



Oak Park Elementary School District 97

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

FROM: District 97 Policy Review Team

RE: Policy Review and Discussion

DATE: July 28, 2015

The district's policy review team (Amy Felton, Rupa Datta and Chris Jasculca) reviewed/discussed the proposed policy changes that are featured in the May 2015 Update Memo provided by the Policy Reference Education Subscription Service (PRESS). Below is a summary of the changes, as well as the team's recommendations. Please note that several of the revisions outlined in the memo from PRESS included changes to the footnotes that correspond with the policies. Since changes to the footnotes do not require board action, we did not include them in this document.

- **Policy 2:250 (Access to District Public Records)** – PRESS is recommending that the policy be updated in response to changes in both legislation and best practices. These updates include:
 - Adding the following sentence to the first paragraph of the policy:

The Superintendent or designee shall: (1) provide the Board with sufficient information and data to permit the Board to monitor the District's compliance with FOIA and this policy, and (2) report any FOIA requests during the Board's regular meetings along with the status of the District's response.

Since districts are required by the Illinois School Code to report on the status of FOIA requests during regular board meetings, the board needs to decide how it wants to fulfill this legal obligation. Most of our comparative school districts, as well as districts 90 and 200, include FOIA updates on board meeting agendas when necessary/appropriate (i.e., only include updates as an agenda item when FOIA requests are received). Below are links to sample agendas from a few of these districts that show how they incorporate these updates into board meetings.

- District 90 – <http://www.district90.org/boe/documents/COWAgenda6-2-2015.Packet.pdf>
- District 200 – http://intranet.oprfhs.org/board-of-education/board_meetings/Regular_Meetings/Agendas/2014-15/082814a.pdf
- District 135 – <https://v3.boardbook.org/Public/PublicAgenda.aspx?ak=1000592&mk=50154031>

We recommend that our district implement the same type of process that is used by our comparative and neighboring districts. As part of this process, the board would receive a brief written report on the status of FOIA requests. This report would be included in the packet of materials for board meetings, and would be similar to the one produced by Evanston/Skokie School District 65 (<https://v3.boardbook.org/Public/PublicItemDownload.aspx?ik=37023331>).

If the board approves/agrees with this recommendation, Chris Jasculca, who is the FOIA officer for the district, will work with the board secretary to include FOIA request updates on the agendas for future board meetings.

- Changing the second sentence under the section titled “Freedom of Information Officer” from:

The Superintendent may delegate these duties and powers to one or more designees, but the delegation shall not relieve the Superintendent of the responsibility for the action that was delegated.

to:

The Superintendent shall appoint an employee, who may be himself or herself, to serve as the District’s Freedom of Information Officer. That appointee assumes all the duties and powers of that office as provided in FOIA and this policy.

This change reflects the district’s current practice.

- Changing the last sentence under the section titled “Requesting Records” from:

All requests for inspection and copying shall immediately be forwarded to the District’s Freedom of Information Officer or designee.

to:

The Superintendent or designee shall instruct District employees to immediately forward any request for inspection and copying of a public record to the District’s Freedom of Information Officer or designee.

This change is intended to “help prevent inadvertent FOIA violations caused by staff members who informally respond to record requests.”

- Adding the term “voluminous requests” to the first sentence on the second page of the policy under the section titled “Responding to a Request.” This term was recently added to the law as a circumstance under which the time period for responding to a request can be extended.
- Making amendments to the section titled “Fees” to “increase efficiency and avoid paraphrasing a complex law.” These amendments include:
 - Adding language to the first paragraph that authorizes the district’s FOIA officer to establish a schedule for charging fees that complies with board policy and the law and is subject to review by the board. This fee schedule will include “copying fees and all other fees to the maximum extent they are permitted under FOIA.” This includes “search and review fees for responding to a request for a commercial purpose and fees, costs and personnel hours in connection with responding to a voluminous request.” Please note that the district cannot assess fees for the search and review of records or other personnel costs associated with reproducing records if the request does not fall under the categories of commercial purpose or voluminous request. If the board approves the addition of this language to the policy, Chris Jasculca will work with the board’s legal counsel to develop the fee schedule.
 - Adding a new sentence to the second paragraph that reads “If the District’s actual copying costs are equal to or greater than the maximum fees permitted by FOIA, the Freedom of Information Act Officer is authorized to use FOIA’s maximum fees as the District’s fees.”
 - Adding a third paragraph that reads “A fee reduction is available if the request qualifies under Section 6 of FOIA. The Freedom of Information Officer shall set the amount of the reduction taking into consideration the amount of material requested and the cost of copying it.” In cases where individuals cite public interest as the reason for their request, the district will continue to follow the section of the law that makes it mandatory to provide records

either free of charge or at a reduced rate.

Our team recommends that the board approve these updates, additions and changes as written.

- **Policy 3:40 (Superintendent)** – PRESS is recommending that the policy be revised to reflect the replacement of certificate with license per state statute and law. It is also recommending that the legal references be updated to reflect the repeal of 105 ILCS 5/21-7.1 and include citations for 105 ILCS 5/21B-20 and 105 ILCS 5/21B-25.

Our team recommends that the board approve the policy revision and updates to the legal references as written.

- **Policy 3:50 (Administrative Personnel Other Than the Superintendent)** – PRESS recommends making several updates/revisions to the policy and legal references. These updates/revisions include:
 - Adding a new sentence under the section titled “Duties and Authority” to clarify that the policy applies to building principals.
 - Replacing legal references to 105 ILCS 5/21-7.1 with 105 ILCS 5/21B-20 and 105 ILCS 5/21B-25.
 - Adding the following to the legal references:
 - 23 Ill.Admin.Code §1.705 (requirements for supervisory or administrative staff)
 - 23 Ill.Admin.Code Part 25 (requirements for endorsements)
 - 23 Ill.Admin.Code Part 29 (Subpart E, Standards for Administrative Endorsements)
 - Adding the following paragraph under the section titled “Compensation and Benefits:”

The Board and each administrator shall enter into an employment agreement that complies with Board policy and State law. The terms of an individual employment contract, when in conflict with this policy, will control.

This paragraph was relocated from policy 3:60 (Administrative Responsibility of the Building Principal).

Our team recommends that the board approve the revisions to the policy and updates to the legal references as written.

- **Policy 3:60 (Administrative Responsibility of the Building Principal)** – PRESS recommends making several updates/revisions to the policy and legal references. These updates/revisions include:
 - Adding subheads to enhance the readability of the policy and include references to policy 3:50 (Administrative Personnel Other Than the Superintendent).
 - Deleting the second paragraph under the section titled “Duties and Authority” that refers to contract provisions for principals and assistant principals. As stated above, we are proposing that this paragraph be moved to policy 3:50.
 - Adding a new section titled “Qualifications and Other Terms and Conditions of Employment,” which clarifies that qualifications and other terms and conditions of employment can be found in policy 3:50.
 - Adding two missing article numbers to the legal references.

Our team recommends that the board approve the revisions to the policy and updates to the legal references as written.

- **Policy 4:45 (Insufficient Fund Checks and Debt Recovery)** – PRESS recommends making several updates/revisions to this policy. These updates/revisions include:
 - Replacing District’s Attorney with Board Attorney in the second sentence of the first paragraph for the purpose of clarification—i.e., the legal counsel that represents the district is employed by the board.
 - Revising the first sentence under the section titled “Delinquent Debt Recovery” to reflect the current lack of an intergovernmental agreement with the Illinois Office of the Comptroller.

Therese O’Neill, the assistant superintendent for finance and operations, reviewed and supports the recommended changes to the policy. Our team recommends that the board approve the revisions to the policy as written.

- **Policy 5:40 (Communicable and Chronic Infectious Disease)** – PRESS recommends making minor updates/revisions to the policy and legal references. The only suggested change to the policy is to add designee after superintendent in the first sentence. The board does not need to approve this change because the phrase superintendent or designee already appears in our current version of this policy.

In terms of the legal references, they need to be updated to reflect that the Americans With Disabilities Act was amended by the Americans with Disabilities Act Amendments Act (ADAAA), Pub. L. 110-325. Our team recommends that the board approve this update as written.

Lastly, there is a reference in the policy to the Communicable and Chronic Infectious Disease Review Team (CIDRT). Per the following footnote from the policy, the district is not legally required to have a team. With that said, Mike Padavic, the district’s senior director for student services, does work with the school nurses on issues related to communicable and chronic infectious diseases.

"While not required by law, the creation and use of a Communicable and Chronic Infectious Disease Review Team (CIDRT) could greatly assist a district’s efforts to review data on an employee who has a communicable or infectious disease. Its members are appointed by the superintendent according to board policy, 2:150, *Committees*. Whether the CIDRT is an administrative committee organized by the superintendent and/or administrators or a board committee subject to the Open Meetings Act must be discussed with the board attorney (see also 2:150-AP, *Superintendent Committees*). The CIDRT is guided by the board’s policies, Ill. Dept. of Public Health rules and regulations, and all other applicable State and federal laws. The CIDRT also consults the employee’s personal physician and local health department officials before making any recommendations."

- **Policy 5:120 (Ethics and Conduct)** – PRESS recommends making several updates/revisions to the policy and legal references. These updates/revisions include:
 - Changing item four on page one of the policy from:

Any employee responsible for negotiating contracts, including collective bargaining agreement, in the amount of \$1,000 or greater;

to:

Any employee who, as the District’s agent, is responsible for negotiating one or more contracts, including collective bargaining agreement(s), in the amount of \$1,000 or greater;

The purpose of this change is to further clarify the conditions under which this type of employee must file a “Statement of Economic Interests.”

- Revising the title of the last section to read “Prohibited Interests, Limitation of Authority, and Outside Employment” and changing the first sentence of that section from:

No District employee shall be directly or indirectly interested in any contract, work, or business of the District, or in the sale of any article by or to the District, except when the employee is the author or developer of instructional materials listed with the State Board of Education and adopted for use by the Board of Education.

to:

In accordance with Section 22-5 of the School Code, “no school officer or teacher shall be interested in the sale, proceeds, or profits of any book, apparatus, or furniture used or to be used in any school with which such officer or teacher may be connected,” except when the employee is the author or developer of instructional materials listed with the Illinois State Board of Education and adopted for use by the Board.

The revised language featured in this sentence is taken directly from the Illinois School Code.

- Removing a repealed statute from the legal references.

Our team recommends that the board approve the revisions to the policy and the update to the legal references as written.

- **Policy 5:180 (Temporary Illness or Temporary Incapacity)** – Steve Cummins, the senior director of human resources, confirmed that this policy does apply to the district’s educational support personnel. As a result, our team supports the recommendation from PRESS to replace “teacher or other licensed employee” with “employee” in the first two sentences of the third paragraph.
- **Policy 5:270 (Employment At-Will, Compensation and Assignment)** – PRESS recommends making several updates/revisions to the policy and legal references. These updates/revisions include:
 - Replacing non-certificated with non-licensed in the last sentence of the second paragraph. This change will keep the policy in alignment with state law.
 - Removing the phrase “and the reason for the exception” in the last sentence of the second paragraph. This change corresponds with an appellate decision that reinforced the existence of at-will employment.
 - Adding a reference to the appellate decision mentioned above to the legal references at the end of the policy.

Our team recommends that the board approve the revisions to the policy and the update to the legal references as written.

- **Policy 5:290 (Employment Termination and Suspensions)** – PRESS recommends making several updates/revisions to the policy and legal references. These updates/revisions include:
 - Revising all of the paragraphs on the second page of the policy under the section titled “Reduction in Force and Recall” to reflect that the inclusion of paraphrased language from the RIF statute is “unnecessary in a governance policy and is frequently superseded by

collectively bargained provisions.”

- Adding information to the legal references about the appellate decision that reinforced the existence of at-will employment.

Steve Cummins reviewed and supports the recommended changes to the policy and legal references. Our team recommends that the board approve these changes as written.

- **Policy 5:330 (Sick Days, Vacation, Holidays, and Leaves)** – PRESS recommends making several updates/revisions to the policy and legal references. These updates/revisions include:
 - Adding service as an election judge to the list of other leaves that will be granted to educational support personnel. The addition of this new type of leave is pursuant to 105 ILCS 5/13-2.5, which was amended by Public Act 98-691.
 - Adding case law references to the legal references at the end of the policy.

Steve Cummins reviewed and supports the recommended changes to the policy and legal references. Our team recommends that the board approve these changes as written.

- **Policy 6:15 (School Accountability)** – PRESS recommends making several updates/revisions to the policy and legal references. These updates/revisions include:
 - Adding the following item to the list of quality assurance components that are featured on the first page of the policy:

In accordance with Sec. 2-3.153 of the School Code, administer at least biennially a survey of learning conditions on the instructional environment within the school to, at minimum, students in grades 6 through 12 and teachers.

This component was added in accordance with 105 ILCS 5/2-3.153, which states that “The State Superintendent must publicly report on selected indicators of learning conditions resulting from the administration of the instrument at the individual school, district, and State levels.”

- Adding a new introductory sentence under the section titled “School Choice for Students Enrolled in a School Identified for Improvement, Corrective Action, or Restructuring” that reads:

This section of the policy is effective only if the choice requirements in federal law are applicable to Illinois.

Revising the first sentence of the second paragraph under the same section to read:

When this section of the policy is effective, students from low-income families shall be provided supplemental educational services as provided in federal law if they attend any District school that: (1) failed to make adequate yearly progress for 3 consecutive years, or (2) is subject to corrective action or restructuring.

The footnotes that correspond with both of these changes state that “ISBE received a waiver for school year 2015; the future status of choice depends on federal action on any applicable request(s) by ISBE for a Title I waiver.”

- Replacing legal references to 105 ILCS 5/2-3.64 with 105 ILCS 5/2-3.64a-5, which was added in accordance with Public Act 98-972.

The district's directors of curriculum and instruction reviewed and support the recommended changes to the policy and legal references. Our team recommends that the board approve these changes as written.

- **Policy 6:40 (Curriculum Development)** – PRESS recommends adding 7:10 (Equal Educational Opportunities) to the list of policies that are featured in the cross references on page two of the policy. Our team recommends that the board approve this change as written.

In terms of the comment on the first page of the policy about accommodations for transgender or gender non-conforming students in single sex classes, the district's administration will discuss this issue and consult with legal counsel as necessary. However, it is important to note that gender identity is among the protected statuses in a number of our policies, including policy 7:10.

Attached are the policies that are being presented to the board tonight for a first reading. A second reading and approval of these policies are scheduled for the board meeting on August 11, 2015.

Attachments:

- Policy 2:250 (Access to District Public Records)
- Policy 3:40 (Superintendent)
- Policy 3:50 (Administrative Personnel Other Than the Superintendent)
- Policy 3:60 (Administrative Responsibility of the Building Principal)
- Policy 4:45 (Insufficient Fund Checks and Debt Recovery)
- Policy 5:40 (Communicable and Chronic Infectious Disease)
- Policy 5:120 (Ethics and Conduct)
- Policy 5:180 (Temporary Illness or Temporary Incapacity)
- Policy 5:270 (Employment At-Will, Compensation and Assignment)
- Policy 5:290 (Employment Termination and Suspensions)
- Policy 5:330 (Sick Days, Vacation, Holidays, and Leaves)
- Policy 6:15 (School Accountability)
- Policy 6:40 (Curriculum Development)