

THE  
**Extra Mile**  
GOING THE EXTRA MILE SO YOU DON'T HAVE TO

**ARRA Fund Awards Require Enhanced Audits and Budget Amendments**--Pursuant to a pre-existing federal regulation relating to grant audits, school districts receiving *American Recovery and Reinvestment Act* ("ARRA") funding may need to have an enhanced financial audit. This enhanced audit, the A-133 Single Audit, is required for all school districts expending \$500,000 or more in federal funds during their fiscal year.

The calculation of this threshold funding amount must include the last five payments of the school district's General State Aid (GSA), as these are now considered federal funds. As a result, ISBE is anticipating that ap-

proximately 200 additional school districts will now be required to have an A-133 Single Audit performed.

The A-133 Single Audit is an organization-wide audit including both the school district's financial statements and its federal awards. Only a CPA firm qualified to do so may conduct an A-133 Single Audit. School districts should ask their auditor if their district requires an A-133 Single Audit and if their auditor meets the necessary criteria to conduct A-133 audits.

ISBE emergency rules for Fiscal Year 2009 also require school districts to amend their budgets related to receipt of ARRA funds. ISBE is

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**Illinois Supreme Court Rules School District Must Release Superintendent's Contract Upon Request Under FOIA**--In a decision issued May 21, 2009, the Illinois Supreme Court has finally ruled on the treatment of employment contracts under FOIA, resolving conflicting appellate decisions.

As reported in our [June, 2008](#) issue, the appellate court in *Stern v. Wheaton-Warrenville CUSD 200* previously held that, although the superintendent's employment contract could not be considered *per se* exempt as part of a personnel file (as the trial court had ruled; see [April, 2007, Extra Mile](#)) because it contains information bearing on the public duties of the employee, it must be reviewed to determine whether any portion of the contract does not bear on public duties and is exempt as a clearly unwarranted invasion of personal privacy.

On appeal, the Illinois Supreme Court held more strictly that an employment contract is not the kind of record the General Assembly intended to keep from public view and does not fall within the exemption for personnel files under section 7(1)(b)(ii) of FOIA.

The Court further opined that, by its very nature, the superintendent's employment contract, *as a whole*, constitutes information that bears on public duties and

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**Consumer Price Index**

Percent change for the month of **April, 2009**, for the urban wage earners & clerical indices as reported by the Bureau of Labor Statistics.

	All Urban (CPI-U)	Workers (CPI-W)
Chicago-Mthly	0.2	0.2
12 Mth	-2.2	-2.6
St. Louis-6 Mth	0.4	0.2
12 Mth	2.5	2.6
U.S. Mthly	0.2	0.3
12 Mth	-0.7	-1.3

May CPI figures will be released June 18, 2009. For the most recent CPI, visit our website at: [www.hlerk.com](http://www.hlerk.com)

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**Reminders & Notes**

- **Adopt a resolution to transfer or designate interest earnings on funds before June 30 to prevent conversion to principal under ISBE regulations.**
- **Remember that special educator work load plans are to be in effect for the 2009-10 school year (unless a collective bargaining agreement requires a later date). Contact Mike Loizzi or Bennett Rodick concerning your work load plan.**
- **HLEK is pleased to announce a newly revised edition of our acclaimed *A School Board Member's Handbook*. Order yours today by sending in the attached form. Every board member and administrator will need this vital resource.**

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**ARRA Cont.**

taking the position that a budget amendment will be required if a district is expending ARRA funds in FY 2009 and: 1) these expenditures are not budgeted in the current budget; or 2) the total expenditures in any fund are more than the district's current budget.

The ISBE website information includes the Emergency Rules for Fiscal Years 2010-2012 at:

[http://www.isbe.net/rules/archive/pdfs/23IAC100EmergAmnd\\_Code.pdf](http://www.isbe.net/rules/archive/pdfs/23IAC100EmergAmnd_Code.pdf)

as well as further information regarding A-133 Single Audits at: <http://www.isbe.net/funding/html/a133.htm> and general information on ARRA funding at: <http://www.isbe.net/arra/default.htm>.

**Please contact Heather Brickman or Barb Erickson with your ARRA inquiries.**

**FOIA Cont.**

thus disclosure of a superintendent's contract, and employment contracts generally, does not constitute an invasion of personal privacy under section 7(1)(b).

The Court determined, however, that such contracts should be reviewed prior to disclosure to determine whether they contain any personal information (such as a social security number or bank account information) which, if disclosed, would constitute an unwarranted invasion of personal privacy and could be redacted. *Stern v. Wheaton-Warrenville Community Unit School District 200*, 2009 WL 1416105 (Ill.).

Although the Court's decision gives school districts a measure of needed clarity on this issue, such relief may

be short-lived due to the rewrite of FOIA by the General Assembly. If signed by the Governor, school districts will need to comply with the amended FOIA effective January 1, 2010.

HLEK will review the impact of *Stern* as well as the new FOIA requirements at our IASA sponsored seminars, *The Year in Review: The Highlights and Lowlights of Illinois School Law 2009*. Registration will soon be available, and you should have already received your "save the date" memo containing the dates/locations of the October, 2009 seminars.

**Contact Rob Swain or Heather Brickman with you FOIA inquiries. We look forward to seeing you at our IASA sponsored fall conferences.**

**Driving Not a "Major Life Activity" Under the ADA--**The Seventh Circuit Court of Appeals (which governs all Illinois school districts) recently held that driving is *not* a major activity as defined by the *Americans with Disabilities Act* ("ADA") as recently amended.

In *Winsley v. Cook County*, 08-2339 (April 27, 2009), the Court of Appeals found that a nurse, rendered unable to drive due to post-traumatic stress disorder precipitated by a car accident, was not "disabled" within the meaning and intent of the ADA.

The court found that while driving on public roads "is a privilege subject to revocation," the court also acknowledged that an inability to drive could create a disability in situations where an individual is prevented

from performing a class of or a broad range of jobs. Because the claimant was unable to establish that her inability to drive "disqualified her from a class or range of jobs," she could not establish an ADA claim.

The court found that the activity of driving could be distinguished from the "major life activit[ies]" enumerated in EEOC regulations and the examples of major life activities listed in the amended Act.

The ADA, as recently amended, will impact school districts in a variety of ways. We will discuss the impact of the ADA Amendments and *Winsley* at our IASA sponsored conferences.

**Contact Tina Chistofalos or Bennett Rodick with your ADA/504 inquiries.**

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