



Oak Park Elementary School District 97

970 Madison ▪ Oak Park ▪ Illinois ▪ 60302 ▪ ph: 708.524.3000 ▪ fax: 708.524.3019 ▪ www.op97.org

**TO: Members, Board of Education
Dr. Albert Roberts, Superintendent**

FROM: Chris Jasculca

RE: Policy Review and Discussion

DATE: August 19, 2014

During the first reading of policies that took place during the Board of Education meeting on May 13, 2014, District 97's policy review team (Amy Felton, Denise Sacks and Chris Jasculca) recommended that the district replace the following district-specific policies with the versions that were drafted and are currently maintained by Policy Reference Education Subscription Service (PRESS).

- Policy 4:120 – Food Services
- Policy 7:180 – Preventing Bullying, Intimidation, and Harassment
- Policy 7:190 – Student Discipline
- Policy 8:30 – Visitors to and Conduct on School Property

The team's reason/rationale for switching to the PRESS versions is that they are clearer and more succinct. In addition, should the language in these or any of our other policies ever be challenged, PRESS would be willing to write amicus briefs in support of the policies if asked, and would allow our attorneys to use the organization's legal department as a resource. However, these services are only available for challenges made to language that was written by PRESS. Any challenge issued to district-specific language in our policies would need to be handled by the district and Hodges Loizzi Eisenhammer Rodick & Kohn LLP (HLERK), which is the district's legal counsel.

The board reviewed/discussed the policy review team's proposed changes to policy 4:120 on May 13 and adopted them on May 27. However, since the district spent several months working with HLERK on the creation of policies 7:180, 7:190 and 8:30, the team suggested, and the board agreed, that it would be best to work with the firm to determine the pros and cons associated with switching from the district-specific to the PRESS versions of the policies.

After reviewing the policies, HLERK informed the team that it agreed with our recommendation to switch to the PRESS versions. It also provided several suggested changes to the policies that would align them more closely to the law, general best practices, and the district's current processes and procedures. Those changes, which we received from HLERK in the middle of June, were emailed to board members on July 17, along with the request to send the team any initial comments, questions or revisions by August 1.

Although there was no preliminary feedback provided by August 1, the three policies are being presented to the board tonight for a formal review and discussion. Attached to this memorandum are the current versions of the district's policies, as well as the PRESS versions that feature HLERK's proposed revisions. Below is a summary of the differences between the two versions of each policy, as well as the policy review team's recommendations regarding the suggested changes submitted by HLERK. Please note that we summarized the differences between the two different versions of the policies, but did not offer our opinion on many of them. This is because we are recommending that the district switch to the PRESS versions. We simply felt it was

important to highlight the difference between the two so the members of the board and general public would be aware of what might be changing.

Policy 7:180 (Preventing Bullying, Intimidation, and Harassment)

- On the first page of the PRESS version of the policy, the paragraph that begins with “Bullying, intimidation, and/or harassment may take various form...” includes an additional sentence at the end that reads “For purposes of this policy, the term *bullying* includes harassment, intimidation, retaliation, and school violence.”
- The PRESS version of the policy includes the following paragraph, which appears after the paragraph mentioned in the first bullet point.

A student who is being bullied is encouraged to immediately report it orally or in writing to the District Complaint Manager or any staff member with whom the student is comfortable speaking. Anyone who has information about bullying is encouraged to report it to the District Complaint Manager or any staff member. The District will not punish anyone because he or she made a complaint or report, supplied information, or otherwise participated in an investigation or proceeding, provided the individual did not make a knowingly false accusation or provide knowingly false information.

The second sentence in the original version of this paragraph read “Anyone who has information about actual or threatened bullying is encouraged to report it to the District Complaint Manager or any staff member.” HLERK recommends removing the phrase actual or threatened because it believes it could cause confusion for our families and members of the general public (i.e., what is “threatened” bullying?). The policy review team agrees with HLERK’s recommendation.

- In the PRESS version of the policy, there are several changes to the first item that is listed after the sentence “The Superintendent or designee shall develop and maintain a program that:” These changes include:
 - Listing the policies in numerical order.
 - Slight revisions to the language used to describe policies 7:20 and 7:310, as well as to the paragraph that follows the list of policies.
 - The inclusion of policies 2:260 and 7:185 on the list.
- In the current version of the policy, the fourth item listed after the sentence “The Superintendent or designee shall develop and maintain a program that:” currently reads:

Fully informs staff members of the District’s goal to prevent students from engaging in bullying and the measures being used to accomplish it. This includes: (a) communicating the District’s expectation – and the State law requirement – that teachers and other certificated employees maintain discipline, and (b) establishing a process for staff members to fulfill their obligation to report alleged acts of bullying, intimidation, harassment, and other acts of actual or threatened violence.

In the PRESS version of the policy, this item reads:

1. Fully informs staff members of the District’s goal to prevent students from engaging in bullying and the measures being used to accomplish it. This includes each of the following:

- a. Communicating the District’s expectation and State law requirement that teachers and other certificated or licensed employees maintain discipline.
- b. Establishing the expectation that staff members: (1) intervene immediately to stop a bullying incident that they witness or immediately contact building security and/or law enforcement if the incident involves a weapon or other illegal activity, (2) report bullying, whether they witness it or not, to an administrator, and (3) inform the administration of locations on school grounds where additional supervision or monitoring may be needed to prevent bullying.
- c. Where appropriate in the staff development program, providing strategies to staff members to effectively address bullying and intervene when it occurs.
- d. Establishing a process for staff members to fulfill their obligation to report alleged acts of bullying.

HLERK expressed concern that the language featured in part b under this item in the PRESS version “could limit flexibility in how individual situations are handled.” It also recommended replacing prevent with address not only in this item, but throughout the policy because “the district cannot guarantee it will ultimately prevent such behavior, although it must investigate and take all appropriate measures to address the behavior.”

When the team reviewed other districts’ versions of this policy, some, including districts 90 and 200, are using the language for part b that is featured in the PRESS version, while others are using the language featured in our current version. We believe the language featured in the PRESS version of our policy was part of a recent update from the organization that some districts may not have had the chance to present to their boards for review and adoption. We also believe the use of the word prevent not only reflects our strong commitment to the health and safety of our students, but also provides consistency in the language (i.e., preventing is in the title of the policy).

While we understand the concerns raised by HLERK, we recommend leaving the language in the PRESS version unchanged.

- HLERK recommends adding the word staff between including and students in the first line of item five. The policy review team agrees with this change.

Policy 7:190 (Student Discipline)

- The PRESS version of the policy features a section titled “Delegation of Authority” that is similar to the section in our current policy titled “General Discipline Authority.” The main difference between the two sections is that the first paragraph in the PRESS version addresses the authority teachers have, while the first paragraph of the district’s version addresses the authority of the board. The policy review team recommends removing the Dean of Students from the second paragraph of the section in the PRESS version since it does not apply to our district.
- The PRESS version of the policy does not include the first three paragraphs about gross disobedience or misconduct that are featured in the district version. We believe this information is sufficiently covered both in the rest of the policy and the law that governs this issue.
- While the order in which they appear and the language used to describe them are somewhat different, the list of items that are deemed to be acts of gross disobedience or misconduct are similar in both versions of the policy. The only substantive differences between the lists are the inclusion of the following activities in the PRESS version:

- Use or possession of a laser pointer unless under a staff member's direct supervision and in the context of instruction.
- Being involved with any public school fraternity, sorority, or secret society, by: (a) being a member; (b) promising to join; (c) pledging to become a member; or (d) soliciting any other person to join, promise to join, or be pledged to become a member.

HLERK provided several recommended revisions to the items featured in this section of the policy, including:

- Changing the first item from:

Using, possessing, distributing, purchasing, or selling tobacco.

to:

Using, possessing, distributing, purchasing, or selling tobacco or tobacco products, or any alternative nicotine product (e.g., electronic cigarettes), or any cartridge or component of an alternative nicotine product.

The policy review team agrees with this change.

- Removing the reference to the Illinois High School Association's banned substance list from part c of item three since it does not apply to elementary school districts. The policy review team agrees with this change.
- Changing the fifth item from:

Using or possessing an electronic paging device. Using a cellular telephone, video recording device, personal digital assistant (PDA), or other electronic device in any manner that disrupts the educational environment or violates the rights of others, including using the device to take photographs in locker rooms or bathrooms, cheat, or otherwise violate student conduct rules. Prohibited conduct specifically includes, without limitation, creating, sending, sharing, viewing, receiving, or possessing an indecent visual depiction of oneself or another person through the use of a computer, electronic communication device, or cellular phone. Unless otherwise banned under this policy or by the Building Principal, all electronic devices must be kept powered-off and out-of-sight during the regular school day unless: (a) the supervising teacher grants permission; (b) use of the device is provided in a student's individualized education program (IEP); or (c) it is needed in an emergency that threatens the safety of students, staff, or other individuals.

to:

Using or possessing an electronic paging device. Using a cellular telephone, video recording device, personal digital assistant (PDA), tablet, mobile device (defined as any electronic device that has the capability of accessing the Internet, through wireless connection of other means), or other electronic device in any manner that disrupts the educational environment or violates the rights of others, including, but not limited to, sexting, using the device to take photographs in locker rooms or bathrooms, cheat, text messaging others or otherwise violating student conduct rules. All electronic devices must be kept powered-off and out-of-sight during the regular school day unless: (a) the supervising teacher grants permission; (b) use of the device is provided in a student's individualized education

program (IEP) or Section 504 plan; (c) it is needed in an emergency that threatens the safety of students, staff, or other individuals or (d) use of the device is permitted pursuant to Board Policy 6:235, *Access to Electronic Networks*.

The notable changes associated with this recommendation include the addition of references to tablets, mobile devices and sexting in the first sentence; the removal of the sentence “Prohibited conduct specifically includes, without limitation, creating, sending, sharing, viewing, receiving, or possessing an indecent visual depiction of oneself or another person through the use of a computer, electronic communication device, or cellular phone” and adding a stand-alone item about sexting further down in the policy; and adding the use of the device as provided in Section 504 plans and the use of the device as permitted by policy 6:235 (*Access to Electronic Networks*) among the exceptions. The policy review team agrees with these changes.

- Adding the phrase legally valid before search in the last line of item seven. The policy review team agrees with this change.
- Removing the word eavesdropping from item 14 because “the Illinois eavesdropping law was struck down as unconstitutional.” The policy review team agrees with this change.
- As mentioned above, making item 15 a stand-alone item about sexting that reads:

Engaging in “Sexting”; defined as sending, forwarding, displaying, possessing, sharing, retaining, storing or posting sexually explicit, lewd, indecent, or pornographic photographs or messages, including text, audio, video and image media, by or on a cell phone, computer, tablet, mobile device, or other electronic means including an electronic storage site on the internet, including but not limited to social networking sites.

The policy review team agrees with this change.

- Making item 17 a stand-alone item about other acts that reads:

Any other acts which violate the law, other Board Policy, or otherwise are of such an egregious nature as to constitute, on its face, gross disobedience or misconduct.

While the policy review team agrees that having an item that addresses this issue is important, we believe this can be accomplished by combining a modified version of item 17 with item 14 to create a revised version of 14 that reads:

Any other acts which violate any criminal law, including but not limited to, assault, battery, arson, theft, gambling, and hazing, other board policy, or are otherwise of such an egregious nature as to constitute, on its face, gross disobedience or misconduct.

- The current version of our policy features a section titled “Progressive Discipline.” A slightly modified version of this section can be found on page five of the PRESS policy in the paragraph that begins “Efforts, including the use of early intervention and progressive discipline...” HLERK recommends including a sentence in this paragraph that reads:

Board policy 7:180, *Preventing Bullying, Intimidation, and Harassment*, will be used to address students who have demonstrated behaviors that put them at risk for aggressive behavior, including without limitation bullying.

The policy review team agrees with HLERK's recommendation to include a reference to policy 7:180 in this paragraph.

- In the PRESS version of the policy, the section about the refusal to administer or consent to the administration of psychotropic or psychostimulant medication to students is shorter in length than the one featured in our current version.
- While the legal information provided is largely the same, both the way the section about weapons is written and its location in the policy are different between the two versions. The PRESS version also includes the following two paragraphs.

The expulsion requirement under either paragraph 1 or 2 above may be modified by the Superintendent, and the Superintendent's determination may be modified by the Board on a case-by-case basis. The Superintendent or designee may grant an exception to this policy, upon the prior request of an adult supervisor, for students in theatre, cooking, ROTC, martial arts, and similar programs, whether or not school-sponsored, provided the item is not equipped, nor intended, to do bodily harm.

This policy's prohibitions concerning weapons apply regardless of whether: (1) a student is licensed to carry a concealed firearm, or (2) the Board permits visitors, who are licensed to carry a concealed firearm, to store a firearm in a locked vehicle in a school parking area.

- The PRESS version of the policy features the following information about the grounds for disciplinary action and when and where it applies.

The grounds for disciplinary action, including those described more thoroughly later in this policy, apply whenever the student's conduct is reasonably related to school or school activities, including, but not limited to:

- 1. On, or within sight of, school grounds before, during, or after school hours or at any time;**
- 2. Off school grounds at a school-sponsored activity or event, or any activity or event that bears a reasonable relationship to school;**
- 3. Traveling to or from school or a school activity, function, or event; or**
- 4. Anywhere, if the conduct interferes with, disrupts, or adversely affects the school environment, school operations, or an educational function, including, but not limited to, conduct that may reasonably be considered to: (a) be a threat or an attempted intimidation of a staff member; or (b) endanger the health or safety of students, staff, or school property.**

HLERK recommends revising the fourth item in this section of the policy to read:

Anywhere, if the conduct interferes with, disrupts, or adversely affects the school environment, school operations, or an educational function, including, but not limited to, conduct that may reasonably be considered to: (a) be a threat or an attempted intimidation of a staff member; (b) endanger the health or safety of students, staff, or school property; or (c) cause, or may reasonably cause substantial injury or disruption or material interference with school related activities or the rights of other students or school personnel.

The policy review team agrees with HLERK's change.

- The PRESS version of the policy features a section titled “Disciplinary Measures” that is almost identical to the section in our current policy titled “Disciplinary Consequences.” The only substantive differences between the two sections are:
 - The order in which the measures/consequences are listed.
 - The use of the phrase after-school study or Saturday study instead of detention or Saturday school and a description of this measure/consequence.
 - The limitation of in-school suspension to a maximum of five school days. For your information, the footnote in the PRESS version of the policy says that “State law does not cover in-school suspensions. Generally, an educational program must be included in an in-school suspension; otherwise, it may become a regular suspension with procedural requirements.”
 - The revision of one of the measures/consequences from “Notifying juvenile authorities or other law enforcement whenever the conduct involves potential criminal offenses” to “Notifying juvenile authorities or other law enforcement whenever the conduct involves illegal drugs (controlled substances), “look-alikes,” alcohol or weapons.” HLERK recommends revising this measure/consequence to read “Notifying juvenile authorities or other law enforcement whenever the conduct involves illegal drugs (controlled substances), “look-alikes,” alcohol, weapons or other potential criminal offenses.” The policy review team agrees with this change.
- The PRESS version of the policy features the following additional paragraph after the section titled “Disciplinary Measures.”

A student may be immediately transferred to an alternative program if the student is expelled or otherwise qualifies for the transfer under State law. The transfer shall be in the manner provided in Article 13A or 13B of the School Code.

- The PRESS version of the policy does not include a section about discipline for students who are eligible for special education because that issue is covered in policy 7:230 (Misconduct by Students with Disabilities).
- The PRESS version of the policy does not include a section about enrollment because that issue is covered in policy 7:50 (School Admissions and Student Transfers To and From Non-District Schools).
- The PRESS version of the policy features a section titled “Required Notices” that reads:

A school staff member shall immediately notify the office of the Building Principal in the event that he or she: (1) observes any person in possession of a firearm on or around school grounds; however, such action may be delayed if immediate notice would endanger students under his or her supervision, (2) observes or has reason to suspect that any person on school grounds is or was involved in a drug-related incident, or (3) observes a battery committed against any staff member. Upon receiving such a report, the Building Principal or designee shall immediately notify the local law enforcement agency, State Police, and any involved student’s parent/guardian. “School grounds” includes modes of transportation to school activities and any public way within 1000 feet of the school, as well as school property itself.
- The PRESS version of the policy does not include a section about developing and implementing administrative guidelines, which is a procedural activity.

- The current version of the district policy has a section about the parent-teacher advisory committee, but the PRESS version only mentions the committee once in the section titled “Student Handbook.”
- The notification requirement is handled in a similar fashion in both versions of the policy.

Although we are trying to move away from policies that are inherently district specific, the policy review team, as indicated above, does agree with many of HLERK’s proposed revisions to the student discipline policy. While this means that PRESS will only offer to write amicus briefs and give HLERK access to its legal department if someone challenges the language it wrote, there are two reasons we feel having access to these services will be less vital for us if we are faced with a dispute involving this policy. First, we believe that many of the challenges we might encounter would be legal in nature, and would likely require consultation with our legal counsel. We believe the changes proposed by HLERK strengthen our legal position in certain areas, and will make challenges easier for them to defend should the need arise. Second, while we are sure there are benefits associated with having access to PRESS’ legal department, that access would still require involvement by HLERK. Furthermore, HLERK serves on the group that writes/reviews/edits the policies for PRESS, and might still be able to obtain legal information from the organization if necessary.

Policy 8:30 (Visitors To and Conduct on School Property)

The PRESS version of policy 8:30, which is used by most of our peer districts, addresses the conduct and behavioral expectations we have for individuals who visit our buildings. Our current policy and the corresponding administrative guidelines, on the other hand, feature practices and protocols for scheduling visits to our schools and classrooms.

While policy review team recommends moving to the PRESS version of the policy, we believe our current policy and guidelines will still play a critical role in the process of scheduling visits to our schools. That is why we suggest combining these two documents into one that is titled School/Classroom Visits Practices and Protocols. The administration would share this document with families and community members, and post it on the district’s family of websites in a location that is easily accessible by the general public.

As for the policy, HLERK provided us with a few comments and recommended revisions, including.

- Changing the second paragraph in the section titled “Enforcement” from:

Any person who engages in conduct prohibited by this policy may be ejected from school property. The person is also subject to being denied admission to school events or meetings for up to one calendar year.

to:

Any person who engages in conduct prohibited by this policy may be ejected from school property. The person is also subject to being denied admission to school property, including school events or meetings, for a period of time to be determined by the Superintendent or his/her designee.

In addition to this change, HLERK recommends issuing letters of no trespass to individuals who are prohibited from being on district property. The policy review team agrees with the change and the recommendation.

- In the section titled “Procedures to Deny Future Admission to School Events or Meetings,” the fourth item listed is instructions on how to waive a hearing. HLERK said the following about the hearing provision.

“Technically, Section 24-24 of the *School Code* requires the Board to provide an individual with a hearing prior to his/her exclusion from *extracurricular activities* – no hearing is technically required to exclude an individual from school property or events at school. Conservatively, the district could provide an individual with a board hearing prior to any exclusion; however, 24-24 does not specifically require this hearing procedure to limit an individual’s access to district property.”

The policy review team talked about both the provision and the feedback provided by HLERK, and is recommending that the board offer a hearing prior to any exclusion. However, please note that, unless these hearings involve information that is protected under law (i.e., student records), they must be conducted in open session.

There are several documents attached this memorandum—the PRESS versions of policies 7:180, 7:190 and 8:30 that feature HLERK’s proposed revisions, and the district’s current versions of policies 7:180, 7:190 and 8:30. A second reading and approval of policies 7:180, 7:190 and 8:30 are scheduled for the board meeting on September 9, 2014. With that said, we recognize that the board may wish to give the members of the general public time to review and offer feedback on the changes being recommended this evening. If that is the case, the second reading and approval can be delayed until the meeting on September 23, 2014, or even later if additional work must be done to the policies prior to the board vote.