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POLICY UPDATE SERVICE

PROVIDED BY NEOLA, INC.

Local Policy Update

VOLUME 35 NUMBER 2

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MASB Policy Services Provided by Neola

Effective policies are at the core of successful school district governance. Maintaining policies that reflect both local oversight and ever-changing state and federal laws is an enormous task. School board members can rely on the MASB-Neola Partnership to keep their policy manuals up-to-date. Under this partnership, Neola provides comprehensive policy services for MASB members on behalf of MASB. Working together, MASB and Neola produce uniform school policies and guidelines to better serve all Michigan school districts.

Policy Development and Updating

Neola, with assistance from MASB if and when needed, will work with the board, administrators and committee(s) to develop a comprehensive policy manual that suits your district's needs. Each manual is based on templates that have been thoughtfully prepared, then vetted by Neola's outside counsel and MASB's legal counsel. These templates are customized to the district's unique circumstances through choices made by the board and administrative team. The bylaws, policies and administrative rules/regulations are a unique collection assembled by educators and attorneys. The end result will be a policy manual that's in line with law and court decisions containing legal citations, footnoted reference material, and will be searchable by keyword or phrase.

OVERVIEW AND COMMENTS

All production related materials and questions should be directed to the Coshocton Office at 632 Main Street, Coshocton, Ohio 43812 (phone 800-407-5815, fax 740-622-2557). Billing questions should be directed to the Stow Office at 3914 Clock Pointe Trail, Suite 103, Stow, Ohio 44224 (phone 330-926-0514, fax 330-926-0525).

Please do not retype Neola materials before returning them for processing. We prefer to have the original materials returned after you have marked them indicating which changes and additions you choose to have/not have for your District. If a District chooses not to adopt a policy or an administrative guideline, the District is still obligated to follow applicable Federal and State laws relating to that section.

The proposed new, revised, and replacement policies, administrative guidelines and forms included in this update have been thoughtfully prepared and reviewed by Neola's legal counsel for statutory compliance. If you make changes, or substitute in its entirety policies or other materials of your own drafting, those materials should be reviewed by your legal counsel to verify compliance. Neola does not review district-specific edits to update materials or District-specific policies for statutory compliance.

If a policy or guideline is marked as a revision, the changes have been marked in bold (to add material) and crossed out (to delete material). As you review a revised policy or guideline, you may choose to accept one, many or all of the changes provided. If a policy or guideline is marked as a replacement, that means there have been enough changes made that justify a complete, clean replacement copy. As you review a replacement policy or guideline, you should also check the materials you have in your current policy or guideline to see if there is some specific wording you want included in the replacement policy. If so, any wording from the current policy should be added using "Track Changes" or the editing tools in the BoardDocs platform in the replacement policy or guideline before returning it electronically to the Coshocton office for processing.

If the District alters language and adds it to a policy template or deletes content that is not marked as a choice in the policy template, then these actions will constitute District-specific edits.

Policies that are to be deleted from the policy manual require Board action to rescind the policy.

Your Neola Associate will contact you in the near future to schedule an appointment to review this update and ensure you are current on this and previous updates. As the Update "season" gets underway, Neola recommends the following options for accessing comprehensive policy services through your Neola

Associate:

- A. Schedule an appointment date/time to review the update or policy templates in a telephone conference.
- B. Schedule an appointment date/time to review the update or policy templates via virtual meeting, such as Google Meeting or other electronic options.
- C. Schedule/reschedule update or drafting visits for a later time.

While “in-person” consultation sessions are the preferred method for Neola Update “visits”, the means by which you and your Neola associate accomplish this review should be mutually determined based on availability and level of comfort with the consultation process. Overall, health and safety are the primary concerns. Your Neola associate will be in contact with you soon to discuss these options with you.

Your Neola Associate will contact you in the near future to schedule an appointment to review this update and ensure you are current on this and previous updates.

If you are not an administrative guidelines client, you did not receive those materials in this packet. Contact your Associate for more information about becoming an administrative guidelines client.

Processing Update Materials

If you will be making changes to these Update documents electronically, use “Track Changes” or editing tool in the BoardDocs platform to mark the Neola materials indicating which of the proposed revisions and additions you choose to include or not include for your District, or to make additional edits, before returning them electronically for processing. Be sure to leave the “track changes” and marked up version as the one you submit to the production office in Coshocton, Ohio.

District-Specific Material

If the District chooses, during any step of the Update process, to incorporate District-specific material into a new policy or guideline that has been proposed or to insert District-specific material into a current policy or guideline for which revisions have been proposed in an update issued by Neola, then the District agrees to hold Neola harmless for those District-specific edits and acknowledges that Neola’s warranty for legal challenges to that District-specific language in that policy or guideline will not be in effect. In addition, Neola retains ownership of the text from the original policy template that remains in a policy to which District-specific material has been added. District-specific materials include the following:

- A. Materials from the District’s existing materials that the District requests be incorporated during the drafting process;
- B. New materials that the District develops in their entirety and exclusive of Neola; and
- C. Revisions or deletions that substantively depart from Neola’s templates.

Further, Neola does not recommend the use or incorporation of District-specific materials. Neola will, at the request of the District, incorporate District-specific materials into the licensed materials, with the implicit understanding that the District bears all risks associated with the District’s decision to request that such District-specific materials be incorporated. Neola reserves the right to, but is not obligated to, advise the District to seek its own legal review of District-specific materials.

Social Media (Policy/AG 7544) Revisited

In April 2018 a collection of policies were prepared by a team of twenty-two (22) lawyers, IT experts and Neola staff to provide Districts with a means to establish controls that govern the use of social media in their District. These policies and related documents were released in the Special Update - Social Media in April 2018 along with a toolkit for use with these policies in Volume 34 Number 1 (Social Media Toolkit) in September 2019.

Although regulating an employee’s personal use of social media is possible only in the narrowest of circumstances, establishing rules about employees’ use of social media as it relates to communication regarding the business of the District is something that schools can, and in Neola’s judgment, should do.

Three existing policies were also suggested for revision in the Social Media Special Update. A comprehensive definition of “social media” was added to Bylaw 0100 Definitions and the definition of “apps and services” was revised as well. Additionally, revisions were proposed for Policy 7540 Technology to replace the previous definition of “social media” and finally, revisions to Policy 7540.04 Staff Technology Acceptable Use and Safety so that the language is current and compliant with the new social media policy.

While the suggested revisions were put in place before a global pandemic pushed Districts to utilize on-line learning platforms and more virtual methods of engagement with students, parents, and the community, such use makes consideration of these materials even more important today.

Although the new and revised policies have been thoughtfully prepared and reviewed by Neola’s legal counsel for statutory compliance, each District must decide what specific language to include in its own unique policy collection.

It is highly recommended that at this juncture the District reevaluate the materials in the updates referenced above that are still available on each District’s BoardDocs platform. While much thought will be necessary to consider these new materials and revised policies each District should take the time necessary to be sure that there is adequate policy guidance provided for current use of social media technology and applications.

In the next update, Neola will revisit Policy 5722 – School Sponsored Publications and Productions and issue a revised document and toolkit. The social media policy materials issued in 2018-2019 played a large role in the development of the revised Policy 5722 materials.

Therefore, it is highly recommended that at this juncture the District reevaluate the materials in the update from 2018-2019 that are still available on each District’s BoardDocs platform and consider the District and school level application of these technologies.

Notice Regarding Legal Accuracy

Neola is vigilant in providing policy language to clients that has been vetted for legal accuracy by outside legal counsel. Should questions arise as to the legal compliance or accuracy of Neola materials, it is our expectation that Neola's counsel would have the opportunity to assist in the resolution of such a claim. Please notify the Neola corporate office if an issue arises in which such a review or assistance is necessary.

Policies in this update have been reviewed by Varnum, LLP (Grand Rapids, MI) for consistency with Federal and State law.

REMINDERS

- The Minimum Wage in Michigan remains the same at \$9.65 for 2021.
- The Internal Revenue Service (IRS) issued Notice 2020-279 which provides the 2021 mileage rate at 56 cents per mile for business travel (1.5 cents less than 2020 rate).
- The U.S. Department of Labor maintains regulatory authority over state and local government employers, including public school districts. Note that the following federal laws have poster requirements which apply to school districts (no federal or federally-assisted contracts or subcontracts):
 - The Employee Polygraph Protection Act (EPPA)
 - The Fair Labor Standards Act (FLSA) Minimum Wage Notification
 - The Family and Medical Leave Act (FMLA)
 - Uniformed Services Employment and Reemployment Rights Act (USERRA)
 - Occupational Safety and Health Act (Workplace Safety)
 - Whistleblower Protections

In addition, certain organizations may be required to display posters that can only be obtained from DOL's Office of Workers' Compensation Programs (OWCP). More information on these posters is available. Links to all federal employment posters are always available on the Poster Page as are answers to frequently asked questions. Note that school districts with federal or federally-assisted contracts or subcontracts may have additional requirements.

LEGAL ALERTS

Included with this update are legal alerts printed on green paper. These include:

3. Resolution Regarding the Open Meetings Act
4. Legal Alert - Model Anti-Bullying Policy (MDE)
5. Important Questions about COVID-19 Vaccination Programs
6. Use of Facial Recognition Technology in School Settings
7. Legal Issues That School Officials and Employees Need to Be Aware of When Using Social Media

BYLAWS AND POLICIES

Policy #2260.01 – Section 504/ADA Prohibition Against Discrimination Based on Disability (Revised)

Policy #2260.01 places particular emphasis on protections for students who are identified under Section 504 and ADA, including accessibility to qualified individuals with regard to facilities, programs and activities according to federal law. Revisions to this policy are based on recent Office for Civil Rights (OCR) investigations and reviews of compliance issues, particularly related to vocational education/Career-Technical education programs with particular emphasis on vocational education.

These revisions should be adopted and implemented in order to maintain compliance under Section 504 and ADA.

Policy #2266 – Nondiscrimination on the Basis of Sex in Education Programs or Activities (Revised)

This policy has been revised to reflect the recognized definition of "Rape" as of January 2021, deleting the original reference to the definition required by the Clery Act at the time of the release of the regulations in May 2020. The revised definition is that provided by the National Incident-Based Reporting System (NIBRS). Also, there is a suggested revision in the Appeals section of the policy. While the current regulation does not specifically address the implementation of remedies during the appeals process, it seems to be inappropriate to impose disciplinary sanctions while an appeal is pending.

These revisions are recommended for adoption.

Policy #5341 - Emergency Medical Authorization (Revised)

This revision is necessary to comply with the revisions to the Do Not Resuscitate (DNR) laws that allow DNR orders for minors under appropriate circumstances.

This revision is required to remain compliant with Michigan law.

Policy #5342 - Do Not Resuscitate Orders (DNR) for Minor Students (NEW)

This new policy is necessary to comply with revisions to the Do Not Resuscitate (DNR) laws that now allow DNR orders for minors under appropriate circumstances and require specific procedures school districts must follow if they receive such an order.

The policy is in compliance with M.C.L. 380.1180.

Policy #5343 - Physician Order for Scope of Treatment (POST) (NEW)

This new policy is necessary to comply with the new statute setting out specific procedures that school districts must follow if they receive a physician order for scope of treatment (POST) form for a student.

This policy is compliant with M.C.L. 380.1181.

Policy 7440.01 – Video Surveillance and Electronic Monitoring (Revised)

Due to the significant increase in the use of virtual/on-line learning, this policy has been revised to allow a District to use prerecorded lessons or observations of on-line or virtual learning sessions as part of an employee's evaluation, in accordance with a collective bargaining agreement or Memorandum of Understanding approved by the Board.

These revisions are provided to enable expanded use of technology monitoring for appropriate purposes.

Policy 8321 - Criminal Justice Information Security (Non-Criminal Justice Agency). (Revised)

This policy is revised to include the latest review of procedures by the Department of Homeland Security (DHS) of implementation reviews by the Michigan State Police (MSP) and the qualified use of criminal records information by school employers.

These revisions should be adopted in order to maintain accurate policies.

Policy 8330 - Student Records (Revised)

This policy has been revised to comply with the obligation not to disclose the address of a student who provides the District with notice that they have received a participation card issued by the attorney general under the address confidentiality program act.

This revision should be adopted in order to remain compliant with Michigan law.

Policy 8400 - School Safety Information (Revised)

This policy has been revised to reflect the changes required by amendments, approved by the Governor, to the Sex Offender Registration Act (SORA) (effective March 24, 2012).

These revisions should be adopted in order to remain compliant with Michigan law.

NOT ADOPTED

Policy 8450.01 – Protective Facial Coverings During Pandemic/Epidemic Events (Revised)

This policy (new in August 2020) is revised to reflect the changes in recommended exemptions enacted by the Center for Disease Control and Prevention (CDC) in September 2020. The guidance and content of this revised policy may be included in the District's Restart/Reopening plan for the 2020-21 school year. The policy provides coverage for students, district employees, and volunteers/visitors.

This revised policy is not currently required by statute or regulation, however is provided for district consideration.

Policy 8500 – Food Services (Revised)

This policy has been revised to add the emphasis being sought by the United States Department of Agriculture (USDA) to prohibit stigmatizing students who lack the funds to pay for their meal or with unpaid meal charges.

This revision is recommended for adoption.

Policy 8510 - Wellness (Revised)

Revisions to this policy reflect updated requirements for evaluation and review of district wellness policies (at least every three years) and the updated regulations issued by the U.S. Department of Agriculture (USDA). These regulations provide the basis for USDA review and monitoring of district compliance with the Health and Hunger-Free Kids Act. WELLSAT:3.0 is the assessment tool widely used to audit school wellness policies.

These revisions reflect the updated USDA regulations and are recommended for adoption.

ADMINISTRATIVE GUIDELINES

AG 8321 - Criminal Justice Information Security (Non-Criminal Justice Agency) (Revised)

See note on Policy 8321.

AG 8330 - Student Records (Revised)

See note on Policy 8330.

AG 8500D – Procedure for the Collection and Payment for Charged Meals (Revised)

See note on Policy 8500.

COMMENTS

Reviewing Board Minutes

A feature of your subscription to the Update Service is the review of your District's Board minutes to identify actions that result in new policy or revision to existing policy. If such action has been taken and copies of the related materials have not been submitted to the Coshocton Office, the District will be contacted

and additional information regarding the action will be requested. Please take advantage of this valuable service by sending copies of your Board minutes to the Coshocton Office for review.