

**DRAFT: RESOLUTION OF WPS60 PARENT-TEACHER ADVISORY COMMITTEE
TO REQUEST AN ETHICAL REVIEW BY
WAUKEGAN COMMUNITY UNIT #60 SCHOOL DISTRICT
OF ITS PATTERNS AND PRACTICES
OF FOIA RESPONSES AND INTERNAL INFORMATION-SHARING**

June 18, 2020

Ethical and Legal Obligations of the Board

WHEREAS, this Board of Education takes seriously its ethical and legal duties to the community served; and

Independent Guide and Advisor to Board of Education of Waukegan Community Unit #60

WHEREAS, the Parent-Teacher Advisory Committee is a community committee tasked with providing guidance and advising the Board of Education from a perspective that is distinct and separate from that of the superintendent, counsel, and administrators; and

Board of Education Duty To Set Parameters for FOIA Officer

WHEREAS, the Board of Education delegates its information-sharing decisions to its FOIA officer; and

WHEREAS, it is the responsibility of the Board of Education to ensure that its values and priorities are upheld by its agents, including FOIA officers; and

Denials of Information Prevent Support, Success, Oversight, and Improvement

WHEREAS, this Board of Education, through its FOIA officer, has continually denied or delayed responses with public information to the detriment of the functioning of the Waukegan Community Unit #60 School District; and

Improper Designation of PTAC as “Repeat Requester” Despite Nonprofit, Public Interest, and Academic Nature of Requester

WHEREAS, the FOIA officer for the Board of Education improperly designated the Parent-Teacher Advisory Committee as a ‘repeat requester’ and subjected this Board of Education to ethical and legal challenges; and

Disregard of Taxpayers, Education, Students, Parents, and Teachers

WHEREAS, the FOIA officer of the Board of Education operates in a manner to limit the sharing of information in a manner defiant of the principles of the Freedom of Information Act and in a manner that limits transparency with reckless disregard of the educational and financial

interests of the taxpayers, the school community, the students, the parents, the teachers, and the administration; and

Statutory Basis for Requests of Information

WHEREAS, the information sought is fundamental to the work required by statute of the Board of Education with its PTAC; and

WHEREAS, school administrators and counsel for this Board of Education have blocked internal sharing of information; and

WHEREAS, internal requests of the School District for the same information by PTAC have been denied and ignored; and

WHEREAS, individual members of the Parent-Teacher Advisory Committee and PTAC as a body have made requests of information regarding discipline policies and the implementation of discipline policies in order to have sufficient information to do the legally mandated work of the committee for the Board of Education and the community; and

WHEREAS, PTAC has requested information that substantiates programs and practices that the school district purports to offer and to conduct; and

WHEREAS, on November 23, 2019, PTAC made a FOIA request for documents that would demonstrate this School District's attempt to comply with SB 100, stating, "Provide documents, memoranda, reports, recommendations, or any written material that demonstrates the school district's steps taken to ensure that a suspension of four days or more is only allowed if 'other appropriate and available behavioral and disciplinary interventions have been exhausted' and the 'student's continuing presence in school would pose a threat' to safety or 'substantially disrupt, impede, or interfere with the operation of the school.' 105 ILCS 5/10-22.6(b-20). Include at least one example that demonstrates the availability and use of other behavior interventions and the process used to document when they have been 'exhausted.'" [FOIA request, #5A]; and

WHEREAS, FOIA requests #3A and #4A requested the production of records related to implementation of other aspects of SB 100; and

WHEREAS, no records reflect the compliance or implementation of changes that would lead to compliance with SB 100 or its guidance to limit exclusion from the classroom; and

WHEREAS, parents and guardians served by the Waukegan Community Unit #60 School District consistently found that the instructions provided from the School District were difficult to decipher; and

WHEREAS, children went without meals and without academic materials due to communications issues; and

WHEREAS, PTAC requested to be added to the email list in order to resolve the communication gap; and

WHEREAS, that request was denied by this School District; and

WHEREAS, on April 30, 2020, a request was made [#22A] for copies of communications from the school District to students, parents, guardians, or families of students since the Covid-19 outbreak; and

WHEREAS, that request for public information has been denied without legal basis; and

WHEREAS, PTAC on March 11, 2020, requested the production of “documents that refer to how the review of January 24, 2016, was presented to the Board of Education and how the Board’s actions demonstrate its participation in the review;” [#21A] and

WHEREAS, the review of January 24, 2016, had been submitted to PTAC as a purported example of a previous annual review of pupil discipline policies and of the implementation of those policies, but was never substantiated or shown to have been conducted with the Board of Education as required by law; and

WHEREAS, the request regarding the “review” of January 24, 2016, [#21A] that was made on March 11, 2020, was following up on a request made November 23, 2019, [#1A] to which no timely or sufficient response had been offered; and

WHEREAS, both the denial of the FOIA request made March 11, 2020, and the denial of the FOIA request made on April 30, 2020, fit no exception to the Freedom of Information Act and are contrary to the laws of the State of Illinois and the American system of government; and

WHEREAS, requested on March 10, 2020, “redacted documents released to law enforcement officers that would not have been released if the parent or guardian had signed the ‘release of directory information—Waukegan Police Department’ Handbook, page 77 (2019-2020).” That same request asked for “all documents redacted where appropriate from the years 2015 to the present that would not have been released if a parent or guardian had signed the form;” [#20A] and

WHEREAS, this request has been made internally of the administration for years without replies from the school district to clarify the practical effect and basis for the release of information to the Waukegan Police Department; and

WHEREAS, PTAC explicitly asked, “Has any document been withheld due to a parent having signed this? Have any documents been shared that would have been protected if a parent or guardian had signed the opt-out release form?” [#20A] The administration has refused to provide any explanation for the presence of the release other than vague unsubstantiated references to lost children; and

WHEREAS, denial of this information serves no aspect of the educational mission of the district and defies the laws of the State of Illinois; and

WHEREAS, simply answering these questions (that are in the interests of the parents, the students, and the public and protection of their private information from the police) would have prevented the use of a FOIA request; and

WHEREAS, on page 41 of the 2019-2020 Parent/Student Handbook on Rights and Responsibilities under “Discipline Infractions” the District indicates that warnings, counseling, or other restorative measures are to be applied in cases of inappropriate behavior; and

WHEREAS, internal requests were made of the administration to substantiate that these measures are, in fact, applied in advance of suspensions; and

WHEREAS, these requests were ignored; and

WHEREAS, a FOIA request was denied for documents that would show that such measures had been used in the limited set of circumstances set by ISS and OSS events of the week of September 16, 2019, to September 20, 2019 [#15A]; and

WHEREAS, PTAC’s ability to review the implementation of discipline in order to advise the Board of Education is thus blocked, stymied, and otherwise obstructed by this Board of Education’s administrators through internal denials of information and FOIA denials; and

WHEREAS, the Handbook of 2019-2020 refers to “nonrestrictive interventions and lists social emotional training as an example under Intervention.” [#9A]; and

WHEREAS, PTAC has made repeated requests for evidence that substantiates the claim by this School District that social emotional training and other nonrestrictive interventions have been used in advance of exclusion from the classroom; and

WHEREAS, the request through FOIA of November 27, 2019, was denied after internal administrative requests were made for data or information or records to support the contention of the administration that nonrestrictive interventions are used throughout the district [9A]; and

WHEREAS, the request stated; “Provide documents that indicate whether, how many times, and at which schools social emotional training has been used in the school district in the school years 2017-2018 to the present school year. Provide documents that set forth the manner in which social emotional training is conducted, including instruction, training, step-by-step guides, or any record in any medium that facilitates the use of this nonrestrictive intervention.” [#9A]

WHEREAS, on November 27, 2019, a separate request similarly identified peer mediation as an example of nonrestrictive interventions that PTAC has sought to review with respect to its implementation in the School District [#8A]; and

WHEREAS, these requests were denied both internally and through FOIA. The FOIA officer indicated that this would be answered by the Office of Student Outreach. The office of student outreach had only one school that had used nonrestrictive interventions; and

~~WHEREAS, requests for records December 2, 2019, regarding “the school district’s tolerance for racist or sexist slurs” and requesting “what sort of behavior would lead to the removal of a teacher from contact with students or from that teacher’s position of employment with the district” [14A] resulted in no written document but an oral answer that indicated no clear line existed; and~~

~~WHEREAS, that answer only came after an unnecessary delay of months; and~~

WHEREAS, the November 28, 2019, FOIA request, “The time period sought in this request is January through November of 2019. Provide documents in any form , voicemails, emails, or records in any form that include or refer to recommendations, suggestions, ideas, or expressions of support or criticism from faculty or other employees with respect to discipline policies at the school or at the school district or with respect to the implementation of discipline policies at the school or school district,” [#11A] was denied with only an oral reply that no one had made a complaint; and

WHEREAS, teachers have reached out to PTAC to assure PTAC that teachers have criticized and complained about the lack of training in relation to discipline policies; and

WHEREAS, a written reply to the FOIA request is required; and

WHEREAS, other requests [#10A] were similarly denied by virtue of negative responses that were delivered orally and improperly; and

WHEREAS, the Board of Education and the administration of the School District are public officials and public employees whose official acts, policies, and affairs are subject to review by all persons; and

WHEREAS, “all persons are entitled to full and complete information regarding the affairs of government” according to the FOIA Act; and

WHEREAS, “such access is necessary to enable the people to fulfill their duties of discussing public issues fully and freely, making informed political judgments and monitoring government to ensure that it is being conducted in the public interest,”

WHEREAS, “it is a fundamental obligation of government to operate openly and provide public records as expediently and efficiently as possible in compliance with this Act;” and

~~**FOIA Officer Puts Restraints on Access Contrary to Laws of the State of Illinois**~~

WHEREAS, “restraints on access to information, to the extent permitted by this Act, are limited exceptions to the principle that the people of this State have a right to full disclosure of information relating to the decisions, policies, procedures, rules, standards, and other aspects of government activity that affect the conduct of government and the lives of any or all of the people;” and

WHEREAS, “this Act shall be construed to require disclosure of requested information as expediently and efficiently as possible and adherence to the deadlines established in this Act;” and

WHEREAS, “the General Assembly declares that providing records in compliance with the requirements of this Act is a primary duty of public bodies to the people of this State, and this Act should be construed to this end, fiscal obligations notwithstanding.,” and

~~Presumption is with the Person Making the Request~~

WHEREAS, the legal presumption is with the person making the request, according to the laws of the State of Illinois, and “all records in the custody or possession of a public body are presumed to be open to inspection or copying. Any public body that asserts that a record is exempt from disclosure has the burden of proving by clear and convincing evidence that it is exempt;” and

Exceptions to “Recurrent Requester” Status

WHEREAS, “for purposes of [clarification of the status of a recurrent requester] requests made by news media and non-profit, scientific, or academic organizations shall not be considered in calculating the number of requests made in the time periods in this definition when the principal purpose of the requests is (i) to access and disseminate information concerning news and current or passing events, (ii) for articles of opinion or features of interest to the public, or (iii) **for the purpose** of academic, scientific, or **public research or education;**” and

PTAC fits into multiple exceptions to “Recurrent Requester” status

WHEREAS, the Parent-Teacher Advisory Committee as a body that is a non-profit and educational body that operates in the public interest for academic purposes fitting squarely into the category of requesters that may not be deemed repeat requesters; and

BE IT RESOLVED that the Parent-Teacher Advisory Committee (PTAC) respectfully requests that the Board of Education:

1. ~~Review for itself both the Open Meetings Act tutorial and the FOIA tutorial offered on the webpage of the Illinois Attorney General; and~~
2. Direct its FOIA officer(s) to recognize that **the District’s Parent-Teacher Advisory Committee, in its nonprofit and academic role for government-mandated reviews of**

discipline implementation for this school district, should receive its replies according to the statute without “calculating the number of request made in the time periods in this definition” because the principal purpose of the requests is for the purpose of public research or education. ~~[insert the exceptions that fit PTAC] and~~

3. ~~Direct its FOIA officer that it shall not treat PTAC requests for information as those of a recurrent requester; and to cease in its treatment of PTAC as a repeat requester; and~~
4. Create a set of guidelines by which it would like its FOIA officer to respond to requests (PTAC or another outside body can help); and
5. Seek through the State of Illinois the assistance of an Inspector General (or other appropriate oversight agent) with respect to the practices of the FOIA officer(s);
6. Meet with the community and with PTAC for an open discussion about how to correct the failure of the School District to provide necessary information for this School Board and the PTAC to be able to review the implementation of policies related to discipline; and
7. ~~Make some of the FOIA requests moot by providing answers to the questions or by removing the~~ Remove misrepresentations in the Handbook ~~regarding~~ ongoing nonrestrictive programs of peer mediation, social emotional learning, and other claimed but not practiced programs in the School District if the basis for withholding data from PTAC is that they are not in place or in general practice throughout the District; and
8. ~~Obviate the need for FOIA requests of public information by directing~~ its Communications Department to add any or all members of PTAC (upon request by individual members) to the email list and the texting and robocall lists used when messages are sent to parents and guardians or to students; and
9. Demand that its legal counsel recall its fiduciary duty to its client and to advise the Board of Education (for the purposes of cost-benefit analysis) regarding the total time spent this year on **discretionary** (at *best*, since some of these denials are improper and against Illinois law besides being against public interest) denials of FOIA requests and the costs involved with those denials, specifically to quantify the time spent on (a) substantiating its denials of FOIA requests; (2) drafting correspondence related to its denials of FOIA requests; and
10. Advise its administrators to share information where permitted by law with the Parent-Teacher Advisory Committee or other school committees without requiring a FOIA request.

NOTE: PTAC understands that counsel for the School District has advised administrators against internal sharing, suggested that we make a FOIA request for the information, and then denied those FOIA requests with claims that PTAC should be obtaining this information internally.