

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

SUBJECT: **INITIAL READING: PROPOSED AMENDMENTS TO SCHOOL BOARD POLICIES 1213, 3213, 4213, STUDENT SUPERVISION AND WELFARE, AND 1232, 3232, 4232, POLITICAL ACTIVITIES**

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

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

Consistent with the Board's statutory responsibility to periodically review and update policies to conform to legislative changes and District practices, authorization is requested for the Superintendent to initiate rulemaking proceedings to amend Policy 1213, *Student Supervision and Welfare* (and corresponding policies 3213 and 4213), as a result of HB-1557, *Parental Rights in Education* (2022), and to amend Policy 1232, *Political Activities* (and corresponding policies 3232 and 4232), as a result of, as a result of HB-921, *Campaign Finance* (2022).

Policy 1213, *Student Supervision and Welfare* (and corresponding policies 3213 and 4213) are proposed for amendment as a result of HB-1557, *Parental Rights in Education* (2022), revising Florida Statutes, Section 1001.42(8)(c) to include a procedure for complaints that parents may file at their child's school regarding notification of a change in services or monitoring related to student mental, emotional, or physical health or well-being and the school's ability to provide a safe and supportive learning environment for the student. The policy amendments specify that the principal must review the concerns, communicate with those involved, and may meet with the parent in person or electronically. The complaint must be resolved by the principal within seven (7) days. If the parent then notifies the principal within seven (7) days that the concerns remain unresolved, the principal must notify the Office of School Leadership and Performance. The District then has thirty (30) days to resolve the complaint or provide a written statement of the reasons for not resolving the concern.

Policy 1232, *Political Activities* (and corresponding policies 3232 and 4232) are proposed for amendment as a result of HB-921, *Campaign Finance* (2022), revising Florida Statutes, Section 106.113, *Expenditures by Local Governments* (including school districts). The proposed amendments clarify that Board employees may not expend public funds for a political advertisement or any other communication sent to electors concerning an issue, referendum, or amendment, including State questions, that is subject to a vote of the electors. The proposed amendments specify that the prohibition applies to a communication initiated by a local government or person acting on behalf of a local government, irrespective of whether the

communication is limited to factual information or advocates for the passage or defeat of an issue, referendum, or amendment, but that local government or a person acting on behalf of local government is not precluded from reporting on official actions of the local government's governing body in an accurate, fair, and impartial manner; posting factual information on a government website or in printed materials; hosting or providing information at a public forum; providing factual information in response to an inquiry; or providing information as otherwise authorized or required by law. The proposed amendments also define "political advertisement" and "communications medium," in accordance with Florida Statutes, Section 106.011.

These policy amendments were drafted in collaboration with, and reviewed by the Superintendent, Cabinet, and District staff. The Notice of Intended Action and policy with strikethroughs and underlines are attached.

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 1213, 3213, 4213, *Student Supervision and Welfare*, and Policies 1232, 3232, 4232 *Political Activities*.

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on August 15, 2022, its intention to amend Board Policies 1213, 3213, 4213, *Student Supervision and Welfare*, and Policies 1232, 3232, 4232, *Political Activities*, at its meeting of October 19, 2022.

PURPOSE AND EFFECT: Board Policies 1213, 3213, 4213, *Student Supervision and Welfare*, and Policies 1232, 3232, 4232, *Political Activities*, are proposed for amendment to conform to legislative changes and District practices.

SUMMARY: Policies 1213, 3213, 4213, *Student Supervision and Welfare*, are proposed for amendment as a result of HB-1557, *Parental Rights in Education (2022)*, revising Florida Statutes, Section 1001.42(8)(c) to include a procedure for complaints that parents may file at their child's school regarding notification of a change in services or monitoring related to student mental, emotional, or physical health or well-being and the school's ability to provide a safe and supportive learning environment for the student. The policy amendments specify that the principal must review the concerns, communicate with those involved, and may meet with the parent in person or electronically. The complaint must be resolved by the principal within seven (7) days. If the parent then notifies the principal within seven (7) days that the concerns remain unresolved, the principal must notify the Office of School Leadership and Performance. The District then has thirty (30) days to resolve the complaint or provide a written statement of the reasons for not resolving the concern. Policies 1232, 3232, 4232, *Political Activities*, are proposed for amendment as a result of HB-921, *Campaign Finance (2022)*, revising Florida Statutes, Section 106.113, *Expenditures by Local Governments* (including school districts). The proposed amendments clarify that Board employees may not expend public funds for a political advertisement or any other communication sent to electors concerning an issue, referendum, or amendment, including State questions, that is subject to a vote of the electors. The proposed amendments specify that the prohibition applies to a communication initiated by a local government or person acting on behalf of a local government, irrespective of whether the communication is limited to factual information or advocates for the passage or defeat of an issue, referendum, or amendment, but that local government or a person acting on behalf of local government is not precluded from reporting on official actions of the local government's governing body in an accurate, fair, and impartial manner; posting factual information on a government website or in printed materials; hosting or providing information at a public forum; providing factual information in response to an inquiry; or providing information as otherwise authorized or required by law. The proposed amendments also define "political advertisement" and "communications medium," in accordance with Florida Statutes, Section 106.011.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: Fla. Stat. ss. 1001.41(1), (2); 1001.42(8).

LAWS IMPLEMENTED INTERPRETED OR MADE SPECIFIC: Fla. Stat. 1001.42(8); 106.113.

IF REQUESTED, A HEARING WILL BE HELD DURING SCHOOL BOARD MEETING OF October 19, 2022, 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 September 14, 2022, 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 158, 1450 N.E. Second Avenue, Miami, Florida 33132.



Book	Policy Manual
Section	August 15, 2022 - <u>Initial</u> Reading
Title	STUDENT SUPERVISION AND WELFARE
Code	1213
Status	<u>Initial</u> Reading
Adopted	May 11, 2011

1213 - **STUDENT SUPERVISION AND WELFARE**

Protecting the physical and emotional well-being of students is of paramount importance. Each staff member shall maintain the highest professional, moral, and ethical standards in dealing with the supervision, control, and protection of students on or off school property.

I. Standards of Student Supervision

Standards of student supervision **include**are:

- A. Staff members shall report immediately to a building administrator any accident, safety hazard, or other potentially harmful condition or situation s/he detects.
- B. Staff members shall provide proper instruction in safety matters.
- C. Staff members shall immediately report to a building administrator knowledge of threats of violence by students.
- D. Staff members shall not send students on any non-school related errands.
- E. Staff members shall not inappropriately associate with students at any time in a manner which may give the appearance of impropriety, including, but not limited to, the creation or participation in any situation or activity which could be considered abusive or sexually suggestive or involve illegal substances such as drugs, alcohol, or tobacco.
- F. Staff members shall not engage in unacceptable relationships and/or communications with students. Unacceptable relationships and/or communications with students include, but are not limited to the following: dating; any form of sexual touching or behavior; making sexual, indecent or illegal proposals, gestures or comments; and/or exploiting an employee-student relationship for any reason. Any sexual or other inappropriate conduct with a student by any staff member will subject the offender to potential criminal liability and discipline up to and including termination of employment.
- G. Staff members who have knowledge of or have reasonable cause to suspect that another employee is engaging in unacceptable relationships and/or communications with a student shall immediately report such information to a site or region supervisor. Failure to do so shall constitute a violation of this Board policy.
- H. If a student approaches a staff member to seek advice or to ask questions regarding a personal problem related to sexual behavior, substance abuse, mental or physical health, and/or family relationships, etc., the staff member may attempt to assist the student by facilitating contact with certified or licensed individuals in the District or community who specialize in the assessment, diagnosis, and treatment of the student's stated problem. However, under no circumstances should a staff member attempt, unless properly certified, licensed and authorized to do so, to counsel, assess, diagnose, or treat the student's problem or behavior, nor should such staff member inappropriately disclose personally identifiable information concerning the student to third persons not specifically authorized by law.



Book	Policy Manual
Section	August 15, 2022 - <u>Initial</u> Reading
Title	POLITICAL ACTIVITIES
Code	1232
Status	<u>Initial</u> Reading
Adopted	May 11, 2011

1232 - **POLITICAL ACTIVITIES**

Administrative staff members shall not participate in any political campaign for an elective office while on duty.

Pursuant to State law and Policy 6480, **Expenditures**, administrative staff members may not expend public funds (that is, any funds under the jurisdiction or control of the District) for a political advertisement or **any other electioneering communication sent to electors** concerning an issue, referendum, or amendment, including State questions, that is subject to a vote of the electors. **The prohibition applies to a communication initiated by a local government or person acting on behalf of a local government, irrespective of whether the communication is limited to factual information or advocates for the passage or defeat of an issue, referendum, or amendment. Local government or a person acting on behalf of local government is not precluded from reporting on official actions of the local government's governing body in an accurate, fair, and impartial manner; posting factual information on a government website or in printed materials; hosting or providing information at a public forum; providing factual information in response to an inquiry; or providing information as otherwise authorized or required by law.**

Pursuant to F.S. 106.011:

- A. **"Political advertisement" means a paid expression in a "communications medium," whether radio, television, newspaper, magazine, periodical, campaign literature, direct mail, or display or by means other than the spoken word in direct conversation, which expressly advocates the election or defeat of a candidate or the approval or rejection of an issue. However, political advertisement does not include:**
- a statement by an organization, in existence before the time during which a candidate qualifies or an issue is placed on the ballot for that election, in support of or opposition to a candidate or issue, in that organization's newsletter, which newsletter is distributed only to the members of that organization;**
 - editorial endorsements by a newspaper, a radio or television station, or any other recognized news medium.**
- B. **"Communications medium" means broadcasting stations, newspapers, magazines, outdoor advertising facilities, printers, direct mail, advertising agencies, the Internet, and telephone companies; but with respect to telephones, an expenditure is deemed to be an expenditure for the use of communications media only if made for the costs of telephones, paid telephonists, or automatic telephone equipment to be used by a candidate or a political committee to communicate with potential voters but excluding the costs of telephones incurred by a volunteer for use of telephones by such volunteer; however, with respect to the Internet, an expenditure is deemed an expenditure for use of communications media only if made for the cost of creating or disseminating a message on a computer information system**

accessible by more than one person but excluding internal communications of a campaign or of any group.

Administrative staff who declare themselves candidates for an elective office shall notify the Superintendent immediately upon filing to run. All candidates for public office may be granted personal leave without pay. The administrative staff member's request for leave shall be submitted according to the established procedure.

Candidates shall adhere strictly to Florida law governing political activity on the part of public officials and public employees.

Effective 7/1/11

Legal	F.S. 106.113
	F.S. 110.233
	F.S. 104.31
	F.A.C. 60L-36.002