

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

**Happy Holidays!**--As 2010 comes to an end, we wish to thank each of our clients and friends for placing their trust and confidence in HLERK. We especially wish to thank the many new school districts and cooperatives, statewide, who joined our client family in 2010 and entrusted us with their legal needs.

2011 promises to be a challenging year for Illinois school districts and cooperatives as the economic tsunami washes over more and more school districts. In addition, school districts will have to adapt to a more demanding legal environment including the upcoming reauthori-

zation of NCLB and IDEA, new teacher and administration evaluation requirements and increasing numbers of ISBE and OCR complaints and investigations. We hope that you will continue to use the *Extra Mile* as well as the wide variety of HLERK inservice programs to help you manage your legal risk in a time of financial crisis.

*Of course, with the Holidays and winter break approaching, we wish you our best for a safe, happy and healthy Holiday season. We look forward to continuing to provide you with legal information you often will find nowhere else.*

**New Law Prohibits Disclosure of Performance Evaluations under FOIA**--On December 1, 2010, the Illinois legislature overrode Governor Quinn's amendatory veto and enacted into law [House Bill 5154](#), which prohibits public access to performance evaluations.

The new law, effective immediately, provides, "disclosure of performance evaluations under the Freedom of Information Act shall be prohibited," by adding this language to the *Personnel Record Review Act*, rendering all public employees' evaluations off-limits in response to FOIA requests.

The bill originally passed both houses in April. However, at the urging of the press and government watchdog groups, the Governor amendatorily vetoed the bill and attempted to limit its application to state and local police officers' evaluations, citing a need to allow the recent FOIA overhaul to be given time to work without significant amendments. Now, the legislature has overridden the Governor's amendatory veto (by margins of 77-36 in the House and 48-3 in the Senate), enacting House Bill 5154 into law as it originally passed both houses.

As a result of this new legislation, school districts (and all other public bodies) are required to withhold ALL public employee evaluations in response to

**Continued on Page 2**

Offices:

Arlington Hts. 847-670-9000

Belleville 618-355-7850

**Consumer Price Index**

Percent change for the month of **October 2010**, for the urban wage earners & clerical indices as reported by the Bureau of Labor Statistics.

	All Urban (CPI-U)	Workers (CPI-W)
Chicago-Mthly	0.0	0.0
12 Mth	0.8	1.2
St. Louis-6 Mth	1.1	1.2
12 Mth	2.3	2.8
U.S. Mthly	0.1	0.1
12 Mth	1.2	1.5

November CPI figures will be released December 18, 2010. For the most recent CPI, visit our website at: [www.hlerk.com](http://www.hlerk.com)

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

**Reminders & Notes**

- Join **Mike Loizzi** and **Cindi DeCola** at the Illinois Association of School Personnel Administrators Fifth Annual Conference at the Hyatt Lisle on January 27 and 28, 2011. Mike will present the keynote address on *Current Trends and Strategies in Bargaining*, while Cindi will address the conference regarding personnel records. Visit [www.iaspa.org](http://www.iaspa.org) for registration.
- Join **Jay Kraning** and **Bennett Rodick** at IAASE's Winter Conference in Springfield on January 20-21, 2011 at the Crowne Plaza in Springfield. Bennett will present a keynote address on the *Good, Bad & the Ugly* and join Jay on an attorneys' panel the following day. Information and the registration form are available at [www.iaase.org](http://www.iaase.org).

**School Districts Mandated to Utilize “Diabetes Care Plans” as Part of Student’s Section 504 Plans**-- On December 1<sup>st</sup>, the Illinois legislature took action to override the Governor’s prior veto of the *Care of Students with Diabetes Act (House Bill 6065)*. The Act, effective immediately, requires school districts to work with parents to develop a “diabetes care plan” to serve as the basis of a student’s Section 504 plan.

The law specifies what must be included in a diabetes care plan submitted by a parent to a school, including treating health care provider’s instructions (to be submitted by the parent or guardian), services and accommodations written in accordance with the current standard of diabetes care, a record of blood sugar readings

and insulin administrations, and authorization for a student to self-manage his or her diabetes at school, if applicable.

The law also allows a district to ask employees other than nurses to assist students with their diabetes care. Such employees, referred to as “delegated care aides,” must be properly trained in diabetes care in order to provide care to a student. Employees may refuse to act as delegated care aides without penalty from a district. Finally, the Act requires all school districts to provide training on basic diabetes care during a regular in-service training.

***To learn more about the specific requirements of this law, please contact Nancy Krent or Debra Jacobson.***

**ISBE Hearing Officer Upholds Tenured Teacher Dismissal for Consuming Alcohol While Supervising Students**--In a recent key decision, ISBE Hearing Officer Peter Meyers found that Granite City School District properly dismissed a tenured teacher because that teacher consumed alcohol while supervising students on the school trip. In this case, successfully defended by HLERK’s **Stephanie Jones** and **Tina Christofalos**, the teacher involved was the lone supervisor on a trip to a volleyball tournament.

Prior to the tournament, one student saw beer cans in the coach's room. After the tournament, the teacher invited another student to her room to visit with an alum and the teacher, and the alum consumed alcohol in front of the student.

The Hearing Officer found that the teacher's behavior was immoral, unprofessional, and against Board policy.

Because students were aware of the teacher's drinking, the Hearing Officer found that the teacher had damaged her credibility and viability as a role model and teacher, and that the damage could not be repaired. Accordingly, the Hearing Officer held that the teacher's conduct was irremediable and upheld the dismissal of the teacher.

***Tenured teacher dismissal proceedings present complex challenges for school districts. Contact Tina or Stephanie with questions about your teacher discipline and dismissal inquiries or request a copy of the decision.***

***Performance Evaluations Cont.*** FOIA requests. Previously only evaluations of teachers, principals and superintendents were prohibited from disclosure under the *School Code* since January 2010.

The new law, therefore, simplifies responding to FOIA requests for employee evaluations by clarifying that all FOIA requests for public employee evaluations may be denied by citing to FOIA exemption 7.5(q) and Section 11 of the *Personnel Record Review Act*.

Please note that disclosure of a public employee’s performance evaluation in response to a FOIA request could result in the employee filing a complaint with the Illinois Department of Labor.

***As we move into year two of the new FOIA, the complexities of implementation continue to grow. Contact Steve Richart or Heather Brickman with your FOIA inquiries.***

CONTACT US:  
info@hlerk.com

3030 Salt Creek Lane . Suite 202 . Arlington Heights, Illinois 60005  
23 Public Square . Suite 260 . Belleville, Illinois 62220