Board Policy Review Committee

Wednesday, January 20, 2021 3:00 PM
District Office/Zoom, 2920 3.5 Nome-Teller Hwy, Nome, Alaska 99762

A. **Call to Order**
B. **Items for Discussion**
1. BP 4112.10 Employment of Retired Teachers
2. BP 5145.15 Student and Family Privacy Rights
3. BP 9260 Legal Protection
C. **Adjournment**

BP 4112.10 EMPLOYMENT OF RETIRED TEACHERS

Note: *Effective November 8, 2018, AS 14.20.136 authorizes schools districts to hire retired teachers in cases of teacher shortages. Retired teachers hired under this statutory provision may elect to continue receiving TRS benefit payments during the period of reemployment. A contract for reemployment of a retired teacher hired under AS 14.20.136 may not be for more than 12 consecutive months. If the teacher retired under the defined benefit retirement system, the teacher must be retired for at least 60 days if 62 years of age or older, or at least six months if under 62 years of age, before reemployment. In addition, if the teacher is reemployed by the same district that employed the teacher upon retirement, the teacher must certify that there was no prearranged agreement with the school district to hire the teacher after retirement.*

Prior to the hire of retired teachers under this statute, the school board must adopt a policy that permits the employment of retired teachers who are qualified to teach in those disciplines or specialties in which a shortage of teachers exists. The policy must describe the circumstances that constitute the shortage.

This optional policy may be utilized by districts desiring to hire retired teachers in cases of teacher shortages, as authorized by AS 14.20.136.

It is the policy of the Board that teacher vacancies be filled in a timely manner by qualified personnel. The District administration is authorized to employ retired teachers in accordance with AS 14.20.136 in cases of teacher shortages, and to notify the Administrator of the Teachers' Retirement System that it is hiring retired teachers pursuant to that statutory provision.

The hiring of retired teachers is authorized in those disciplines or specialties in which a shortage of teachers exists despite active recruitment efforts. A shortage is deemed to exist for those open positions that the administration has been unable to fill with qualified candidates, despite recruitment, public advertising for at least 10 business days, interviews, and the offering of positions to qualified candidates, if any.

(cf. 4111 Recruitment and Selection)

Legal Reference

ALASKA STATUTES

14.20.136	Reemployment of member of teachers' retirement system
14.25.043	Reemployment of retired members
14.20.165	Restoration of tenure rights

Adopted: (enter date here)

Nome Public Schools

BP 5145.15 STUDENT AND FAMILY PRIVACY RIGHTS

Note: *The Protection of Pupil Rights Act requires any school district "that receives funds under any applicable program [to] develop and adopt policies, in consultation with parents, regarding [statutory privacy rights]." (20 U.S.C. §1232h(c)(1)). "Any applicable program" generally refers to any federal program administered by the U.S. Department of Education (20 U.S.C. §1221(c)). "Consultation with parents" is not defined; boards are advised, at minimum, to publicize the issue and request public comment during the policy's adoption.*

The Board believes that personal information gathered from a student may be helpful or necessary to facilitate school safety, student welfare, or the continued success of academic programs. However, these goals must be balanced with the expectations of privacy of our students and their families. The following procedures shall be followed so that parents may make informed choices regarding the disclosure or collection of personal information from their student.

Student Surveys

Note: *Federal law requires prior written parental consent before certain surveys may be administered to students. Effective June 30, 2017, AS 14.03.110 requires written parent permission before a school may administer, or permit to be administered in a school, a questionnaire or survey, whether anonymous or not. The following policy sets forth the notice and consent provisions required by law and identifies when parental consent and notice are required. Additionally, state law provides that no student may be required to participate in a questionnaire or survey if the student objects to participation. AS 14.03.110.*

The Board recognizes that student surveys administered in the public schools may be beneficial for the purposes of study, the improvement of education, for class assignment, and to assist in providing guidance or counseling services to students and their families. In administering surveys or questionnaires to the District's students, the District shall comply with state and federal laws concerning parental notice and consent.

Surveys will not be administered to students without prior parental consent.

Annual Consent: The District may seek written parent/guardian permission, on an annual basis, for the administration of anonymous student surveys. Consent to anonymous surveys obtained annually will be valid until the beginning of the subsequent school year, or until written notice of withdrawal of consent is provided to the school principal. Parents or guardians shall receive at least two weeks' notice prior to the administration of an anonymous questionnaire or survey.

Consent for Surveys that are Not Anonymous: Prior to the administration of a survey that is not anonymous the District shall obtain written permission from the parent/guardian at least two weeks prior to the survey.

Notice Requirements: At least two weeks prior to the administration of a questionnaire or survey, whether anonymous or not, that requires parental consent as identified above, the school shall provide each student's parent or legal guardian with written notice explaining:

1. how and where the parent may preview the survey;
2. how the survey will be administered;
3. how the survey results will be used;
4. who will have access to the questionnaire, survey or results; and
5. for those surveys which are not anonymous, explain that written parental consent is required before participation in the particular survey, and include a permission form to be returned by the parents, with instructions that the form must be returned at least two weeks before the survey.

Instructional Material

A student's parent(s)/guardian(s) may inspect, upon their request, any instructional material used as part of their child's educational curriculum within a reasonable time of their request.

The term "instructional material" means instructional content that is provided to a student regardless of its format, printed or representational materials, audio-visual materials, and materials in electronic or digital formats (such as materials accessible through the Internet). The term does not include academic tests or academic assessments.

Physical Exams or Screenings

Note: *Effective June 30, 2016, provisions of AS 14.30.070 and the entirety of AS 14.30.120 requiring school districts to provide for or require each child to have a physical examination is repealed. The requirement that school districts provide vision and hearing screening examinations remains. AS 14.30.127. Although districts are no longer required to provide for and require physical examinations of every child attending school, the Department of Health and Social Services may require the district to conduct physical examinations it considers necessary and may reimburse the district for examinations. The federal Protection of Pupil Rights Act states that student's parent(s)/guardian(s) may refuse to allow their child or ward to participate in a "non-emergency, invasive physical examination or screening." 20 U.S.C. §1232h(c)(2)(A)(ii).*

A student's parent(s)/guardian(s) may refuse to allow their child to participate in any non-emergency, invasive physical examination or screening that is: (a)

required as a condition of attendance, (b) administered by the school and scheduled by the school in advance; and (c) not necessary to protect the immediate health and safety of the student, or of other students. The term "invasive physical examination" means any medical examination that involves the exposure of private body parts, or any act during such examination that includes incision, insertion, or injection into the body, but does not include a hearing, vision, or scoliosis screening.

The above paragraph does not apply to any physical examination or screening that:

1. Is permitted or required by an applicable state law, including physical examinations or screenings that are permitted without parental notification.
2. Is administered to a student in accordance with the Individuals with Disabilities Education Act (20 U.S.C. §1400 et seq.)
3. Is otherwise authorized by board policy.

(cf. 5141 – Health Care and Emergencies)
(cf. 5141.3 – Health Examinations)
(cf. 5141.31 – Immunizations)
(cf. 5131.61 – Student Athlete Drug and Alcohol Testing Regulation)

Collection of Personal Information from Students for Marketing

Note: *Federal law allows schools to collect personal information from students for marketing (20 U.S.C. §1232h(c)(1)(E)), provided the board, by policy, allows parents to preview the instrument and opt their child out of the activity.* ***Option 1*** *prohibits the collection of personal information from students for marketing purposes.* ***Option 2*** *retains this option and contains the required notice provisions.*

The term "personal information" means individually identifiable information including: (1) a student or parent's first and last name, (2) a home or other physical address (including street name and the name of the city or town), (3) a telephone number, or (4) a Social Security identification number.

Option 1:

No school official or staff member shall administer or distribute to students a survey or other instrument for the purpose of collecting personal information for marketing or sale.

The above paragraph does not apply to the collection, disclosure or use of personal information collected from students for the exclusive purpose of developing, evaluating or providing educational products or services for, or to, students or educational institutions, such as the following:

1. College or other post-secondary education recruitment, or military recruitment.
2. Book clubs, magazines, and programs providing access to low-cost literary products.
3. Curriculum and instructional materials used by elementary schools and secondary schools.
4. Tests and assessments to provide cognitive, evaluative, diagnostic, clinical aptitude, or achievement information about students (or to generate other statistically useful data for the purpose of securing such tests and assessments) and the subsequent analysis and public release of the aggregate data from such tests and assessments.
5. The sale by students of products or services to raise funds for school-related or education-related activities.
6. Student recognition programs.

Option 2:

Before a school administers or distributes an instrument to a student for the purpose of collecting personal information for marketing or for sale that information (or otherwise providing that information to others for that purpose), the student's parent(s)/guardian(s) may:

1. Inspect, upon their request, that instrument and/or
2. Refuse to allow their child to participate in the activity. The school will not penalize any student whose parent(s)/guardian(s) exercise this option.

Notification of Rights and Procedures
The Superintendent or designee shall notify parent(s)/guardian(s) of:

1. This policy, as well as its availability upon request.
2. How to opt their child out of participation in activities as provided in this policy.

This notification shall be given parent(s)/guardian(s) at least annually, at the beginning of the school year, and within a reasonable period after any substantive change in this policy.

Note: *The rights provided to parent(s)/guardian(s) in this policy transfer to the student when the student turns 18 years old, or is an emancipated minor.*

Biometric Information

Note: *Biometric information means the noninvasive electronic measurement and evaluation of any physical characteristics that are uniquely attributable to a single person, including fingerprint characteristics, eye characteristics, hand characteristics, vocal characteristics, facial characteristics and any other physical*

characteristics used for the purpose of electronically identifying that person with a high degree of certainty.

identiMetrics recommends that schools consider adopting a policy in regards to student privacy participation in the biometric identification program. Below is a sample for consideration.

1. Prior to collecting biometric information from a student, the school district shall provide notification of the intent to do so to the parents, or the individual who has legal custody of the student, or to the student if he or she has reached the age of 18. Two weeks between notification and the actual collection of biometric information shall be given in order to allow a response to refuse participation in the biometric identification program. A request not to participate in the biometric identification program shall be made in writing by the parents, or the individual who has legal custody of the student, or the student if he or she has reached the age of 18. Failure to respond with a request not to participate in the biometric identification program shall be considered as giving permission for the student to participate.
2. All biometric information shall be destroyed within 30 days after (a) the student's graduation or withdrawal from the school district; or (b) upon receipt in writing of a request for discontinuation of participation in the biometric identification program by the parents, or the individual having legal custody of the student, or by the student if he or she has reached the age of 18.
3. The biometric information is to be used solely by the school district for identification or fraud prevention.
4. The school district will not sell, lease, or disclose any biometric information to any other person or entity.
5. The choice for the student not to participate in the biometric identification program by the parents, or the individual who has legal custody of the student, or by the student, if he or she has reached the age of 18, must not be the basis for refusal of any services otherwise available to the student.

Legal Reference:

ALASKA STATUTES
14.03.110 Questionnaires and surveys administered in public schools.
14.30.070 Physical examination required.
14.30.127 Vision and hearing screening examinations.

UNITED STATES CODE
20 U.S.C. 1232(h) Protection of Pupil Rights Act

Revised (enter date here)
Adopted: March 2016

Nome Public Schools

BP 9260 LEGAL PROTECTION

Note: *For all districts, Sections 2361-2368 of the No Child Left Behind Act are designed to provide teachers, principals and other school professionals, including board members, the tools they need to undertake reasonable actions to maintain order, discipline and an appropriate educational environment. Section 2366 limits the liability of a school employee or official for acts or omissions when he/she is acting within the scope of employment or district responsibilities and his/her actions were in conformity with federal, state and local laws in an effort to control, discipline, expel or suspend, or maintain order or control in the classroom or school.*

Limitations on liability do not apply when the officer or employee: (1) acted with willful or criminal misconduct, gross negligence, recklessness or a conscious or flagrant indifference to the harmed student's right to safety; (2) caused harm by operating a motor vehicle; (3) violated a federal or state civil right law (e.g., sexual harassment, discrimination, IDEA claims); (4) was convicted of a sexual offense, crime of violence or act of terrorism; or (5) was under the influence of alcohol or drugs.

If a civil action is brought against the employee or officer, and the laws' conditions are satisfied, Sections 2366 and 2367 limit the amount of the employee's/officer's liability to a formula based on the percentage of responsibility for the harm, and also limits punitive damages. The provisions of the law took effect on April 8, 2002.

The School Board shall provide insurance necessary to protect Board members, officers, and employees from any judgment resulting from suits brought against them alleging their liability while acting within the scope of their employment and/or under the direction of the Board. The insurance shall cover claims in such matters as civil rights actions, negligence, or other act resulting in accidental injury to any person or property damage in or out of the school buildings.

(cf. 3530 - Risk Management)

Legal References:

ALASKA STATUTES
14.12.115 Indemnification
No Child Left Behind Act of 2001, §§2361-2368 (P.L. 107-110)

Revised (enter date here)
Adopted: June 10, 2003