

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

SUBJECT: **FINAL READING: PROPOSED AMENDMENTS TO SCHOOL BOARD POLICIES 0118, PURPOSE OF THE BOARD, 6460 BUSINESS CODE OF ETHICS, AND 9150, SCHOOL VISITORS**

COMMITTEE: **FISCAL ACCOUNTABILITY & GOVERNMENT RELATIONS**

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

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 to amend Board Policies 0118, *Purpose of the Board*, 6460 *Business Code of Ethics*, and 9150, *School Visitors*.

Board Policies 0118, *Purpose of the Board*, and 6460, *Business Code of Ethics*, are proposed for amendment pursuant to H-9, *Protocol for Legislative Advocacy*, sponsored by Board Chair, Ms. Perla Tabares Hantman, and approved by the Board at its regular meeting of May 18, 2022, which directed the Superintendent to review School Board policies, procedures, and practices, and where necessary and appropriate, to initiate rulemaking proceedings to enhance rules of professional conduct between our legislative consultants and the School Board.

Board Policy 9150, *School Visitors*, is proposed for amendment in response to SB 758, *Education (2022)*, and legislative amendments to Florida Statutes, Section 1001.4205, *Individuals Authorized to Visit Schools*, authorizing a member of the Legislature to visit any public school in the legislative district of the member. The legislator must abide by the same statutory requirements for Board members who visit any district school.

The Notice of Intended Action was published in the Miami Daily Business Review on August 22, 2022, posted in various places for public information, and mailed to various organizations representing persons affected by the adopted and amended Board policies and individuals requesting notification. The time to request a hearing or protest the adoption and amendment of these policies has elapsed.

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

RECOMMENDED: That The School Board of Miami-Dade County, Florida, amend Policies 0118, *Purpose of the Board*, 6460 *Business Code of Ethics*, and 9150, *School Visitors*, and authorize the Superintendent to file the policies with The School Board of Miami-Dade County, Florida, to be effective October 19, 2022.

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on August 15, 2022, its intention to amend Board Policies 0118, *Purpose of the Board*, 6460, *Business Code of Ethics*, and 9150, *School Visitors*, at its meeting of October 19, 2022.

PURPOSE AND EFFECT: Board Policies 0118, *Purpose of the Board*, 6460, *Business Code of Ethics*, and 9150, *School Visitors*, are proposed for amendment to conform to legislative changes and as a result of Board action.

SUMMARY: Board Policies 0118, *Purpose of the Board*, and 6460, *Business Code of Ethics*, are proposed for amendment pursuant to enhance rules of professional conduct between legislative consultants and the School Board. Board Policy 9150, *School Visitors*, is proposed for amendment in response to SB 758, *Education (2022)*, and legislative amendments to Florida Statutes, Section 1001.4205, *Individuals Authorized to Visit Schools*, authorizing a member of the Legislature to visit any public school in the legislative district of the member. The legislator must abide by the same statutory requirements for Board members who visit any district school.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: Fla. Stat. ss. 1001.41(1), (2); 1001.43(5).

LAWS IMPLEMENTED INTERPRETED OR MADE SPECIFIC: Fla. Stat. ss. 1001.4205; 1001.43(10).

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	October 19, 2022 - <u>Final</u> Reading
Title	PURPOSE OF THE BOARD
Code	0118
Status	<u>Final</u> Reading
Adopted	May 11, 2011

0118 - PURPOSE OF THE BOARD

A School Board is a legal entity for providing a system of public education within each county of the State of Florida. The system was created and is governed by the Florida Constitution and State statutes. Members of a Board are State officers chosen by citizens to represent them and the State in the legislative management of the local schools. **In fulfilling this role and as authorized by law, persons or entities contracted to represent the Board and/or to appear before the state Legislature, Congress, or any other legislative body on behalf of the Board, may not take any policy position or engage in conduct that is contrary to, or in conflict with, the interests of the Board, or which does not align with, or which may serve to undermine, the Board’s adopted Legislative platform.**

The Board is responsible for implementing statutory requirements pertaining to public education and for meeting the desires of the citizens. While the Board has an obligation to determine and assess citizen desires, when the citizens elect delegates to represent them in the conduct of specified educational programs they grant their representatives the authority to exercise their best judgment in determining policies, making decisions, and approving procedures for carrying out their responsibilities. The Board shall hold the Superintendent responsible for administration of Board policies and for the effective administration and supervision of the District.

The Board declares and reaffirms its intent to:

- A. maintain communications with citizens of the District. The Board shall keep them informed of the progress and problems of the District, and the citizens shall be encouraged to bring their thoughts and concerns about the educational system to the attention of this body;
- B. establish policies and make decisions on the basis of declared educational philosophy and goals; and
- C. act as a representative body for citizens in all matters related to educational programs and operations. The Board has been assigned specific authority through the Florida Constitution and laws, and the Board shall not relinquish or fail to exercise that authority.

Effective 7/1/11

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Legal	F.S. 1001.41
	F.S. 1001.42
	F.S. 1001.43



Book	Policy Manual
Section	October 19, 2022 - <u>Final</u> Reading
Title	BUSINESS CODE OF ETHICS
Code	6460
Status	<u>Final</u> Reading
Adopted	May 11, 2011
Last Revised	January 13, 2021

6460 - **BUSINESS CODE OF ETHICS**

This Business Code of Ethics (Code) shall govern the conduct of all bidders seeking business and all contractors, lobbyists, and consultants that have either a pending bid or contract or are currently under contract with the School Board. These standards of conduct supersede all prior written ethics policies adopted by the Board which may be in conflict with these standards and are to be read in conjunction with the latest applicable Board contracting and procurement policies and procedures. All contractors shall ensure that their subcontractors comply with this Code. The Board will accept bids and proposals for contracts and procurement of goods or services only from firms or entities which agree to comply with this Code and all applicable Board contracting and procurement policies and procedures.

I. Definitions

- A. Consultant - an individual providing information and advice in an area of expertise, pursuant to a contract with the Board. This may include, but is not limited to, real estate brokers, developers, and experts in their field.
- B. Contractor – an individual, company, joint venture, vendor, or other corporate entity who has entered into a contract to provide goods or services to the Board in accordance with an invitation to bid, a request for proposal, or otherwise by the approval of the Board.
- C. Lobbyist – any individual, firm, or corporation compensated by or who contracts for economic consideration from any principal person or organization for the purpose of lobbying. See Policy 8150 for a more complete definition.
- D. Bidder - any entity making a formal offer, bid or proposal to become a contractor of the Board.

II. Intent and Purpose

- A. to protect the integrity of the school district's procurement process;
- B. to provide a uniform statement of expected conduct for consultants and contractors doing business with the Board in an effort to ensure a fair and ethical environment throughout the procurement process.

III. Code is not Exhaustive/Non-Exclusive

This policy does not address all ethical issues that may arise through the School District's procurement process. Nonetheless, each person or entity is expected to act in an ethical manner at all times while engaging in business with the Board.

IV. Enforcement of Code of Conduct

Violations of any provisions of this Code may be investigated by the Board's Inspector General or by any other appropriate enforcement authority. The Board may reject any bid or proposal, or impose other sanctions against any person, contractor, or entity, that has not complied with the requirements of this Code according to State laws or Board policies.

V. Prohibited Conduct

No bidder, proposer, contractor, or subcontractor shall fraudulently deceive or attempt to deceive any School District official with regard to any material fact pertinent to any pending or proposed Board contract. Nor shall an individual, company, or other entity engage in conduct with the purpose or intent of placing any School District employee, official, or agent under personal obligation to the bidder, proposer, contractor or subcontractor by engaging in, but not limited to, the following acts or conduct: providing gifts or monetary compensation to a Board employee or promising gifts, or other compensation in return for a contract, or any other conduct that would place the employee in violation of the prohibitions contained in F.S. 112.313.

VI. Avoidance of the Appearance of Impropriety

All **consultants, lobbyists, bidders, and** contractors shall refrain from conduct which they know or reasonably should know is likely to create in the minds of reasonable, objective, fair-minded observers an appearance of impropriety.

VII. Donations to School Board Direct-Support Organizations (DSO)

All bidders seeking business, and all contractors, lobbyists, and consultants that have a pending contract with the Board, are prohibited from making donations to any School Board DSO when they have a pending bid solicitation, proposal, or contract award for District goods or services, or when they are representing an entity that has a pending bid solicitation, proposal, or contract award for District goods or services.

VIII. Lobbyist Registration

All consultants and contractors must ensure that any lobbyist working on their behalf comply with Policy 8150.

IX. Gifts and Offers of Employment to School Personnel

No consultant, bidder, proposer, or contractor shall offer, give, or promise to offer or give directly or indirectly, any money, gift or gratuity to any Board employee whose duties involve authorizing and/or procuring contracts for goods and services for the school district. Policy 1210.01, Policy 3210.01, and Policy 4210.01 regarding gifts to school personnel are incorporated by reference in this policy.

Similarly, no person or entity covered by this Code, including, but not limited to, consultant, bidder, proposer, or contractor shall offer, or promise to offer, either directly or indirectly, any future employment or business opportunity to any Board employee or consultant, their immediate family, spouse, significant other, or business associates of such persons, if such offer of employment is conditioned expressly or implicitly on the awarding of a present or future contract, or preference in the awarding of a contract to anyone at any time by the Board.

X. Disclosure of Employment of Former Board Employees

To prevent current or former Board employees from using their relationship with the Board from improperly influencing procurement decision-making, all bidders, proposers, consultants, and contractors are required to disclose the names of any of their employees who serve as agents or principals for the bidder, proposer or contractor, and who within the last two (2) years, have been or are employees of the Board. Such disclosures shall comply with current Board rules, but will include, at a minimum, the name of the former Board employee, a list of the positions the employee held in the last two years of his/her employment with the Board, and the dates the employee held those positions.

In addition, the Board will not contract with any bidder, proposer, consultant, or contractor that compensates any former Board employee or consultant to influence any action on a matter pending with the Board if that employee, within the last twelve (12) months, held a Board position in which they personally and substantially participated in the matter.

The Board will not contract with any bidder, proposer, contractor or sub-contractor that employs a former Board employee or consultant who, while serving in a Board position within the last two (2) years, substantially participated in the development of the invitation to bid or request for proposal's requirements or specifications, or who took part in contracting process for the specific goods or services being solicited by the Board. The Superintendent may waive this prohibition in writing for good cause with notification to the Board prior to awarding the contract. Good cause may be shown in circumstances where awarding the contract to another party will not be in the best interest of the Board.

XI. Preclusion from Contracting for Individuals or Firms Involved in the Development of the Bid, Proposal, or Contract Specifications

No contractor or consultant who participates in the development of the scope of work, solicitation documents, contractual instruments, or of the technical specifications on behalf of the School District may participate as a proposer or sub-proposer

or perform any work associated with that particular procurement. The Superintendent may waive this prohibition for good cause in writing prior to the award of the contract.

XII. Conflicts of Interest

All individuals, firms, contractors, **lobbyists**, and consultants, must take steps to avoid conflicts of interest, for example, but not limited to, those conflicts delineated in Policy 0141.2, Policy 1129, Policy 3129, and Policy 4129. The Superintendent, in consultation with legal counsel, shall determine whether a conflict of interest exists and recommend appropriate action that will resolve the conflict. If it is determined that an actual or apparent conflict of interest exists, the Superintendent shall notify the contractor in writing of this finding and the actions that will be recommended to the Board in order to resolve the conflict of interest.

XIII. Non-Retaliation Policy

The Board encourages good faith reporting of all suspected violations of this Code. Anyone making a good faith report of a suspected violation of this Code shall not be subjected to any adverse action by the Board, nor shall anyone or any company, accused of violating this Code and subsequently found not to have committed a violation of this Code, be subjected to any adverse sanctions or penalties by the Board. The identity of any persons reporting violations of this Code shall be kept confidential to the extent permitted by law.

All suspected violations shall be reported to the Office of the Inspector General for investigation. If the Inspector General determines that the allegations have merit, the matter will be referred to the appropriate authorities. If the Inspector General determines that the matter should be investigated by another department or by an outside entity, the Inspector General may refer the matter to the other department or outside entity for investigation or final disposition.

XIV. Resolving Violations of the Code

If it is determined that a violation of this Code has taken place, the Board may take one or more of the following actions:

- A. meeting with the consultant or contractor to discuss the violation, and any and all possible resolutions to the violation(s);
- B. suspending the consultant or contractor in accordance with the provisions of the contract in question, or by initiating debarment procedures as established by Policy 6320.04;
- C. directing the prime contractor to remove a subcontractor who has been shown to have intentionally violated the Code from the project;
- D. rescinding, voiding, or terminating the contract as may be permitted by law, Board rules, or the relevant contract; and/or
- E. any other reasonable sanction deemed appropriate, and which is permitted by law, Board rules, and by the provisions of the impacted contract.

XV. Prospective Application

This Code does not apply to contracts, written agreements, or published solicitations in existence at the time this Code was enacted. It will be incorporated into all formal bid solicitations, vendor applications, and to any Request for Proposals issued by the Board.

Effective 7/1/11
Revised 1/13/21

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Legal F.S. 112.313
 F.S. 1001.42(1)(2)
 F.S. 1001.42(12)
 F.S. 1001.43(10)



Book	Policy Manual
Section	October 19, 2022 - <u>Final</u> Reading
Title	SCHOOL VISITORS
Code	9150
Status	<u>Final</u> Reading
Adopted	May 11, 2011

9150 - **SCHOOL VISITORS**

Parents, other adult residents of the community, and interested educators are encouraged to visit schools.

I. Board Members and Legislators

An individual member of the Board may, on any day and at any time at his or her pleasure, visit any school in the District. A member of the Florida Legislature may visit any public school in the legislative district of the member. An individual visiting a school pursuant to this section must sign in and sign out at the school's main office and wear his or her identification badge at all times while present on the school premises. The Board, the school, or any other person or entity, including, but not limited to, the principal of the school, the school superintendent, or any other Board member, may not require an individual visiting the school pursuant to this section to provide notice before visiting the school. The school may offer, but may not require, an escort to accompany an individual visiting the school pursuant to this section during the visit. Another Board member or a District employee, including, but not limited to, the Superintendent, the Principal, or his or her designee, may not limit the duration or scope of the visit or direct an individual visiting the school pursuant to this section to leave the premises. A Board, District, or school administrative policy or practice may not prohibit or limit the authority granted to an individual under this section.

II. Principal Authority

The Principal has the authority, however, to prohibit the entry of any **other** person to a school or expel any person when there is reason to believe the presence of such person would be detrimental. If an individual refuses to leave the school grounds or creates a disturbance, the principal is authorized to request assistance from School Police or the local law enforcement agency to remove the individual.

Rules regarding entry of persons other than students, staff, and faculty upon school grounds or premises shall be posted conspicuously at or near the entrance to such grounds or premises if there are no formal entrances, and at the main entrance to each school building. In addition, the rules shall be posted in a central location in each school and made available to students, upon request.

III. Visitors Invited by the Superintendent

Visitors who have made arrangements through the Office of the Superintendent will be referred to the Deputy Superintendent of School Operations.

Visitors will be referred to region superintendents on a rotating basis unless the visitor(s) has requested a specific school(s). The visitations will be coordinated by school operations staff and the appropriate region superintendent.

The assigned region superintendent will have a member of his/her staff or a principal of one of the schools in the region receive the visitor or delegation referred to him/her.

IV. Visitors Invited by Other Administrators

Supervisory or administrative staff who have invited professional visitors may elect to receive the visitors whom they have invited, as well as other visitors who may have a mutual interest or area of competency.

V. Parent and Community Visitors

Parents and other persons who wish to visit the schools should be directed to the school office, be greeted by the Principal and furnished guide services. All visitors are to be made to feel welcome.

VI. Off-Duty Employee Visitors

There shall be no solicitation of employees or students on personal matters by salespersons or agents on the school premises.

Off-duty District employees at work locations other than where they are assigned:

- A. must report to the main office and identify themselves as employees of the Board;

The Principal shall require employees to state their purpose on campus and submit personal identification. The Principal may verify an employee's employment status.

- B. are prohibited from engaging in solicitation/distribution inside the building or in any areas other than parking areas. This prohibition applies whether the employee is engaging in union or other forms of solicitation/distribution;

- C. may engage in solicitation/distribution in District parking areas where the solicitation/distribution involves employee terms and conditions of employment and provided they have complied with this policy.

Individual employees may access their own work sites and grounds including parking areas, and parking areas at all other District work sites, provided they comply with this policy.

Persons who are not District employees or representatives of an exclusive bargaining agent shall not be allowed access to District work sites and grounds including District parking areas, except on official Board business and according to this policy.

The exclusive bargaining agent, where provided by contractual agreement, shall be allowed access to District work sites and grounds, including work location parking areas.

VII. Outside Vendors

Only vendors of materials or services which normally would be used in the schools are allowed admission to school facilities. Vendors shall not disturb teachers who are in the classrooms. Vendors selling products pursuant to labor contracts, such as insurance, annuities, etc., must have written authorization from the labor organization(s), verified by the Office of Legislative and Labor Relations and Governmental Affairs, before access is authorized at school or other Board work sites.

VIII. Protocols for Notification of Official Visits

When the Principal becomes aware that an elected official or other dignitary intends to visit the school, the Principal must utilize the protocols established by the District to provide notice to the Region, District, and Board members, as applicable.

Effective 7/1/11

Legal F.S. 1001.4205
 F.S. 1001.41(2)