

POLICYALERT



August, 2010

Forethought Consulting, Inc.

POLICY UPDATE: 2010

Legislative Review For a New School Year

The dog days of summer mean stifling heat, hurricane season, and the start of school. It also means coping with new state legislation. And this year the Legislature was quite busy, resulting in a significant impact on School Board operations. In this issue of our annual *Legislative Update*, we address the first wave of those policies requiring revision to comply with legislative action of 2010. With the exception of one, all policies discussed are due to Acts that took effect no later than August 15, 2010.

More policy changes will be forthcoming. Numerous other Acts have been identified that will require policy revisions, which will be discussed in upcoming issues of **POLICYALERT**.

● MINUTES OF BOARD MEETINGS

The time allotted for submission of official School Board minutes to the Board's official journal has been extended from ten to *twenty days* from the date of approval of the minutes. This change was made to La. Rev. Stat. Ann. §43:144, as a result of Act 251, and became effective on August 15, 2010.

The policy entitled *Minutes of Board Meetings* has been amended to include this new provision.

Policies In This Issue:

- Minutes of Board Meetings
- School Bus Scheduling and Routing
- Child Nutrition Program Management
- Employment of Retired Personnel
- Interscholastic Athletics
- Student Attendance
- Compulsory School Attendance Ages
- Student Absences and Excuses
- School Admission
- Student Transfer and Withdrawal
- Student Dress Code
- Bullying, Cyberbullying, Intimidation, Harassment, and Hazing
- Illness and Accidents

● SCHOOL BUS SCHEDULING AND ROUTING

While School Boards probably already had inferred authority to provide bus transportation to students living less than one mile from school, Act 750 has amended state law to expressly permit such transportation when the School Board determines that conditions exist to warrant such transportation. The provisions of the Act became effective June 29, 2010 and amended La. Rev. Stat. Ann. §17:158.

The policy entitled *School Bus Scheduling and Routing* has been revised to include this amended provision.

● CHILD NUTRITION PROGRAM MANAGEMENT

Act 737 has enacted new legislation affecting the way School Boards deal with nonpayment of student meals. In enacting La. Rev. Stat. Ann. §17:192.1, effective August 15, 2010, the legislature established that if a School Board adopts a policy for denying an elementary student a meal for any reason, certain statutory procedures must be followed. Boards shall be required to:

1. Provide actual notification to the child's parent or legal guardian as to the date and time after which meals may be denied, the reason for such denial, any action the parent or legal guardian may take to prevent further denial of meals, and the consequences of failure to take appropriate actions to prevent such denial.
2. Verify with appropriate school staff that the child does not have an *Individual Education Plan* that requires the child to receive meals.
3. If the school denies a scheduled meal to a child, the school shall provide a sandwich or a substantial and nutritious snack to the child as a substitute.
4. Upon the third instance during a single school year of the elementary school child being denied a meal, the School Board shall contact the office of community services within the Louisiana Department of Social Services to report the failure of the parent or guardian to pay for meals.

Furthermore, if a policy is adopted to deny scheduled meals, the School Board shall document each instance of the meal denied and make annual reports to the State Superintendent of Education and House and Senate Education Committees as to the number of instances of denials, reasons for denial, age and grade of child whose meal was denied, and whether the child qualifies for free or reduced price lunch programs.

Any School Board that adopts a policy of denying scheduled meals for the reason that a child's parent or guardian has failed to pay for a meal, or owes a debt for a furnished meal, must also implement the additional procedures for compliance with nondiscrimination provisions of La. Rev. Stat. Ann. §17:195(A).

The Act further provides that a School Board shall not have a policy which bans the use of charitable funds to pay for a child's meal.

These new provisions have been included in policy entitled *Child Nutrition Program Management*.

● EMPLOYMENT OF RETIRED PERSONNEL

The circumstances under which School Boards may employ retired certified personnel has been significantly narrowed as a result of Act 921. Previously, School Boards had relative freedom to dictate when and under what circumstances they hired a certified person after the person had retired. New restrictions have now been imposed by this Act, which revises La. Rev. Stat. Ann. §11:710, and became effective on July 1, 2010.

When a School Board is about to hire someone who is certified and thus a member of the *Teachers' Retirement System of Louisiana* (TRSL) and who is a retiree, the School Board must determine and designate to TRSL whether the person will be hired as a *retired teacher* or a *retired member*. Of note is that there are now restrictions on either designation. To be classified as a retired teacher, the person shall be hired as:

1. A full-time or part-time classroom teacher in grades K-12 in an area certified as a critical shortage area (this certainly appears to include day-to-day substitutes), or

2. A full-time certified speech therapist, speech pathologist, or audiologist whose position requires a valid Louisiana ancillary certificate where the shortage exists, or
3. A retired employee who has returned to active employment service on or before June 30, 2010.

For a person to be hired in a critical shortage area, the shortage must be certified by both the Superintendent **and** the personnel director. However, **prior** to certification of a critical shortage for the employment of a *full-time* teaching position, on two (2) separate occasions, the School Board shall advertise in the Board's official journal that there is a shortage of certified teachers and the positions to be filled.

Once advertised, if a certified person who is not a retiree applies for the vacant position, the person shall be hired before any certified retired teacher is employed, unless there are fewer than three (3) teacher applicants for the position, each of whom are certified in the critical shortage area being filled.

The salary of any *retired teacher* who is reemployed by the School Board shall be based on the salary schedule which accounts for all prior years of teaching service and pertinent experience.

If a certified person is not employed as a retired teacher, then they are designated as a *retired member*. Once employed, a retired member shall have his/her retirement benefits suspended for the *entire time of reemployment*. There appears to be no restriction on the salary that may be paid to a person designated as a retired member.

School Boards are required to report to TRSL and to the House and Senate Retirement Committees by January 15th of each calendar year the names, positions, and salaries of each retired person reemployed by the Board as of January 1st of that year.

A new policy entitled *Employment of Retired Personnel* has been drafted to address the new provisions.

● INTERSCHOLASTIC ATHLETICS

The passage of Act 691 means that students in a home study program are now eligible to participate in interscholastic

athletics at the high school level. Certain criteria and guidelines set forth in the enactment of La. Rev. Stat. Ann. §17:236.3 must be followed before a home study pupil can be approved for interscholastic participation. Among the criteria or guidelines are:

1. The home school student shall be subject to the same residency or attendance zone requirements as any other student.
2. The parents or legal guardian shall submit a written request to the school providing the activity for the student to participate. The request must be submitted within the *first eleven (11) days* of the school year.
3. Once the request has been submitted, the principal of the school has thirty (30) days from receipt of **all** information and documentation requested by the principal from the student or the student's parent or legal guardian, to approve or disapprove the request. The statute enumerates the information which must be submitted, including grade point average, copy of transcript, and grades earned. Any other information/documentation typically required of other athletes shall also be submitted.
4. The decision of the principal is **final**.

If participation is approved, the student shall be required to meet all academic standards required of other students, as well as full compliance with all state guidelines for the home study program.

In addition, the student shall also meet all other requirements applicable to athletic participation, such as physical exams, codes of conduct, proof of age, permission forms, required paperwork, fees, practice time, and transportation requirements, as well as proper insurance which covers any athletic participation.

These provisions of the statute, which became effective June 29, 2010, as well as other information regarding providing false information and situations which make students ineligible for participation, have been included in revised policy *Interscholastic Athletics*. Other changes have been made to the policy which are intended to better clarify its provisions.

- ATTENDANCE
- COMPULSORY SCHOOL ATTENDANCE AGES
- STUDENT ABSENCES and EXCUSES

All three of these policies have major revisions, but only one of them is due to new state legislation. Other changes were made to reflect changes to attendance policies of the Louisiana Board of Elementary and Secondary Education (BESE).

The statutory change to the *Student Absences and Excuses* policy is based on Act 644 and deals with the principal's notification to the parent/guardian *on or before* a student's **third** unexcused absence or unexcused tardy. The notification is supposed to alert the parent or legal guardian to his/her legal responsibility to ensure his/her children's attendance at school and the penalties which may be incurred for failure to do so. The act amended La. Rev. Stat. Ann. §17:233, and became effective June 29, 2010.

The other revisions which have been made to these policies are due to recent changes enacted by BESE earlier this year, as well as a basic reorganization of information within and between these policies to avoid duplication of information. School personnel have questioned some of BESE's changes, but since they have been approved by BESE and any further change by BESE would not come until after the school year is in session, we have incorporated them into policy accordingly.

The changes by BESE mainly address two areas. First, as you know, BESE has increased the number of days a student must be present in order to be eligible to receive credit for courses taken, which is now approximately 94% of the instructional time. This information has been included in the *Attendance* policy.

With regard to counting attendance days for students, School Boards must exercise caution and be aware that in Bulletin 741, *Louisiana Handbook for School Administrators*, §1105(A), *Types of Absences*, that *days absent* shall include "...excused absences, unexcused absences, and suspensions." We have recently seen systems publicize that students are allowed a certain number of *unexcused* absences per semester or school year, which is in error.

Another concern is the calculation of days of attendance and

the allowed number of student absences. The maximum required attendance is approximately 83.5 school days per semester or 167 school days per school year. This is based on the minimum number of student instructional days of 177 in a traditional 182-day school calendar. However, if a school system includes more than 360 instructional days in a school day, it may not need 177 instructional days to reach the required instructional minutes per year. If the school calendar has fewer than the typical 177 days, the school system must calculate the required attendance days accordingly, as well as those days of allowable absences.

The other major change by BESE involves the definitions of *excused* and *unexcused* absences. Excused absence has been revised to mean absences of *2 or fewer consecutive school days* due to personal illness or serious illness in the family. Excused absences also include the extenuating circumstances stipulated by state law, which are for *3 or more consecutive days* for reasons of personal illness, hospital stay, recuperation from an accident or contagious disease within the family. These extenuating circumstances still require verification of a physician, dentist, or nurse practitioner.

Unexcused absence is now defined as any absence which is **not** considered an excused absence, any out-of-school suspension, or absence due to any job unless it is part of an approved instructional program. An *unexcused absence* is also an absence for which no written excuse verifying the absence was submitted to the school, or the written excuse was not submitted within the time allotted by the Board for submission, which for most Boards is typically 3-5 school days.

One other change was made to the *Absences and Excuses* policy reflecting 2009 legislation allowing partial or full credit for work missed during a suspension if the work is submitted timely and approved by appropriate personnel.

As a result of all the changes mentioned above, the policies *Attendance*, *Compulsory School Attendance Ages*, and *Student Absences and Excuses* have been revised, reformatted, and reorganized to better reflect the subject matter.

● SCHOOL ADMISSION

This policy has been revised to include a statutory revision to La. Rev. Stat. Ann. §17:221. Effective June 29, 2010, Act 699 included new language which stipulates that “No School Board shall deny admission or readmission to school of any student of suitable age who resides within the geographic boundaries of the school system, unless such student is *legally excluded* from attending school.”

Testimony during the legislative session regarding the words “*legally excluded*” indicated this meant suspension and expulsion *only*. However, it would also seem to include a court order, as well as those statutorily permitted instances where the Board votes not to enroll a student. It is unclear at this time as to the effects this statutory language may have on *Provisional Custody* situations.

● STUDENT TRANSFER and WITHDRAWAL

The information which related to a student between the ages of 17 and 18 withdrawing from school with written consent of parent or legal guardian and after an exit interview has been removed from the policy’s section entitled *Withdrawal*. This particular provision of La. Rev. Stat. Ann. §17:221 was repealed by Act 927 and became effective August 15, 2010.

● BULLYING, CYBERBULLYING, INTIMIDATION, HARASSMENT, and HAZING

With the passing of Act 755, the Louisiana Legislature added *cyberbullying* to the list of infractions to be addressed in each Board’s *Student Code of Conduct*. The Act amended La. Rev. Stat. Ann. §17:416.13 and requires School Boards to make sure that the policy prohibiting harassment, intimidation and bullying also addresses cyberbullying.

Cyberbullying is defined as harassment, intimidation, or bullying of a student on school property by another student using a computer, mobile phone, or other interactive or digital technology or while off school property by another student using any means when the action or actions are intended to have an effect on the student when the student is on school property.

The School Board is required to inform each student in writing within ten (10) days after enrolling in school, of the prohibition against harassment, intimidation, bullying and cyberbullying and the nature and consequences of such actions and the proper procedures for reporting incidents.

The adopted policy is supposed to include procedures for investigating any reports of harassment, intimidation, bullying and cyberbullying of a student by another student. Such procedures are already included in most Boards’ policy.

The new statute also requires School Boards to use a *behavior incidence checklist*, which BESE is required to develop, which is to be used to document the details of each reported instance of harassment, intimidation, bullying, and cyberbullying.

The policy *Bullying, Cyberbullying, Intimidation, Harassment and Hazing* has been revised to address the pertinent provisions about cyberbullying. This policy is supposed to be adopted by January 1, 2011.

In addition, the new statute now mandates that School Boards report all documented incidents of student harassment, intimidation, bullying, and cyberbullying to the Louisiana Department of Education.

● STUDENT DRESS CODE

Act 757 amended La. Rev. Stat. Ann. §17:416.7 to require School Boards to notify parents prior to implementing new school uniform policies or changing existing uniform policies. The written notification of new or modified uniform provisions shall be given to the parent or guardian of each student at least sixty (60) days prior to the effective date of the new or modified policy.

According to the Act, which became effective on August 15, 2010, the required notice does not have to be provided in an *emergency*, as deemed by the School Board. An *emergency* is defined as an actual or imminent threat to health or safety which may result in loss of life, injury, or property damage.

These changes have been incorporated into the policy *Student Dress Code*.

● ILLNESS and ACCIDENTS

La. Rev. Stat. Ann. §17:440.1 has been enacted to require School Boards to adopt a policy which requires that each school employee who participates in any required in-service training shall receive *first aid orientation and training*. The provisions of Act 752 took effect on August 15, 2010

The statute poses numerous unanswered questions. For instance, what exactly constitutes *in-service training*? Does this only apply to in-service training required by the Board? Or does it apply to training required by administrators, such as the Superintendent or a principal? Who exactly is supposed to receive the first aid training? Can the training being required be considered an *unfunded mandate*?

What constitutes *first aid orientation and training*? Is this a one-time event, or is an employee required to receive this training annually? Is the first aid orientation and training supposed to be given as part of the required in-service training, or can it be done separately? How much time must be devoted to first aid orientation and training? Who is supposed to give the first aid orientation and training? What documentation is supposed to be kept regarding attendance of employees?

Although we understand the intent is to protect students by having more personnel trained in first aid than previously recommended, the statute's wording leaves many unanswered questions.



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