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Update Memo

PRESS

Policy Reference Education Subscription Service

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We think you'll like the updates and improvements to the **Online** component of your **PRESS** service. As before, follow the login instructions to get access to the latest **PRESS** issue and the comprehensive **Policy Reference** Manual. Please click on the question mark in the upper right corner of the page after login to review the quick help diagram that explains the changes. If you have any questions about how to navigate the new **PRESS Online**, please contact Brian Zumpf, IASB Policy Consultant, at 630/629-3776 ext. 1214 or *bzumpf@iasb.com*.

Instructions

You are encouraged to share this **PRESS** Update Memo with all board members and appropriate staff. It may be viewed and downloaded from **PRESS Online**: *iasb.com/policy/login.cfm*. Subscribers are mailed the current password with each **PRESS** issue.

Two other important components of PRESS may be viewed and downloaded from PRESS Online – the committee worksheets and the updated Policy Reference Manual 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 Policy Reference Manual pages contain all of the material in this PRESS issue; you can use them to update your district manuals.

This publication is designed to provide information only and is <u>not</u> a substitute for legal advice from the school board's legal counsel. If you have any questions, please contact Melinda Selbee, IASB General Counsel and **PRESS** Editor, 630/629-3776, ext. 1231, or Kimberly Small, Assistant General Counsel and Assistant **PRESS** Editor, 630/629-3776, ext. 1226.

School Board

▶2:250, Access to District Public Records. The policy and footnotes are updated in response to legislation and to utilize evolved thinking concerning best practices. A new sentence in the first paragraph is intended to help the board to monitor this policy and fulfill what FOIA calls a fundamental obligation of the board:

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.

The relevant footnote explains:

This sentence allows a board to monitor the district's compliance with FOIA. This is an important duty as illustrated by FOIA's provision stating: "It is a fundamental obligation of government to operate openly and provide public records as expediently and efficiently as possible." The School Code requires the FOIA report described in #2 (105 ILCS 5/10-16); it is optional, however, for districts governed by a board of school directors.



The list below highlights the changes to the policy and the footnotes. Please review the committee worksheet to thoroughly assess the changes.

- In the section on Requesting Records, the sentence below is changed to help prevent inadvertent FOIA violations caused by staff members who informally respond to record requests:
 - All requests The Superintendent or designee shall instruct District employees to immediately forward any request for inspection and copying shall immediately be forwarded to of a public record to the District's Freedom of Information Officer or designee.
- 2. In the section on **Responding to a Request**, the sentence extending the time for responding to a request made for a *commercial purpose* or by a *recurrent requester* now includes *voluminous requests*. 5 ILCS 140/3.6, added by P.A. 98-1129.
- 3. The Fee Schedule section is amended to increase efficiency and avoid paraphrasing a complex law. The first paragraph authorizes the Freedom of Information Officer (FOIA Officer) to establish a fee schedule without needing the board's prior approval. It directs that the "fee schedule shall include copying fees and all other fees to the maximum extent they are permitted by FOIA, including without limitation, 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." The procedure implementing this policy contains a fee schedule identifying the maximum fees permitted. See 2:250-AP1, Access to and Copying of District Public Records.

A footnote explains: "Section 6(a) states: "If a request is *not* a request for a *commercial purpose* or a voluminous request, a public body may not charge the requester for the costs of any search for and review of the records or other personnel costs associated with reproducing the records." (Emphasis added.) This implies that a search and review fee may be charged when responding to a request for a commercial purpose or a voluminous request. However, Sec. 6(b) states that the search and review fee described in Sec. 6(f) may be charged only to someone making a commercial request. Sec. 6(f) contains the maximum amounts that may be charged for search and review but does not explain when they may be charged. The FOIA Officer will need to consult the board attorney concerning fees."

- 4. A new sentence in the second paragraph of the **Fee Schedule** section is intended to increase efficiency: "If the District's actual copying costs are equal to or greater than the maximum fees permitted by FOIA, the Freedom of Information Officer is authorized to use FOIA's maximum fees as the District's fees."
- 5. In the section on **Provision of Copies and Access to Records**, the following sentence is added in response to legislation (5 ILCS 140/8.5, added by P.A. 98-1129): "The Freedom of Information Officer shall direct a requester to the District's website if a requested record is available there. If the requester is unable to reasonably access the record online, he or she may resubmit the request for the record, stating his or her inability to reasonably access the record online, and the District shall make the requested record available for inspection and copying as otherwise provided in this policy."
- ▶2:250-AP1, Administrative Procedure Access to and Copying of District Public Records. The procedure is REWRITTEN in response to legislation and to utilize evolved thinking concerning best practices. It now has the same format as 7:340-AP1, School Student Records. The 12 sections implementing FOIA and board policy 2:250, Access to District Public Records follow:
 - A. Legal Citations and Definitions
 - **B. FOIA Compliance**
 - C. Availability and Posting Requirements
 - D. Fee Schedule
 - E. Response to FOIA Requests
 - F. Extensions of Time to Respond
 - G. Unduly Burdensome Requests
 - H. Requests for Commercial Purposes
 - I. Managing Requests from a Recurrent Requester
 - J. Managing Voluminous Requests
 - K. Denials
 - L. Consultation with the Board Attorney
- ➤ 2:250-AP2, Administrative Procedure Protocols for Record Preservation and Development of Retention Schedules. The procedure is updated throughout in response to the following updated rules: Digital Reproduction, 44 Ill.Admin.Code 4000.70 and Management of Electronic Records, 44 Ill.Admin.Code §4000.80.

Administration

- ▶3:40, Superintendent. The policy, Legal References, and footnotes are amended to accomplish each of the following:
 - 1. Change valid administrative certificate to <u>Professional Educator License</u>.
 - 2. Delete references to the repealed 105 ILCS 5/21-7.1 and cite <u>105 ILCS 5/21B-20</u> and <u>5/21B-25</u>.
 - 3. Cite relevant ISBE rules, that is, 23 Ill.Admin.Code §§25.355 (2019 [rule only states the year]), 25.360 (through 8-31-2019), 29.100 (*Ill. Professional School Leader Standards*), and 29.130 (*Superintendent Standards*).

A footnote is expanded to provide more information about superintendent contracts.

3:50, Administrative Personnel Other Than the Superintendent. The policy, footnotes, and Legal References are updated. The following sentence is added to clarify that this policy applies to building principals: "This policy applies to all administrators other than the Superintendent, including without limitation, Building Principals." The unique responsibilities of building principals are covered in 3:60, Administrative Responsibility of the Building Principal.

Other updates are made to accomplish each of the following:

- 1. Change certified to <u>licensed</u>.
- Delete references to 105 ILCS 5/21 7.1 and replace them with 105 ILCS 5/21B-20 and 5/21B-25, governing Professional Educator Licenses and administrative, principal, and chief school business official endorsements.
- 3. Include references to additional ISBE rules, that is, 23 Ill.Admin.Code §1.705 (requirements for supervisory or administrative staff); 23 Ill.Admin.Code Part 25 (requirements for endorsements), and 23 Ill.Admin.Code Part 29 (Subpart E, Standards for Administrative Endorsements).
- 4. Add the following new paragraph to the section on 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." Its footnote provides information about administrator contracts.
- →3:60, Administrative Responsibility of the Building Principal. The policy, footnotes, and Legal References are updated to accomplish each of the following:
 - 1. Delete contract provisions concerning building principals and assistant principals because they are covered in 3:50, *Administrative Personnel Other Than the Superintendent*. A new section, titled

Qualifications and Other Terms and Conditions of Employment contains one sentence as follows: "Qualifications and other terms and conditions of employment are found in Board policy 3:50, Administrative Personnel Other Than the Superintendent."

- A new section heading, Evaluation Plan, is inserted to enhance readability.
- 3. Missing article numbers are added to the Legal References.

Operational Services

▶ 4:45, Insufficient Fund Checks and Debt Recovery. The policy and the footnotes are updated. Under the Insufficient Fund Checks subhead in the first paragraph, we made the following change: "District's Board Attorney."

Under the **Delinquent Debt Recovery** subhead, the optional policy language is updated to reflect the current unavailability of an intergovernmental agreement with the Illinois Office of the Comptroller (IOC). It reads as follows:

To participate in the A Local Debt Recovery Program may be available through the Illinois Office of the Comptroller (IOC) in the future. To participate in it, an intergovernmental agreement (IGA) between the District and the IOC must be in existence. The IGA establishes the terms under which the District may refer a delinquent debt owed it over to the IOC for an offset (deduction). Then IOC may execute an offset of, in the amount of the delinquent debt owed to the District, from a future payment that the State makes to an individual or entity responsible for paying the delinquent debt.

Minor clean up edits were made to the footnotes.

•4:175-AP1, Administrative Procedure - Criminal
Offender Notification Laws; Screening. The procedure
text and footnotes are changed. Under the Receipt of
Information from Law Enforcement subhead, we created two sections: "Offender Notification Laws" and
"Juvenile Delinquency Adjudication Notifications."
The latter includes the following new text:

The Superintendent or designee shall contact the Juvenile Division of the County State's Attorney Office(s) having jurisdiction over the District's school(s) to discuss how the State's Attorney shall inform the Superintendent or designee of any students adjudicated as delinquent minors for offenses that would be felonies and/or certain weapons offenses under the Criminal Code of 2012 (705 ILCS 405/5-9.01(8). The Superintendent and/or designee(s) shall ensure the dissemination of such information is limited to the Building Principal and any guidance counselor designated by the Building Principal (Id.)

The first sentence of footnote one is updated as follows, "The law is silent with regard to what, if anything, districts do with the information (except for records provided to a school district by a state's attorney's office under the Juvenile Court Act at 705 ILCS 405/5-9.01(8)."

Personnel

▶ 5:40, Communicable and Chronic Infectious Disease.

The policy, footnotes and Legal References are updated. The first sentence of the policy now reads, "The Superintendent <u>or designee</u> shall develop" We added language to footnote three, which discusses the Communicable and Chronic Infectious Disease Review Team (CIDRT) as follows:

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.

Legal References are updated to read, "Americans With Disabilities Act, 42 U.S.C. §12101 et seq.; 29 C.F.R. §1630.1 et seq., amended by the Americans with Disabilities Act Amendments Act (ADAAA), Pub. L. 110-325."

>5:120, Ethics and Conduct. The policy, footnotes, and Legal References are updated. To enhance clarity, the following changes are made to one of the seven types of employees who must file a *Statement of Economic Interests*: "4. 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;..."

In the section <u>Prohibited Interests</u>, <u>Limitation of Authority</u>, <u>and Outside Employment and Conflict of Interest</u>, the following sentence is changed to quote the statute:

No District employee In accordance with Section 22-5 of the School Code, "no school officer or teacher shall be directly or indirectly interested in any contract, work, or business of the District, or in the sale, proceeds, or profits of any article by book, apparatus, or furniture used or to the District; 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 School Board.

The sentence's footnote explains the reason the policy quotes a statute:

This sentence quotes 105 ILCS 5/22-5 because the statute does not define important terms making it difficult to paraphrase. No appellate decision defines school officer or apparatus, or what is meant by connected. The statute was enacted in 1961 but earlier versions were in the School Code much longer. A violation of this prohibition is a Class A misdemeanor.

A repealed statute is deleted from the Legal References.

- ➤ 5:120-AP1, Administrative Procedure Statement of Economic Interests for Employees. The wording in this procedure is edited to more closely follow the statutory wording.
- ➤ 5:120-E, Exhibit Code of Ethics for Illinois Educators.

 The exhibit is updated to reflect changes to the Code in the ISBE rule.
- ▶5:180, Temporary Illness or Temporary Incapacity. The policy is unchanged. In response to feedback about our February 2014, Issue 84 update, we have added an option for boards that applies the policy to both teachers and other licensed employees and educational support personnel. The addition to footnote three reads:

Despite the statute's limitation to licensed employees, many boards apply this language to educational support personnel. Consult the board attorney about whether to apply this language to educational support personnel. For boards that wish to apply this language to both licensed and educational support personnel, strike teacher or other licensed from the text of the first two sentences of this paragraph and correct the grammar.

We also removed the optional sentence that we added in the February 2014, Issue 84 update. It is now a permanent part of the policy's text. Boards that do not have this sentence should now add it to their policies. It reads, "This paragraph shall not be considered a limitation on the Board's authority to take any action concerning an employee that is authorized by State and federal law."

- **Teachers.** The procedure is updated to (1) change eertificate to license, (2) reflect legislative changes, and (3) utilize feedback received from subscribers. **Please** review the committee worksheet to thoroughly assess the changes.
- ➤ 5:270, Employment At-Will, Compensation, and Assignment. The policy, footnotes, and Legal References are updated to delete *certificated* and for efficiency reasons. This sentence, containing both an authorization and directive to the superintendent, is amended: "The Superintendent is authorized to make exceptions to employing non-certificated nonlicensed

employees at-will but shall maintain a record of positions or employees who are not at-will and the reason for the exception." A reference to an appellate decision that reinforced the existence of at-will employment is added to the footnotes and Legal References, i.e., Griggsville-Perry Community Unit School Dist. No. 4 v. Illinois Educ. Labor Relations Bd., 963 N.E.2d 332 (Ill.App.4, 2013).

- ▶5:290, Employment Termination and Suspensions. The policy, footnotes, and Legal References are updated. The paragraphs paraphrasing the RIF statute (for nonlicensed employees) is omitted because it is unnecessary in a governance policy and is frequently superseded by collectively bargained provisions. A reference to an appellate decision that reinforced the existence of atwill employment is added to the footnotes and Legal References, i.e., Griggsville-Perry Community Unit School Dist. No. 4 v. Illinois Educ. Labor Relations Bd., 963 N.E.2d 332 (Ill.App.4, 2013).
- ➤ 5:330, Sick Days, Vacation, Holidays, and Leaves. The policy, Legal References, and footnotes are updated. Text updates include the following:
 - 1. After receiving feedback, we changed our perspective on the change to this policy. Text in the **Sick and Bereavement Leave** subhead is reverted to read as it did prior to August 2014, Issue 86. It again reads as follows: "Part-time employees who work at least half time are entitled to will receive sick days on the same basis as full time employees, but the leave pay will be based on the employee's average number of part time hours per week equivalent to their regular workday."
 - 2. We added the following text to the **Other Leaves** subhead pursuant to 105 ILCS 5/13-2.5, amended by P.A. 98-691, "4. Leave to serve as an election judge."

Legal References are updated with case law references, and the footnotes are updated to refresh a web link and add a footnote pursuant to P.A. 98-691.

Instruction

- ▶6:15, School Accountability. The policy, footnotes, and Legal References are updated. The list below highlights the changes to the policy and the footnotes. Please review the committee worksheet to thoroughly assess the changes.
 - 1. A new directive to the superintendent is added to the list of quality assurance components, that is: "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." Its footnote states: "Required by 105 ILCS 5/2-3.153. 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."
- 2. In the section on School Choice for Students
 Enrolled in a School Identified for
 Improvement, Corrective Action, or
 Restructuring, the introductory sentence is
 amended as follows: "This section of the policy is
 effective only if the choice requirements in federal
 law are applicable to Illinois. When effective, this
 section applies to only those students enrolled in
 a school identified by the Board for school
 improvement, corrective action, or restructuring
 as defined by federal law."
 - Its footnote explains 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. ISBE's website contains information at www.isbe.net/grants/html/choice.htm."
- 3. In the same section as above, the provision on supplemental services is amended as follows: "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."
 - Its footnote explains that "ISBE received a waiver for school year 2015; the future status of supplemental educational services depends on federal action on any applicable request(s) by ISBE for a Title I waiver. ISBE's website contains information at www.isbe.net/ses/."
- 4. References in the footnotes and the Legal References to the repealed 105 ILCS 5/2 3.64 are replaced by <u>105 ILCS 5/2-3.64a-5</u>, added by <u>P.A.</u> <u>98-972</u>. In this statute, the General Assembly directed ISBE to establish academic standards and annually assess students in specified grades.
- ▶6:15-AP, Administrative Procedure School Choice and Supplemental Educational Services. DELETED. The procedure is no longer needed. ISBE's website is comprehensive. See www.isbe.net/grants/html/choice.htm and www.isbe.net/ses/.
- ▶6:40, Curriculum Development. The policy is unchanged. The footnotes and cross references are updated. There is a new cross reference to 7:10, Equal Educational Opportunities. A new paragraph in footnote seven reads as follows:

Consult the board attorney about accommodation issues for transgender or gender non-conforming

students in single sex classes. State law prohibits gender-based discrimination, including transgender and gender non-conforming students (775 ILCS 5/5-101(11); 775 ILCS 5/1-103(O-1) and 23 Ill.Admin.Code §1.240). Federal law prohibits exclusion and discrimination on the basis of sex. 20 U.S.C. §1681(a), Title IX of the Education Amendments of 1972. According to the U.S. Department of Education's Office for Civil Rights (OCR) and the U.S. Department of Justice, Title IX protects lesbian, gay, bisexual, and transgender students, from gender discrimination. See 7:10-AP, Accommodating Transgender Students or Gender Non-Conforming Students.

►6:120-AP1, Administrative Procedure - Special Education Procedures Assuring the Implementation of Comprehensive Programming for Children with Disabilities. The procedure is updated to reflect the amendments made by the Illinois Council of School Attorneys Special Education Committee. The amend-

ments reflect several Public Acts and federal regulation updates. Please see a listing of the changes at www.iasb.com/law/icsaspeced.cfm. As of printing, the Ill. State Board of Education (ISBE) has not approved them. Once ISBE approves the language, we will so indicate on the IASB website <code>www.iasb.com/law/</code> under the link where the procedures are published.

▶6:170-AP3, Administrative Procedure - No Child Left Behind Checklist. DELETED. The procedure is no longer needed. ISBE's website comprehensively covers assessments and accountability.

Progress Report

The contents of this table frequently change.

Our Response
We anticipate that federal regulations will be final in the fall of 2015, and we will update policy 6:50, <i>School Wellness</i> at that time to reference 4:120-AP, <i>Food Services</i> , <i>Competitive Foods</i> ; <i>Exemptions</i> , which is where the procedure required to request exempted fundraising days is located.
We will amend PRESS materials when ISBE finishes its rules.
We will amend PRESS materials over the 2015 school year. Boards that have hired coaching personnel and athletic directors after Aug. 19, 2014 should view <i>screencast-o-matic.com/watch/c2iZYZnJPl</i> for more information about compliance with this law.
We will monitor this development and amend PRESS as necessary in response to this change.

Revisions to Policies, Administrative Procedures and Exhibits

Number and Title	Action The memo describes the revisions.
2:250, Access to District Public Records	Policy and footnotes are updated in response to legislation and to utilize evolved thinking concerning best practices.
2:250-AP1, Administrative Procedure – Access to and Copying of District Public Records	REWRITTEN in response to legislation, to utilize evolved thinking concerning best practices, and to use the same format as the procedure on school student records.
2:250-AP2, Administrative Procedure - Protocols for Record Preservation and Development of Retention Schedules	Procedure updated throughout in response to the following updated rules: Digital Reproduction, 44 Ill.Admin.Code 4000.70 and Management of Electronic Records, 44 Ill.Admin.Code §4000.80.
3:40, Superintendent	Policy, Legal References, and footnotes are updated to replace certified with <u>licensed</u> and to update statutory and rule references.
3:50, Administrative Personnel Other Than the Superintendent	Policy, Legal References, and footnotes are updated to clarify that the policy applies to building principals; to replace eertified with licensed and to update statutory and rule references.
3:60, Administrative Responsibility of the Building Principal	Policy, Legal References, and footnotes are updated to clarify that the policy's scope is limited to duties and to make other nonsubstantive updates.
4:45, Insufficient Fund Checks and Debt Recovery	The policy and the footnotes are updated to reflect the current unavailability of an intergovernmental agreement from the Office of the Illinois Comptroller.
4:175-AP1, Administrative Procedure - Criminal Offender Notification Laws; Screening	The procedure text and footnotes are changed to add how the State's Attorney provides information about delinquent minors who are students in school (705 ILCS 405/5-9.01(8).
5:40, Communicable and Chronic Infectious Disease	The policy, footnotes and Legal References are updated.
5:120, Ethics and Conduct	Policy, Legal References, and footnotes are updated to enhance clarity and remove references to a repealed statute.
5:120-AP1, Administrative Procedure - Statement of Economic Interests for Employees	Procedure is updated.
5:120-E, Exhibit - Code of Ethics for Illinois Educators	Exhibit is updated.
5:180, Temporary Illness or Temporary Incapacity	The policy is unchanged. In response to feedback, an option for boards that applies the policy to both teachers and other licensed employees and educational support personnel is added.
5:220-AP, Administrative Procedure - Substitute Teachers	Procedure is updated.
5:270, Employment At-Will, Compensation, and Assignment	Procedure is updated to delete certificated and for efficiency reasons.
5:290, Employment Termination and Suspensions	Policy, Legal References, and footnotes are updated to delete unnecessary paraphrasing of the law and to add a reference to an important Ill. appellate decision.
5:330, Sick Days, Vacation, Holidays, and Leaves	The policy, Legal References, and footnotes are updated in response to 105 ILCS 5/13-2.5, amended by P.A. 98-691 and reverting text back to its pre-August 2014, PRESS Issue 86 version.
6:15, School Accountability	Policy, Legal References, and footnotes are updated in response to legislation and ISBE action.

Revisions to Policies, Administrative Procedures and Exhibits *continued*

Number and Title	Action
6:15-AP, Administrative Procedure - School Choice and Supplemental Educational Services	DELETED
6:40, Curriculum Development	The policy is unchanged. The footnotes and cross references are updated to discuss accommodation issues for transgender or gender non-conforming students.
6:120-AP1, Administrative Procedure - Special Education Procedures Assuring the Implementation of Comprehensive Programming for Children with Disabilities	The procedure is updated with amendments made by the Illinois Council of School Attorneys Special Education Committee. Amendments reflect several Public Acts and updated regulations.
6:170-AP3, Administrative Procedure - No Child Left Behind Checklist	DELETED

Acknowledgement to PRESS Advisory Board

Before each **PRESS** issue is published, a group of distinguished individuals provides input and suggestions. We appreciate their contributions and thank them sincerely.

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