

Meeting of the Board of Education Park Ridge-Niles School District 64

Board of Education Agenda
Special Board Meeting
Thursday, August 27, 2015
Jefferson School – Multipurpose Room
8200 Greendale Avenue
Niles, IL 60714

On some occasions the order of business may be adjusted as the meeting progresses to accommodate Board members' schedules, the length of session, breaks and other needs.

Thursday, August 27, 2015

TIME

APPENDIX

- 6:00 p.m. **Meeting of the Board Convenes**
- Roll Call
 - Introductions
 - Opening Remarks from President of the Board
- 6:00 p.m. • **Board Recesses and Adjourns to Closed Session**
- The appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the District or legal counsel for the District, including hearing testimony on a complaint lodged against an employee or against legal counsel for the District to determine its validity [5 ILCS 120/2 (c)(1)]
- 6:15 p.m. • **Board Adjourns from Closed Session and Resumes Special Meeting**
- Or at the conclusion of the closed, whichever is later.
- **Public Comments**
 - **Approval of Settlement Agreement with a Tenured Teacher** **A-1**
 - Superintendent **Action Item 15-08-7**
 - **Approval of Resolution Authorizing Issuance of Notice of Remedial Warning to a Tenured Teacher** **A-2**
 - Superintendent **Action Item 15-08-8**
 - **Consent Agenda** **A-3**
 - Board President **Action Item 15-08-9**
 - **Approval of Policies from PRESS Issue 88, May 2015 and Policies 1:30, 7:60 and 8:20**
 - **Adjournment**

Next Regular Meeting: **Monday, September 21, 2015**
Committee-of-the-Whole: Finance – 7:00 p.m.
Jefferson School – Multipurpose Room
8200 Greendale Avenue

Niles, IL 60714

In accordance with the Americans with Disabilities Act (ADA), the Board of Education of Community Consolidated School District 64 Park Ridge-Niles will provide access to public meetings to persons with disabilities who request special accommodations. Any persons requiring special accommodations should contact the Director of Facility Management at (847) 318-4313 to arrange assistance or obtain information on accessibility. It is recommended that you contact the District, 3 business days prior to a school board meeting, so we can make every effort to accommodate you or provide for any special needs.

Consent Agenda

ACTION ITEM 15-08-9

I move that the Board of Education of Community Consolidated School District 64, Park Ridge – Niles, Illinois, approve the Consent Agenda of August 27, 2015 which includes the Approval of Policies from PRESS Issue 88, May 2015 and Policies 1:30, 7:60 and 8:20.

The votes were cast as follows:

Moved by _____ Seconded by _____

AYES:

NAYS:

PRESENT:

ABSENT:

Approval of Policies from PRESS Issue 88, May 2015 and Policies 1:30, 7:60 and 8:20

Policy	Issue	Title	District Policy Committee Change/No Change	Board Policy Committee Change/No Change	Board Meeting Change on 8/24/15
1:30	Revision	School District Organization – School District Philosophy	C	N/C	
2:250	88	School Board – Access to District Public Records	N/C	C	C – adding a link to view list of exemptions
3:40	88	General School Administration – Superintendent	C	N/C	
3:50	88	General School Administration – Administrative Personnel Other Than the Superintendent	N/C	C	
3:60	88	General School Administration – Administrative Responsibility of the Building Principal	N/C	N/C	
4:45	88	Operational Services – Insufficient Fund Checks and Debt Recovery	N/C	N/C	
6:60	87	Instruction – Curriculum Content	C	N/C	
7:60	Revision	Students – Residence	C	N/C	
8:20	Revision	Community Relations – Community Use of School Facilities	C	N/C	

8/27/15

School Board

Access to District Public Records ¹

Full access to the District's *public records* is available to any person as provided in the Illinois Freedom of Information Act (FOIA), this policy, and implementing procedures. ~~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.~~ ²

Freedom of Information Officer ³

The Superintendent shall serve as the District's Freedom of Information Officer and assumes all the duties and powers of that office as provided in FOIA and this policy. 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. ~~The Superintendent or designee(s) shall report any FOIA requests and the status of the District's response to the Board at each regular Board meeting.~~

Definition ⁴

The District's *public records* are defined as records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all other documentary ~~materials~~ material pertaining to the transaction of public business, regardless of physical form or characteristics,

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¹ The Illinois Freedom of Information Act (FOIA) governs the subject matter in this policy (5 ILCS 140/). School districts are required to make public records available to any person for inspection or copying, unless they fall within an exception (5 ILCS 140/3(a)). The f/n's only discuss sections of FOIA that are relevant to school districts. State law does not explicitly require boards to adopt a policy on access to their records. However, a board policy is the logical instrument to memorialize the actions that are required to implement FOIA. ~~The laws limiting the disclosure of employee evaluations are discussed in f/n 7.~~

~~Any person denied access to a public record may request a review by the Ill. Public Access Counselor (PAC) established in the office of the Attorney General (5 ILCS 140/9.5). As a result of the review, the PAC may issue an opinion binding on the requester and public body. IASB reports on the opinions relevant to school districts on its website at Recent Decisions.~~

~~² 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 expeditiously 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.~~

³ Each board must designate one or more official(s) or employee(s) to act as its freedom of information officer(s) (5 ILCS 140/3.5) ~~(referred to in the f/n's as FOIA Officer)~~. A board may replace *Superintendent* in this paragraph with another job title, or may replace the paragraph with one of the alternatives below:

Alternative 1: The Board will appoint an employee 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.

Alternative 2: The Superintendent shall appoint an employee, who may be himself or herself, to [continue as with alternative 1].

⁴ The definition is quoted from 5 ILCS 140/2(c). Substitute the following alternative for this paragraph if desired: "The definition of *public records*, for purposes of this policy, is the definition contained in Section 2(c) of FOIA without amendment."

having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of the School District.

Requesting Records 5

A request for inspection and/or copies of public records must be made in writing and may be submitted by personal delivery, mail, telefax, or email directed to the District's Freedom of Information Officer. Individuals making a request are not required to state a reason for the request other than to identify when the request is for a commercial purpose or when requesting a fee waiver.

~~All requests~~ The Superintendent or designee shall instruct District employees to immediately forward any request for inspection and copying ~~shall immediately be forwarded of a public record~~ to the District's Freedom of Information Officer or designee.

Responding to Requests

The Freedom of Information Officer shall approve all requests for public records unless:

1. The requested material does not exist; 6
2. The requested material is exempt from inspection and copying by the Freedom of Information Act; 7 or
3. Complying with the request would be unduly burdensome. 8

Within 5 business days after receipt of a request for access to a public record, the Freedom of Information Officer shall comply with or deny the request, unless the time for response is extended as specified in Section 3 of FOIA. 9 The Freedom of Information Officer may extend the time for a response for up to 5 business days from the original due date. 10 If an extension is needed, the Freedom of Information Officer shall: (1) notify the person making the request of the reason for the extension, and (2) either inform the person of the date on which a response will be made, or agree with the person in writing on a compliance period. 11

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5 This section restates 5 ILCS 140/3(c). Districts may, but are not required, to accept oral requests. Compliance with an oral request may stave off the formal written request and permit more flexibility in the response. Add this option if the district wants to accept oral requests: "Oral requests may be accepted provided personnel are available to handle them." The response to an oral request should be documented. Districts may provide a request form for convenience but may not require its use. See 2:250-E1, *Written Request for District Public Records*.

6 FOIA does not require a public body to create a record (5 ILCS 140/1).

7 5 ILCS 140/7 and 140/7.5 describe numerous explicit exceptions to the presumption that all public records are available for public inspection. Each record is "presumed to be open to inspection or copying" and the district will have "the burden of proving by clear and convincing evidence that it is exempt," (5 ILCS 140/1.2 and 140/11(f)). A person who prevails in a court proceeding to enforce FOIA will be awarded attorney fees; the public body may incur a civil penalty of between \$2,500 and \$5,000 for each occurrence of a willful or intentional violation of FOIA or other action in bad faith (5 ILCS 140/11(i) and (j)). School officials should seek the board attorney's advice concerning the denial of a record request.

Two State laws limit the disclosure of employee personnel evaluations:

1. The Personnel Record Review Act prohibits the disclosure of performance evaluations (820 ILCS 40/11).
2. The School Code prohibits the disclosure of public school teacher, principal, and superintendent performance evaluations except as otherwise provided in the certified employee evaluation laws (105 ILCS 5/24A-7.1).

8 5 ILCS 140/3(g).

9 5 ILCS 140/3(d). Reasons for extensions are addressed at 5 ILCS 140/3(e).

10 5 ILCS 140/3(e).

11 5 ILCS 140/3(f). A board may replace the default paragraph with the following alternative: "The Freedom of Information Officer shall respond to record requests according to the time periods described in Section 3 of FOIA."

~~Notwithstanding the above, the Freedom of Information Officer shall respond~~ The time periods are extended for responding to requests for records made for a commercial purposes and to purpose, requests by a recurrent requester, or voluminous requests, as those terms are defined in Section 2 of FOIA.) according to The time periods for responding to those requests are governed by Sections 3.1 and, 3.2, and 3.6 of FOIA. 12

When responding to a request for a record containing both exempt and non-exempt material, the Freedom of Information Officer shall redact exempt material from the record before complying with the request. 13

A complete list of exemptions is available at the following link:
<http://www.ilga.gov/legislation/publicacts/96/096-0542.htm>

Copying Fees 14

Persons making a request for copies of public records must pay any and all applicable copying fee fees. The Freedom of Information Officer shall ~~as needed, recommend~~ establish a copying fee schedule that complies with FOIA and this policy and is subject to the Board's review. 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 the Board's approval. responding to a request for a commercial purpose and fees, costs, and personnel hours in connection with responding to a voluminous request.

Copying fees, except when fixed by statute, ~~are~~ shall be reasonably calculated to reimburse the District's actual cost for reproducing and certifying public records and for the use, by any person, of its equipment to copy records. In no case shall the copying fees exceed the maximum fees permitted by FOIA. 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. No copying ~~fee fees~~ shall be charged for: (1) the first 50 pages of black and white, letter or legal sized copies ~~No copying fee shall be charged for, or~~ (2) electronic copies other than the actual cost of the recording medium, except if the response is to a voluminous request, as defined in FOIA.

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~~12-A The timelines are extended to respond to a: (1) recurrent requester is (defined in 5 ILCS 140/Sec. 2(g) -The timelines are relaxed for responding to and complying with a ; (2) request from a recurrent requester, provided the district follows the statutory requirements in 5 ILCS 140/3.2. A with a commercial purpose is (defined in 5 ILCS 140/Sec. 2(c-10). The ; and (3) voluminous request (defined in Sec. 2(h). To use the extended timelines, a district must follow the requirements in Sec. 3.1 for responding to a recurrent requester; Sec. 3.2 for responding to and complying a request with a commercial request are relaxed, provided the district follows the statutory requirements in 5 ILCS 140/3.1 purpose; and Sec. 3.6 (added by P.A. 98-1129) for responding to a voluminous request. See the administrative procedure, 2:250-AP1, Access to and Copying of District Public Records, for additional information.~~

13 5 ILCS 140/7. Redacting exempt portions is permitted, but not required, except that contractors' employees' addresses, telephone numbers, and social security numbers must be redacted before disclosure (5 ILCS 140/2.10). Reviewing past responses to FOIA requests will promote uniform treatment of requests for similar records.

~~14 5 ILCS 140/6. The statute contains additional limitations on fees, including a prohibition on charging a search or review fee, unless the request is for a commercial purpose. See f/n 16. The fee for black and white, letter or legal sized copies may not exceed 15 cents per page. 5 ILCS 140/6, amended by P.A. 98-1129. The first paragraph's intent is to be efficient and avoid paraphrasing a complex law. The procedure 2:250-AP1, Access to and Copying of District Public Records, contains a fee schedule identifying the maximum fees permitted.~~

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.

Fees for Responding to a Request for a Commercial Purpose

~~In addition to copying fees, persons making a request for a commercial purpose, as defined in FOIA, must pay a fee of \$10 for each hour spent by personnel in searching for and retrieving the record. However, no fees shall be charged for the first 8 hours spent by personnel in searching for or retrieving a requested record. The District also charges the actual cost of retrieving and transporting public records from an off-site storage facility when the public records are maintained by a third-party storage facility under contract with the District. Whenever the District charges any fees to a requester making a commercial request, the Freedom of Information Officer shall provide the requester with an accounting of all fees, costs, and personnel hours in connection with the request for public records.~~

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. 15

Provision of Copies and Access to Records

~~The inspection and copying of~~ A public record that is the subject of an approved access request ~~is permitted will be available for inspection or copying~~ at the District's administrative office during regular business hours, unless other arrangements are made by the Freedom of Information Officer. ~~16~~

Many public records are immediately available from the District's website including, but not limited to, ~~a description of the District and the methods for requesting a public record. the process for requesting a public record. 17~~ 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. ~~18~~

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~~15 5 ILCS 140/6(c) makes it mandatory to furnish records "without charge or at a reduced charge" if the request is in the public interest as defined by FOIA. If a board wants to indicate when a reduction is available by paraphrasing the statute, it may substitute the following alternative for the default paragraph:~~

~~A fee reduction is available if the person requesting the record states a specific purpose for the request and indicates that a fee reduction is in the public interest by having as its principal purpose the preservation of the general public's health, safety, welfare, or legal rights and is not for the principal purpose of personal or commercial benefit. 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.~~

~~16 Public bodies may adopt rules for the times and places where records will be made available (5 ILCS 140/3(h). A board may amend this sentence to reflect other times and/or places where records will be made available.~~

~~17 5 ILCS 140/4. A district may reduce FOIA requests by posting records on its website. Many records are required to be web-posted, see 2:250-E2, Immediately Available District Public Records and Web-Posted Reports and Records. If the district does not have a website, change this sentence as follows: "Some public records are available for immediate access including a description of the process for requesting a public record, and a list of all types or categories of records under its control."~~

~~For a list of required web-postings, see exhibit 2:250-E2, Immediately Available District Public Records and Web-Posted Reports and Records. Using the district's website is also a convenient way to comply with FOIA's requirement to identify documents that are immediately available (5 ILCS 140/3.5(a). Although not required to be web-posted, a list of all types or categories of records under its control must be prepared and made available (5 ILCS 140/5). See 2:250-API, Access to and Copying of District Public Records.~~

~~18 5 ILCS 140/8.5, added by P.A. 98-1129.~~

Preserving Public Records

Public records, including email messages, shall be preserved and cataloged if: (1) they are evidence of the District's organization, function, policies, procedures, or activities, (2) they contain informational data appropriate for preservation, (3) their retention is required by State or federal law, or (4) they are subject to a retention request by the Board Attorney (e.g., a litigation hold), District auditor, or other individual authorized by the School Board or State or federal law to make such a request. ¹⁹ Unless its retention is required as described in items numbered 3 or 4 above, a public record, as defined by the Illinois Local Records Act, may be destroyed when authorized by the Local Records Commission. ²⁰

LEGAL REF.: 5 ILCS 140/, Illinois Freedom of Information Act.
105 ILCS 5/10-16 and 5/24A-7.1.
820 ILCS 40/11.
820 ILCS 130/5.

CROSS REF.: 2:140 (Communications To and From the Board), 5:150 (Personnel Records),
7:340 (Student Records)

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¹⁹ The Local Records Act, 50 ILCS 205/3, requires the preservation of records described in items #1-3. The preservation of records described in item #3 is also required by the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g, and the Ill. School Student Records Act, 105 ILCS 10/, among other laws. An example of a record described in item #4 is a record subject to a *litigation hold* or a document preservation requirement pursuant to Federal Rules of Civil Procedure, Rules 16 and 26.

Categorizing email messages is complicated because two laws apply and the rules differ when a board member is a party. See sample policy 2:140, *Communications To and From the Board*, for a discussion of email between or among board members. When employees or agents are using email for school purposes, the email messages may be *public records*, but will not necessarily be subject to disclosure depending on the topic discussed. FOIA's list of exemptions from disclosure determines whether these emails are subject to disclosure. For exemptions, see 5 ILCS 140/7 and 140/7.5.

Not all email messages between or among employees must be preserved, even if they are *public records* for purposes of FOIA. The definition of *public record* in the Local Records Act, 50 ILCS 205/3, is narrower than its definition in FOIA. Thus, staff email, like all district records, must be retained only when it contains material described in #1-4. While this is a slippery slope without definitive parameters, employee email that is conversational or personal, or contains brainstorming may generally be deleted.

The Prevailing Wage Act (820 ILCS 130/5, amended by P.A.s 98-328 and 98-482) requires contractors, while participating in public works, to keep certified payroll records of all laborers, mechanics, and other workers employed by them on the project and to submit this record no later than the 15th of the month to the public body. The public body in charge of the project must keep the records submitted before 1-1-14 for a period of not less than 3 years. Records submitted on or after 1-1-14 must be kept for a period of 5 years. Records may be retained in paper or electronic format. These records must be made available in accordance with FOIA except that contractors' employees' addresses, telephone numbers, and social security numbers must be redacted before disclosure (5 ILCS 140/2.10).

²⁰ 50 ILCS 205/. Preservation and destruction of documents is covered in 2:250-AP2, *Protocols for Record Preservation and Development of Retention Schedules*. See also the Ill. Secretary of State's website for information on preserving and destroying records, www.cyberdriveillinois.com/departments/archives/records_management/recman.html.