

POLICYALERT



December, 2009

Forethought Consulting, Inc.

LEGISLATIVE UPDATE: 2009

Final Review of Policy Changes

Unlike the rare snowfall in Louisiana, December usually brings the final issue of **POLICYALERT** wherein we wrap-up discussion of School Board policy changes based on this year's state legislation. This issue of the newsletter concludes the 2009 *Legislative Update* series with the discussion of more policy changes, ranging from business items to curriculum issues and student records, a total of 7 in all. None of these particular changes are as controversial as those sent previously. Let's hope that next year's legislative session will be somewhat calmer for School Boards.

In addition to the policy revisions discussed, we have also included a brief report on several Acts which were passed and are of interest to School Boards, but which do not require any change in policy.

● INVESTMENTS

The restrictions on investments that have been placed in the past on political subdivisions within the state, which include School Boards, were eased somewhat by the passage of Act 424. Effective August 15, 2009, La. Rev. Stat. Ann. §33:2955 now permits School Boards to invest monies in any general fund or special fund in bonds, debentures, notes, or other evidence of indebtedness issued by the State of Louisiana or any of its political subdivisions, except its own indebtedness. Other restrictions include that the indebtedness purchased must have a minimum investment grade rating allowed by the statute, and generally have a maturity of no more than three (3) years, with limited exceptions. The policy *Investments* has been revised to reflect these new permitted types of investment.

Policies In This Issue:

- Investments
- Bids and Quotations
- Fire Prevention
- Curriculum
- Student Driver Training
- School Wellness
- Student Records

● BIDS and QUOTATIONS

Any public works (construction or renovation done with public monies for use by the public) over the *contract limit*, as defined by state statute, are required to be let through the solicitation of public bids. Act 161 amended La. Rev. Stat. Ann. §38:2212 to raise the contract limit to \$150,000. The limit had been raised previously in 1993 to \$50,000, and again in 1997 to \$100,000.

In conjunction with the public works bid threshold being changed, the Legislature also increased the amount required to solicit public bids for the purchase of materials and supplies from \$20,000 to \$30,000. In doing so, the range for the purchase of material and supplies below the bid amount for which at least 3 telephone or fax quotes must be obtained was also changed to between \$10,000 and \$30,000. These changes were based on the provisions of Act 392, which revised La. Rev. Stat. Ann. §38:2212.1.

Of course, while most School Boards are currently requiring public works bids of over the *contract limit*, Boards do not have to raise this minimum threshold if they so choose. All of these changes took effect on July 1, 2009.

Policy *Bids and Quotations* has been revised to include the increased contract limits.

One other change of note in the policy was to require the advertisement and receipt of bids by electronic means, which was made mandatory in 2008.

● FIRE PREVENTION

This new policy is based on the provisions of Act 413, which amended La. Rev. Stat. Ann. §17:81. School Boards are now required to adopt a policy that provides for the inspection by qualified personnel of all fire safety and prevention equipment at least twice during each school year. This includes such things as fire alarms and smoke detection devices at each of the Board's schools, but is not limited to just these items. Inspections are to make sure all such equipment is in good working order and meets the need for which it was intended.

The Act also allows employees of the Board to make such inspections, provided the employees have received the appropriate training to perform the inspections. Documentation of the training must be included in the employee's personnel file.

This Act took effect on July 1, 2009.

● CURRICULUM

Two virtually identical Acts, 246 and 298, have resulted in some minor changes to the *Curriculum* policy. Both acts established the new career diploma to be issued by the Louisiana Board of Elementary and Secondary Education (BESE). Most of the changes were very basic, such as changing the name of the sequence of academic courses students will take throughout high school to the *Five Year Individual Graduation Plan*. In amending La. Rev. Stat. Ann. §17:183.3, the Act also requires every student who seeks to pursue a career major to have the written permission of the student's parent or legal guardian. A third Act, 257, enacting La. Rev. Stat. Ann. §17:2925, sets forth the strategies for enhancing student career opportunities, and also requires the student and the parent/legal guardian to sign the student's individual graduation plan.

While many of the School Boards across the state opted out of implementing the career diploma option for this year, the effective date of the Act was July 1, 2009.

● STUDENT DRIVER TRAINING

The major change made to this policy dealt with clarifying the age eligibility of students who can take driver's education. Act 275, in amending La. Rev. Stat. Ann. §17:270, retained the provision that a student had to be fifteen (15) years of age to take the drivers education and training program, but added that a student who is in the ninth grade and within 90 days of their fifteenth birthday may participate in the *classroom instruction component* of driver training. These new provisions do not take effect until January 1, 2010.

In updating the policy *Driver Training*, we also streamlined some provisions to better reflect current BESE regulations.

● SCHOOL WELLNESS

Students in grades K-8, instead of K-6, are now to be provided at least thirty (30) minutes of quality moderate to vigorous physical activity each school day, as a result of Act 286. This Act amended the provisions of La. Rev. Stat. Ann. §17:17.1, effective July 1, 2009.

Not every Board has a policy containing this provision, but for those that do, we have changed the policy *School Wellness* to reflect this updated requirement.

● STUDENT RECORDS

The Louisiana Legislature amended La. Rev. Stat. Ann. §17:112 to require the principal of a public elementary or secondary school to transfer the education records of any current or former student upon the written request of any authorized person on behalf of any school in or out of Louisiana, where such student is seeking enrollment or has enrolled. In the past, transferred records were to include dates and reason for expulsion, if the student had been expelled. Now, the records shall also include the dates and reasons for any suspensions as well.

These provisions are the result of Act 142, which took effect on August 15, 2009 and have been added to policy *Student Records*.

One additional revision was made pertaining to access of student records by parents to coincide with the provisions of the *Family Educational Rights and Privacy Act*.

What Else To Look For..

Other Acts of Interest

In reviewing the Acts of the Legislature each year, we attempt to identify not only those Acts that change School Board policy, but also those that, while not requiring any policy change, do impact School Board operations. Several are summarized below which we thought should be called to your attention.

ACT 198 – Amends La. Rev. Stat. Ann. §14:81

This Act amended the criminal statute regarding *indecent behavior with juveniles* to include the delivery or utterance of any textual, visual, written, or oral communications depicting lewd or lascivious conduct, text, words, or images of any person thought to be under 17 years of age. The definition of *communication* was also expanded to apparently better address the growing avenues of communications through electronic means, in addition to personal delivery or content.

ACT 276 – Amends La. Rev. Stat. Ann. §17:24.4

BESE, no later than January 30, 2010, is to approve and implement regulations for expanding the opportunities, in limited circumstances, for students who fail to achieve the required proficiency levels to be promoted to grades 5 and 9.

ACT 283 – Amends La. Rev. Stat. Ann. §§14:34.3 and 14:38.2

This particular Act made technical but basic changes to the state statutes dealing with battery, and assault, of a school teacher. For instance, the definition of *school* has been added to these statutes, and the penalties imposed now depend on whether the action was committed by a student or nonstudent.

ACT 284 – Amends La. Rev. Stat. Ann. §17:81

As required by the Act, at least thirty (30) minutes of age and grade appropriate classroom instruction is to be provided each year to high school students enrolled in Health Education relative to the state's safe haven law.

ACT 286 – Amends La. Rev. Stat. Ann. §17:17.1

School Boards are now required to establish a *school health advisory council* to advise the School Board on physical activity for students, physical and health education, nutrition, and overall student health. Council members appointed by the School Board are to include parents of students and individuals of the community. All council members shall serve without compensation.

ACT 297 – Amends La. Rev. Stat. Ann. §17:238

Several years ago, the Louisiana Legislature required School Boards to adopt a policy providing for the placement in school and the education of homeless children. Act 297 has amended La. Rev. Stat. Ann. §17:238 to now require a policy as well assuring that children in foster care remain in school in which enrolled.

Many School Boards already have language addressing the attendance in school of homeless students, and students under foster care. For those systems that do not address these requirements, the policy on *Student Assignment* has been amended to include this information.

The bulk of Act 297, however, concentrates on educational opportunities for military children. The Act's major contents reflect the compact that Louisiana has joined with other states advocating cooperative efforts for ensuring educational opportunities and access to schools of children in military families. The compact is aimed at overcoming the obstacles placed on these children by deployments and frequent moves, such as attendance requirements, scheduling, grading, course content or assessment, and participation in extracurricular academic, athletic, and social activities.

ACT 302 – Enacts La. Rev. Stat. Ann. §14:40.6

Act 302 creates the crime of *unlawful disruption of the operation of a school*. This would include the presence of a person not authorized to be on school premises which would foreseeably cause any of the following:

1. Intimidation or harassment of any student or teacher by threat of force or by force;
2. Placing teachers or students in sustained fear for their health, safety, or welfare; or
3. Disrupting, obstructing, or interfering with the operation of the school.

School premises are defined in the criminal statute as *any property used for school purposes including, but not limited*

to, school buildings, playgrounds, and parking lots. School-sponsored function is defined as the *specific designated area of the function, including but not limited to athletic competitions, dances, parties, or any extracurricular activity.*

Penalties include a fine up to \$1,000 and/or imprisonment for 1 to 5 years.

ACT 303 – Amends La. Rev. Stat. Ann. §17:1947

School Boards must provide services to students with exceptionalities, which now includes children who are placed in a private residential facility or an intermediate care facility for the developmentally disabled for any reason by any individual or agency. The School Board shall only pay the cost of such services for resident children located within the jurisdictional boundaries of the Board.

ACT 516 – Amends La. Rev. Stat. Ann. §11:1007

La. Rev. Stat. Ann. §11:1007 addresses conditions and provisions under which School Boards may reemploy retired bus drivers. This particular Act places additional restrictions on such reemployment. One of the restrictions requires the Superintendent to certify to BESE that a shortage of qualified bus drivers exists in the school district, whenever the Board elects to reemploy a retired bus driver under this particular statute. The Act empowers the legislative auditor to audit or investigate the validity of the certified shortage.

If a retired bus driver is reemployed under this statute, the School Board is required to pay certain actuarial costs encumbered by the retirement system associated with the reemployment. Act 516 changes the formula for calculating costs that are to be paid by the School Board.

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