as described in this policy, due to extraordinary circumstances that exist for that member, as long as there is a quorum of Board members physically present at the meeting. Participation and voting by a physically absent member shall be allowed only in extraordinary circumstances as determined by a majority of Board members physically present. Board members shall not attend any non-public meeting of the Board, as described in Policy 0166, *Non-Public Meetings*, through the use of communications media technology.

1. Process

The Board member who desires to attend a public Board meeting utilizing communications media technology due to extraordinary circumstances shall transmit the request to the Board in advance of the public meeting and provide a description of the extraordinary circumstances requiring the Board member's participation and voting through communications media technology. The Board will vote at the beginning of the meeting whether to allow the Board member's participation and voting through communications media technology at that meeting.

2. Notice

Notice for any Board meeting held shall be in accordance with Board Policy 0164, Notice of Meetings. The Notice must state that arrangements for access, participation, and voting in public Board meetings utilizing communications media technology will be made available to one or more Board members who are unable to be physically present at the meeting because of extraordinary circumstances, as determined by a majority of Board members physically present.

3. Quorum

Once a physical quorum of Board members is established, a Board member may participate and vote through communications media technology if approved by the Board at the meeting and based only on extraordinary circumstances that prevent the Board member from being physically present at the meeting. A physical quorum must be present for all public Board meetings and must be maintained throughout the meeting.

4. Access and Participation by Board Member

The Superintendent shall make all necessary arrangements to allow for Board members to access, participate, and vote in public Board meetings utilizing communications media technology to the extent required by applicable law and this policy and when approved by the Board to do so. A Board member appearing at a meeting via communications media technology pursuant to this section shall be sure to announce each of their votes verbally.

5. Relationship to Other Policies

Any School Board Policy provisions relating to meetings that otherwise do not conflict with the provisions of this policy remain in full force and effect.

Effective 7/1/11
Revised 9/7/11
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Revised 6/18/14
Revised 9/9/15
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Revised 8/12/20

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Legal

F.S. 1001.41
F.S. 1001.43(10)
F.S. 1001.372
F.S. 120.81(1)
F.S. 120.54(1)
F.S. 286.011
F.S. 286.0114
Fla. Atty. Gen. Op. 98-28
Fla. Atty. Gen. Op. 03-41
Fla. Atty. Gen. Op. 20-03