

ISSUE 97
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Update Memo

Please distribute to board
members and appropriate staff.

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using your district email address.
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administrative assistant to make
sure you are listed as an autho-
rized user on the district roster.
 - If you continue to have
difficulty, please contact
Linda Cala at lcala@iasb.com.
3. Under **My Account Links**, click
on **PRESS Login**.

For additional help, click the ⓘ
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available is a 10-minute video
tutorial at www.iasb.com/policy.



PRESS

Policy Reference Education Subscription Service

This publication is designed to provide information only and is not a substitute for legal advice from the Board Attorney. If you have any questions, please contact Kimberly Small, IASB General Counsel and PRESS Editor, 630/629-3776, ext. 1226, Maryam Broline, Assistant General Counsel and Assistant PRESS Editor, 630/629-3776, ext. 1219, or Debra Jacobson, Assistant General Counsel and Assistant PRESS Editor, 630/629-3776, ext. 1211.

Instructions

You are encouraged to share this **PRESS** Update Memo with all board members and appropriate staff.

Two other important components of **PRESS** may be viewed and downloaded from **PRESS Online** — Committee Worksheets and the updated Policy Reference Manual (PRM) pages. The Committee Worksheets show suggested changes to **PRESS** material by striking out deleted words and underscoring new words. The updated **PRM** pages contain all of the material in this **PRESS** issue; you can use them to update your district manuals.

Sexual Harassment

The State Officials and Employees Ethics Act, 5 ILCS 430/70-5(a), amended by P.A. 100-554, requires school districts to adopt an ordinance or resolution establishing a policy to prohibit sexual harassment by January 15, 2018. Though that date has passed, there are no penalties in the law for failing to pass the resolution by that date. The policy must include, at a minimum: (1) a prohibition on sexual harassment; (2) details on how an individual can report an allegation of sexual harassment, including options for making a confidential report to a supervisor, ethics officer, Inspector General, or the Ill. Dept. of Human Rights; (3) a prohibition on retaliation for reporting sexual harassment allegations, including availability of whistleblower protections under the State Officials and Employees Ethics Act, the Whistleblower Act (740 ILCS 174/), and the Ill. Human Rights Act (775 ILCS 5/); and (4) the consequences of a violation of the prohibition on sexual harassment and the consequences for knowingly making a false report.

The following **PRESS** materials are updated:

- 2:260, Uniform Grievance Procedure
- 5:20, Workplace Harassment Prohibited
- 5:20-E, Resolution to Prohibit Sexual Harassment - **NEW**

Bond Issuance Obligations

In response to subscriber feedback, and in an effort to continuously improve the content of the **PRM**, 4:40, *Incurring Debt*, has been updated to address boards' obligations to comply with federal securities laws and Internal Revenue Service rules in connection with bond issues. **Note:** These updates are not being made in

response to any recent legislative changes. Boards that fail to comply with federal securities laws may face enforcement actions from the U.S. Securities and Exchange Commission. The new 4:40-AP, *Preparing and Updating Disclosures*, is based on a sample document from the law firm of Chapman and Cutler, LLP, and is designed to assist districts in complying with federal securities laws for bond issues. Given the highly technical nature of these laws and obligations, boards should work closely with their board attorneys, bond counsel, and/or financial consultants to ensure they are complying with all continuing disclosure obligations related to bond issues. Finally, as explained in the footnotes of policy 4:40, *Incurring Debt*, boards may also want to work with those same professionals to establish written procedures to protect the tax-exempt (or otherwise tax-advantaged) status of bonds that they issue.

The following **PRESS** materials are updated:

4:40, *Incurring Debt*

4:40-AP, *Preparing and Updating Disclosures* – **NEW**

PRESS Editors wish to extend a special thank you to Kyle Harding, partner at Chapman and Cutler LLP, for his firm's collaboration on these materials.

Miscellaneous

5:170, *Copyright*, is updated due to a recent case law development, as detailed in the **Revisions to Policies, Administrative Procedures, and Exhibits Table** in numerical order beginning on p. 4.

Please spend time reviewing the **PRESS** online Committee Worksheets for these materials, which will provide further, more on-the-spot detailed explanations in the footnotes, along with added comment boxes by the **PRESS** Editors.

PRESS Terminology

What are the meanings of the "AP" and "E" after certain policy numbers?

The **PRESS Policy Reference Manual (PRM)** is an encyclopedia of sample board policies, administrative procedures, and exhibits. They are all in numerical order for easy reference. **PRESS** recommends that local school districts maintain separate board policy and administrative procedure manuals to help distinguish for the board, staff, students, parents, and community members, the distinction between board documents and staff documents, board work, and staff work.

Policy. The board develops policies with input from various sources like district administrators, the board attorney, and **PRESS** materials. The board then formally adopts the policies, often after more than one consideration.

After adoption by the board, each policy should have an adoption date.

Administrative Procedures. Administrative procedures are developed by the superintendent, administrators, and/or other district staff members. The staff develops the procedures that guide implementation of the policies. Administrative procedures are not adopted by the board, which allows the superintendent and staff the flexibility they need to keep the procedures current. **PRESS** sample procedures are numbered to correspond with the policies that they implement for easy reference. For example, policy 6:190's related administrative procedure is 6:190-AP.

It is important to remember that administrative procedures do not require formal board adoption and are not included in a board policy manual.

Exhibits. Both board policies and administrative procedures may have related exhibits. Exhibits provide information and forms intended to be helpful to the understanding or implementation of either a board policy or administrative procedure, and they do not require formal board adoption. **PRESS** sample exhibits are numbered to correspond to the related board policy or administrative procedure. For example, board policy 2:70 has a related exhibit numbered 2:70-E. Administrative procedure 7:340-AP1 has a related exhibit numbered 7:340-AP1, E.

Exhibits labeled with an "E" only may provide guidance for board work or staff work. Those providing guidance for board work should be dated for implementation by the board. Those providing guidance for the staff should be dated for implementation by the administrative staff.

Administrative procedures exhibits, always labeled with the "AP, E" format should be dated for implementation by the administrative staff.

Progress Report

The contents of this report frequently change.

Taking a Knee – Follow Up

As we reported in Issue 96, some public school student-athletes and/or coaches began “taking a knee” after seeing professional athletes, particularly NFL players, kneel during the National Anthem in protest of racial injustice. Since then, lawsuits in different parts of the country have been filed against school districts related to this hot-button issue. In V.A. v. San Pasqual Valley Unified Sch. Dist., a high school football player who kneeled at a game sued his district after it implemented a policy requiring students to stand during the National Anthem. The policy was put in place after students from an opposing team yelled racial comments at players who kneeled. Despite the district’s motives, in December, a federal court in California issued a preliminary injunction enjoining the district from enforcing the standing policy because it likely violated students’ First Amendment rights. In another case, Edina High Sch. Young Conservatives Club et al v. Edina Sch. Dist. et al, a student club of conservative students sued their school district after it banned the club because club members had criticized other students on social media who sat down in protest during the playing of the National Anthem and “Taps” during a school Veteran’s Day assembly. Both of these cases are still pending, but are not binding on Illinois school districts.

Our Response: No **PRESS** materials are affected by this recent trend. A reminder that in most cases, students who take a knee during the National Anthem are exercising freedom of expression and will not be subject to discipline. For purposes of maintaining order and effective school operations, however, school districts are responsible for ensuring that teachers do not advocate viewpoints that depart from the curriculum adopted by the district. This may entail standing during the National Anthem and, depending upon the circumstances, may result in discipline for failing to do so. Consult the board attorney.

Accelerated Placement Act, P.A. 100-421

Article 14A of the School Code was amended to cover *Gifted and Talented Children and Children Eligible for Accelerated Placement*. By July 1, 2018, school districts are required to have a policy that allows for accelerated placement and includes or incorporates by reference specific components set forth in the Act. *Accelerated placement* means the placement of a child in an educational setting with curriculum that is usually reserved for children who are older or in higher grades than the child. The Act expressly states that accelerated placement *shall* include early entrance to kindergarten or first grade, but this conflicts with 105 ILCS 5/10-20.12, which allows but does not require districts to permit early entrance to kindergarten or first grade.

Our Response: We are currently seeking a legislative fix for the conflict between the Accelerated Placement Act and 105 ILCS 5/10-20.12. We will address the required changes in **PRESS** Issue 98.

Spriesch v. City of Chicago, 2017 WL 4864913 (N.D. Ill. 10/26/17)

A fire paramedic for the City of Chicago sued the city for pregnancy discrimination and failure to accommodate her pumping and expression of breastmilk at work. The City forced her to take a leave once it was informed she was pregnant and, after she returned, the Fire Dept. did not consistently give her breaks or provide a private (non-bathroom) room for her to pump breastmilk. This case was significant because the court recognized an employee’s private right of action under the Ill. Nursing Mothers in the Workplace Act (INMWA) to sue an employer. Employers who fail to reasonably accommodate nursing mothers now face additional liability under the INMWA, in addition to the Ill. Human Rights Act, Title VII, and the Fair Labor Standards Act.

Our Response: No **PRESS** materials are affected.

Cursive Instruction Required

105 ILCS 5/27-20.7, added by P.A. 100-548, requires that elementary schools, beginning with the 2018-2019 school year, offer at least one unit of instruction in cursive writing.

Our Response: We will address the required changes in **PRESS** Issue 99.

Amendments to 23 Ill.Admin.Code Part 375, Student Records

The Ill. State Board of Education (ISBE) proposed amendments to 23 Ill.Admin.Code Part 375, Student Records, in response to P.A. 100-222, which amended 105 ILCS 5/2-3.64a-5(e) to no longer require that a student’s ISBE-administered SAT scores be entered on his/her transcript. Under the proposed amendments, a student’s academic transcript would only include scores received on college entrance examinations if allowed by district policy. Districts electing to allow this would need to notify parents/guardians of the process for including such scores on an academic transcript.

Our Response: We will respond after ISBE adopts the amendments to Part 375 with updates to policy 6:300, *Graduation Requirements*; 6:340, *Student Testing and Assessment Program*; 7:340, *Student Records*; and their corresponding materials.

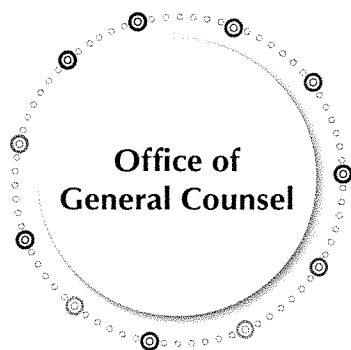
Marriage and Family Counselor Endorsement

ISBE adopted rules that set standards for *school marriage and family therapists*, a newer type of school support personnel endorsement under the School Code. The School Code was amended to allow for this new endorsement in 2013, but it took several years for regulations to be finalized.

Our Response: We will respond in **PRESS** Issue 99 or a later Issue (when support personnel are actually able to obtain this new endorsement through educational institutions), with likely updates to policy 7:250, *Student Support Services*, and administrative procedure 7:250-AP2, *Protocol for Responding to Students with Social, Emotional, or Mental Health Problems*.

Revisions to Policies, Administrative Procedures, and Exhibits

Number and Title	Revision Descriptions	☒
2:260, Uniform Grievance Procedure	The policy, footnotes, Legal References, and Cross References are updated in response to 5 ILCS 430/70-5(a), amended by P.A. 100-554. New language in the Filing a Complaint subsection clarifies that for any complaint filed under this policy which alleges harassment in violation of policy 5:20, <i>Workplace Harassment Prohibited</i> , the Complaint Manager shall process and review the complaint according to both policies.	☐
4:40, Incurring Debt	The policy, footnotes, and Legal References are updated in response to subscriber feedback and for continuous improvement to address legal obligations of school districts related to bond issues.	☐
4:40-AP, Preparing and Updating Disclosures	NEW	☐
5:20, Workplace Harassment Prohibited	The policy, footnotes, and Legal References are updated in response to 5 ILCS 430/70-5(a), amended by P.A. 100-554. For clarity and ease of use, the policy has been reorganized into the following subsections: • Sexual Harassment Prohibited • Making a Complaint • Whom to Contact with a Report or Complaint • Investigation Process • Enforcement • Retaliation Prohibited • Recourse to State and Federal Fair Employment Practice Agencies	☐
5:20-E, Resolution to Prohibit Sexual Harassment	NEW	☐
5:170, Copyright	The footnotes are updated in response to a recent court decision, <u>Shanton v. St. Charles Community Unit Sch. Dist. 303</u> , (N.D.Ill. 2017), which addresses copyright and works for hire in the K-12 context.	☐



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