

# Hodges Loizzi Eisenhammer Rodick & Kohn LLP

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April 17, 2014

## Via Electronic Mail

Dr. Robert Willis  
Interim Superintendent  
Meridian Community Unit School District No. 223  
207 W. Main Street  
Stillman Valley, IL 61084

### **RE: Updated Board Policies**

Dear Dr. Willis:

Pursuant to your request of Barbara Erickson, we have reviewed the revised PRESS policies that you forwarded to us. Below are our comments and suggested revisions. If anything in this letter is unclear, or if you have any further questions, please do not hesitate to contact us.

#### **1. Suspension Policy**

##### Suspension Without Pay:

We recommend removing the following sentence:

~~Administrative staff members may not be suspended without pay as a disciplinary measure.~~

This is due to an earlier issue when the District was not able to suspend a principal because of this provision. We believe it may be in the Policy due to the fact that administrative staff typically has employment contracts that set forth the number of days worked under the contract. However, as long as they receive proper due process, this should be able to be overcome. It is rare that a District would ever suspend an administrator without pay, however. You can also opt to leave the sentence in the policy, if you wish. Also, keep in mind that there are limits on the length of time such a suspension would be performed. We would suggest you consult with us prior to performing such a suspension.

The policy also contains new language regarding suspension of teachers without pay by the Superintendent. The addition of this new language may be met with some challenge regarding the power of the Superintendent under the *School Code* to do this. In any event, it is imperative that the suspended individual have the right to meet with the Superintendent prior to the suspension without pay to give his side of the story, and that he be provided appeal rights to the Board and other due process as required by law.

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Please refer for additional information to the following current agreement:

"Contractual Agreement between Board of Education of Community Unit School District No. 223, Ogle and Winnebago Counties, Illinois and The Stillman Valley Education Association."

Furthermore, we must caution that the change in this policy affecting the manner by which teachers may be suspended may trigger a bargaining requirement with the bargaining unit. Please contact us for additional information regarding this implication.

Suspension With Pay and Repayment of Compensation Benefits

The language in these sections does not need to be changed or commented upon.

**2. Temporary Illness or Temporary Incapacity Policy**

Our comments all relate to paragraph three of this policy, which begins with:

If illness, incapacity, or any other condition causes ~~an~~ a teacher or other licensed employee to be absent for one school year...

Throughout this paragraph, the policy refers to "licensed" employees. We recommend changing this so that it reads "licensed (certificated) employees." So, for example, the phrase above should read:

If illness, incapacity, or any other condition causes a teacher or other licensed (certificated) employee to be absent for one school year...

Adding this language protects the District from claims that this paragraph applies to licensed *non-certificated* employees, such as bus drivers.

Furthermore, we must caution that the change in this paragraph limiting its application to teachers (instead of all employees) may trigger a bargaining requirement with the bargaining unit for educational support personnel in the District. Please contact us regarding this implication.

**3. Compliance with the Fair Labor Standards Act Policy**

Job Classification

The language in this section does not need to be changed or commented upon.

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Workweek and Compensation

This section begins with the sentence:

The workweek for District employees will be 12:00 a.m. Sunday until 11:59 p.m. Saturday.

Please clarify with your payroll/business department that this language matches District practice. Depending on whether it is true, the District may need to change it to reflect the District's practice.

Overtime

The new language in this section appears to be acceptable; however, please check that the procedures for authorization set forth in this paragraph match the District's practice. For example, you may need to tailor references to individuals like "supervisors" to identify who the proper title within the District.

Suspension Without Pay

Similar to the policy on "Temporary Illness or Temporary Incapacity," this policy also uses the term "licensed employee." We suggest changing this reference so that it reads "licensed (certificated) employees."

Please also note that the District may eventually need to modify this "certificated" reference throughout all policies due to ISBE's structural changes to licenses.

Implementation

The language in this section does not need to be changed or commented upon.

Please do not hesitate to call us if you have any questions.

Sincerely,

HODGES, LOIZZI, EISENHAMMER  
RODICK & KOHN



Patricia M. Abbott

PMA/dmd

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