

ARTICLE IB. - STANDARDS FOR CREATION AND REVIEW OF BOARDS GENERALLY [\[4\]](#)



Footnotes:

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Editor's note— At the editor's discretion, pursuant to § 11 of said ordinance, §§ 1—8 of Ord. No. 80-136, adopted Dec. 16, 1980, have been codified as Art. IB, §§ 2-11.36—2-11.40.

Annotations— CAO's 81-32, 82-16.

Cross reference— Regulations concerning presentations to Board, matters of local concern and Board positions on candidates, § 2-10.2.

Sec. 2-11.36. - Statement of policy.

It is hereby declared to be the policy of the Board of County Commissioners of Miami-Dade County, Florida, to promote economy, efficiency and improved service in the transaction of the public business by County Boards.

(Ord. No. 80-136, § 1, 12-16-80)

Sec. 2-11.36.1. - Definition of board.

- (a) The term "board" is defined to include every agency, authority, advisory board, regulatory board, quasijudicial board, semiautonomous instrumentality, committee, task force or any other citizens' group created and funded in whole or in part by the Board of County Commissioners. The foregoing notwithstanding, this article shall not apply to citizen groups created for specific advisory purposes where such group's existence is limited to a period of less than one (1) year. Except as otherwise provided, "County boards" and "citizens' advisory groups" may only be created by action of the County Commission, and only the County Commission, as a body, may appoint the members of these boards and groups.
- (b) Notwithstanding the provisions of subsection (a) hereof, no board, committee, task force, or other citizens' group created by a County Commissioner for the purpose of advising him or her with regard to issues solely within his or her district shall be deemed a County "board" as that term is defined herein. Such a "district board" shall, however, be governed by Florida's "Government in the Sunshine Law," Section 286.011, Florida Statutes, and the County's and Florida's Code of Ethics Laws, Section 2-11.1 of the Code of Miami-Dade County and Chapter 112, Part III, Florida Statutes, as those laws may be amended from time to time.

(Ord. No. 80-136, § 2, 12-16-80; Ord. No. 88-120, § 1, 12-20-88; Ord. No. 91-46, § 1, 4-16-91; Ord. No. 94-42, § 1, 3-17-94)

Sec. 2-11.37. - Creation of new boards.

- (a) All County boards created after the effective date of this article shall be created only by ordinance. Such ordinance shall set forth the board's purpose, function, power, responsibility, jurisdiction, membership requirements and restrictions, terms and conditions of appointment to or removal from

the board, and the specific staff support, if any, to be provided to the board. The ordinance shall also provide for an annual report, either oral or written, to the Board of County Commissioners.

- (b) After passage on first reading of an ordinance creating a new board and prior to the public hearing held on said ordinance, the County Manager shall submit to the Board of County Commissioners, a report setting forth the following information concerning the proposed new board:
 - (1) Whether the establishment of the board will create sufficient betterment to the community to justify the Board of County Commissioners' delegation of a portion of its authority.
 - (2) Whether another board or agency, either public or private, which is already in existence could serve the same purpose.
 - (3) The costs, both direct and indirect, of establishing and maintaining the board.
 - (4) Whether the board is necessary to enable the County to obtain State or federal grants or other financing.
 - (5) Whether the board should have bonding authority.
 - (6) Whether the board should have final authority to enter into contracts and spend County funds, or whether its contracts and expenditures must be ratified by the Board of County Commissioners.
 - (7) Whether the creation of a new board is the best method of achieving the benefit desired.
- (c) The public hearing shall be held no earlier than six (6) weeks after passage on first reading of the ordinance creating said board.

(Ord. No. 80-136, § 3, 12-16-80)

Sec. 2-11.38. - Membership on boards.

All members of County boards shall be permanent residents and electors of Miami-Dade County unless the Board of County Commissioners, by a two-thirds vote of its membership, waives this requirement, and should have reputations for integrity and community service. In addition, all board members should have demonstrated an interest in the field, activity or sphere covered by the board. Each board shall include at least one (1) person whose livelihood does not depend on the area regulated, administered or dealt with by the board.

Unless the Board of County Commissioners by two-thirds (2/3) vote of its membership waives the residency requirement, any member of County boards who ceases to be a resident of Miami-Dade County during the term of his or her office shall immediately advise the Clerk of the Board of County Commissioners. Upon being advised by the Clerk of such circumstances, the Board of County Commissioners shall declare the position to be vacant and shall promptly fill the same pursuant to the provisions of section 2-11.38.1.

The primary consideration in appointing board members shall be to provide the board with the needed technical, professional, financial, business or administrative expertise. The membership of each board should be representative of the community at large and should reflect the gender, racial, ethnic and cultural make-up of the community.

No person shall be eligible to serve on a County board if, at the time of appointment to the County board, the person has filed a lawsuit against the County that is pending at the time of appointment and that challenges a policy set by the Board of County Commissioners, unless the Board of County Commissioners by two-thirds (2/3) vote of its membership waives this requirement. No person sitting on a County board may file a lawsuit against the County that challenges a policy set by the Board of County Commissioners without relinquishing his or her seat on the County board unless the Board of County Commissioners by two-thirds (2/3) vote of its membership waives this requirement.

No member of any County board shall become a candidate for elective political office during his or her term. Should any member of a County board qualify as a candidate for elective political office, such

qualification shall be deemed a tender of resignation from such board. No person shall serve on more than two (2) County boards simultaneously, unless the Commission has by unanimous vote approved the appointment after being advised of all other County board(s) upon which the person sits, provided, however, a person serving on any one of the following boards shall not serve on any other County board simultaneously except as provided by ordinance: Community Council; Community Zoning Appeals Board; Planning Advisory Board; Citizens' Independent Transportation Trust; Housing Finance Authority; Independent Review Panel; Industrial Development Authority; Health Facilities Authority; Educational Facilities Authority; Commission on Ethics and Public Trust; Environmental Quality Control Board; The Children's Trust; and the Public Health Trust. Notwithstanding the foregoing, a person is prohibited from serving on a County board where such service would violate federal or state law, the Miami-Dade County Home Rule Charter or county ordinance.

Any Commissioner who has nominated a citizen to a County board as that term is defined in Section 2-11.36 of the Code of Miami-Dade County may at any time, with or without cause, request the Board of County Commissioners to remove said board member from his or her position on a County board and recommend a different person to fill the position.

Regarding those board members that are required to file financial disclosure with the County's Elections Department, the Executive Director of the Miami-Dade County Ethics Commission (the "Ethics Commission") shall notify such members if they have failed to file the required financial disclosure for the previous calendar year by February 1st of each year. The notice shall provide that each such member shall have thirty (30) days from the date of the notice to submit proof to the Ethics Commission that financial disclosure has been filed with the Elections Department within such thirty (30) day period. Such notice shall also provide that these board members will be removed from the membership roster of the board on the thirty-first (31st) day from the date of the notice. A copy of this notice shall be provided to the Mayor or designee, the Clerk of the Board (the "Clerk") and the County Attorney. Notwithstanding any provision of the Code or law to the contrary, such member shall not hold over in office until a successor is appointed to fill the vacancy caused by the removal of such board member pursuant to this section. The provisions of this paragraph pertaining to removal for failure to file financial disclosure shall not apply to (1) any County board whose members can only be removed by the Governor of the State of Florida and (2) Community Council members, whose removal shall be governed by Section 20-43.2. Additionally, removal from office is only one penalty for failure to file financial disclosure. Nothing herein prohibits any appropriate authority from taking other lawful action, including the imposition of fines or criminal sanctions, for failing to file financial disclosure.

Regarding those board members that are required to file financial disclosure with the State Commission on Ethics, the Clerk of the Board of County Commissioners (the "Clerk") shall determine the names of such persons and shall notify such members of County boards who have failed to file their required financial disclosure for the previous calendar year by February 1 of each year. The notice shall provide that each such board member has thirty (30) days from the date of the notice to submit proof to the Clerk that financial disclosure has been filed with the State Commission on Ethics within such thirty (30) days period. Such notice shall also provide that these board members will be removed from the membership roster of the board on the thirty-first (31st) day from the date of the notice. A copy of this notice shall be provided to the Mayor or designee, the Clerk of the Board and the County Attorney. Notwithstanding any provision of the Code or law to the contrary, such member shall not hold over in office until a successor is appointed to fill the vacancy caused by the removal of such board member pursuant to this section. The provisions of this paragraph pertaining to removal for failure to file financial disclosure shall not apply to (1) any County board whose members can only be removed by the Governor of the State of Florida and (2) Community Council members, whose removal shall be governed by Section 20-43.2. Additionally, removal from office is only one penalty for failure to file financial disclosure. Nothing herein prohibits any appropriate authority from taking other lawful action, including the imposition of fines or criminal sanctions, for failure to file financial disclosure.

(Ord. No. 80-136, § 4, 12-16-80; Ord. No. 89-55, § 1, 6-20-89; Ord. No. 92-141, § 1, 11-17-92; Ord. No. 93-68, § 1, 7-15-93; Ord. No. 93-104, § 6, 10-19-93; Ord. No. 93-114, § 7, 10-21-93;

Ord. No. 96-179, § 1, 12-3-96; Ord. No. 04-57, § 1, 3-16-04; Ord. No. 05-194, § 1, 11-3-05; Ord. No. 08-35, § 1, 3-18-08; Ord. No. 14-62, § 1, 7-1-14)

Annotation— CAO 81-1.

Sec. 2-11.38.1. - Process of appointment.

- (a) Vacancies occurring on any board shall be advertised in publications of general circulation. Twice a year advertisements shall appear setting forth a list of all County boards; any special qualifications necessary for membership on the board; and the County telephone number to call for additional information.
- (b) Prior to its making appointments to County boards, the Board of County Commissioners shall be furnished (1) a list setting forth the qualifications and demographic background of all new candidates for membership; (2) a list of the qualifications and demographic backgrounds of the present members of the board to which an appointment is being made; and (3) a copy of a background check regarding criminal history, if any, of each applicant performed by the Office of the Inspector General.

(Ord. No. 80-136, § 5, 12-16-80; Ord. No. 09-95, § 1, 11-3-09)

Sec. 2-11.38.2. - Term of office.

- (a) The terms of office of the members of each board shall be staggered.
- (b) No board member shall serve more than eight (8) consecutive years on any one (1) board. The provisions of this section shall not apply to current board members. Nothing set forth in this subsection above shall prohibit any individual from being reappointed to a County board after a hiatus of two (2) years. Notwithstanding the foregoing, the Board of County Commissioners may, by a resolution adopted by a two-thirds (2/3) vote of members present, waive the restriction that a particular member of a board may not serve more than eight (8) consecutive years on that board or any other term limit applicable to a particular board member.
- (c) Additionally, notwithstanding any other provision of the Code or of any resolution, the term of every board member nominated by a Commissioner shall automatically expire when:
 - (1) The nominating Commissioner leaves office; or
 - (2) The nominating Commissioner's term of office expires.

The provisions of this subsection shall be applicable to the terms of County Commissioners which expired in October 1998, and thereafter.

(Ord. No. 80-136, § 6, 12-16-80; Ord. No. 93-104, §§ 5, 7, 10-19-93; Ord. No. 93-114, §§ 6, 8, 10-21-93; Ord. No. 99-04, § 1, 1-21-99; Ord. No. 10-06, § 1, 1-21-10)

Sec. 2-11.38.3. - Uniform rule for filling of open vacancies on boards that remain unfilled for thirty days.

Notwithstanding any other provision of the Code or of any resolution, if a vacancy on any County board which is subject to individual commissioner appointment remains unfilled for more than thirty (30) days, it may thereafter be filled by action of the County Commission.

(Ord. No. 95-94, § 1, 6-6-95)

Sec. 2-11.39. - Attendance requirement.

Notwithstanding any other provision of this Code, any board member shall be automatically removed if, in a given fiscal year: (i) he or she is absent from two (2) consecutive meetings without an acceptable excuse; or, (ii) if he or she is absent from three (3) of the board's meetings without an acceptable excuse. A member of a County board shall be deemed absent from a meeting when he or she is not present at the meeting at least seventy-five (75) percent of the time. An "acceptable excuse" is defined as an absence for medical reasons, business reasons, personal reasons, or any other reason which the board, by a two-thirds vote of the membership, deems appropriate. By a two-thirds (2/3) vote of the members of the full Board of County Commissioners, the provisions of this section may be waived.

(Ord. No. 80-136, § 7, 12-16-80; Ord. No. 93-69, § 1, 7-15-93; Ord. No. 94-129, § 1, 6-21-94; Ord. No. 97-195, § 1, 11-4-97)

Sec. 2-11.39.1. - Quorum.

Notwithstanding any other provision of the Code or of any resolution, a quorum for all County Boards shall consist of a majority of those persons duly appointed to the board, provided that at least one-half (½) of the full board membership has been appointed. It is expressly provided, however, that the quorum requirement for any board created or established pursuant to Section 20-40 or Section 33-306 of this Code (Community Council or Community Zoning Appeal Board) shall be four (4) members and that the quorum requirement for any board created or established pursuant to Section 2-107 of this Code (Planning Advisory Board) shall be six (6) members.

(Ord. No. 97-195, § 1, 11-4-97; Ord. No. 05-188, § 1, 11-3-05)

Sec. 2-11.39.2. - Application of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance.

The provisions of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance shall be applicable to county boards.

(Ord. No. 03-74, § 1, 4-8-03; Ord. No. 08-53, § 1, 5-6-08)

Sec. 2-11.39.3. - Reasonable opportunity for the public to be heard before county boards.

- (a) In addition to the right to speak on any public hearing matter, if applicable, and notwithstanding and prevailing over any other provision of the Code to the contrary, members of the public shall be given a reasonable opportunity to be heard on any non-public hearing proposition that is under consideration by any county board as set forth in this part pursuant to Florida Statutes, Section 286.0114, as such may be amended from time to time.
- (b) For purposes of this rule, "proposition" shall mean a general substantive policy issue or matter proposed or offered for consideration or adoption, and shall not include:
 - (i) Procedural motions on propositions, or
 - (ii) Individual components, aspects or line items of a proposition.

While a single proposition may be considered multiple times before a board as the same or different agenda items, there shall only be one reasonable opportunity to be heard on each proposition during the decision-making process as set forth in this rule.

- (c) The opportunity to be heard does not apply to:

1. An official act that must be taken to deal with an emergency situation affecting the public health, welfare, or safety, if compliance with the requirements would cause an unreasonable delay in the ability of the board to act;
 2. An official act involving no more than a ministerial act, including, but not limited to, approval of minutes and ceremonial proclamations;
 3. A meeting that is exempt from the Sunshine Law; or
 4. A meeting during which the board is acting in a quasi-judicial capacity, provided, however, that this provision does not affect the right of a person to be heard as otherwise provided by law.
- (d) Unless further time is granted by the presiding officer of a county board, the statement shall be limited to no more than two (2) minutes, subject to the limitations as set forth in Rule 6.06 of the Board of County Commissioners Rules of Procedure, as such may be amended from time to time.
- (e) A board may adopt additional rules or policies that govern the reasonable opportunity to be heard. In the event that a board does not adopt rules or policies, or adopted rules or policies do not address a particular situation, then the provisions of Rule 6.06 of the Board of County Commissioners Rules of Procedure, as such may be amended from time to time, shall apply.

(Ord. No. 14-07, § 2, 1-22-14)

Editor's note— Ord. No. 14-07, § 2, adopted January 22, 2014, set out provisions intended for use as § 2-11.39.2. To preserve the style of this Code, and at the editor's discretion, these provisions have been included as § 2-11.39.3.

Sec. 2-11.40. - "Sunset" review of boards.

Commencing with calendar year 2001 the initial board program category shall be reviewed and every year thereafter in the following manner:

- (a) By February 1, 2001 and by February 1 each year thereafter, each board's chairperson shall submit a report, approved by the board, to the County Manager setting forth the following information concerning the board:
 - (1) Whether the board is serving the purpose for which it was created.
 - (2) Whether the board is serving current community needs.
 - (3) A list of the board's major accomplishments.
 - (4) Whether there is any other board, either public or private, which would better serve the function of the board.
 - (5) Whether the ordinance creating the board should be amended to better enable the board to serve the purpose for which it was created.
 - (6) Whether the board's membership requirements should be modified.
 - (7) The cost, both direct and indirect, of maintaining the board.
 - (8) Whether the County board is meeting performance measures developed to determine their effectiveness in achieving stated goals.
- (b) By March 15, 2001 and by March 15, each year thereafter, the County Manager shall deliver to the Board of County Commissioners the report submitted by the chairperson of each board, pursuant to subsection (a) of this section, together with the recommendation or comments that the County Manager submits.

- (c) By April 15, 2001 and by April 15 each year thereafter, the chairperson shall make an oral presentation to the Board of County Commissioners should it be the desire of the Board. Said presentation shall be based upon the report set forth in subsection (a) above. The Board of County Commissioners shall evaluate the chairperson's report, the County Manager's recommendations and any other information it deems relevant to determine whether the board shall continue in its present form.
- (d) The Board of County Commissioners shall determine whether to abolish, continue, consolidate or modify the board.
- (e) At the conclusion of this review process, affected County departments must follow up on the Board of County Commissioners' action and, if necessary, prepare the appropriate legislation to abolish, consolidate or modify a board if it is not continued in its present form.
- (f) Reserved.
- (g) The following board categories shall be reviewed in the following years and every other year thereafter:
 - (i) 2001: Policy Formulation, General Government, Internal Support, Culture and Recreation, and Physical Environment
 - (ii) 2002: Protection of People and Property, Transportation, and Health and Human Services
- (h) All existing and newly created boards shall be administratively placed in the appropriate program category under subsection (g) above.
- (i) Any proposed Miami-Dade County ordinance or resolution creating a board must be accompanied by a report from the County Manager's Office setting forth the following information concerning the board:
 - (1) Whether there is a need for the proposed board.
 - (2) Whether the purpose of the proposed board could be accomplished in any other manner.
 - (3) The cost both direct and indirect of creating and maintaining such a board.
 - (4) A clear statement of the mission, desired outcomes and strategies for accomplishing such outcomes, and performance measures to assess whether such outcomes are being achieved. Such outcomes specified shall be measurable, concrete and specific.
 - (5) A date when the ordinance creating the board shall be repealed, contingent upon the completion of a review by the County Manager and the Board of County Commissioners prior to said repeal date, to determine its effectiveness in achieving stated goals and to revise or modify program components for the full achievement of said goals. No board shall be created whose date for repeal is greater than five (5) years from the effective date of the enacting ordinance.
- (j) Any and all boards created pursuant to state or federal law shall be exempt from the requirements of Sec. 2-11.40.

(Ord. No. 80-136, § 8, 12-16-80; Ord. No. 95-93, § 1, 6-6-95; Ord. No. 98-113, § 1, 7-21-98; Ord. No. 01-20, § 1, 1-23-01)