



EOLA of INDIANA

TEMPLATES

UPDATE

Volume 29, Number 1
November 2016

OVERVIEW AND COMMENTS

This update includes the proposed revisions to current policy templates and the templates for new policies that are the result of our ongoing work with Indiana clients.

This update includes proposed revisions to current policy templates or proposed new policies that are the result of the current legislative session, as well as proposed revisions to current policy templates or proposed new policies that are the result of ongoing work with our Indiana clients. In keeping with our company philosophy to release no policy before its time, this update does not include a proposed new policy and guideline pertaining to Unmanned Aircraft Systems (UASs, a.k.a., drones). We are studying the FAA rules and regulations pertaining to UASs before we provide our clients with proposed templates. In the interim, we recommend a Board resolution prohibiting the operation of UASs from Corporation property and authorizing the administration to cooperate with law enforcement officials in the enforcement of FAA rules and regulations pertaining to UASs.

This update also does not include proposed revisions to our RIF policies. The case of *Elliott v. Board of School Trustees of Madison Consolidated Schools*, Case No.: 1-13-cv-0319-WTL-DML (S.D. Ind. 2015), is not final and will be appealed. Because a final judgment has not been rendered, we believe a recommended revision is premature at best. However, you should seek guidance from your Corporation's legal counsel if you are planning a reduction in force given the summary judgment decision issued by the federal court in *Elliott*.

The 38 policies, 30 administrative guidelines, and 7 forms that comprise this update are organized in numerical order in the sub-folder that has been posted in the Corporation's folder on the VPN or in the hard copy packet if your Corporation still chooses to receive one. Policies from multiple sections are grouped together in this Overview when the explanation is the same for the proposed revisions to a group of policies.



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- C. revisions to or deletions from a NEOLA template that substantively depart from that template.

Further, NEOLA does not advocate the use or incorporation of Corporation-specific materials. NEOLA will, at the request of the Corporation, incorporate Corporation-specific materials into the licensed materials, with the implicit understanding that the Corporation accepts all risks associated with the decision to request that such Corporation-specific materials be incorporated. *NEOLA reserves the right to, but is not obligated to, advise the Corporation to seek its own legal review of Corporation-specific materials by the school board attorney who represents the Corporation.* And, NEOLA retains the copyright to any intellectual property from its template.

Notifying NEOLA of a Challenge to the Legal Accuracy of a Policy

The NEOLA staff in Indiana is vigilant in providing policy language to our clients that has been vetted for legal accuracy by our outside counsel. Should questions arise as to the legal compliance or accuracy of NEOLA materials, it is our expectation that our outside counsel would have the opportunity to assist in the resolution of such a claim. That can only occur if we are notified immediately upon receipt of such a challenge. Please notify NEOLA's corporate office (330-926-0514) if an issue arises in which such a review or assistance is necessary. To be eligible for assistance under our warranty we must be notified with ten (10) business days of the receipt of such a challenge.

Policies in this update have been reviewed by Lewis & Kappes, P.C. for consistency with Federal and State law.

BYLAWS AND POLICIES

Policy 1520 Employment of Administrators in Addition to Superintendent - Revised

Policy 3124 Employment Contracts with Professional Employees - Revised

Revisions are proposed to these 2 policies to reflect the change in the law that permits the School Corporation to hire administrators and other professional staff members who are not certificated employees.

Adoption of the proposed revisions to these policies should be recommended, and the School Board should take action to adopt these revisions to keep its policies legally correct as well as informative to staff and constituents.



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Policy 1520.08 Employment of Personnel for Extracurricular Activities - New
Policy 3120.08 Employment of Personnel for Extracurricular Activities - Revised
Policy 4120.08 Employment of Personnel for Extracurricular Activities - Revised
Policy 5340.01 Student Concussions and Sudden Cardiac Arrest - Revised
Policy 8455 Coach Training - Revised

Revisions are proposed to the 4 established policies as well as the addition of new policy 1520.08 concerning coach training so that these 5 policies are consistent with the changes made by Senate Enrolled Acts 93 and 234, including the addition of Ind. Code §§ 20-34-7-1.6, 20-34-7-1.7 and 20-34-7-7, and revisions to Ind. Code §§ 20-34-7-3, 20-24-7-4, 20-34-7-5, 20-34-7-6, and 20-34-8-2, regarding when coaches must receive training on concussions and sudden cardiac arrest. Policy 1520.08 was added in recognition of the possibility that administrators may serve as coaches.

The revisions proposed to these 4 policies and addition of a new policy are intended to align the policies with current minimum requirements for training and provide for optional additional training as the Board deems appropriate. The Superintendent should recommend adoption of the new policy and the revised policies, and the Board should take action to do so to keep its policies legally correct, as well as informative to staff and constituents.

Policy 1521 Personal Background Checks and Mandatory Reporting of Convictions and Substantiated Child Abuse () and Arrests - Revised
Policy 3121 Personal Background Checks and Mandatory Reporting of Convictions and Substantiated Child Abuse () and Arrests - Revised
Policy 4121 Personal Background Checks and Mandatory Reporting of Convictions and Substantiated Child Abuse () and Arrests - Revised
Policy 8120 Volunteers - Revised
Policy 8121 Personal Background Check – Contracted Services - Revised
Policy 8340 Request for Letter of Reference or Employment Reference - Revised

The revisions proposed to these 6 policies reflect the changes made by House Enrolled Act 1005, including the addition of Ind. Code §§ 20-26-2-1.3 and 20-26-5-11.5 and revisions to Ind. Code §§ 20-26-5-10 and 20-26-5-11, that expand the required background check to include an expanded child protection index check, require that school corporations disclose to another school seeking a reference any known incident in which the employee committed an act resulting in a substantiated report of child abuse or neglect, and make unenforceable any confidentiality agreement entered into or amended after June 30, 2016 if the employee committed an act resulting in a substantiated report of child abuse or neglect. Additionally, changes to Policy 8340 were made due to Section 8546 of the Every Student Succeeds Act, which requires that school corporations adopt policies that prohibit school employees, contractors, or agents from assisting a school employee, contractor, or agent in obtaining a new job if s/he knows, or has probable cause to believe, that such school employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law.



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Adoption of the revised policies should be recommended, and the Board should take action to do so to keep its policies legally correct as well as informative to staff and constituents.

Policy 2623 Student Assessment - Revised

The revisions proposed to this policy are intended to permit the Board policy to remain current when the Indiana Department of Education adopts a new statewide assessment for students.

The Superintendent should recommend adoption of the revised policy, and the Board should take action to do so to keep its policies legally correct, as well as informative to staff and constituents.

Policy 1619 Group Health Plans - New

Policy 1619.01 Privacy Protections of Self-Funded Group Health Plans - New

Policy 1619.02 Privacy Protections of Fully Insured Group Health Plans - New

Policy 1619.03 Patient Protection and Affordable Care Act - New

Policy 3419 Group Health Plans - Revised

Policy 3419.01 Privacy Protections of Self-Funded Group Health Plans - Revised

Policy 3419.02 Privacy Protections of Fully Insured Group Health Plans - Revised

Policy 3419.03 Patient Protection and Affordable Care Act - New

Policy 3420 Health Insurance Benefit - Delete/Rescind

Policy 4419 Group Health Plans - Revised

Policy 4419.01 Privacy Protections of Self-Funded Group Health Plans - Revised

Policy 4419.02 Privacy Protections of Fully Insured Group Health Plans - Revised

Policy 4419.03 Patient Protection and Affordable Care Act - New

Revisions were made to 3 policies, a new policy was added, and a policy was deleted to reflect the options available to employers under the Patient Protection and Affordable Care Act, including the possibility that an employer may elect not to offer health insurance coverage and risk incurring penalties, as well as delineate the employer's responsibilities under the Health Insurance Portability and Accountability Act Privacy Rule and the Health Information Technology for Economic and Clinical Health (HITECH) Act.

The new policy and revisions proposed to these 3 policies reflect current federal law. Policy 3420 is now duplicative in light of the new policy and revisions made to the other 3 policies and may be rescinded. Adoption of the new policy and revised policies as well as rescission of Policy 3420 should be recommended, and the Board should take action to do so to keep its policies legally correct as well as informative to staff and constituents.



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Policy 5111 Determination of Legal Settlement and Eligibility for Enrollment of Students Without Legal Settlement in the Corporation - Revised

Senate Enrolled Act 93 added a new statute, Ind. Code § 20-26-11-33, which provides that a school corporation may accept a student who does not have legal settlement into an alternative education program even if the school corporation does not otherwise accept transfer students. Policy 5111 has been revised to reflect the addition of Ind. Code § 20-26-11-33.

Adoption of the revised policy should be recommended, and the Board should take action to do so to keep its policies legally correct as well as informative to staff and constituents.

Policy 5460 Graduation Requirements - Revised

Revisions are proposed to this policy to incorporate the addition of Ind. Code § 20-26-5-37 by House Enrolled Act 1219 requiring school corporations to offer their students any diploma approved by the State Board of Education and prohibiting school corporations from requiring students with disabilities to earn credits that exceed the State requirements to receive a diploma unless otherwise required as part of the student's individualized education program.

The revisions proposed to Policy 5460 reflect the requirements set forth in current State law. Adoption of the revised policy should be recommended, and the Board should take action to do so to keep its policies legally correct as well as informative to staff and constituents.

Policy 5530 Drug Prevention - Revised

Policy 8400 School Safety - Revised

Revisions are proposed to these 2 policies to clarify the responsibilities of the Safe School Committee in implementing the Safe and Drug-Free Schools and Communities Act and to include additional citations to relevant State and Federal laws and regulations.

The revisions proposed to Policy 5530 and Policy 8400 reflect the requirements set forth in current Federal and State law. Adoption of the revised policies should be recommended, and the Board should take action to do so to keep its policies legally correct as well as informative to staff and constituents.



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Policy 5830 Student Fundraising - Revised

Policy 6605 Crowdfunding - New

Policy 9700 Relations with Special Interest Groups - Revised

A new policy has been prepared and revisions are proposed to 2 other policies to address the growing interest in utilizing crowdfunding options available on the Internet, such as "Go Fund Me," for school purposes. Because of the number of issues that have arisen with the unauthorized use of such funds by school employees, the Board should address this topic and decide whether to authorize or prohibit the use of such fundraising avenues.

Adoption of the revised policy should be recommended, and the Board should take action to do so to keep its policies legally correct as well as informative to staff and constituents.

Policy 6700 Fair Labor Standards Act ("FLSA") - Revised

Revisions are proposed to this policy to reflect the options available to schools and revisions to the minimum salary requirements for employees to meet the exemptions for "white collar" employees from the minimum wage and overtime requirements of the Fair Labor Standards Act. Because the Federal regulations have been amended to provide that this minimum salary will be changed every three years, the decision was made to move the descriptions of the exempt employees to the guidelines so that changes can be more readily made when the minimum salary is changed.

Adoption of the revised policy should be recommended, and the Board should take action to do so to keep its policies legally correct as well as informative to staff and constituents.

Policy 8330 Student Records - Revised

Revisions are proposed to this policy to reflect the addition of Ind. Code § 20-32-4-12 by House Enrolled Act 1209, which provides the requirements for students to earn a functional and practicable workplace Spanish designation on the student's high school transcript.

Adoption of the revised policy should be recommended, and the Board should take action to do so to keep its policies legally correct as well as informative to staff and constituents.

Policy 8405 Environmental Health and Safety Issues - Indoor Air Quality, Animals in the Classroom, and Idling Vehicles on School Property - Technical Correction

Policy 8405 is being revised as a technical correction to omit references to guidelines that do not exist in Indiana.



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Because this is a technical correction, it may be accomplished by resolution as part of the consent agenda without going through the normal policy adoption procedure, provided the Corporation has adopted Bylaw 0131.2. The Superintendent should recommend this action, and the Board should take such action to make this technical correction.

ADMINISTRATIVE GUIDELINES

AG 1521 Personal Background Check - New

AG 1521A Reports of Arrest, Criminal Charges, Convictions and Substantiated Child Abuse or Neglect - Revised

AG 3121 Personal Background Check - Revised

AG 3121A Reports of Arrest, Criminal Charges, Convictions and Substantiated Child Abuse or Neglect - Revised

AG 4121 Personal Background Check - Revised

AG 4121A Reports of Arrest, Criminal Charges, Convictions and Substantiated Child Abuse or Neglect - Revised

AG 8120 Personal Background Check - Volunteers - New

AG 8120A Reports of Arrest, Criminal Charges, Convictions and Substantiated Child Abuse or Neglect - New

AG 8120B Use of Unpaid Volunteer Aides - Technical Correction/Renumbered

AG 8121 Personal Background Check - Contracted Services - New

AG 8121A Reports of Arrest, Criminal Charges, Convictions and Substantiated Child Abuse or Neglect - New

AG 8340 Providing a Reference - Revised

These new and revised guidelines have been added/revised to support the changes/additions in Policies 1521, 3121, 4121, 8120, 8121 and 8340 that resulted from changes made by House Enrolled Act 1005 and Section 8546 of the Every Student Succeeds Act regarding expansion of background checks to include an expanded child protection index check, require that school corporations disclose to another school seeking a reference any known incident in which the employee committed an act resulting in a substantiated report of child abuse or neglect, make unenforceable any confidentiality agreement entered into or amended after June 30, 2016 if the employee committed an act resulting in a substantiated report of child abuse or neglect, and prohibit school employees, contractors, or agents from assisting a school employee, contractor, or agent in obtaining a new job if s/he knows, or has probable cause to believe, that such school employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law. The former AG 8120 has been renumbered to accommodate the addition of the new AG 8120 and AG 8120A.

It is recommended that the use of these new and revised guidelines be approved in order to keep the procedure current.



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AG 3122.01 Drug-Free Workplace - Revised

AG 4122.01 Drug-Free Workplace - Revised

These guidelines have been revised due to changes made to Policies 5530 and 8400 to reflect the formation of a safe school committee for the entire school corporation or safe school committees in each school as alternative options and to delineate the responsibilities of the safe school committee(s). The school corporation should match the policy statement chosen in Policy 8400 to the choice to be made in these revised guidelines.

It is recommended that the use of these revised guidelines be approved so that the guidelines are consistent with the revised policies.

AG 3142 Procedure for Cancellation of Teacher Contracts - Revised

This guideline has been revised to reflect the changes to Ind. Code § 20-28-7.5-2 made by House Enrolled Act 1394 regarding the procedure for the cancellation of teacher contracts.

It is recommended that the use of this revised guideline be approved so that it remains consistent with current law.

AG 3419 Board-Sponsored Wellness Program - New

AG 3421 Federal Group Health Continuation (COBRA) - Replacement

AG 4419 Board-Sponsored Wellness Program - New

AG 4421 Federal Group Health Continuation (COBRA) - Replacement

This new guideline and replacement guideline have been provided to support changes made by the Patient Protection and Affordable Care Act, the Health Insurance Portability and Accountability Act Privacy Rule and the Health Information Technology for Economic and Clinical Health (HITECH) Act.

It is recommended that the use of these new and replacement guidelines be approved so that the guidelines are consistent with the Corporation's policies and to keep the Corporation's procedures consistent with current law.

AG 5460A Graduation Examination - Technical correction

The guideline has been revised to add a reference to Ind. Code § 20-32-4-5.

It is recommended that the Superintendent approve this revised guideline so that it remains current.



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AG 5830 Student Fundraising - Revised

AG 6605 Crowdfunding - New

AG 9700 Fundraising by Charitable Organizations - Revised

This new guideline and 2 revised guidelines have been developed or revised to address the growing interest in utilizing crowdfunding options available on the Internet, such as "Go Fund Me," for school purposes.

It is recommended that the Superintendent approve these new and revised guidelines to ensure that procedures are in place to address the use of crowdfunding for school purposes consistent with new Policy 6605 and to keep the guidelines consistent with the revisions made to Policies 5830 and 9700.

AG 6700 Fair Labor Standards Act ("FLSA") - New

In order to avoid having the Board adopt a revised policy every three years when the minimum salary is changed for the executive, administrative, learned professionals, and computer employees exemptions from the minimum wage and overtime provisions of the Fair Labor Standards Act ("FLSA"), NEOLA has moved the criteria for these exemptions from Policy 6700 to this new guideline.

It is recommended that this new guideline be approved by the Superintendent so that there are guidelines delineating which employees meet the criteria for exemption from the FLSA minimum wage and overtime provisions in order to remain compliant with Federal law.

AG 8600B Bus Safety Procedures - Revised/Renumbered

AG 8600C Transportation for Special Education Students - Delete/Renumbered

AG 8605 Bus Safety Procedures - Revised/Renumbered

AG 8606 Transportation for Special Education Students - Delete/Renumbered

AG 8605 has been renumbered as AG 8600B and revised to make it consistent with Policy 8606 and current law. AG 8606 has been renumbered as AG 8600C and revised to reflect current law.

It is recommended that use of these revised and renumbered guidelines be approved to remain consistent with current law.



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FORMS

Form 1521F1 - Pre-Employment Requirements - New

Form 1521F2 - Request for a Criminal History Records Check - New

Form 1521F3 - Expanded Criminal History Check and Expanded Child Protection

Index Check Requirements Checklist - New

Form 3121F1 - Pre-Employment Requirements - Revised

Form 3121F2 - Request for a Criminal History Records Check - Revised

Form 3121F3 - Expanded Criminal History Check and Expanded Child Protection

Index Check Requirements Checklist - New

Form 4121F1 - Pre-Employment Requirements - Revised

Form 4121F2 - Request for a Criminal History Records Check - Revised

Form 4121F3 - Expanded Criminal History Check and Expanded Child Protection

Index Check Requirements Checklist - New

Form 8120F1 - Volunteer Release Form - Revised

Form 8120F2 - Request for a Criminal History Records Check - New

Form 8120F3 - Expanded Criminal History Check and Expanded Child Protection

Index Check Requirements Checklist - New

Form 8121F1 - Contracted Services Release Form - New

Form 8121F2 - Request for a Criminal History Records Check - New

Form 8121F3 - Expanded Criminal History Check and Expanded Child Protection

Index Check Requirements Checklist - New

These new forms provide a checklist that can be used to ensure compliance with the expanded criminal history check and expanded child protection index check required by State law.

It is recommended that the use of these new forms be approved to provide a reference for Corporation employees who must conduct background checks on new employees.

Form 7430F5 - Notice to Staff Members - Revised

This form has been revised to reflect the addition of certain policies that should be included in the Notice to Staff Members which are relevant to each of the listed categories.

It is recommended that the use of this revised form be approved so that it includes references to all of the relevant policies.



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COMMENTS

Electronic Access to Management Documents

If you are interested in finding out more about NEOLA's system for producing the policies, guidelines, and forms for a Corporation, as well as other documents such as handbooks and negotiated agreements on the Internet, ask your NEOLA representative for a demonstration in your office. All that is required is that you have a computer and access to the Internet.

Reviewing Board Minutes

A feature of your subscription to the Update Service is the review of your Corporation's Board minutes to identify action that results 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 Corporation 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.



NEOLA of INDIANA TEMPLATES

NEOLA, Inc.

SPECIAL RELEASE – NOVEMBER 2016

INFORMATION AND TECHNOLOGY - PHASE I

OVERVIEW AND COMMENTS

Corporation-Specific Material

Although the proposed (New) and (Revised) policies included in this collection have been thoughtfully prepared and reviewed by NEOLA's legal counsel for statutory compliance, it is the responsibility of each school corporation to decide which policies and the specific language to include in its own unique policy collection. If the Corporation makes changes, or substitutes in its entirety policies or other materials of the Corporation's own drafting, those materials should be reviewed by the Corporation's legal counsel to verify compliance. NEOLA does not review Corporation-specific edits to update materials or Corporation-specific policies for statutory compliance.

If the Corporation chooses to adopt a (New) policy or guideline or incorporate Corporation-specific material into an existing policy or guideline other than what has been proposed by NEOLA, then the Corporation agrees to hold NEOLA harmless for those Corporation-specific edits and acknowledges that NEOLA's warranty for legal challenges to that Corporation-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 Corporation-specific material has been added. Corporation-specific materials include the following:

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



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

This Special Release includes:

Bylaw 0100 - Definitions (Revised)

Policy 7540 - Technology (Revised)

Policy 7540.01 - Technology Privacy (Revised)

Policy 7540.02 - Web Content, Apps and Services (Revised)

ADMINISTRATIVE GUIDELINES

AG 7540A - Staff and Student Training Regarding the Internet (New)

AG 7540.02 - Web-Content and Functionality Specifications (Revised)

FORMS

Form 7540 F4 - Permission to Photograph and Audio- Video- or Digitally-Record Release to Utilize (Revised)

Form 7540.01 F1 - Permission to Use/Install Personal Software (Revised)

The revisions to current policies and the (New) policies included in this Special Release reflect the current state and federal law and regulations related to technology, including interpretation of the same by the Department of Education, Office for Civil Rights, and should be adopted to maintain accurate policies.