

# Introductions

Steve Richart, Speaker

- *Partner, Hodges Loizzi Eisenhammer Rodick & Kohn*



Debra Jacobson, Speaker

- *Associate General Counsel/PRESS Editor, Illinois Association of School Boards*



Cathy Nelson, Moderator

- *Assistant Superintendent of Business Services, Crystal Lake Elementary District 47*



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# Understanding the Legal Impacts of Section 4 of PRESS's Policy Manual



April 30, 2025, Schaumburg

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# Agenda for Today

1. Section 4 Overview
2. Policy 4:10: Fiscal and Business Management
3. Policy 4:30: Revenue and Investments
4. Policy 4:50: Payment Procedures
5. Policy 4:60: Purchases and Contracts
6. Policy 4:80: Accounting and Audits

# What is a Board Policy?

- Board Policy is law (*Veazey v. Rich Twp. HSD*)
- Protects Board by requiring minimum legally-required actions
- Boards/policies often add requirements beyond the minimum legal requirements
- BUT Board may vote to waive policy requirements not required by law/contract (See Policy 2:240 Board Policy Development)

# What is a Board Policy?

How do you know when a policy goes beyond law?

- Check PRESS footnotes
- Check with attorney

# What is a Board Policy?

HYP0: Your Board Policy 4:10 (Fiscal and Business Management) provides, “The Superintendent shall present to the Board, no later than the first regular meeting in June, a tentative budget...”

This is not a requirement of law, but an extra requirement imposed by a past Board. This year, the budget cannot be completed until July. What can/should you do?

--in May, ask Board to vote to waive the policy requirement.

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# Full Table of Contents of Section 4

## BOARD OF EDUCATION POLICY MANUAL TABLE OF CONTENTS SECTION 4 - OPERATIONAL SERVICES

### 4:10 Fiscal and Business Management

4:15 Identity Protection

4:20 Fund Balances

### 4:30 Revenue and Investments

4:40 Incurring Debt

4:45 Insufficient Fund Checks and Debt Recovery

### 4:50 Payment Procedures

4:55 Use of Credit and Procurement Cards

### 4:60 Purchases and Contracts

4:70 Resource Conservation

### 4:80 Accounting and Audits

4:90 Student Activity and Fiduciary Funds

4:100 Insurance Management

4:110 Transportation

4:120 Food Services...

...

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# Full Table of Contents of Section 4 (cont'd)

BOARD OF EDUCATION POLICY MANUAL  
TABLE OF CONTENTS (CONT'D)  
SECTION 4 - OPERATIONAL SERVICES

...

...

- 4:130 Free and Reduced-Price Food Services
- 4:140 Waiver of Student Fees
- 4:150 Facility Management and Building Programs
- 4:160 Environmental Quality of Buildings and Grounds
- 4:165 Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors
- 4:170 Safety
- 4:175 Convicted Child Sex Offender; Screening; Notifications
- 4:180 Pandemic Preparedness; Management; and Recovery
- 4:190 Targeted School Violence Prevention Program

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# Pop Quiz: What Policy Speaks to Each Issue?



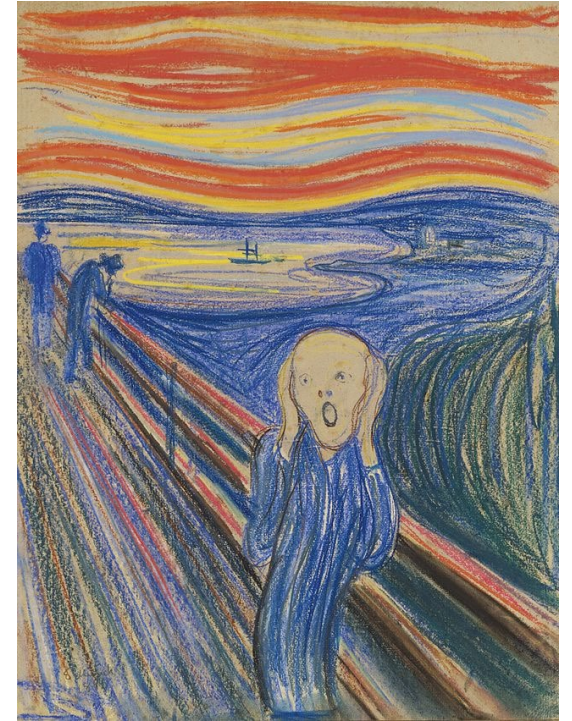
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# Pop Quiz: What Policy Speaks to Each Issue?

1. Background checks of contractors' employees?
2. Student fees?
3. Issuance of bonds?
4. Collection of delinquent accounts?
5. Notifications of pesticide applications?
6. Bus routes?
7. Private scholarship fund managed by district?
8. Credit card limits?
9. Safety drills?
10. Budget and tax levy procedures?



# Policy 4:10:Fiscal and Business Management



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# Policy 4:10:Fiscal and Business Management

What laws apply to the budget?

- School Code* (17-1 & other provisions)
- ISBE regs (23 Ill. Adm. Code 100.90)



# Policy 4:10:Fiscal and Business Management

## Standard PRESS:

### Budget Planning

...The Superintendent shall present to the Board, no later than the first regular meeting in August, a tentative budget with appropriate explanation.\*fn This budget shall represent the culmination of an ongoing process of planning for the fiscal support needed for the District's educational program. The District's budget shall be entered upon the Ill. State Board of Education's (ISBE) *School District Budget Form*. (fn omitted) To the extent possible, the tentative budget shall be balanced as defined by ISBE guidelines. The Superintendent shall complete a tentative deficit reduction plan if one is required by ISBE guidelines. (fn omitted)

\*fn The board must designate a person(s) to prepare a tentative budget. 105 ILCS 5/17-1. The purpose of this policy's directive for the superintendent to present a tentative budget "no later than the first regular meeting in August" is to ensure that the budget can be adopted by September 30. A board may amend this directive to give the superintendent additional flexibility by requiring him or her to present a tentative budget "during a regular Board meeting in August."

# Policy 4:10:Fiscal and Business Management

## Standard PRESS:

### Preliminary Adoption Procedures (w/o footnotes)

After receiving the Superintendent's proposed budget, the Board sets the date, place, and time for:

1. A public hearing on the proposed budget, and
2. The proposed budget to be available to the public for inspection.

The Board Secretary shall arrange to publish a notice in a local newspaper stating the date, place, and time of the proposed budget's availability for public inspection and the public hearing. The proposed budget shall be available for public inspection at least 30 days before the time of the budget hearing.

Green = legally optional

# Policy 4:10:Fiscal and Business Management

**HYPOTHESIS:** There are less than 30 days between the August and September regular Board meetings on the Board meeting calendar. You won't be able to finish the tentative budget in time for the July meeting, and it will be too late to present it in August since it's less than 30 days from the September regular meeting. Of course, the law requires the final budget to be adopted by September 30<sup>th</sup>. What can/should you do?

-in July, ask BOE to waive policy requirement that BOE sets the public hearing AFTER receipt of the proposed budget.

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# Policy 4:10:Fiscal and Business Management

## Standard PRESS:

### Budget Amendments

The Board may amend the budget by the same procedure as provided for in the original adoption.

### Implementation

The Superintendent or designee shall implement the District's budget and provide the Board with a monthly financial report that includes all deficit fund balances. The amount budgeted as the expenditure in each fund is the maximum amount that may be expended for that category, except when a transfer of funds is authorized by the Board.

Green = *arguably* legally optional (not optional according to ISBE, but *School Code* calls budget an “estimate” and there’s no “budget police” on this issue)



# Policy 4:10:Fiscal and Business Management

**HYPOTHESIS:** You find out in early June that you will exceed the budgeted expenditures for the Transportation Fund this fiscal year. It's too late to adopt an amended budget due to the 30-day notice and public hearing timeline for adoption of a budget or amended budget. What can/should you do?

-ask BOE to waive policy requirement that budgeted amount is maximum that can be expended with respect to the Transportation Fund for the fiscal year.

- Might need to do a deficit reduction plan if annual audit reveals that a budget would have been unbalanced if it had been properly amended, per ISBE reg.

# Policy 4:10:Fiscal and Business Management

What laws apply to the tax levy?

- School Code* (multiple provisions)
- Property Tax Code* (including the *Truth In Taxation Law*)

# Policy 4:10:Fiscal and Business Management

## Standard PRESS:

Final Adoption Procedures (w/o footnotes)

...

The Superintendent or designee shall perform each of the following:

...

2. File a certified copy of the budget resolution and an estimate of revenues by source anticipated to be received in the following fiscal year, certified by the District's Chief Fiscal Officer, with the County Clerk within 30 days of the budget's adoption.
3. Ensure disclosure to the public of the cash reserve balance of all funds held by the district related to its operational levy and, if applicable, any obligations secured by those funds, at the public hearing at which the Board certifies its operational levy.

# Policy 4:10:Fiscal and Business Management

## Standard PRESS:

### Final Adoption Procedures (w/o footnotes) (cont'd)

...

4. Present a written report that includes the annual average expenditures of the District's operational funds for the previous three fiscal years at or before the board meeting at which the Board adopts its levy. In the event the District's combined cash reserve balance of its operational funds is more than 2.5 times the annual average expenditures of those funds for the previous three fiscal years, the Board will adopt and file with ISBE a reserve reduction plan by December 31.

5. Make all preparations necessary for the Board to timely file its Certificate of Tax Levy, including preparations to comply with the Truth in Taxation Act; file the Certificate of Tax Levy with the County Clerk on or before the last Tuesday in December. The Certificate lists the amount of property tax money to be provided for the various funds in the budget.

(Note: Item 4. is unnecessary if your District receives federal impact aid funding.)

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# Policy 4:10:Fiscal and Business Management

For the tax levy, the PRESS policy doesn't add much to the legally required minimum



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# Policy 4:30: Revenues and Investments



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# Policy 4:30: Revenues and Investments

What laws apply to banking/investments?

- School Code* (multiple provisions, mostly Article 8)
- Public Funds Investment Act* (requires investment policy)



# Policy 4:30: Revenues and Investments

## Standard PRESS:

### Investments

The Superintendent shall either appoint a Chief Investment Officer or serve as one.\*fn The Chief Investment Officer shall invest money that is not required for current operations, in accordance with this policy and State law.\*\*fn

...

\*fn: Districts having a chief business official may use this alternative: “The Chief Business Official shall serve as the District’s Chief Investment Officer.” If a Township Treasurer manages the district funds, substitute this sentence: “The Township Treasurer shall serve as the Chief Investment Officer.”

\*\*fn: Treasurers are authorized by 105 ILCS 5/8-7 to enter into agreements regarding the deposit, investment, and withdrawal of district funds



# Policy 4:30: Revenues and Investments

## Standard PRESS:

### Authorized Investments

The Chief Investment Officer may invest District funds in one or more of the following:

1. Bonds, notes, certificates of indebtedness, treasury bills, or other securities now or hereafter issued, that are guaranteed by the full faith and credit of the United States of America as to principal and interest.

.....[items 2-13 omitted, but are critical limitations on authorized investments]

The Chief Investment Officer and Superintendent shall regularly consider material, relevant, and decision-useful sustainability factors in evaluating investment decisions, within the bounds of financial and fiduciary prudence. Such factors include, but are not limited to: (1) corporate governance and leadership factors, (2) environmental factors, (3) social capital factors, (4) human capital factors, and (5) business model and innovation factors, as provided under the Ill. Sustainable Investing Act, 30 ILCS 238/.

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# Policy 4:30: Revenues and Investments

**HYPOTHESIS:** A neighboring school district wants to issue taxable tax anticipation warrants at a 5% interest rate. You want the district to invest in them, but it is not listed as one of the authorized investments under Policy 4:30. What can/should you do?

- Talk to your Board and Superintendent
- Check with bond counsel
- Ask bond counsel if Policy 4:30 needs to be revised to accomplish this. (PRESS 4:30 includes some “catchall” provisions in the list that might be interpreted as allowing investment in tax anticipation warrants.)

# Policy 4:30: Revenues and Investments

## Standard PRESS:

### Selection of Depositories, Investment Managers, Dealers, and Brokers

The Chief Investment Officer shall establish a list of authorized depositories, investment managers, dealers and brokers based upon the creditworthiness, reputation, minimum capital requirements, qualifications under State law, as well as a long history of dealing with public fund entities. The Board will review and approve the list at least annually.

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# Policy 4:30: Revenues and Investments

## Standard PRESS:

### Controls and Report

The Chief Investment Officer shall establish a system of internal controls and written operational procedures to prevent losses arising from fraud, employee error, misrepresentation by third parties, or imprudent employee action.

The Chief Investment Officer shall provide a quarterly investment report to the Board. The report will: (1) assess whether the investment portfolio is meeting the District's investment objectives, (2) identify each security by class or type, book value, income earned, and market value, (3) identify those institutions providing investment services to the District, and (4) include any other relevant information. The investment portfolio's performance shall be measured by appropriate and creditable industry standards for the investment type.

...

# Policy 4:30: Revenues and Investments

## Standard PRESS:

The Board will determine, after receiving the Superintendent's recommendation, which fund is in most need of interest income and the Superintendent shall execute a transfer. This provision does not apply when the use of interest earned on a particular fund is restricted.

### Ethics and Conflicts of Interest

The Board and District officials will avoid any investment transaction or practice that in appearance or fact might impair public confidence. Board members are bound by the Board policy 2:100, Board Member Conflict of Interest. No District employee having influence on the District's investment decisions shall:

1. Have any interest, directly or indirectly, in any investments in which the District is authorized to invest,
2. Have any interest, directly or indirectly, in the sellers, sponsors, or managers of those investments, or
3. Receive, in any manner, compensation of any kind from any investments in that the agency is authorized to invest

# Policy 4:50: Payment Procedures



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# Policy 4:50: Payment Procedures

What laws apply to payment procedures?

- School Code* (multiple provisions, mostly Article 8)
- Local Government Prompt Payment Act*



# Policy 4:50: Payment Procedures

## Standard PRESS:

The Treasurer shall prepare a list of all due and payable bills, indicating vendor name and amount, and shall present it to the School Board in advance of the Board's first regular monthly meeting or, if necessary, a special meeting. These bills are reviewed by the Board, after which they may be approved for payment by Board order. Approval of all bills shall be given by a roll call vote, and the votes shall be recorded in the minutes. The Treasurer shall pay the bills after receiving a Board order or pertinent portions of the Board minutes, even if the minutes are unapproved, provided the order or minutes are signed by the Board President and Secretary, or a majority of the Board.\*fn

\*fn: Except for the payment of social security taxes and recurring bills, 105 ILCS 5/8-16 permits the treasurer to "pay out funds of the school district only upon an order of the board signed by the president and clerk or secretary or by a majority of the board." 105 ILCS 5/10-20.19 grants the treasurer authority to pay bills after receipt of "a certified copy of those portions of the board minutes, properly signed by the secretary and president, or a majority of the board." As minutes are not approved until the following meeting, a literal reading of this statute would result in late payments. The policy uses a pragmatic solution: the treasurer may pay bills upon receiving a board order or minutes, even if the minutes are unapproved, provided the order or minutes are signed by the president and secretary, or a majority of the board

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# Policy 4:50: Payment Procedures

## Standard PRESS (footnotes omitted):

The Treasurer is authorized, without further Board approval, to pay Social Security taxes, wages, pension contributions, utility bills, and other recurring bills. These disbursements shall be included in the listing of bills presented to the Board.

The Board authorizes the Superintendent or designee to establish revolving funds and a petty cash fund system for school cafeterias, lunchrooms, athletics, or similar purposes, provided such funds are maintained in accordance with Board policy 4:80, Accounting and Audits, and remain in the custody of an employee who is properly bonded according to State law

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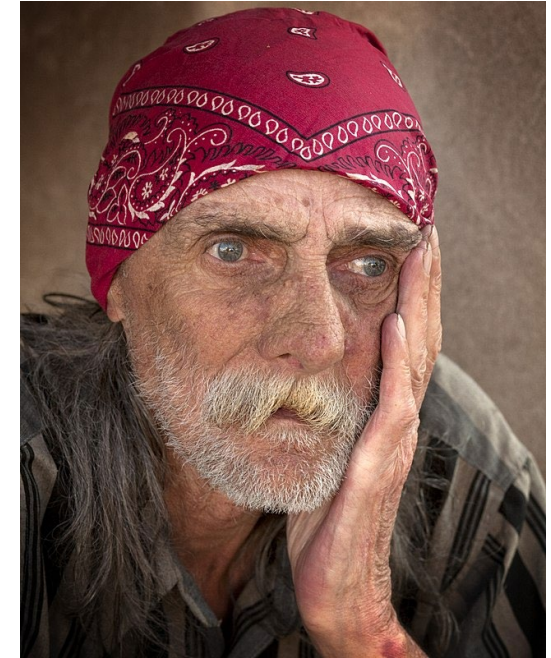
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# Policy 4:50: Payment Procedures

PRESS Policy 4:50 contains no additional requirements beyond the law.

Local boards sometimes include provisions for July payment of bills in advance of board approval.

Check with your attorney!



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# Policy 4:60: Purchases and Contracts



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# Policy 4:60: Purchases and Contracts

What laws apply to purchases and contracts?

- School Code* (multiple provisions, mostly 10-20.21)
- Many additional laws (See IASB Guide to Statutes Affecting Public Schools, “Property and Contracts”)
- grant regulations/GATA

# Policy 4:60: Purchases and Contracts

## Standard PRESS:

### Standards for Purchasing and Contracting

All purchases and contracts shall be entered into in accordance with applicable federal and State law. The Board Attorney shall be consulted as needed regarding the legal requirements for purchases or contracts. All contracts shall be approved or authorized by the Board.

...

Adoption of the annual budget authorizes the Superintendent or designee to purchase budgeted supplies, equipment, and services, provided that State law is followed. Purchases of items outside budget parameters require prior Board approval, except in an emergency.\*fn

\*fn: An optional addition follows: “Notwithstanding the above, the Superintendent shall not commit to any single, non-customary purchase or expenditure, excluding personnel, of greater than \$ \_\_\_\_\_ without prior Board approval.” This optional provision’s intent is to provide an internal control as well as to keep the board involved when the district is making a large purchase or expenditure, e.g., copiers, computers, textbooks, or something that might not happen every year. It is intended to cover purchases/expenditures regardless of whether they were previously budgeted.

Green = optional

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# Policy 4:60: Purchases and Contracts

**HYPO:** A Board member complains that she did not approve a \$50,000 DEI-related contract, and she accuses you of violating Policy 4:60 which provides, “All contracts shall be approved or authorized by the Board.” What is your response?

-Was attorney consulted? Was contract within language allowing Superintendent or designee to purchase budgeted services? Does District use PRESS AP1?

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# Policy 4:60: Purchases and Contracts

## Standard PRESS:

### Standards for Purchasing and Contracting

When presenting a contract or purchase for Board approval, the Superintendent or designee shall ensure that it complies with applicable federal and State law, including but not limited to, those specified below:

1. Supplies, materials, or work involving an expenditure in excess of \$35,000 must comply with the State law bidding procedure, 105 ILCS 5/10-20.21, unless specifically exempted.

...[omitted: items 2-9, all reflecting legal requirements]



# Policy 4:60: Purchases and Contracts

Legally, what contracts require Board approval?

- All of them under School Code 10-20.21?
- All contracts required to be bid under 10-20.21?
- Contracts generating revenue in excess of \$1,000 under 10-20.21?
- Construction/change orders?
- No bid emergency expenditures approved by  $\frac{3}{4}$  of Board
- Real estate contracts (other School Code provisions)
- Personal property leases/installment contracts (other School Code and statutory provisions)
- Intergovernmental agreements (Intergov't Coop. Act)
- Contracts with allowable Board member conflict of interest (10-9)

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# Policy 4:60: Purchases and Contracts

**HYPO:** What if the District purchases \$50,000 of paper during the school year, but purchases it in batches that are each under \$35,000?

- PRESS language doesn't address, but watch out for local policy language (e.g., requiring bidding if \$35k expenditure is "within a school year")
- Watch out for "stringing" accusations (Class 4 felony)

# Policy 4:60: Purchases and Contracts

## Standard PRESS Administrative Procedures:

4:60-AP1 – Purchases

4:60-AP2 – Third Party Non-Instructional Contracts

4:60-AP3 – Criminal History Records Check of Contractor Employees

4:60-AP4 – Sexual Misconduct Related Employment History Review (EHR) of Contractor Employees

4:60-AP5 – Federal and State Award Procurement Procedures

4:60-AP5, E Exhibit – Internal Procedures for Procurement Transactions

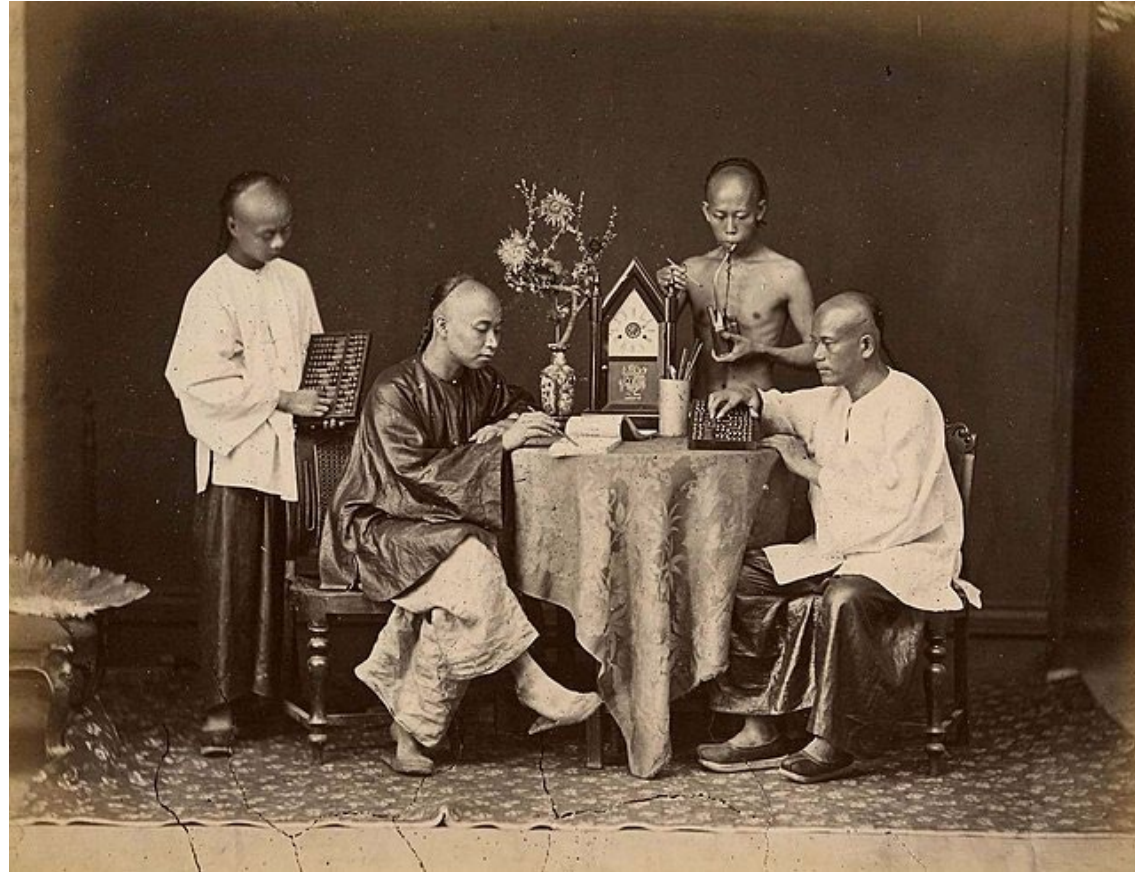
4:60-E Exhibit – Notice to Contractors (re: *Prevailing Wage Act*)

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# Policy 4:80: Accounting and Audits



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# Policy 4:80: Accounting and Audits

What laws apply to accounting and audits?

- School Code* (multiple provisions)
- ISBE accounting regulations
- GATA/grant regulations

# Policy 4:80: Accounting and Audits

## Standard PRESS (footnotes omitted):

### Annual Audit

At the close of each fiscal year, the Superintendent shall arrange an audit of the District funds, accounts, statements, and other financial matters. The audit shall be performed by an independent certified public accountant designated by the Board and be conducted in conformance with prescribed standards and legal requirements. A complete and detailed written audit report shall be provided to each Board member and to the Superintendent. The Superintendent shall annually, on or before October 15, submit an original and one copy of the audit to the Regional Superintendent of Schools. (optional language re: audit committee and auditor selection)

### Annual Financial Report

The Superintendent or designee shall annually prepare and submit the Annual Financial Report on a timely basis using the form adopted by the ISBE. The Superintendent shall review and discuss the Annual Financial Report with the Board before it is submitted.

# Policy 4:80: Accounting and Audits

Standard PRESS (footnotes omitted):

## Capitalization Threshold

To be considered a capital asset for financial reporting purposes, a capital item must be at or above a capitalization threshold of \$5,000 and have an estimated useful life greater than one year.

## Disposition of District Property

The Superintendent or designee shall notify the Board, as necessary, of the following so that the Board may consider its disposition: (1) District personal property (property other than buildings and land) that is no longer needed for school purposes, and (2) school site, building, or other real estate that is unnecessary, unsuitable, or inconvenient. Notwithstanding the above, the Superintendent or designee may unilaterally dispose of personal property of a diminutive value. The Superintendent shall establish procedures for the disposition of property acquired by the District under grant awards that comply with federal and State law.

# Policy 4:80: Accounting and Audits

**HYPO:** What must the District do to get rid of old Chromebooks?

- Notify Board so Board may consider disposition
- School Code* allows disposition of surplus personal property via “public or private sale”—no bidding needed
- Follow procedures for any grant-funded equipment



# Policy 4:80: Accounting and Audits

## Standard PRESS Administrative Procedures:

4:80-AP1 – Checklist for Internal Controls

4:80-AP2 – Fraud, Waste and Abuse Awareness Program

4:80-AP3 – Inventory Management for Federal and State Awards

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# You Made It!



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# Questions and Answers

*We thank you for your time!*

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