

Office of the General Counsel
Walter J. Harvey, General Counsel

SUBJECT: FINAL READING: PROPOSED AMENDMENTS TO SCHOOL BOARD POLICIES 0164, NOTICE OF MEETINGS, AND 0165, PUBLIC MEETINGS

COMMITTEE: FISCAL ACCOUNTABILITY AND GOVERNMENT RELATIONS

LINK TO STRATEGIC PLAN: EFFECTIVE & SUSTAINABLE OPERATIONAL PRACTICES

Policies 0164, *Notice of Meetings* and 0165, *Public Meetings*, are proposed for amendment to better align the policies with the Florida Sunshine Law and pursuant to Board Item H7 sponsored by Board Member Steve Gallon III and Board Item H8 sponsored by Board Vice Chair Danny Espino and approved by the Board at its regularly scheduled meeting of May 17, 2023. These amendments provide clarity and assurances that: a Board member who requests a Board member conference shall provide said notice to the public and to all Board members. Such notice shall be coordinated through the Board Agenda Clerk, who will be responsible for posting the notice on the District's website portal below the "School Board" tab under "School Board Meeting Schedule," and as required by Board Policy 0165, *Public Meetings*. The Board member requesting the conference must provide separate written notice of the conference to all Board members, formally inviting them to the conference at least seven (7) days prior to the scheduled date of the conference and include the School Board Member who initiated the conference. Said notice shall identify the Board member who is sponsoring the conference, specify the subject or topic to be discussed at the conference and include the date, time, and location of the conference. The notice shall include invitees and School Board Members whose attendance has been confirmed, where available, and include a statement to the effect that all School Board members have the right to attend and may fully participate at the conference. The notice must also state whether school district staff are invited to attend the conference and whether members of the public will be provided an opportunity to comment or speak at the conference. The School Board Recording Secretary must be available to facilitate the recording of the meeting and take required minutes. The notice must be posted at least seven (7) days before the member conference. Additional amendments are proposed to address Board member presentations at regular Board meetings and a recess of the regular meeting under extraordinary circumstances.

Policy 0165 contains an additional amendment pursuant to Board Item H12 sponsored by Board Member Roberto J. Alonso and approved by the Board at its regularly scheduled meeting of May 17, 2023. The proposed amendment allows for legislative invocations before each regular Board meeting. Procedures outlining how legislative invocations will be delivered, including the method for inviting invocation speakers, have been drafted in collaboration with District staff. These procedures have been forwarded to the Board under separate cover for consideration.

Policies 0164 and 0165 are proposed for amendment to incorporate the requirements delineated above.

The Notice of Intended Action was published in the Miami Daily Business Review on June 26, 2023 and 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 policies with strikethroughs and underlines are attached.

RECOMMENDED:

That The School Board of Miami-Dade County, Florida:

1. amend Board Policies 0164, *Notice of Meetings*, and 0165, *Public Meetings*, and authorize the Superintendent to file the policies with The School Board of Miami-Dade County, Florida, to be effective August 16, 2023.
2. approve the written procedures for the delivery of legislative invocations before each regular Board meeting.

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on June 21, 2023, its intention to amend Board Policies 0164, *Notice of Meetings*, and 0165, *Public Meetings*, at its meeting of August 16, 2023.

PURPOSE AND EFFECT: Board Policies 0164, *Notice of Meetings*, and 0165, *Public Meetings*, are proposed for amendments as a result of Board action.

SUMMARY: Board Policies 0164, *Notice of Meetings*, and 0165, *Public Meetings*, are proposed for amendment to better align the policies with the Florida Sunshine Law and provide clarity and assurances that: a Board member who requests a Board member conference shall provide said notice to the public and to all Board members. Such notice shall be coordinated through the Board Agenda Clerk, who will be responsible for posting the notice on the District's website portal below the "School Board" tab under "School Board Meeting Schedule," and as required by Board Policy 0165, *Public Meetings*. The Board member requesting the conference must provide separate written notice of the conference to all Board members, formally inviting them to the conference at least seven (7) days prior to the scheduled date of the conference and include the School Board Member who initiated the conference. Said notice shall identify the Board member who is sponsoring the conference, specify the subject or topic to be discussed at the conference and include the date, time, and location of the conference. The notice shall include invitees and School Board Members whose attendance has been confirmed, where available, and include a statement to the effect that all School Board members have the right to attend and may fully participate at the conference. The notice must also state whether school district staff are invited to attend the conference and whether members of the public will be provided an opportunity to comment or speak at the conference. The School Board Recording Secretary must be available to facilitate the recording of the meeting and take required minutes. The notice must be posted at least seven (7) days before the member conference. Additional amendments are proposed to address Board member presentations at regular Board meetings and a recess of the regular meeting under extraordinary circumstances. Policy 0165 contains an additional amendment which allows for legislative invocations before each regular Board meeting.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: Fla. Stat. ss. 1001.32(2); 1001.41(1), (2).

LAWS IMPLEMENTED INTERPRETED OR MADE SPECIFIC: Fla. Stat. ss. 286.011; 286.0114; 1001.372; 1001.43(10).

IF REQUESTED, A HEARING WILL BE HELD DURING SCHOOL BOARD MEETING OF August 16, 2023, 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 July 19, 2023, 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 16, 2023 - <u>Final</u> Reading
Title	NOTICE OF MEETINGS
Code	0164
Status	<u>Final</u> Reading

0164 - **NOTICE OF MEETINGS**

A. Regular Meetings, Conference Sessions, Workshops, and Public Hearings

The School Board shall give notice of the date, time, place, and general subject matter of its regular meetings, conference sessions, workshops, and public hearings.

Notice means publication in a newspaper of general circulation and posting on the Board website not less than seven (7) days before the meeting. An agenda shall be prepared in time to ensure that a copy of the agenda may be received at least seven (7) days before the meeting by any person who requests a copy.

The Superintendent shall provide the approved schedule of regular meetings and notices of all meetings to the Clerk of the Board for publication and to the Citizen Information Center.

B. Board Committee Meetings

The Board shall give notice of the date, time, and place of Board committee meetings. Notice means publication in a newspaper of general circulation and posting on the Board website not less than five (5) days prior to the meeting.

C. Special Meetings

The Board shall give at least forty-eight (48) hours written notice of the time and purpose of a special meeting. An agenda for the meeting shall be

prepared upon the call of the meeting, but not less than forty-eight (48) hours prior to the meeting.

The Superintendent shall post the special meeting's purpose, date, time, and place on the Board website and provide it to the Clerk of the Board and the Citizen's Information Center immediately upon the call of the meeting but not less than forty-eight (48) hours prior to the meeting. Notice may be provided in a newspaper of general circulation as appropriate.

D. Emergency Meetings

The Board shall give notice of emergency meetings in any manner that is fair under the circumstances and necessary to protect the public interest.

E. Board Member Conferences

A Board member who requests a Board member conference shall provide said notice to the public and to all Board members. Such notice shall be coordinated through the Board Agenda Clerk, who will be responsible for posting the notice on the District's website portal below the "School Board" tab under "School Board Meeting Schedule," and as required by Board Policy 0165, *Public Meetings*. The Board member requesting the conference must provide separate written notice of the conference to all Board members, formally inviting them to the conference at least seven (7) days prior to the scheduled date of the conference and include the School Board Member who initiated the conference. Said notice shall identify the Board member who is sponsoring the conference, specify the subject or topic to be discussed at the conference and include the date, time, and location of the conference. The notice shall include invitees and School Board Members whose attendance has been confirmed, where available, and include a statement to the effect that all School Board members have the right to attend and may fully participate at the conference. The notice must also state whether school district staff are invited to attend the conference and whether members of the public will be provided an opportunity to comment or speak at the conference. The School Board Recording Secretary must be available to facilitate the recording of the meeting and take required minutes. The notice must be posted at least seven (7) days before the member conference. A notice of a meeting at a location other than the Board Administration Building (SBAB) must be posted in a public area, such as the Citizen's Information Center, where interested persons will see it at least seven (7) days before the meeting is to take place.

Any location that is used for a Board member conference must have the capacity to comply with the Government-in-the-Sunshine Law, the accessibility requirements of the Americans with Disabilities Act and applicable Board policies.

E.F. Cancellations or Revisions

Where feasible, cancellations or non-substantive revisions to a notice of announcement previously posted in a newspaper of general circulation must be received by the Clerk of the Board no later than five (5) days before the meeting. Notice of emergency cancellations shall be provided as soon as possible and wherever appropriate and practicable after a meeting is cancelled under Bylaw 0165(I), *Public Meetings*. Rescheduled regular meetings that have been cancelled due to an emergency under that provision must be noticed in accordance with item A of this bylaw.

Effective 07.01.2011

Revised 01.17.2018

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Legal References:

F.S. 120.525

F.S. 120.81

F.S. 1001.372

[F.S. 286.011](#)

[F.S. 286.0114](#)

Adoption Date: 05.11.2011



Book	Policy Manual
Section	August 16, 2023 - <u>Final</u> Reading
Title	PUBLIC MEETINGS
Code	0165
Status	<u>Final</u> Reading

0165 - **PUBLIC MEETINGS**

Florida's Government in the Sunshine Law, s. 286.011, F.S., commonly referred to as the Sunshine Law, provides a right of access to governmental proceedings of the Board. The law applies to any gathering of two or more members of the Board to discuss some matter which will foreseeably come before the Board for action.

Generally, there are three basic requirements of open public meetings: (1) meetings of the Board must be open to the public; (2) reasonable notice of such meetings must be given; and (3) minutes of the meetings must be taken and promptly recorded. These requirements are embedded in this Policy and more specifically delineated herein.

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 and accessible 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. Prior to the regular meeting, an invocation may be delivered by a member of the public in accordance with the procedures adopted by the Board. 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. Co-sponsorships and approvals of designated recognitions, resolutions, and endorsements may be voted upon or ratified at any time during the 11 a.m. portion of the meeting, as deemed appropriate by the Board.

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, but not voted upon, at the 11:00 a.m. portion of the meeting. ~~and~~ The Board shall then complete the remainder of the regular Board meeting agenda. The regular meeting shall continue until the agenda has been exhausted. Under extraordinary circumstances, the Board may recess a regular meeting to the following regular business day in order to finish the agenda, if such action is taken in good faith and not taken to circumvent the requirements of the Sunshine Law.

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 and give notice of such meeting by any procedure that is fair under the circumstances and necessary to protect the public interest, if:~~

1. the procedure provides at least the procedural protection given by state and federal law,
2. the Board only takes that action necessary to protect the public interest under the emergency procedure, and
- ~~D-3.~~ the Board publishes in writing at the time of, or prior to, its action the specific facts and reasons for finding immediate danger to public health, safety, or welfare and its reasons for concluding that the procedure used is fair under the circumstances.

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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~~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. All School Board members may attend and fully participate in these Board member conferences. The School Board General Counsel, or a designee, shall attend the conferences. Additionally, tThe School Board Recording Secretary shall be available to facilitate the recording of the meeting and to take and prepare the requisite minutes as required by Florida statutes and Board policies. The notice of these member conference shall conform to Policy 0164, Notice of Meetings.

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

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Legal References:

F.S. 1001.41

F.S. 1001.43(10)

F.S. 1001.372

F.S. 120.81(1)

[F.S. 120.525](#)

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

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