

POLICYALERT

August, 2013

Forethought Consulting, Inc.

POLICY UPDATE: 2013

LEGISLATIVE REPRIEVE

With the incredible overload of legislative policy changes in 2012, it is with great pleasure that we announce that the policy changes from the 2013 Louisiana Legislative Session were minimal in comparison. Most of the changes are fairly straightforward in nature, and cover issues from publication of notices for tax elections, to providing accommodations for breast-feeding mothers to express breast milk. We also have one policy from May which is being revised again to reflect a different interpretation of statutory language regarding ethics training of School Board members.

SCHOOL BOARD MEMBER CONTINUING EDUCATION

In May 2013 this policy was updated to include the mandatory one hour of ethics training for School Board members. Originally, it was interpreted that the hour of ethics training was *in addition* to the required six hours of annual continuing education required for Board members. However, after discussing this provision recently with a representative of the Louisiana Board of Ethics, it appears there should be no issue with including the ethics training as a part of the required six (6) hours.

Policies In This Issue:

- School Board Member Continuing Education
- Tax and Bond Elections and Sales
- Emergency/Crisis Management
- Buildings and Grounds Security
- Child Nutrition Program Management
- Miscellaneous Conditions of Employment
- Dismissal of Employees
- Education of Students with Exceptionalities
- Co-curricular and Extracurricular Activities
- Interscholastic Athletics
- Prayer in Schools
- Bullying and Hazing
- Student Health Services

Consequently, that stipulation has been removed from the *School Board Member Continuing Education* policy.

You might also note that we have added another statutorily imposed educational requirement. La. Rev. Stat. Ann. §42:1170 requires *elected officials* to receive a minimum of one (1) hour of education and training on the *Campaign Finance Disclosure Act* during the official's term of office.

TAX AND BOND ELECTIONS AND SALES

Act 267 enacted La. Rev. Stat. Ann. §42:19.1 to create a new notification procedure for calling an election for the levy, increase, renewal or continuation of a tax. Effective August 1, 2013, the new statute provides for public notice of the date, time, and place of the meeting at which such a tax will be considered. A School Board must publish a notice of the meeting in its official journal no more than sixty (60) nor less than thirty (30) days prior to the meeting. If the meeting is cancelled or postponed, notice of the date, time, and place of the subsequent meeting shall be published in the official journal of the School Board no less than ten (10) days prior to the subsequent meeting. However, if the action on the proposal was postponed, or no vote was taken on the proposal, then the date, time, and place of the subsequent meeting shall be published in the official journal of the School Board no less than ten (10) days prior to the subsequent meeting. The policy *Tax and Bond Elections and Sales* has been revised to include these new requirements.

EMERGENCY/CRISIS MANAGEMENT

In 2001 the *Emergency Drills* policy was revised to reflect legislation passed requiring each public school to prepare a *crisis management and response plan* to address safety and violence at schools, on school buses, and school-related activities. This policy has been revised and retitled *Emergency/Crisis Management* to reflect new provisions of Act 50. This Act revised La. Rev. Stat. Ann. §17:416.16 and expanded the components required for inclusion in the plan. Among the requirements is that each

principal shall prepare the plan jointly with local law enforcement, fire, public safety, and emergency preparedness officials and review it annually with such officials, making revisions as may be necessary. School resource officers shall also be included in the planning and review sessions. Annual in-service training shall be held for all teachers and school employees, which may be part of another meeting or training session held for another purpose, and may involve local public safety, law enforcement, fire, and emergency preparedness officials.

A safety drill to rehearse the components of the plan is required within the first thirty (30) days of each school year, and each principal is required to submit a written summary of the drill to the Superintendent within seven (7) days following the drill. Each principal shall keep a copy of the plan readily available in his/her office, and share a copy with the President of the School Board, the Superintendent, and the chief of police or sheriff, as applicable, and the local fire chief whose office is in closest geographic proximity of the school.

A new component required by the statute is that classroom doors with locks shall remain locked during instructional time, but that a locked door shall not obstruct egress.

The Act also revises La. Rev. Stat. Ann. §17:3996, to include school crisis management and response plans in the list of statutory requirements from which charter schools are not exempted.

BUILDINGS AND GROUNDS SECURITY

Although certain law enforcement officials were already exempted from provisions of La. Rev. Stat. Ann. §14:95.2 regarding firearm-free zones, Act 400 has added off-duty law enforcement officers to those exempted officials. Although policy *Buildings and Grounds Security* did not previously include language which reflected the exemption of the law enforcement officials, we have decided to include this language in the section entitled Firearm-Free Zones.

The Act became effective August 1, 2013.

CHILD NUTRITION PROGRAM MANAGEMENT

This is the first of several policies affected by Act 329, which covered several school-related issues. In 2010, new legislation gave School Boards the option of adopting a policy which allowed denial of a meal to elementary school students who have not paid for a scheduled meal, and required each instance be documented and reported annually to the State Superintendent of Education, as well as the Senate and House Committees on Education. In amending La. Rev. Stat. Ann. §17:192.1, Act 329 removes the required annual submission of documentation, and now simply requires that the documentation be provided upon request of state officials. This change, effective August 1, 2013, has been made to the policy *Child Nutrition Program Management* for those systems which opted for policy language allowing the denial of meals.

MISCELLANEOUS CONDITIONS OF EMPLOYMENT

The benefits of breast-feeding for newborns during the first year of life have been documented and publicized in recent years, and Act 87, enacting La. Rev. Stat. Ann. §17:81(W), provides support for a mother who wishes to express breast milk during the work day for a year following the birth of her child. School Boards must now allow a reasonable amount of break time, as well as an appropriate private room other than a restroom, for a breast-feeding employee's use for expressing milk. Any additional break time shall be considered unpaid leave time. School Boards are not required to pay for new construction or expend any additional cost for the purposes of this Act. The effective date of the Act was August 1, 2013. The information has been added, for lack of any other appropriate policy, to the policy *Miscellaneous Conditions of Employment*.

Two other sections included in this policy are suggested for inclusion and are not due to statutory changes. The first addresses the right of the School Board to inspect Board and personal property, and requires that employees acknowledge the right of the

School Board to do so. The second section addresses employee responsibility for security of materials and confidentiality of information. Although recommended for inclusion, neither of these additional sections are mandatory, but do address areas of concern regarding School Board operations.

DISMISSAL OF EMPLOYEES

The Legislature, with the passage of Act 137, enacted additional statutory provisions for the dismissal of bus operators. Being found guilty of violating a parish or municipal ordinance or certain state statutes relative to or prohibiting the operation of a vehicle while intoxicated, regardless of whether the violation occurred while the bus operator was performing his/her duties as a school bus operator at the time of the offense, is now grounds for removal. If the offense occurs during the bus operator's probationary term, the bus operator shall be immediately dismissed by the School Board.

The Act's provisions revised La. Rev. Stat. Ann. §§17:492 and 17:493 and became effective July 1, 2013. The policy *Dismissal of Employees* has been revised to include these new provisions.

EDUCATION OF STUDENTS WITH EXCEPTIONALITIES

Although students classified as *gifted and talented* are included in the statutory classification of *students with exceptionalities*, the seclusion and restraint provisions passed in 2012 were obviously not meant to be used for gifted and talented students. Act 1, effective August 1, 2013, clarified this by adding their exclusion to La. Rev. Stat. Ann. §17:416.21 and this has been added to the *Education of Students with Exceptionalities* policy.



CO-CURRICULAR ACTIVITIES and EXTRACURRICULAR ACTIVITIES INTERSCHOLASTIC ACTIVITIES

Act 294 amended La. Rev. Stat. Ann. §17:176, revising language that School Boards shall not adopt a policy, rule, or regulation which limits the number of extracurricular activities in which a student may participate, if the student is otherwise eligible for participation in those activities. The statute now specifically includes interscholastic athletics among the extracurricular activities. The language was updated or added to the policy entitled *Co-curricular Activities and Extracurricular Activities*.

This Act also repealed sections of La. Rev. Stat. Ann. §17:176, and **all** of La. Rev. Stat. Ann. §17:236.3, in response to the Louisiana Supreme Court declaring parts of the statutes unconstitutional in the case *Louisiana High School Athletic Association, Inc. v State*. Basically, the court declared that schools are not required to allow non-enrolled students and students participating in home study programs to participate in interscholastic athletic activities. Accordingly, the section entitled Students in Home Study Programs has been deleted from the policy *Interscholastic Athletics*.

Act 294 became effective August 17, 2013.

PRAYER IN SCHOOLS

Although current statutes and federal law already ensure the right of students to initiate prayer in certain circumstances, Act 286, effective August 1, 2013, further addresses the rights of students to gather for student-initiated prayer in classrooms, auditoriums, or other space not in use, at any time before the school day begins when the school is open and students are allowed on campus, at any time after the school day ends, provided that at least one student club or organization is meeting at that time, or at any non-instructional time during the school day.

The Act, in enacting La. Rev. Stat. Ann. §17:2115.11, also provides that school employees may be assigned to supervise the gathering if the

student or students request supervision, and the school employee volunteers to supervise. Any employee may attend and participate in the gathering before the employee's work day begins or after the employee's work day ends. Parents may attend the gathering if they adhere to school procedures for approval of visitors on the school campus. Students may invite persons from the community to attend and participate, if other school organizations are allowed to make similar invitations, and as long as they adhere to school procedures for approval of visitors on the school campus.

The policy *Prayer in Schools* has been amended to include these new statutory provisions.

BULLYING AND HAZING

Another policy affected by Act 329, *Bullying and Hazing*, has been revised to include mandatory employee training found in amended La. Rev. Stat. Ann. §17:416.13. The policy now includes a section entitled Training, which provides for the minimum four (4) hours of training for each **new** school employee who has contact with students, including bus drivers, and two (2) hours of training for each subsequent year of employment.

Although not included in policy, the Act also now allows the interview of a student under of the age of eighteen (18) without a parent or legal guardian present, if the parents or legal guardians do not respond after three (3) attempts to notify them of their right to attend an interview of the student involved in a bullying incident.

The provisions of Act 329 became effective August 1, 2013.

STUDENT HEALTH SERVICES

Another Act 329 revision, the recently revised *Student Health Services* policy reflects changes to La. Rev. Stat. Ann. §17:2112, removing the requirement that a written report of hearing and vision screenings be submitted to the State Superintendent of Education.

OTHER LEGISLATIVE ACTION

Several other bills of interest that were passed by the 2013 Louisiana Legislature but do not necessitate policy changes are discussed below.

Acts 151 and 291:

Amend La. Rev. Stat. Ann. §§17:10.3 and 17:24.4 to exempt certain exceptional students from mandatory participation in ACT testing.

Act 275:

Enacts §17:10.5 to allow parents to petition the Louisiana Board of Elementary and Secondary Education for the return of schools from the Recovery School District back to the local school system.

Act 306:

Enacts La. Rev. Stat. Ann. §17:406.8 encouraging School Boards to collaborate with other organizations to encourage parental involvement through parenting classes and recognition programs.

Act 319:

La. Rev. Stat. Ann. §§17:421.6, 17:421.8, 17:421.9 all deal with extra compensation for achieving national certification. This Act gives School Boards the *option* of paying the employees who receive national certification additional compensation.

Act 329:

La. Rev. Stat. Ann. §17:81(R)(1) was revised to remove the stipulation that at least thirty (30) minutes of instruction regarding safe haven provisions be provided every year to high school students enrolled in Health Education classes. Statutory language now simply requires that age-appropriate instruction be provided to high school students.

The stipulation that the parent orientation session required for student admission be no less than three hours in duration has been removed from La. Rev. Stat. Ann. §17:235.1.

Language was amended in La. Rev. Stat. Ann. §17:416.18, resulting in changes in the language of the *Teacher Bill of Rights*. Specifically, verbiage addressing excessively burdensome paperwork was revised, and a new right added addressing the teachers' right to be afforded time during the school day to collaborate with other teachers.

The Act also repealed statutes regarding kindness to dumb animals (§17:266) and the Legislative Academic Achievement Award (§17:177).

Act 336:

Act 336 amends La. Rev. Stat. Ann. §39:1351 to categorize School Boards who fail to submit audits to the legislative auditor for three (3) consecutive fiscal years as *financially at risk* and may subject the School Board to a district court hearing and having a fiscal administrator appointed to provide oversight to the Board. The cost of such fiscal administrator shall be borne by the School Board.

Act 361:

La. Rev. Stat. Ann. §17:273.3, known as the *Immersion School Choice Law*, beginning with the 2014-2015 school year requires School Boards to honor the request of parents of kindergarteners to create a foreign language immersion program under certain requirements.

House Concurrent Resolution 129:

Requires public bodies to identify and provide to the public contact information of their custodians of public records.

House Resolution 176:

Requests each public School Board and the state Department of Education to review their policies and procedures regarding the collection, storage, use, and disclosure of student data to ensure compliance with the federal *Family Educational Rights and Privacy Act*, specifically in light of concern over the security of data by third party vendors with whom the School Board has contracted for data storage.

Since the early 1990's, Forethought Consulting, Inc. has grown from serving 18 school systems in Louisiana to 67 current clients. In addition to our basic services, 40 of those clients subscribe to **CAPS**, Computer Assisted Policy Service. We feel that much of our growth can be attributed to current clients recommending us to other school administrators. We are humbled by and appreciative of the support of Superintendents, administrators, and School Board members throughout the years.

As a new school year takes off, we want to thank all of you for your support, and to let you know that Forethought Consulting, Inc. feels honored to support public education in Louisiana. Especially in today's educational climate, your dedication to the students across the state is evident and commendable. Thanks for all you do!

FORETHOUGHT CONSULTING, INC. provides a broad array of management assistance to school boards and other educationally oriented entities, specializing in board operations, board policy, regulation, and procedure development, policy manual development, revision, and maintenance, including **CAPS**, Computer Assisted Policy Service, as well as Board member and staff training, workshops, and seminars.

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