

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

SUBJECT: FINAL READING: PROPOSED AMENDMENTS TO SCHOOL BOARD POLICY 0158, *ETHICS ADVISORY COMMITTEE*

COMMITTEE: PERSONNEL, STUDENT, SCHOOL & COMMUNITY SUPPORT

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

Board Policy 0158, *Ethics Advisory Committee*, is proposed for amendment pursuant to Agenda Item H-7 (Revised), *Proposed Amendment to School Board Policy 0158, Ethics Advisory Committee*, sponsored by Board Member, Dr. Marta Pérez, and approved by the Board at its regular meeting of July 20, 2022. Item H-7 directed the School Board Attorney to draft and propose for the Board's consideration an amendment to Policy 0158, *Ethics Advisory Committee*, incorporating the following recommendations of the Ethics Advisory Committee:

- 1) to increase the membership of the Ethics Advisory Committee from seven (7) to nine (9) members by adding representatives from all local universities' schools of education, including Miami-Dade College and Florida Memorial University when appointing faculty members to the Ethics Advisory Committee;
- 2) to eliminate the two-year term limit for the Chair and Vice-Chair for the Ethics Advisory Committee; and
- 3) that the requirement for establishing a quorum for the Ethics Advisory Committee be a minimum of four (4) members.

Board Policy 0158, *Ethics Advisory Committee*, is proposed for amendment to incorporate these changes.

The Notice of Intended Action was published in the Miami Daily Business Review on September 12, 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 Notice of Intended Action and proposed policy with strikethroughs and underlines are attached.

RECOMMENDED:

That The School Board of Miami-Dade County, Florida, amend Board Policy 0158, *Ethics Advisory Committee*, and authorize the Superintendent to file the policy 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 September 7, 2022, its intention to amend Board Policy 0158, *Ethics Advisory Committee*, at its meeting of October 19, 2022.

PURPOSE AND EFFECT: Board Policy 0158, *Ethics Advisory Committee*, proposed for amendment to incorporate recommendations of the School Board's Ethics Advisory Committee.

SUMMARY: Board Policy 0158, *Ethics Advisory Committee*, is proposed for amendment to incorporate the following recommendations of the School Board's Ethics Advisory Committee: 1) to increase the membership of the Ethics Advisory Committee from seven (7) to nine (9) members by adding representatives from all local universities' schools of education, including Miami-Dade College and Florida Memorial University; 2) to eliminate the two-year term limit for the Chair and Vice-Chair for the Ethics Advisory Committee; and, 3) that the requirement for establishing a quorum for the Ethics Advisory Committee be a minimum of four (4) members.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: Fla. Stat. ss. 1001.41(1), (2); 1001.42; 1001.43(10).

LAWS IMPLEMENTED INTERPRETED OR MADE SPECIFIC: Fla. Stat. ss. 112.313; 119.07; 286.011.

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 October 4, 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.



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| Book | Policy Manual |
| Section | October 19, 2022 - <u>Final</u> Reading |
| Title | ETHICS ADVISORY COMMITTEE |
| Code | 0158 |
| Status | <u>Final</u> Reading |
| Adopted | August 3, 2011 |

0158 - **ETHICS ADVISORY COMMITTEE**

A. Purpose

The purpose of the Ethics Advisory Committee is to serve as the guardian of the public trust by, among other things, informing the public, and educating candidates for the election to the School Board, members of the Board and employees of the District as to the required standards of ethical conduct and interpreting and applying those standards of conduct.

It is not the intent of the Board that the Ethics Advisory Committee serve as a personnel board resolving personnel matters involving employees of the District or that it have jurisdiction over claims for money damages against the District or over members of the Board.

B. Membership

1. Selection of Members

The Ethics Advisory Committee shall be composed of ~~seven (7)~~ nine (9) members. The members of the Ethics Advisory Committee shall be appointed as follows:

- a. The Chief Judge of the Eleventh Judicial Circuit of Florida shall be requested to appoint one (1) former Federal judge, or former United States magistrate or former State court judge;
- b. The Chief Judge of the Eleventh Judicial Circuit of Florida shall be requested to appoint one (1) former U.S. Attorney or Assistant U.S. Attorney, former State Attorney or Assistant State Attorney;
- c. The dean of the school of education of the University of Miami, St Thomas University, and Barry University, ~~or Florida International University~~ shall, on a rotating basis, be requested to appoint one (1) faculty member from the his/her school who has taught a course in professional ethics for educators or has published or performed services in the field of professional ethics for educators. The dean of the school of education of the University of Miami shall be requested to appoint the first faculty member to sit on the Ethics Advisory Committee. Upon the expiration of said member's term, the dean of the school of education of St. Thomas University shall be requested to appoint a faculty member to sit on the Ethics Advisory Committee. Upon the expiration of said member's term, the dean of the school of education of Barry University shall be requested to appoint a faculty member to sit on the Ethics Advisory Committee. ~~Upon the expiration of said member's term, the dean of the school of education of Florida International University shall be requested to appoint a faculty member to sit on the Ethics Advisory Committee.~~ Thereafter, each dean shall, on a rotating basis, select a faculty member from his or her school of education. The use of the word "dean" in this provision shall mean "the dean or designee."
- d. The dean of the school of education of Florida International University, Miami-Dade College, and Florida Memorial University shall, on a rotating basis, be requested to appoint one (1) faculty member from the school who has taught a course in

professional ethics for educators or has published or performed services in the field of professional ethics for educators. The dean of the school of education of Florida International University shall be requested to appoint the first faculty member to sit on the Ethics Advisory Committee. Upon the expiration of said member's term, the dean of the school of education of Miami-Dade College shall be requested to appoint a faculty member to sit on the Ethics Advisory Committee. Upon the expiration of said member's term, the dean of the school of education of Florida Memorial University shall be requested to appoint a faculty member to sit on the Ethics Advisory Committee. Thereafter, each dean shall, on a rotating basis, select a faculty member from his or her school of education. The use of the word "dean" in this provision shall mean "the dean or designee."

e. The presidents of the University of Miami, St. Thomas University, ~~and Barry University~~~~and Florida International University~~ shall, on a rotating basis, be requested to appoint one (1) faculty member from either the school of law or the school of business administration or management who has taught a course in professional ethics or has published or performed services in the field of professional ethics. The president of ~~the University of Miami~~~~Florida International University~~ shall be requested to appoint the first faculty member to sit on the Ethics Advisory Committee. Upon the expiration of said member's term, the president of St. Thomas University shall be requested to appoint a faculty member to sit on the Ethics Advisory Committee. Upon the expiration of said member's term, the president of ~~the Barry University~~~~University of Miami~~ shall be requested to appoint a faculty member to sit on the Ethics Advisory Committee. Upon the expiration of said member's term, the president of Barry University shall be requested to appoint a faculty member to sit on the Ethics Advisory Committee. Thereafter, each president shall, on a rotating basis, select a faculty member from his/her school of law, business administration, or management.

f. The presidents of Florida International University, Miami-Dade College, and Florida Memorial University shall, on a rotating basis, be requested to appoint one (1) faculty member from either the school of law or the school of business administration or management who has taught a course in professional ethics or has published or performed services in the field of professional ethics. The president of Florida International University shall be requested to appoint the first faculty member to sit on the Ethics Advisory Committee. Upon the expiration of said member's term, the president of Miami-Dade College shall be requested to appoint a faculty member to sit on the Ethics Advisory Committee. Upon the expiration of said member's term, the president of Florida Memorial University shall be requested to appoint a faculty member to sit on the Ethics Advisory Committee. Thereafter, each president shall, on a rotating basis, select a faculty member from his/her school of law, business administration, or management.

g. The Dade County Council PTA/PTSA shall be requested to appoint one (1) parent who has or has had a child in a District school.

h. The chairperson of the Greater Miami Chamber of Commerce shall be requested to appoint one (1) person from the business community.

i. The director of the Center for Labor Studies at Florida International University shall be requested to appoint (1) retired public school employee.

2. Additional Qualifications

Each member of the Ethics Advisory Committee shall be a United States citizen, resident of Miami-Dade County and shall be of outstanding reputation for integrity, responsibility, and commitment to serving the community. The membership of the Ethics Advisory Committee should be representative of the community-at-large and should reflect the diversity, gender, and makeup of the community. Prior to final selection of each member of the Ethics Advisory Committee those persons empowered herein to appoint members shall meet and evaluate the qualifications of each person under consideration to ensure (a) that said person is qualified to serve on the Ethics Advisory Committee and (b) that the membership of the Ethics Advisory Committee will be representative of the community-at-large and reflect the diversity, gender, and makeup of the community.

Members of the Ethics Advisory Committee shall serve without compensation.

3. Terms

The members of the Ethics Advisory Committee shall serve terms of four (4) years each. Upon expiration of said term, any member may be re-appointed to additional four (4) year terms. Members of the Ethics Advisory

Committee may be removed, upon majority vote of the Committee's voting members, if they fail to attend three (3) consecutive regular meetings without good cause.

4. Vacancies

A vacancy occurring during, or at, the expiration of a member's term on the Ethics Advisory Committee shall be filled in accordance with the provisions above.

5. Additional Requirements

No individual, while a member of the Ethics Advisory Committee, shall:

- a. seek or hold an appointed or elected political office or campaign for any elective political office a position on the Board;
- b. actively participate in or contribute to any campaign for election to the Board or any political action committee which contributes to such a campaign;
- c. be employed by the District or be an officer, director or owner of a one percent (1%) or greater interest in a business entity, whether or not-for-profit, that has a contractual relationship with, or is regulated by, the District;
- d. grant permission for his/her name to be used by a campaign in support of or against any candidate for political office a position on the Board or any referendum or other ballot question related to the Board, or its business;
- e. lobby a member of the Board or an employee of the District on any issue.

Nothing herein shall preclude a member of the Ethics Advisory Committee from signing a petition in support of or against any referendum or other ballot question not related to the Board, or its business.

6. Selection of Chair and Vice-Chair

The Ethics Advisory Committee shall elect one (1) of its voting members as chairperson who shall serve a term of two (2) years. ~~No chairperson shall be permitted to serve two (2) consecutive terms.~~ A vice-chair shall also be selected in the same manner and with the same length of term as the chair.

7. Emeritus Members

Whenever a member's term on the Ethics Advisory Committee shall expire or end through voluntary resignation or retirement, the remaining members may vote to offer the departing member the honorary title of "Emeritus" member of the Ethics Advisory Committee. Should such an offer be approved by majority vote of the existing membership of the Ethics Advisory Committee and accepted by the departing member, the individual bestowed the title of Emeritus Ethics Advisory Committee member may hold such title perpetually unless rescinded or unless its duration is limited by the bylaws. An Emeritus Ethics Advisory Committee member shall have the right to attend and speak at all Ethics Advisory Committee meetings, but shall not make motions or vote on any measure appearing before the Ethics Advisory Committee. The Ethics Advisory Committee may also request that a member holding the distinction of Emeritus Ethics Advisory Committee member appear at specified meetings of the Ethics Advisory Committee or sub-committee meeting to speak and provide his/her opinion on matters deliberated upon by the Ethics Advisory Committee. All Emeritus members will be provided with advance notice of upcoming or future meetings of the Ethics Advisory Committee.

C. Meetings

The Ethics Advisory Committee shall hold regular meetings in accordance with this policy, and the Ethics Advisory Committee may hold such other meetings as it deems necessary. All meetings of the Ethics Advisory Committee shall be public and written minutes of the proceedings thereof shall be maintained by the Board.

The Ethics Advisory Committee shall make, adopt, and amend bylaws, rules of procedure which are consistent with the provisions of this rule and regulations for the Ethics Advisory Committee's governance.

D. Authority

The Ethics Advisory Committee was created as a result of the Board's adoption on October 24, 2001 of a Commission on Ethics Policy. This rule incorporates and includes pertinent provisions of those policy guidelines.

The provisions of this policy shall be deemed supplemental to any other applicable District rule, State, or Federal law and are not intended to replace or repeal any provision of State or Federal law or any other rules of the Board.

The Ethics Advisory Committee shall advise on the application of the authorities listed below, and its jurisdiction shall extend to any person required to comply with those authorities:

1. The Code of Ethics and the Principles of Professional Conduct of the Education Profession in Florida (State Board of Education Rules F.A.C. 6B-1.001 and 6B-1.006);
2. Board Policy 1129, Policy 3129, and Policy 4129 (Conflict of Interest);
3. All rules of the District; and
4. The Code of Ethics for Public Officers and Employees set forth in F.S. Chapter 112.

E. Powers and Duties of the Ethics Advisory Committee

1. The Ethics Advisory Committee shall be authorized to exercise such powers and shall be required to perform such duties as are set forth in this policy.
2. The Ethics Advisory Committee shall be empowered to review, interpret, render advisory opinions, and make recommendations to the Board regarding the applicability of the matters contained above.
3. The Ethics Advisory Committee shall be empowered to recommend changes to the rules it is charged with reviewing to the Board.
4. The Ethics Advisory Committee shall prepare and make available to any person a copy of rules within the Ethics Advisory Committee's jurisdiction.
5. The Ethics Advisory Committee shall hear and make recommendations on complaints that are self-initiated or brought to the Ethics Advisory Committee by citizens.
6. Receive and review reports from the Inspector General and receive, review, and monitor corrective action plans and responses submitted to the Inspector General reports and recommendations.

F. School Board Action

Any recommendation or opinion issued by the Ethics Advisory Committee shall be forwarded to the Board and the Board may take action upon it.

G. Reports and Recommendations to the School Board

The Ethics Advisory Committee may submit periodic reports on the work of the Committee to the Board and the Superintendent. The Committee shall also prepare and present an annual report to the Board summarizing the Committee's accomplishments for the past year. The report shall include the goals and objectives for the coming year.

H. Procedures to be Followed by the Ethics Advisory Committee in the Performance of its Duties and in Rendering Advisory Opinion on Matters Within its Jurisdiction

The Ethics Advisory Committee shall make, adopt and amend by-laws and rules of procedure within its purview subject to the following provisions:

1. Counsel

The Ethics Advisory Committee may request the Board Attorney to render opinions relating to its duties, jurisdiction, or power.

2. Public Meetings and Public Records

All proceedings conducted pursuant to this subsection shall be public meetings within the meaning of F.S. Chapter 286, and all other documents made or received by the Ethics Advisory Committee shall be public records within the meaning of F.S. Chapter 119.

3. Quorum

A ~~majority of the~~ **minimum of four (4)** voting members of the Committee shall constitute a quorum. A quorum must be present before a vote is taken on any matter appearing before the Committee. Proxy or absentee votes are not permitted.

4. Scheduling and Conduct of Meetings

Meetings shall be held in accordance with above and must comply with the requirements of the Sunshine Law. At the beginning of each fiscal year, the Ethics Advisory Committee shall establish a schedule of its meetings for the year; such schedule may be changed as deemed appropriate by a majority of the members of the Committee. Notice of the date, time, and location of each meeting shall be provided to each member. All meetings of the Committee must be noticed at least five (5) business days before each meeting. An agenda shall be prepared for each meeting and shall be made available to anyone upon request. The Committee shall conduct all its meetings pursuant to Robert's Rules of Order, the most current revised edition. The chair of the Ethics Advisory Committee, in consultation with the designated School District liaison, shall develop the agenda for each meeting. All meetings shall be accessible and open to the public.

5. Personnel Proceedings

Where an employee of the District is alleged to have violated a rule within the jurisdiction of the Ethics Advisory Committee and a written complaint is filed with the EAC, based upon the same set of facts, is subject to an ongoing disciplinary action initiated by the District, the Ethics Advisory Committee shall stay consideration of a complaint until the conclusion of the personnel proceedings. Anything to the contrary notwithstanding, recommendations with respect to the appropriate discipline of an employee shall be the sole province of the Board and shall be in accordance with the applicable collective bargaining agreement or law.

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| Legal | F.S. 112.313 |
| | F.S. 119.07 |
| | F.S. 286.011 |
| | F.S. 1001.32 |
| | F.S. 1001.41(1), (2) |
| | F.S. 1001.42 |
| | F.S. 1001.43(10) |