

HLERK

HODGES, LOIZZI, EISENHAMMER, RODICK & KOHN

MONTHLY TICKLER

CONSUMER PRICE INDEX

Percent Changes As Reported by the Bureau of
Labor Statistics

For the month of August, 2005

Urban Wage
Earners & Clerical

	All Urban (CPI-U)	Workers (CPI-W)
Chicago-Monthly	0.8	1.0
12 Month	2.9	3.3
St. Louis-6 Month	1.9	2.0
12 Month	3.3	3.4
U.S.-Monthly	0.5	0.6
12 Month	3.6	3.8

September CPI Figures were released October 23, 2005.
Visit the CPI at <http://stats.bls.gov/eag/eag.us.htm>

Reminders/Notes

- We wish to thank each of the record number of attendees at the IASA/HLERK sponsored *Regional Conferences on Recent Developments in School Law*. If you were not able to attend you may purchase a copy of the comprehensive conference Handbook by sending in the attached Order form.
- Join us at our annual reception at the IASB/IASA/IASBO Joint Annual Conference on Saturday, November 19th. Please attend the HLERK attorney programs at the Conference which will be summarized in the November *Tickler*.
- Remember that on January 1, 2006, [amendments to the Open Meetings Act](#) go into effect regarding posting of meeting agendas on school websites.

The *Tickler* is intended solely to provide information to the school community. It is neither legal advice nor a substitute for legal counsel. The *Tickler* is intended as advertising but not as a solicitation of an attorney/client relationship.

Superintendent Performance Evaluation Exempted From Disclosure Under Freedom of Information Act--An Illinois Appellate Court recently upheld a school district's denial of a newspaper's request under the [Illinois Freedom of Information Act](#) ("FOIA") for access to certain documents related to performance of a superintendent whom the Peoria Board of Education had placed on paid administrative leave.

The school district had denied the newspaper's FOIA request for two performance evaluations of the superintendent and for a letter sent by the board president to the superintendent explaining the board's reasons for the leave and its intention to "buy out" the rest of the superintendent's contract. The district claimed the information was *per se* exempt under FOIA because it was part of the superintendent's personnel file.

The appellate court, reversing the trial court, found that any document properly in an employee's personnel file is *per se* exempt from public disclosure under FOIA. The court then determined that because employee evaluations are properly and normally part of a personnel file, the evaluative material was exempt from disclosure to the public. [Copley Press v. Bd. of Ed. for Peoria Sch. Dist. No. 150](#), (3rd App. Dist.).

Contact Heather Brickman or Debra Kaplan with your FOIA inquiries or to request a complimentary copy of the Copley decision.

Regional Board of School Trustees Refuses to Hear Detachment Petition Due to Lack of Jurisdiction--The Whiteside County Regional Board of School Trustees recently held that a petition to detach substantial territory from River Bend School District No. 2 did not contain the signatures of at least two-thirds of the voters in the affected area, as required by the *School Code*.

The case, successfully defended by HLERK attorneys **Vanessa Clohessy** and **Shayne Aldridge**, involved the unique issue of the eligibility of "inactive" voters to be included in the count of the total eligible registered voters in the proposed detachment area.

In order to determine the number of required signatures for the petition, the Regional Superintendent requested the total number of eligible voters in the detachment area from the Whiteside County Clerk. The Clerk included "inactive" voters in his total voter count for determining the two-thirds signature requirement.

The Committee of Ten argued that "inactive" voters could not vote in elections and the Board of Trustees could not include them as eligible voters for the purpose of making the required signature determination. A lower total number of eligible voters would lower the number of signatures the Committee would have needed for its petition. The Committee asked the Regional Board to disregard the County Clerk's inclusion of "inactive" voters in the total count.

The Regional Board of Trustees accepted the County Clerk's original total eligible voter list which included the "inactive" voters. River Bend School District also submitted nearly 150 signatures of individuals who had originally signed the petition but desired to have their names removed from the petition. With a higher signature requirement threshold and having numerous signatures

removed, the Regional Board found that the petition did not meet the minimum statutory requirements for jurisdiction, which would allow the Board to hear the merits of the case.

If you would like more information, please contact Vanessa Clohessy or Shayne Aldridge.

Illinois Circuit Court Further Restricts What Costs May Be Covered by Tort Immunity Levies--The Stephenson County Circuit Court has held that school districts may *not* use tort immunity funds to pay for basic risk management activities of employees that are a part of their normal job functions.

The tax objectors in this case challenged several schools' uses of tort immunity funds towards employees' salaries for general risk reduction activities. The court found that the monies were improperly used because the employees were not acting in accordance with a formal "risk management" plan. The court identified four basic steps involved in a formal risk management process: risk assessment, identification of risk reduction techniques, implementation of risk reduction techniques, and periodic review of the techniques in place.

The court also held that the tort funds could not be used for a remedial program aimed at improving race relations. Finally, the schools' use of funds to purchase routine safety equipment was improper, but the funds could be used to pay for employee training in such areas as OSHA and ergonomics.

As a trial court opinion, it is only binding on the parties before the court, but many school districts are facing tax objections based on similar claims.

For more information, please contact Stan Eisenhammer or Debra Kaplan.