

Mr. Danny Espino, Vice Chair

SUBJECT: COMPLIANCE WITH GOVERNMENT FOR IN THE SUNSHINE LAW

COMMITTEE: FISCAL ACCOUNTABILITY & GOVERNMENT RELATIONS

LINK TO STRATEGIC PLAN: EFFECTIVE & SUSTAINABLE OPERATIONAL PRACTICES

Florida's Government *in the Sunshine Law* is a series of laws that require meetings of government agencies to be duly noticed and open to the public (see, Chapter 286, Florida Statutes). The purpose of these laws is to ensure government decisions are made in an open and transparent manner, and for citizens to have access to the decision-making process. Key provisions of the Florida Sunshine Laws include:

- All meetings of two or more members of any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision must be open to the public.
- Reasonable and appropriate notice must be given for all meetings.
- Minutes of these meetings must be taken and maintained in accordance with the applicable retention schedule.
- The public must be provided access to qualifying public meetings.
- Public records must be made available for inspection and copying by anyone who requests them.

These laws are applicable to any gathering, whether formal or casual, of two or more members of the same board or commission to discuss some matter on which foreseeable action will be taken by the public board or commission. *Sarasota Citizens for Responsible Government v. City of Sarasota*, 48 So. 3d 755, 764 (Fla. 2010); see also *City of Miami Beach v. Berns*, 245 So. 2d 38 (Fla. 1971); and *Board of Public Instruction of Broward County v. Doran*, 224 So. 2d 693 (Fla. 1969). Regular and Special meetings of local governments are the most common meetings that are "sunshined," but a subset of a Council, Commission or Board may meet to conduct preliminary discussions, findings of fact, briefings, and/or legislative goal settings in noticed meetings, commonly called "Sunshine Meetings." These Sunshine Meetings are customary practice between local municipal councilmembers and county commissioners. However, a review of prior School Board Meetings revealed that *In the Sunshine Meetings* are surprisingly not common occurrences, despite the existence of a policy that specifically formalizes this type of meeting.

School Board Policy 0165 Subsection (H) *Public Meetings; Member Conferences* reads as follows:

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.

While Board Member Conferences are established by Board Policy 0165, and permitted under the Sunshine Law, regrettably our Board policies do not provide a corresponding provision for how to notice such a meeting, leaving notices for Member Conferences subject to interpretation and creating doubt as to compliance with the Sunshine Law and Board Policy. Specifically, there is no mention as to what information should be included in the notice required for Member Conferences. Inherent in the requirement to provide adequate notice for Sunshine meetings is the need to tell the public which members of a local government will be participating in, as well as the time, date, place, and subject of, the meeting, so as to allow the public to reasonably determine whether to attend the meeting.

The purpose of this item is to strengthen the Sunshine Law notice requirement for Member Conferences by amending M-DCPS Board Policy 0164, *Notice of Meetings*, by adding a subsection, where appropriate, titled “*Member Conferences*”. The proposed subsection would read as follows:

The Board Member requesting a Member Conference, by and through the Board Agenda Coordinator, shall give notice of the specific subject, date, time, location, which other Board members are invited as active participants, whether staff will be invited and whether public comments will be part of the meeting. Notice means posting on the Board website not later than seven (7) day prior to the meeting. Location shall mean any location within the geographical boundaries of Miami-Dade County, provided the location can comply with the provisions of the Florida Government in the Sunshine Law.

This item has been reviewed and approved by the General Counsel’s Office as to form and legal sufficiency.

**ACTION PROPOSED BY
MR. DANNY ESPINO:**

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 Board Policy 0164, *Notice of Meetings*, by adding a subsection, where appropriate, titled “*Member Conferences*,” strengthening the Sunshine Law notice requirements to provide specific information in the notice, to improve transparency and public awareness as specified in the item.