



## POLICY 2.5905

5-D I recommend the Board approve development of the proposed **new** Policy 2.5905, entitled "Lobbyist Registration."

[Contact: Michael Burke, PX 48584.]

### Development

### CONSENT ITEM

- Requires that Lobbyists register annually with the School Board Clerk
- Defines Lobbyist, Lobbying, and Principal
- Authorizes the Inspector General to investigate alleged violations of the Policy and to recommend penalties
- Permits Suspension or Debarment of contract awarded vendors for repeated and/or egregious violations of the Policy
- Requires that a Contact Log is maintained in the lobby of the Fulton Holland Building
- Requires that Lobbyists submit Expense Reports, Contact Logs (for lobbying activities outside the Fulton Holland Building), Statements of Compensation with the School Board Clerk

**POLICY 2.5905**

**LOBBYIST REGISTRATION**

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3 1. **Purpose**

4 The School Board of Palm Beach County, Florida recognizes that one of the  
5 fundamental principles of responsible government requires that members of the  
6 public be given the fullest opportunity to petition their elected officials for the  
7 redress of grievances and to express freely their opinions with regard to the  
8 decision-making process. In order to balance this fundamental principle with the  
9 need for confidence and transparency in the decision-making process, the School  
10 Board has determined that it would be in the best interests of the public to require  
11 the registration and public disclosure of the identity of Lobbyists and to require  
12 such Lobbyist to report expenditures, fees, interests, and activities relating to  
13 lobbying efforts. The goal of the registration, disclosure, and reporting  
14 requirements set forth herein are two-fold: 1) to ensure that the public has full  
15 knowledge of who is attempting to influence the decisions that affect School Board  
16 policy and 2) to ensure that policy-makers and decision-makers are informed of the  
17 interests 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 with the Members of the School Board,  
21 Members of School Board Advisory Committee, or School District employees  
22 on behalf of a Principal for the purpose of obtaining business with the School  
23 District; encouraging approval, disapproval, adoption, repeal, or modification of  
24 a policy; influencing any official action, non-action, or decision of the School  
25 Board, a School Board Advisory Committee, or a School Board employee with  
26 statutory or delegated decision-making authority; or obtaining the goodwill of  
27 any Member of the School Board Member, Member of a School Board  
28 Advisory Committee, or School District employee with regard to a matter that  
29 may come before them in their official capacity as an official, employee, or  
30 agent of the School Board. Lobbying shall not include the provision of  
31 marketing materials by sales or account representatives in response to  
32 inquiries by School District employees, responses to electronic postings for  
33 contract opportunities, a presentation to an Evaluation Committee during the  
34 competitive solicitation process, presentations during public meetings, nor the  
35 submission of written sealed bids, responses, or replies to competitive  
36 solicitations that will be opened publicly.

37 b. “Lobbyist” – a “Lobbyist” means any individual, partnership, firm, corporation,  
38 or other business entity who engages in lobbying, regardless of whether the

39 Lobbyist receives compensation from the Principal. The term "Lobbyist"  
40 specifically includes: 1) the Principal lobbying on behalf of him/herself, and 2)  
41 any agent, officer, representative, contractor, or employee of a Principal acting  
42 on behalf of a Principal. If a partnership, firm, corporation, or other business  
43 entity is retained to lobby on behalf of a Principal, only the members, partners,  
44 associates, or employees of the entity who personally lobby on behalf of that  
45 Principal are "Lobbyists."

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

- 47 i. A person representing school allied groups or outside parent groups  
48 affiliated with and recognized by the school, such as a school PTA or  
49 booster club; direct support groups or organizations; or internal student  
50 clubs or parent groups, such as a PTO;
- 51 ii. A person representing an employee bargaining unit when acting on behalf  
52 of the employee bargaining unit;
- 53 iii. Members of a School Board Advisory Committee established by Charter  
54 and Policy, when such members are acting on behalf of or as part of the  
55 School Board Advisory Committee;
- 56 iv. Any School District employee or independent contractor, when such  
57 employee or independent contractor is acting within the course and scope  
58 of his/her employment or engagement in carrying out his/her public duty;
- 59 v. Any public official, employee, or appointee of a governmental agency  
60 acting only in his/her official capacity;
- 61 vi. Any person addressing the School Board, School District staff, or School  
62 Board Advisory Committee at a publicly noticed meeting;
- 63 vii. An attorney or personal representative representing a client in a quasi-  
64 judicial proceeding; administrative proceeding conducted pursuant to  
65 Chapter 120, Florida Statutes; or any other formal hearing before the  
66 School Board or authorized committee. Nothing in this policy shall be  
67 construed to permit an attorney to engage in ex-parte communications  
68 with School Board members or to engage in lobbying during the Cone of  
69 Silence in violation of Policy 6.14;
- 70 viii. A member of the public who submits comments or suggestions to the  
71 School District help-desk system that opens "Constituency Tickets";
- 72 ix. A confidential informant who provides or seeks to provide confidential  
73 information to be used for law enforcement purposes;

- 74 x. A person who provides or seeks to provide information regarding fraud,  
75 waste, abuse and illegal acts to the School District Inspector General.
- 76 c. “Principal”- A Principal, for the purposes of this Policy, is defined as the  
77 individual, firm, corporation, or other business entity affirmatively employs,  
78 retains, or uses the services of a Lobbyist.

79 **3. Registration**

- 80 a. All Lobbyists shall register with the School Board Clerk prior to engaging in  
81 any lobbying activities. The Lobbyist is required to submit a separate  
82 registration form (PBSD \_\_\_\_\_) for each Principal represented.
- 83 b. The registration form shall identify the Lobbyist’s name, business address, and  
84 phone number and the Principal’s name, business address, and phone  
85 number. If the Principal is a for-profit-entity, the Lobbyist must submit a  
86 Beneficial Interest and Disclosure of Ownership Affidavit (PBSD 1997),  
87 advising of all persons owning more than a five (5) percent interest in the  
88 entity, with the Lobbyist Registration Form presented to the School Board  
89 Clerk.
- 90 c. Each registration form shall be signed by the Lobbyist and the Principal or the  
91 Principal’s duly authorized representative, stating that the Lobbyist is  
92 authorized to represent the Principal.
- 93 d. All registrations expire on June 30<sup>th</sup> of the year following the initial registration  
94 and must be renewed annually thereafter on or before July 1.
- 95 e. The Lobbyist shall file a Notice of Withdrawal (PBSD \_\_\_\_\_) with the School  
96 Board Clerk within five (5) days of the termination of the Lobbyist’s authority to  
97 represent a particular Principal.
- 98 f. The School Board Clerk shall make all Registration Forms, Notices of  
99 Withdrawals, and Beneficial Interest and Disclosure of Ownership Affidavits  
100 submitted by the Lobbyist available for public inspection upon request in  
101 accordance with section 119.07, Florida Statutes. In addition, the School  
102 Board Clerk shall make the names of all registered Lobbyist available on-line.

103 **4. Reporting Requirements**

- 104 a. Each Lobbyist shall be required to state under oath the extent of any business,  
105 financial, familial or professional relationship, or other relationship with any  
106 current Member of the School Board, Member of a School Board Advisory  
107 Committee, and School District employee and any business, financial, familial,  
108 or professional relationship with a family member of any current Member of the  
109 School Board, Member of a School Board Advisory Committee, and School

- 110           District employee.
- 111           b. On July 1<sup>st</sup> of each year, Lobbyists shall submit to the School Board Clerk an  
112 Expenditure Report under oath listing all expenditures made by the Lobbyist in  
113 lobbying Members of the School Board, Members of a School Board Advisory  
114 Committees, or School District employees in excess of twenty-five dollars  
115 (\$25.00) for the preceding calendar year. A statement shall be filed even if  
116 there have been no expenditures during the reporting period. A separate  
117 statement shall be filed for each Principal represented. The statement shall list  
118 in detail each expenditure by category, including but not limited to, food and  
119 beverage, entertainment, research, communication, media advertising,  
120 publications, travel, lodging, and special events.
- 121           c. At the time of registration and on July 1<sup>st</sup> of each year thereafter, each  
122 Lobbyist must submit to the School Board Clerk a statement under oath  
123 disclosing the terms and amount of compensation paid and to be paid, by  
124 each Principal to the Lobbyist with regard to the specific matters on which the  
125 Lobbyist has been engaged to Lobby. A statement must be filed even if no  
126 compensation has or will be paid concerning the lobbying services.
- 127           d. Each Lobbyist has a continuing duty to supply accurate information and  
128 amend expenditure and compensation reports when necessary.
- 129           e. The failure to provide accurate expenditure and compensation reports may  
130 result in the imposition of penalties as provided in Section 8 below.

131   5. **Contact Log**

- 132           a. All Lobbyists who visit the Fulton-Holland Building for the purpose of lobbying  
133 must sign, for each instance of lobbying, a contact log maintained and  
134 available at front sign-in desk. The Lobbyist shall provide his/her name, the  
135 name of the Principal for whom the Lobbyist is lobbying, the subject matter of  
136 the lobbying effort, and the person lobbied.
- 137           b. For all lobbying efforts outside of the Fulton-Holland Building, each Lobbyist  
138 must submit a contact log to the School Board Clerk on a monthly basis,  
139 executed under oath, setting forth each instance of lobbying, the name of the  
140 Principal for whom the Lobbyist is lobbying, the subject matter of the lobbying  
141 effort, and the person lobbied.
- 142           c. All contact logs shall be maintained by the School Board Clerk for the longer  
143 of: five years after the Lobbyist's representation of a Principal terminates or  
144 the period required by the Palm Beach County School District's Records  
145 Retention Schedule compiled from the State of Florida General Records  
146 Schedules and District-specific record series and approved by the Florida  
147 Department of State (available at:

148 <http://www.palmbeachschools.org/records/documents/RecordsRetentionSchedule.pdf> ), which may be amended from time to time.  
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150 **6. Prohibited Activities**

151 a. All Members of the School Board, Members of School Board Advisory  
152 Committees, and School District employees shall make every effort to  
153 determine whether persons required to register have complied with the  
154 registration requirements set forth herein. Members of the School Board,  
155 Members of School Board Advisory Committees, and School District  
156 employees may not knowingly permit a person who is not registered to engage  
157 in lobbying activities.

158 b. No person shall accept employment as a Lobbyist on a basis which makes  
159 that person's compensation contingent in any manner upon the approval,  
160 rejection, or modification of any action, non-action or decision of the School  
161 Board, School Board Committee, or School District employee with statutory or  
162 delegated decision-making authority. "Contingency fee" means a fee, bonus,  
163 commission, or non-monetary benefit as compensation which is dependent on  
164 or in any way contingent on whether the Lobbyist affirmatively influencing the  
165 School Board, School Board Advisory Committee, or School Board  
166 employee's decision.

167 c. Each School Board Member, School Board Advisory Committee Member, and  
168 School District employee is prohibited from acting as a Lobbyist for two (2)  
169 years after his/her employment, term of office, or committee term has ended.

170 d. A person or employee, agent, representative, officer, or director of a firm,  
171 partnership, company, or other entity submitting or intending to submit a  
172 written sealed bid, response, or reply to a competitive solicitation is prohibited  
173 from lobbying any District personnel, School Board member, or person  
174 selected to evaluate or recommend contract award during the "Cone of  
175 Silence", as defined in Policy 6.14.

176 **7. Investigations**

177 The School District's Inspector General is authorized to investigate alleged  
178 violations of this Policy and to recommend penalties.

179 **8. Penalties**

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

182 a. If a Lobbyist or Principal is found to have violated this Policy, the School Board  
183 may vote to reprimand, suspend, or prohibit the violator from engaging in

184                   lobbying activities for a period of up to three (3) years or refer the matter to the  
185                   Florida Commission on Ethics, the Palm Beach County State's Attorney, or  
186                   other authority having jurisdiction to evaluate the matter;

187           b.   If the Lobbyist or Principal is found to have engaged in lobbying relating to a  
188               competitive solicitation process or award of contract with the School Board,  
189               the Principal may be deemed by the Director of Purchasing to be non-  
190               responsible and/or ineligible for award of the contract. If the violation is  
191               discovered after the contract is awarded, such contract shall be deemed  
192               voidable. Repeated and/or egregious violations may result in suspension or  
193               debarment of the Principal.

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

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

197  
198   HISTORY: \_\_/\_\_/2012

Legal Signoff:

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

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Attorney

\_\_\_\_\_  
Date