

Office of Superintendent of Schools  
Board Meeting of February 13, 2024

February 8, 2024

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

**SUBJECT:** INITIAL READING: PROPOSED AMENDMENT TO  
SCHOOL BOARD BYLAW 0141.2, *CONFLICT OF  
INTEREST*

**COMMITTEE:** FISCAL ACCOUNTABILITY & GOVERNMENT  
RELATIONS

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

At its regular meeting of November 15, 2023, the School Board approved Item H-7 (Revised), proffered by Board Member Robert J. Alonso, which authorized the Superintendent, in consultation with the Office of the General Counsel, to initiate rulemaking to amend School Board Bylaw 0141.2, *Conflict of Interest*, to add clarity to the bylaw and to modify certain provisions governing Board members' campaign activities.

Pursuant to this item, Bylaw 0141.2 is proposed for amendment to incorporate specific definitions of the terms "political committee," "solicit," and "vendor," as used in the policy. The bylaw is additionally proposed for amendment to provide that Board members must comply with state and federal election and ethics laws, including Florida's Election Code and Code of Ethics for Public Officers and Employees. These proposed revisions were presented to the Board at the Fiscal Accountability & Government Relations Committee Meeting of January 10, 2024. } Revised

The Notice of Intended Action and the proposed amendments to the bylaw 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 School Board Bylaw 0141.2, *Conflict of Interest*.

**Revised**  
**G-2**

## NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on February 13, 2024, its intention to amend School Board Bylaw 0141.2, *Conflict of Interest*, at its meeting of April 17, 2024.

PURPOSE AND EFFECT: Bylaw 0141.2, *Conflict of Interest*, is proposed for amendment as a result of Board action to add definitions of certain terms used in the policy and to clarify that Board members must comply with state and federal election and ethics laws. } Revised

SUMMARY: Bylaw 0141.2, *Conflict of Interest*, is proposed for amendment pursuant to Board action. The bylaw is proposed for amendment to specifically define the terms “political committee,” “solicit,” and “vendor,” as those terms are used in the policy, and to clarify that Board members must comply with state and federal election and ethics laws, including Florida’s Election Code and Code of Ethics for Public Officers and Employees. } Revised

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: Fla. Stat. ss. 1001.32(2); 1001.41(1), (2); 1001.42(5), (6), (8).

LAWS IMPLEMENTED INTERPRETED OR MADE SPECIFIC: Fla. Stat. ss. 1001.32; 1001.41; 1001.43.

IF REQUESTED, A HEARING WILL BE HELD DURING SCHOOL BOARD MEETING OF April 17, 2024, 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 March 13, 2024, 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 BYLAW 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 | February 13, 2023 - <u>Initial</u> Reading |
| Title   | <b>CONFLICT OF INTEREST</b>                |
| Code    | 0141.2                                     |
| Status  | <u>Initial</u> Reading                     |

#### 0141.2 - **CONFLICT OF INTEREST**

School Board members are governed by the Florida Constitution, the Code of Ethics for Public Officers and Employees, Part III of F.S. Chapter 112, other statutes in the school code, and the Florida Commission on Ethics. Board members and the Superintendent shall participate in four (4) hours of ethics training each calendar year as specified by law (F.S. 112.3145, C.O.E. 34-7.0251)

#### I. Definitions

- A. "Political committee," as used in this policy, is defined the same way as the term is defined in F.S. 106.011(16).
- B. "Solicit," as used in this policy, means to initiate contact or communication either orally or in writing to request any thing of value, including but not limited to money, property, or financial assistance.
- C. "Vendor," as used in this policy, is defined as a business entity doing business directly with the Board, such as renting, leasing, or selling any realty, goods, or services.

#### I.II. Constitutional and Statutory Mandates

The following is a summary of the Constitutional and statutory mandates. They are not definitive rules and the statute must be consulted for applicable definitions and for exemptions.

- A. Standards of Conduct

1. Gifts

No Board member may either solicit or accept anything of value - including a gift, loan, reward, promise of future employment, favor, or service - that is based on any understanding that the vote, official action, or judgment of the Board member would be influenced by such gift.

~~2.~~ Other Prohibited Gifts

No Board member may solicit any gift, food, or beverage from a person, vendor, potential vendor, any other entity doing business with the Board, political committee or committee of continuous existence, or from a lobbyist who lobbies the Board (or the partner, firm, employer, or principal of the lobbyist). No Board member or any person on behalf of the Board member may knowingly accept, directly or indirectly, a gift from a person, vendor, potential vendor, any other entity doing business with the Board, political committee or committee of continuous existence, or from a lobbyist who lobbies the Board (and related individuals and entities, including, but not limited to, the partner, firm, employer, or principal of the lobbyist), if the Board member knows or reasonably believes the gift has a value in excess of \$100 - unless the gift is accepted on behalf of and transferred promptly to a governmental entity or a charitable organization, or is given to the Board member by a governmental entity for a public purpose. Gifts from relatives and gifts associated primarily with the recipient's employment or business are not prohibited. Food or beverage consumed at a single sitting or event may be accepted.

2. ~~"Vendor" is defined as a business entity doing business directly with the Board, such as renting, leasing, or selling realty, goods, or services.~~

3. Honoraria

No Board member may solicit an honorarium related to the member's public office or duties. No Board member may knowingly accept, directly or indirectly, an honorarium from a person, vendor, potential vendor, any other entity doing business with the Board, a political committee or committee of continuous existence, or from a lobbyist who lobbies the Board (and related individuals and entities, including, but not limited to, the employer, principal, partner, or firm of the lobbyist). Actual and reasonable transportation, lodging, and food and beverage expenses related to the honorarium event for a Board member and spouse may be accepted.

~~"Vendor" is defined as a business entity doing business directly with the Board, such as renting, leasing, or selling realty, goods, or services.~~

4. Unauthorized Compensation

No Board member or his/her spouse or minor child may accept any compensation, payment, or thing of value which, with the exercise of reasonable care, is known or should be known to influence the vote or official action of such Board member.

5. Doing Business with One's Agency

No Board member acting in his/her official capacity may, directly or indirectly, purchase, rent, or lease any realty, goods, or services from a business entity in which the Board member, his/her spouse, or child is an officer, partner, director, or proprietor, or in which the Board member, his/her spouse, or child (or any combination of them) owns a material interest. Nor may a Board member, acting in a private capacity, rent, lease, or sell any realty, goods, or services to the Board or any of its agencies.

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7.6. Misuse of Public Position

No Board member may corruptly use or attempt to use his/her official position or any property or resource within his/her trust, or perform his/her official duties, to obtain a special privilege, benefit, or exemption for the Board member or others.

8.7. Disproportionate Benefit

Board members are prohibited from abusing their position in order to obtain a "disproportionate benefit" for themselves, their spouse, children, employer, or entities with which they have certain business interests. A disproportionate benefit means a benefit, privilege, exemption or result arising from an act or omission by a public officer that is inconsistent with the proper performance of their public duties.

9.8. Disclosure or Use of Certain Information

No Board member may disclose or use information not available to the general public and gained by reason of his/her public position for his/her personal benefit or the benefit of others.

10.9. Employees Holding Office

No Board employee may be a member of the Board while simultaneously continuing as an employee.

B. Voting Conflicts

A Board member is prohibited from voting in an official capacity on any matter which would inure to his/her special gain or loss, or to the special gain or loss of a principal by whom s/he is retained, or to the parent organization or subsidiary of a corporate principal by which s/he is retained, or to the special gain or loss of a relative or business associate. Prior to the vote, the Board member shall publicly state to the assembly the nature of the Board member's interest in the matter from which the member must abstain from voting. The Board member shall make every reasonable effort to disclose the nature of the Board member's interest as a public record in a memorandum filed with the Board's recording secretary. If it is not possible for the Board member to file a memorandum before the vote, the memorandum must be filed within fifteen (15) days with the Board's recording secretary.

A Board member may abstain from voting in the context of a quasi-judicial proceeding if the abstention is to assure a fair proceeding free from potential bias or prejudice. See Policy 0167, *Voting*.

C. Instructional Materials

No Board member shall accept anything of value or any inducement to introduce, recommend, vote for, or otherwise influence the adoption or purchase of any instructional material.

D. Textbooks

No Board member shall receive any gift or compensation for promoting the sale or exchange of any schoolbook, map, or chart in any public school, or be an agent for the sale, or the publisher of any school textbook or reference work, or be pecuniarily interested in the introduction of any such textbook.

E. No contract for supplying materials, supplies, and services needed for the District school system shall be made with any member of the Board, with the Superintendent, or with any business organization in which any Board member or the Superintendent has any financial interest whatsoever.

H-III. **Additional Provisions**

A. Board members shall accept no gifts from any individual, firm, or business entity which the Board member has reason to believe is doing business with or seeking to do business with the District. Meals and admissions to events which relate directly to the school system may be accepted.

B. Board members shall not participate in trips paid by a vendor or potential vendor for the purpose of inspecting products or programs useful to the District. Such trips, if deemed necessary, shall always be made at District expense and approved by the Board at a public meeting.

C. Board members, ~~their spouses, or campaign committees~~ shall comply with all state and federal not solicit any vendor or any employee of this District to make contributions to any political campaign and ethics laws, including Chapter 106 of the Florida Election Code and the Code of Ethics for Public Officers and Employees ~~or testimonial.~~

Revised

- D. Board members shall not solicit nor accept personal discounts on merchandise or services from individuals, firms, or business entities which the Board member has reason to believe are doing business with or seeking to do business with this District unless those discounts are available to the general public.
- E. No Board member may recommend the services of any lawyer or law firm, architect or architectural firm, public relations firm, or any other person or firm, professional or otherwise, to assist in any transaction involving the District, unless the recommendation is made at a public meeting of the Board.
- F. Board members shall not lobby for compensation on issues of policy, appropriations, or procurement before the Federal government, the legislature, any State government body or agency, or any political subdivision of this State, during his/her term of office and shall not lobby the District or Board for six (6) years after their Board service terminates, as set forth in Article II, Section 8(f) of the Florida Constitution, F.S. 112.3121, and F.S. 112.3122, unless subject to the exceptions set forth therein.

#### III.IV. **Guidelines for Avoidance of Conflict of Interest**

The following guidelines are intended to avoid conflicts of interests or the appearance of conflict as it relates to personal purchases or private contracting. These guidelines do not apply to purchases made in a private capacity of goods or services at a price and upon terms available to similarly situated members of the general public.

- A. When entering into a transaction or contractual relationship as described above, Board members will make the following inquiries to the entity with whom they are contracting:
  - 1. Does the business entity have a contractual relationship with the Board for more than \$500?
  - 2. Is the contracting individual a principal or employee of an entity with a contractual relationship with the Board for more than \$500?

- B. If an affirmative answer is given to either inquiry above, the Board member will request from the General Counsel a written opinion indicating whether contracting with the individual or entity would constitute a conflict of interest pursuant to the Code of Ethics for Public Officers and Employees, or other State statute or Board rule. The General Counsel will issue a written opinion or will refer the Board member to the Florida Commission on Ethics.
  
- C. Clarification and opinions regarding the application of the Code of Ethics for Public Officers and Employees can be obtained at any time from the Florida Commission on Ethics.

Effective 07.01.2011  
Revised 09.03.2013  
Revised 06.18.2014  
Revised 10.21.2020  
Technical Correction 11.16.2022  
Revised 01.18.2023

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Legal References:

[F.S. 106.011](#)

F.S. 112.3121 - 3122  
F.S. 112.313(2)  
F.S. 112.313(3)  
F.S. 112.313(4)  
F.S. 112.313(6)  
F.S. 112.313(8)  
F.S. 112.313(10)  
F.S. 112.3148  
F.S. 112.3149  
F.S. 112.3143  
F.S. 286.012  
F.S. 1001.42  
F.S. 1006.32  
F.S. 1006.32(8)  
Fla. Const. art. II, § 8

Adoption Date: 05.11.2011