



## **POLICY 2.5905**

**5-B** I recommend the Board approve development of the proposed **new** Policy 2.5905, entitled “Lobbyist Registration.”

[Contact: Michael Burke, PX 48584.]

### **Development**

### **CONSENT ITEM**

- The Members of the School Board directed staff to develop a Lobbyist Registration Policy. This proposed policy defines who will be considered a “Lobbyist” and what conduct will be considered “Lobbying” activities. In addition, the proposed policy defines “Principal.”
- The policy requires the development of a lobbyist registration form and provides that the lobbyist must register with the School Board Clerk annually and report lobbying activities and expenditures made in relation to such activities.
- The policy requires that a Contact Log be maintained in the lobby of the Fulton Holland Building and other administrative offices throughout the School District.
- The policy authorizes the Inspector General to investigate alleged violations of the Policy and to recommend penalties.
- The policy sets forth penalties for violations of the policy, including but not limited to, suspension or debarment of contract awarded vendors for repeated and/or egregious violations of the Policy

POLICY 2.5905

LOBBYIST REGISTRATION

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2  
3 1. Purpose

4 The School Board of Palm Beach County, Florida recognizes that responsible  
5 government requires that the public be given the fullest opportunity to express  
6 opinions freely regarding issues that come before the School Board. In order to  
7 balance this principle with the need for confidence and transparency in the  
8 decision-making process, the School Board has determined that it would be in the  
9 best interests of the public to require the registration and public disclosure of the  
10 identity of Lobbyists and to require such Lobbyists to report expenditures, fees,  
11 interests, and activities relating to lobbying efforts.

12 The goals of the registration, disclosure and reporting requirements set forth herein  
13 are two-fold:

- 14 a. to ensure that the public has full knowledge of who is attempting to influence  
15 the decisions that affect School Board policy, and  
16 b. to ensure that policy-makers and decision-makers are informed of the interests  
17 each Lobbyist represents.

18 2. Definitions

19 a. "Lobbying". For the purposes of this policy, "Lobbying" shall mean direct or  
20 indirect oral or written communication on behalf of a Principal with the  
21 Members of the School Board, Members of School Board Advisory  
22 Committees, or School District employees for the purpose of:

- 23 i. assisting a Principal in obtaining business with the School District; or  
24 ii. encouraging approval, disapproval, adoption, repeal, or modification of a  
25 policy; or  
26 iii. influencing any official action, non-action, or decision of the School Board,  
27 a School Board Advisory Committee, or a School Board employee with  
28 statutory or delegated decision-making authority; or  
29 iv. obtaining the goodwill of any Member of the School Board, Member of a  
30 School Board Advisory Committee, or School District employee with  
31 regard to a matter that may foreseeably come before him/her for  
32 consideration in his/her official capacity as an official, employee, or agent  
33 of the School Board.

34 Lobbying shall not include the provision of marketing materials by sales or account  
35 representatives in response to inquiries by School District employees, responses to  
36 electronic postings for contract opportunities, a presentation to an Evaluation  
37 Committee during the competitive solicitation process, presentations during public  
38 meetings, nor the submission of written sealed bids, responses, or replies to  
39 competitive solicitations that will be opened publicly.

40 b. "Lobbyist". A "Lobbyist" means any individual, partnership, firm, corporation, or  
41 other business entity who engages in lobbying, regardless of whether the Lobbyist  
42 receives compensation from the Principal. The term "Lobbyist" specifically  
43 includes any agent, officer, representative, contractor, or employee of a Principal  
44 acting on behalf of a Principal. If a partnership, firm, corporation, or other business  
45 entity is retained to lobby on behalf of a Principal, only the members, partners,  
46 associates, or employees of the entity who personally lobby on behalf of that  
47 Principal are "Lobbyists."

48 For the purposes of this policy, a "Lobbyist" is not:

- 49 i. any person who lobbies only in his or her individual capacity for the  
50 purpose of self-representation and without compensation;
- 51 ii. a person representing school allied groups or outside parent groups  
52 affiliated with and recognized by the school, such as a school PTA or  
53 booster club; direct support groups or organizations; or internal student  
54 clubs or parent groups, such as a PTO;
- 55 iii. a person representing an employee bargaining unit when acting on behalf  
56 of the employee bargaining unit;
- 57 iv. members of a School Board Advisory Committee established by Charter  
58 and Policy, when such members are acting on behalf of or as part of the  
59 School Board Advisory Committee;
- 60 v. any School District employee or independent contractor, when such  
61 employee or independent contractor is acting within the course and scope  
62 of his/her employment or engagement in carrying out his/her public duty;
- 63 vi. any public official, employee, or appointee of a governmental agency  
64 acting only in his/her official capacity;
- 65 vii. any person addressing the School Board, School District staff, or School  
66 Board Advisory Committee at a publicly noticed meeting;
- 67 viii. an attorney or personal representative representing a client in a quasi-  
68 judicial proceeding; administrative proceeding conducted pursuant to  
69 Chapter 120, Florida Statutes; or any other formal hearing before the

70 School Board or authorized committee. Nothing in this policy shall be  
71 construed to permit an attorney or personal representative to engage in  
72 ex-parte communications with School Board members in violation of  
73 section 120.66, Florida Statutes or to engage in lobbying during the Cone  
74 of Silence in violation of Policy 6.14:

75 ix. a member of the public who submits comments or suggestions to the  
76 School District help-desk system that opens "Constituency Tickets":

77 x. a confidential informant who provides or seeks to provide confidential  
78 information to be used for law enforcement purposes:

79 xi. a person who provides or seeks to provide information regarding fraud,  
80 waste, abuse and illegal acts to the School District Inspector General.

81 c. "Principal". A Principal, for the purposes of this Policy, is defined as the  
82 individual, firm, corporation, or other business entity that affirmatively employs,  
83 retains, or uses the services of a Lobbyist.

84 3. **Registration**

85 a. All Lobbyists shall register with the School Board Clerk prior to engaging in  
86 any lobbying activities. The Lobbyist is required to submit a separate  
87 registration form (PBSD ) for each Principal represented.

88 b. The Lobbyist shall state on the registration form under oath:

89 i. the Lobbyist's name, business address, and phone number;

90 ii. the Principal's name, business address, and phone number;

91 iii. the extent of any business, financial, familial or professional relationship,  
92 or other relationship with any current Member of the School Board,  
93 Member of a School Board Advisory Committee, and School District  
94 employee; and

95 iv. any business, financial, familial, or professional relationship with a family  
96 member of any current Member of the School Board, Member of a School  
97 Board Advisory Committee, and School District employee.

98 c. Each registration form shall be signed by the Lobbyist and the Principal or the  
99 Principal's duly authorized representative, stating that the Lobbyist is  
100 authorized to represent the Principal.

101 d. All registrations expire on June 30<sup>th</sup> of the year following the initial registration  
102 and must be renewed annually thereafter on or before July 1.

103 e. The Lobbyist and/or Principal shall file a Notice of Withdrawal (PBSD )  
104 with the School Board Clerk within ten (10) days of the termination of the  
105 Lobbyist's authority to represent a particular Principal.

106 f. The School Board Clerk shall make all Registration Forms, and Notices of  
107 Withdrawals available for public inspection upon request in accordance with  
108 section 119.07, Florida Statutes. In addition, the School Board Clerk shall  
109 make the names of all registered Lobbyists available on-line.

110 **4. Lobbying Expenditures**

111 a. Lobbyists shall not knowingly provide to School Board Members or their  
112 relatives, as defined in section 112.312(21) Florida Statutes, either directly or  
113 indirectly, any gift with a value in excess of fifty dollars (\$50.00). The term "gift"  
114 has the same meaning as in section 112.312(12), Florida Statutes.

115 b. On or before August 1<sup>st</sup> of each year, Lobbyists shall submit to the School  
116 Board Clerk an Expenditure Report under oath listing all expenditures made  
117 by the Lobbyist in lobbying Members of the School Board, Members of a  
118 School Board Advisory Committees, or School District employees in excess of  
119 twenty-five dollars (\$25.00) for the preceding fiscal year commencing on July 1  
120 and ending on June 30. A statement shall be filed even if there have been no  
121 expenditures during the reporting period. A separate statement shall be filed  
122 for each Principal represented. The statement shall list in detail each  
123 expenditure by category, including but not limited to, food and beverage,  
124 entertainment, research, communication, media advertising, publications,  
125 travel, lodging, and special events.

126 c. Each Lobbyist has a continuing duty to supply accurate information and  
127 amend expenditure reports, when necessary.

128 **5. Record of Lobbying Contact**

129 a. All Lobbyists who visit a School District administrative office, including but not  
130 limited to, the Fulton-Holland Building, for the purpose of lobbying must sign,  
131 for each instance of lobbying, a contact log maintained and available at a front  
132 sign-in desk. The Lobbyist shall provide his/her name, the name of the  
133 Principal for whom the Lobbyist is lobbying, the subject matter of the lobbying  
134 effort, and the person lobbied.

135 b. If a Lobbyist engages in lobbying outside of a School District administrative  
136 office, the Lobbyist must notify the School Board Clerk in writing of each  
137 instance of lobbying relating to a matter prior to the date the matter comes  
138 before the School Board or the Advisory Committee for consideration or within  
139 thirty (30) days after the lobbying occurs, whichever period is sooner., The  
140 notification to the School Board Clerk must state the name of the Principal for

141 whom the Lobbyist is lobbying, the subject matter of the lobbying effort, and  
142 the person lobbied.

143 c. All contact logs and written notices of lobbying conduct submitted to the  
144 School Board Clerk shall be maintained by the School Board Clerk for the  
145 longer of: five years after the Lobbyist's representation of a Principal  
146 terminates or the period required by the Palm Beach County School District's  
147 Records Retention Schedule compiled from the State of Florida General  
148 Records Schedules and District-specific record series and approved by the  
149 Florida Department of State (available at:  
150 [http://www.palmbeachschools.org/records/documents/RecordsRetentionSche](http://www.palmbeachschools.org/records/documents/RecordsRetentionSchedule.pdf)  
151 dule.pdf ), which may be amended from time to time.

152 d. Prior to voting on an item presented to the School Board or an Advisory  
153 Committee for consideration, each Member of the School Board and Member  
154 of an Advisory Committee must disclose publicly if he or she has been lobbied  
155 on such item. Such disclosure shall be recorded in the meeting minutes.

156 6. **Prohibited Activities**

157 a. All Members of the School Board, Members of School Board Advisory  
158 Committees, and School District employees shall make every effort to  
159 determine whether persons required to register have complied with the  
160 registration requirements set forth herein. Members of the School Board,  
161 Members of School Board Advisory Committees, and School District  
162 employees may not knowingly permit a person who is not registered to engage  
163 in lobbying activities.

164 b. A Lobbyist may not knowingly make, or cause to be made, a false statement  
165 or misrepresentation relating to his/her registration or when lobbying Members  
166 of the School Board, Members of School Advisory Committees, and School  
167 District employees.

168 c. Except for a Principal's authorized sales or account representatives, no person  
169 shall accept employment as a paid Lobbyist on a basis which makes that  
170 person's compensation contingent in any manner upon the approval, rejection,  
171 or modification of any action, non-action or decision of the School Board,  
172 School Board Committee, or School District employee with statutory or  
173 delegated decision-making authority. "Contingency fee" means a fee, bonus,  
174 commission, or non-monetary benefit as compensation which is dependent on  
175 or in any way contingent on whether the Lobbyist affirmatively influencing the  
176 School Board, School Board Advisory Committee, or School Board  
177 employee's decision. Sales/account representatives are full or part time  
178 employees of a Principal whose primary purpose or responsibility is to  
179 promote and sell the Principal's products or services.

- 180 d. Each School Board Member, School Board Advisory Committee Member, and  
181 School District employee is prohibited from acting as a Lobbyist for two (2)  
182 years after his/her employment, term of office, or committee term has ended.
- 183 e. A person or employee, agent, representative, officer, or director of a firm,  
184 partnership, company, or other entity submitting or intending to submit a  
185 written sealed bid, response, or reply to a competitive solicitation is prohibited  
186 from lobbying any District personnel, School Board member, or person  
187 selected to evaluate or recommend contract award during the "Cone of  
188 Silence", as defined in Policy 6.14.

189 7. **Investigations**

190 The School District's Inspector General is authorized to investigate alleged  
191 violations of this Policy and to recommend penalties to the School Board.

192 8. **Penalties**

193 Violations of this Policy shall be punishable as follows after notice and opportunity  
194 to be heard:

195 a. If a Lobbyist or Principal is found to have violated this Policy, the School Board  
196 may vote to reprimand, suspend, or prohibit the violator from engaging in  
197 lobbying activities for a period of up to three (3) years from the date of  
198 determination of the violation based upon the following schedule:

199 1<sup>st</sup> violation: for a period of up to ninety (90) days from the date of  
200 determination of a violation;

201 2<sup>nd</sup> violation: for a period of up to one (1) year from the date of determination  
202 of a violation;

203 3<sup>rd</sup> violation: for a period of up to three (3) years from the date of  
204 determination of a violation.

205 b. Notwithstanding the foregoing schedule, the School Board may refer  
206 allegations of violations of this Policy to the Florida Commission on Ethics, the  
207 Palm Beach County State's Attorney, or other authority having jurisdiction to  
208 evaluate the matter;

209 c. If the Lobbyist or Principal is found to have engaged in lobbying relating to a  
210 competitive solicitation process or award of contract with the School Board,  
211 the Principal may be deemed by the Director of Purchasing to be non-  
212 responsible and/or ineligible for award of the contract. If the violation is  
213 discovered after the contract is awarded, such contract shall be deemed  
214 voidable. Repeated and/or egregious violations may result in suspension or

215           debarment of the Principal.

216   STATUTORY AUTHORITY: §§ 1001.41(1)(2)(5), 1001.42(15)(25), 1001.43(10), Fla.  
217   Stat.

218   LAWS IMPLEMENTED: §§ 1001.41(1)(2)(5), 1001.42(15)(25), 1001.43(10), Fla. Stat.

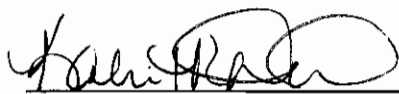
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220   HISTORY: \_\_/\_\_\_2012



Legal Signoff:

The Legal Department has reviewed proposed Policy 2.5905 and finds it legally sufficient for development by the Board.

  
\_\_\_\_\_  
Attorney

10/30/12  
\_\_\_\_\_  
Date