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ISSUE 94, March 2017

Update Memo

PRESS

Policy Reference Education Subscription Service

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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, or Maryam Brotine, Assistant General Counsel and Assistant **PRESS** Editor, 630/629-3776, ext. 1219.

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 (including administrative procedures and exhibits) 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. See the description in **Bundles Back by Popular Demand!** (for topic descriptions) for a new, alternate way of reviewing this issue by major categories of revision.

Bundles Back by Popular Demand!

We tried this **Bundles** format in **PRESS** Issue 93 to make the information regarding necessary updates to the IASB PRM more manageable for our subscribers. Due to its popularity, we will continue it with **PRESS** Issue 94. Each bundle summarizes the global reasons for changes to all materials that are listed.

Specific details about how each piece of material changed, including changes for other reasons, e.g., **PRESS** Advisory Board feedback, quality assurance, five-year review items, etc. are explained in numerical order in the **Revisions to Policies, Administrative Procedures, and Exhibits** table beginning on p. 6.

Please spend time reviewing the online Committee Worksheets, available behind the **PRESS** Login under a link titled: **PRESS Committee Worksheets**. They provide comment boxes further describing some of the changes, detailed explanations in the footnotes, and other added explanations by the **PRESS** Editors.

State Legislative Updates

The Illinois General Assembly returned for its *lame duck* session on Monday, Jan. 9 and Tuesday, Jan. 10. We have two pieces of State legislation to address in this **PRESS** issue. The first is left over from the fall of 2016; it is P.A. 99-503

amending the Personal Information Protection Act. The second is P.A. 99-927, eff. 6-1-17, amending the School Code provision on health examinations and immunizations.

The following **PRESS** materials are updated in response to these pieces of legislation:

- 4:15, Identity Protection
- 4:15-AP, Protecting the Privacy of Social Security Numbers
- 7:100, Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students

Federal Regulatory Updates

The Healthy, Hunger-Free Kids Act (HHFKA) (Public Law 111-296; December 13, 2010), required the United States Department of Agriculture (USDA) to examine and report on current *meal charge* and *alternate meal* policies and practices of State agencies and local boards of education. HHFKA also required USDA to report to Congress on the feasibility of establishing national standards for meal charge policies and, if applicable, make recommendations for implementation.

To complete the report to Congress, USDA's Food and Nutrition Service (FNS) completed a study and issued a Request for Information (RFI) entitled **Unpaid Meal Charges**. The results of the study and the 462 comment submissions received during the RFI open comment period contributed to the issuance of a memo entitled **Unpaid Meal Charges: Local Meal Charge Policies** at: www.fns.usda.gov/sites/default/files/cn/SP46-2016os.pdf. The memo addresses the need for school food authorities participating in the FNS' National School Lunch Program and School Breakfast Program to institute and clearly communicate a meal charge policy, which would include, if applicable, the availability of alternate meals.

The following **PRESS** materials are updated in response to this memo:

- 4:130-E, Free and Reduced-Price Food Services; Meal Charge Notifications **NEW**
- 7:190-E2, Student Handbook Checklist

Uniform Grant Guidance / Grant Accountability Transparency Act

The Grant Accountability Transparency Act (GATA, 30 ILCS 708/), enacted 7-16-14, is "intended to increase the accountability and transparency in the use of grant funds, from whatever source, and to reduce administrative burdens on both State agencies and grantees by adopting federal guidance and regulations applicable to such grant funds; specifically, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) codified at 2 CFR 200." 30 ILCS 708/5(b).

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 procedures 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 policy with input from various sources like district administrators, the board attorney, and **PRESS** materials. The board then formally adopts the policy, 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. **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.

Board exhibits, always labeled with an "E" only, are those that provide guidance for board work and should be dated for implementation by the board.

Administrative procedures exhibits, always labeled with the "AP, E" format, do not require formal board adoption.

School districts, as non-federal entities that receive federal grants, are required to have documented federal procurement procedures and written standards of conduct that comply with government-wide Uniform Grant Guidance (UGG) regulations at 2 C.F.R. §§200.318-200.326. **NEW** 4:60-AP4, *Federal Award Procurement Procedures*, contains these regulatory federal procurement standards, while **NEW** 4:60-AP4, E1, *Internal Procedures for Procurement Transactions*, outlines in general terms the procurement procedures which school districts may use to ensure compliance with UGG regulations. Various **PRESS** materials in Sections 2, 4,

and 5 have been updated to comply with the requirement for written standards of conduct.

The following **PRESS** materials are updated in response to UGG regulations and GATA:

- 2:100, Board Member Conflict of Interest
- 4:60-AP4, Federal Award Procurement Procedures **NEW**
- 4:60-AP4, E1, Internal Procedures for Procurement Transactions **NEW**
- 5:120, Employee Ethics; and Conduct; and Conflict of Interest **RENAMED**

Five-Year Review Updates

PRESS Editors have a quality assurance goal to ensure that each piece of the 1000+ page IASB **PRESS PRM** is reviewed at least every five years. The **PRM** contains approximately 175 policies and procedures.

The following **PRESS** materials are updated in response to five-year reviews:

- 3:70, Succession of Authority
- 4:180, Pandemic Preparedness
- 4:180-AP1, School Action Steps for Pandemic Influenza
- 4:180-AP2, Pandemic Influenza Surveillance and Reporting
- 5:70, Religious Holidays
- 5:80, Court Duty
- 5:110, Recognition for Service
- 5:130-AP, Email Retention

- 5:140, Solicitations By or From Staff
- 5:210, Resignations
- 5:220-E, Unsatisfactory Performance Report for Substitute Teachers
- 5:230, Maintaining Student Discipline
- 5:270-E, Notice of Employment
- 5:285, Drug and Alcohol Testing for School Bus and Commercial Vehicle Drivers
- 5:285-AP, Drug and Alcohol Testing for School Bus and Commercial Vehicle Drivers
- 5:300, Schedules and Employment Year
- 5:320, Evaluation
- 6:70, Teaching About Religions
- 6:70-AP, Teaching About Religions
- 6:185, Remote Educational Program

Progress Report

The contents of this report frequently change.

Sanctuary Status Issues | Immigration Enforcement

In response to the Trump administration's recent executive orders on the topic, many municipalities in Illinois are passing resolutions stating that they are sanctuary cities and inviting school boards to join them.

The law already limits school district involvement in immigration matters, and these limits are incorporated in **PRESS** materials (see list of "Relevant **PRESS** Material," in Our Response).

In regard to employees:

1. The Illinois Human Rights Act requires school districts to provide equal employment opportunities to all persons regardless of their citizenship status.
2. The Immigration Reform and Control Act of 1986 requires employers to verify that employees are either U.S. citizens or authorized to work in the U.S.
3. If an individual applies for employment but is not a U.S. citizen or authorized to work in the U.S., there is no requirement for schools to report them to immigration authorities.

In regard to students, ISBE regulations, which are based on a U.S. Supreme Court case, prohibit schools from:

1. Denying access to students who lack documentation of their immigration status or legal presence in the U.S.
2. Inquiring about the immigration status of a student.
3. Requiring documents as proof of residency for a student that, when taken together, result in a requirement for proof of legal presence, such as a Social Security number.

Based on this, schools cannot report undocumented students to immigration authorities, as this would effectively deny students access to school.

Our Response: If a board is considering adopting a resolution or taking a public stance as to its *sanctuary* status, they should consult with their board attorney.

Relevant **PRESS** Materials:

Employees

5:10, *Equal Employment Opportunity and Minority Recruitment*

5:30, *Hiring Process and Criteria*

Students

7:10, *Equal Educational Opportunities*

7:50, *School Admissions and Student Transfers To and From Non-District Schools*

7:340-API, *School Student Records*

On March 6, 2017, the U.S. Supreme Court vacated the 4th Circuit Court of Appeal's decision in *Gloucester County Sch. Bd. v. G.G.* and remanded the case to the 4th Circuit for further consideration in light of the Trump administration's rescission.

Our Response: We will continue to monitor this issue. Because Illinois laws provide similar protections to the guidance that the Trump administration rescinded, we do not anticipate many changes to **PRESS** materials addressing this issue.

Lead Testing in Water

P.A. 99-922, eff. 1-17-17, requires that each source of potable water in school buildings constructed on or before January 1, 2000, which may be occupied by more than 10 children in grades pre-K through 5, be tested for lead. Testing for buildings constructed prior to January 1, 1987 must be conducted by December 31, 2017. Testing for buildings constructed between January 2, 1987 and January 1, 2000 must be conducted by December 31, 2018.

Within 90 days of the effective date, the Illinois Department of Public Health (IDPH) is to post on its website guidance on mitigation actions for lead in drinking water and ongoing water management practices. At the time of this publication, such guidance is still pending. The IDPH has posted a **Sample Protocol for Drinking Water in Schools** and copies of various memos issued regarding this issue, including a memo regarding requesting a school water testing waiver, at: www.dph.illinois.gov/topics-services/environmental-health-protection/lead-in-water.

Our Response: We will respond after the IDPH publishes guidance on mitigation actions and ongoing water management practices in schools, due by mid-April, with likely updates to policy 4:170, *Safety*, and its corresponding materials.

Educator Licensure

P.A. 99-920 / SB 2912, eff. 1-6-17, amends Article 21B of the School Code to help curb the current substitute teacher shortage and streamline license reciprocity for educators trained outside of Illinois. It creates a one year, nonrenewable provisional in-state educator endorsement on an Educator License with Stipulations. See ISBE **FAQs for Senate Bill 2912** at: www.isbe.net/Documents/PUBLICQuestions%20and%20Answers%20for%20SB%202912%20Updated.pdf.

Our Response: We will monitor the current rulemaking efforts and will provide necessary updates to **PRESS** materials, with likely updates to policy 5:190, *Teacher Qualifications*, and its corresponding materials.

Transgender Student Supports and Inclusion

On February 22, 2017, President Trump's administration issued a *Dear Colleague Letter* rescinding the Dept. of Justice/Dept. of Education's Policy Guidance issued by the Obama administration in the spring of 2016 concerning transgender students. See www.justice.gov/opa/press-release/file/941551/download.

Progress Report – continued.

Postsecondary and Workforce Readiness Act

P.A. 99-674 – Postsecondary and Workforce Readiness Act, eff. 7-29-16. This law requires the State to adopt and publicize model postsecondary and career expectations for students in grades 8-12 that specify knowledge that students should have by the end of each grade level. It requires the model expectations to address certain areas listed in the law. It also creates a high school graduation pilot program.

Our Response: We will respond after these agencies publicize a model expectations plan and the pilot programs are completed, with likely updates to policy 6:40, *Curriculum Development*; 6:300, *Graduation Requirements*; and their corresponding materials.

Fair Labor Standards Act (FLSA) Rules

A federal judge in the U.S. District Court of the Eastern District of Texas has blocked the Department of Labor's (DOL's) new federal overtime rule, which would have increased the standard salary level (from \$455 to \$913 per week) and highly compensated employees total annual compensation requirement (from \$100,000 to \$134,004 per year). Future automatic updates to those thresholds were to occur every three years, beginning on 1-1-20.

President Trump's administration has also filed an extension with the 5th Circuit Court of Appeals, which will further delay implementation of the rule and consideration of the Obama Administration's appeal of the federal judge's injunction (blocking) of these rules.

Our Response: No PRESS materials are directly affected by this rule. Many attorneys recommend reviewing salaries for exempt and non-exempt employees now. Consult your board attorney about this issue. Other helpful information is available at: www.dol.gov/WHD/overtime/final2016/.

Education of Children with Disabilities

On December 16, 2016, the Office for Civil Rights issued a Dear Colleague Letter (DCL), **Preventing Racial Discrimination in Special Education**, reminding schools of their obligation not to discriminate on the basis of race, color, or national origin in the administration of special education or related aids and services. The DCL also addresses the interplay of Title VI obligations with the requirements of Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and the Individuals with Disabilities Education Act.

On December 19, 2016, amended final regulations for 34 C.F.R. Part 300 were published. Their goal is to promote equity by: establishing a standard methodology states must use to determine whether significant disproportionality based on race and ethnicity is occurring; clarifying that states must address significant disproportionality in the incidence, duration, and type of disciplinary actions using the same statutory remedies required to address significant disproportionality in the identification and placement of children with disabilities; clarifying requirements for the review and revision of policies, practices, and procedures when significant disproportionality is found; and requiring school districts to identify and address factors contributing to significant disproportionality as part of comprehensive coordinated early intervening services and allow these services for children age 3-12, with and without disabilities.

Our Response: No PRESS materials are directly affected by the DCL or the amended regulations. Consult your board attorney about this issue.

Revisions to Policies, Administrative Procedures, and Exhibits

Number and Title	Revision Descriptions	<input checked="" type="checkbox"/>
2:100, Board Member Conflict of Interest	The policy, Legal References, Cross References, and footnotes are updated in response to the federal regulations requiring written standards of conduct covering conflicts of interest and governing the actions of those engaged in the selection, award, and administration of contracts in compliance with 2 C.F.R. §200.318.	<input type="checkbox"/>
3:70, Succession of Authority	The policy and footnotes are updated. New text states that superintendents may submit the succession plan versus the board <i>approving</i> it. This change provides the board an opportunity for the superintendent to manage the district and provide leadership for the staff while allowing the board to monitor this policy and stay informed. The former text regarding approval of the succession plan was moved to the footnotes as an option.	<input type="checkbox"/>
4:15, Identity Protection	<p>The policy, Legal References, and footnotes are updated in response to the Personal Information Protection Act, 815 ILCS 530/, amended by P.A. 99-503. Policy text on compliance measures required under the law was updated specific to new notification requirements if breaches of security were to occur:</p> <ol style="list-style-type: none"> 1. Disclosing a breach of security involving <i>personal information</i> when a user name or email address in combination with a password or security question and answer, and 2. Notifying the Illinois Attorney General under certain circumstances. <p>Footnotes are updated in response to P.A. 99-503 along with continuous improvement recommendations from the members of the PRESS Advisory Board.</p>	<input type="checkbox"/>
4:15-AP, Protecting the Privacy of Social Security Numbers	The procedure is updated for the reasons discussed in 4:15, <i>Identity Protection</i> above. An introductory paragraph discusses the challenges and limited exceptions when a school district may need to ask students or their parents/guardians to provide social security numbers.	<input type="checkbox"/>
4:60-AP4, Federal Award Procurement Procedures	NEW. The procedure sets forth federal procurement standards, which school districts must comply with per Uniform Grant Guidance (UGG) regulations at 2 C.F.R. §§200.318-200.326.	<input type="checkbox"/>
4:60-AP4, E1, Internal Procedures for Procurement Transactions	NEW. The exhibit outlines in general terms procurement procedures, which school districts may use to ensure compliance with UGG regulations at 2 C.F.R. §§200.318-200.326.	<input type="checkbox"/>
4:130-E, Free and Reduced-Price Food Services; Meal Charge Notifications	<p>NEW. The exhibit's purpose is to remind administrators that the United States Department of Agriculture (USDA) requires school food authorities participating in the FNS' National School Lunch Program and School Breakfast Program to institute and clearly communicate a <i>meal charge policy</i>, which would include, if applicable, the availability of alternate meals. This was publicized recently in a March 2017 Illinois State Board of Education (ISBE) <i>Superintendent's Newsletter</i> in a section entitled Unpaid Meal Charge: Local Meal Charges Policies – Due by July 1, 2017.</p> <p>This requirement does not require a formally-adopted policy by the school board, but rather a meal charge process, method, or procedure on how meal charges are managed in the districts. Students, parents/guardians, and district staff must all be informed of the meal charge process.</p> <p>Districts will likely want to replace the text in this exhibit with their own meal charge methods if they do not already publicize them.</p>	<input type="checkbox"/>
4:180, Pandemic Preparedness	The policy and footnotes are updated. Minor corrections are made to the policy for continuous improvement. A purpose statement for the policy is added to the footnotes to help boards process their role and a superintendent's role in pandemic preparedness. Other minor edits and updates are made within the footnotes.	<input type="checkbox"/>
4:180-AP1, School Action Steps for Pandemic Influenza	The procedure is updated with minor corrections for style and to update outdated web links.	<input type="checkbox"/>

Revisions to Policies, Administrative Procedures, and Exhibits – *continued*

Number and Title	Revision Descriptions	<input checked="" type="checkbox"/>
4:180-AP2, Pandemic Influenza Surveillance and Reporting	The procedure is updated with minor corrections for style and to update outdated web links.	<input type="checkbox"/>
5:70, Religious Holidays	The policy and footnotes are updated. The policy update is a minor style change. Footnotes reflect clarifications in the collective bargaining agreement instructions.	<input type="checkbox"/>
5:80, Court Duty	The policy and footnotes are updated. The policy update is a minor style change. Footnotes reflect clarifications in the collective bargaining agreement instructions.	<input type="checkbox"/>
5:110, Recognition for Service	The policy is unchanged. Footnotes are updated to change <u>certificate</u> to <u>license</u> .	<input type="checkbox"/>
5:120, <u>Employee Ethics; and Conduct; and Conflict of Interest</u>	RENAMED. The policy, Legal References, Cross References, and footnotes are updated in response to the federal regulations requiring written standards of conduct covering conflicts of interest and governing the actions of school district employees engaged in the selection, award, and administration of contracts in compliance with 2 C.F.R. §200.318. New subheads Professional and Appropriate Conduct , Statement of Economic Interests , and Outside Employment are added to assist the reader with clarity. The Prohibited Interest; Limitation of Authority; and Outside Employment subhead is renamed Prohibited Interests; Conflict of Interest; and Limitation of Authority .	<input type="checkbox"/>
5:130-AP, Email Retention	The procedure and footnotes are updated. A sentence is added: <u>For help with these responsibilities, please contact the District's FOIA Officer</u> . Other minor quality assurance edits are made throughout.	<input type="checkbox"/>
5:140, Solicitations By or From Staff	The policy is unchanged. Footnotes reflect clarifications in the collective bargaining agreement instructions.	<input type="checkbox"/>
5:210, Resignations	The policy is unchanged. Minor continuous improvement updates are made to the Legal References and footnotes.	<input type="checkbox"/>
5:220-E, Unsatisfactory Performance Report for Substitute Teachers	The procedure is updated to indicate that the form should be signed by the individual making the report, not the Building Principal.	<input type="checkbox"/>
5:230, Maintaining Student Discipline	The policy is updated in paragraph 1 to clarify that all teachers, certificated employees, and related service providers should follow "School Board policies and administrative procedures on student conduct, <u>behavior</u> , and discipline." Paragraph 2 is updated to indicate that a "teacher should first discuss student behavior with the student <u>if appropriate</u> ." A new footnote is added regarding school officials' discretion to determine <u>appropriateness</u> . Footnotes reflect clarifications in the collective bargaining agreement instructions.	<input type="checkbox"/>
5:270-E, Notice of Employment	The procedure is updated to delete the <u>full time</u> and <u>part time</u> check boxes and replace them with space to note <u>hours per day</u> and <u>days per week</u> of employment. A reference to <u>weekly salary</u> is deleted.	<input type="checkbox"/>
5:285, Drug and Alcohol Testing for School Bus and Commercial Vehicle Drivers	The policy, Legal References, and footnotes are updated.	<input type="checkbox"/>
5:285-AP, Drug and Alcohol Testing for School Bus and Commercial Vehicle Drivers	The procedure and footnotes are updated.	<input type="checkbox"/>
5:300, Schedules and Employment Year	The policy, Legal References, and footnotes are updated. Footnotes reflect clarifications in the collective bargaining agreement instructions.	<input type="checkbox"/>

Revisions to Policies, Administrative Procedures, and Exhibits – *continued*

Number and Title	Revision Descriptions	<input checked="" type="checkbox"/>
5:320, Evaluation	The policy is unchanged. Footnotes reflect clarifications in the collective bargaining agreement instructions.	<input type="checkbox"/>
6:70, Teaching About Religions	The policy is updated to clarify that “neither preferential nor derogatory treatment shall be given to any single <u>religion</u> , religious belief, or to religion in general.” The footnotes and Legal References are updated.	<input type="checkbox"/>
6:70-AP, Teaching About Religions	The procedure is updated.	<input type="checkbox"/>
6:185, Remote Educational Program	The policy is unchanged. Footnotes are updated for continuous improvement, to provide clarity, and to clarify collective bargaining agreement instructions.	<input type="checkbox"/>
7:100, Health, Eye, and Dental Examinations; Immunizations, and Exclusion of Students	The policy and footnotes are updated in response to P.A. 99-927, eff. 6-1-17, amending 105 ILCS 5/27-8.1 to require that health examinations contain an age-appropriate developmental screening and age-appropriate social and emotional screening. New footnote 9 sets forth optional language regarding additional services that school districts may offer related to such screenings.	<input type="checkbox"/>
7:190-E2, Student Handbook Checklist	The procedure is updated for continuous improvement purposes and to include 4:130-E, <i>Free and Reduced-Price Food Services; Meal Charge Notifications</i> , for the reasons discussed in that numbered exhibit and the general Federal Regulatory Updates bundle, above.	<input type="checkbox"/>



The IASB Office of General Counsel's mission is to honestly, professionally, and credibly protect and preserve IASB through legal risk management and compliance services for the IASB Board of Directors and staff; promote best practices to IASB members; create educational products and services; and maintain strong, collaborative relationships with the public education community.



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