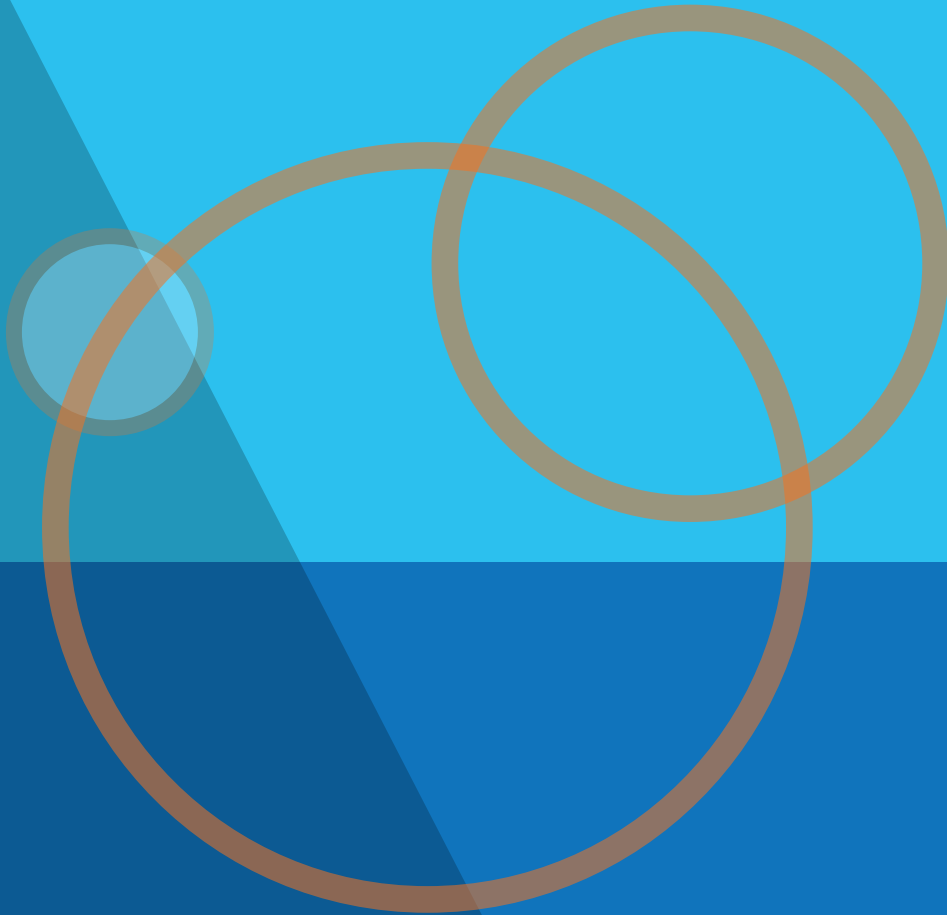




Leaders *for* Learning

# *The Policy Review Project*

*An Overview of the Policy Revision Process &  
Practical Guidance for Updating School Board Policy*



The Alabama Association of School Boards  
*in association with*  
Bishop, Colvin, Johnson & Kent LLC

**THE AASB POLICY  
REVIEW PROJECT**

## *Project Goals and Objectives*

Comprehensive policy revision should accomplish several important goals, including the following:

- Simplifying policy manuals
- Improving the utility of the policy manual as a means of translating broad philosophical principles into sound day-to-day decisionmaking
- Increasing the Board's decisionmaking flexibility without compromising legal compliance or consistency
- Minimizing the Board's overall liability and the direct liability that can be created by policies themselves
- Recognizing relevant distinctions between true policy matters and other forms of administrative pronouncements, regulations, and directives

## ***Methods and Means of Accomplishing Policy Project Goals***

Specific strategies that are essential to effective policy revision include the following:

- Reducing the number of policies and the size of the overall policy manual
- Shortening and simplifying the text of policies
- Reorganizing and renumbering the policy manual to group related policies, avoid redundancy, and to employ logical arrangement and sequencing of sections of the manual
- Updating policies to conform to current legal standards and requirements
- Carefully selecting policy topics and text so as not to increase the Board's legal obligations and administrative burdens

## ***Decisions Regarding the Policy Revision Process for the Board and the Superintendent***

Before embarking on a comprehensive revision of policies, boards and superintendents should consider these questions:

- How much of the existing policy manual to change (tweak/update vs. wholesale revision/replacement)
- How “lean” to make the revised manual (begin with the premise “less is more,” recognizing that some policies call for more detailed treatment than others)
- What policies are essential and what matters should rise to the level of policy (vs. other official pronouncements such as administrative regulations, internal operating procedures, and *ad hoc* directives)
- Who is to be included in the revision process
- What is the timetable for overall adoption

# **PERSPECTIVES ON POLICY ADOPTION**

## ***The Nature of Policies in the School Board Context***

The term “policy” is not defined by Alabama statute, and available judicial definitions are not especially helpful (*e.g.*, “the principles underlying the school system”). However, the process of policy adoption is governed by statute (ALA. CODE §16-1-30 [1975]). On occasion, courts have declared official action (*e.g.*, adoption or revision of salary schedules) to be a matter of policy even if the board itself has not chosen to do so. Depending on the context, other types of official statements or pronouncements can be considered matters of policy, and the distinction between “policies,” “procedures,” and like directives is not always clear-cut. Administrative procedures and handbooks, personnel manuals, discipline codes, and operational manuals are sometimes considered to be “official policy.”

## ***Why an Understanding of School Board Policies is Important***

Policy adoption is required by statute with respect to a number of areas of school board administration, and the policy adoption process is governed by statute. Having (and following) sound policy is “good policy” because it protects the board and board employees in a number of legal contexts (*e.g.*, federal civil rights claims, corporal punishment liability, insurance coverage, etc.). Well-conceived policies also promote fairness, consistency, and common sense in decisionmaking. Conversely, mistakes in adoption, amendment, or adherence to policies can result in litigation and increased liability exposure and can frustrate the exercise of otherwise legitimate administrative discretion.

Careful planning and drafting is important because policies can function as the equivalent of contracts, laws, or regulations and thereby create legal obligations for boards and their administrators. Policies cannot ordinarily lessen requirements that are imposed by law, but can impose greater burdens and obligations on boards of education than would otherwise be established by the law itself.

## *When is a Policy Appropriate?*

Policies can create financial, administrative, and legal obligations and liabilities for boards that would not otherwise exist. Careful consideration should thus be given to whether or not a policy is truly necessary to address a problem or perceived obligation. A policy is appropriate:

- When mandated by state or federal statute, state administrative regulation, or case law (court decision)
- When required or desired to provide for the orderly administration of school system affairs
- When a uniform or consistent approach to a recurring problem or circumstance is advisable or desirable
- When a written policy is the best way of communicating basic information about governing standards, principles, and procedures, etc., to persons affected by them
- When the absence of policy guidance has led or will likely lead to inconsistent, inequitable, or ill-considered administrative decisions

## *When Is a Policy Not Appropriate?*

A policy is not called for:

- When the policy is prompted by an unusual, isolated, or extreme situation or event (e.g., student left in school bus)
- When the policy is a response to pressure from political/interest groups or organizations
- When the policy is motivated by a desire to be seen as “taking a stand,” “making a statement,” or “doing something” to address a perceived problem
- When the primary purpose of adopting the policy is to show sympathy, concern, or support for a popular cause or position
- When a less formal pronouncement (or no formal pronouncement) can accomplish the desired purpose equally well
- When a policy is adopted simply because other school systems have a policy on the subject
- When an employee organization has offered to share (or to prepare) a policy that has been “recommended” or “approved” by the organization
- When the board is not convinced that staff, employees, and other school system representatives will understand and apply the policy conscientiously and consistently

## ***Policy Pitfalls***

When developing (or revising) a policy manual, the board should strive to avoid common pitfalls that frustrate the purposes of policy adoption:

- **Failing to follow procedural requirements for policy adoption** – The Code of Alabama establishes procedures that must be followed by the board in adopting or amending policy. A written recommendation from the superintendent for the adoption or amendment of policy is required. In addition, the board (through its superintendent) must consult with designated representative(s) of the local employee organization whose parent organization represents the majority of school employees statewide. After the policy is adopted, it must be “made available” to all employees affected and employed by the board within 20 days after adoption. These procedural requirements must also be followed when a policy is being amended or revised. The board should take care to document its compliance with required procedures.
- **Adopting too many policies on too many topics** – The temptation to address every important issue in the form of policy can be a strong one. However, attempting to anticipate and resolve every problem through policy or to “codify” every good idea and noble aspiration is a mistake. However well intentioned, the adoption of too many policies leads to a policy manual that is unmanageable and difficult to access. An unwieldy policy manual is typically ignored and largely useless. Worse, administrative practices that are at odds with official (if long-forgotten) policy create board liability and credibility problems.

- **Adopting policies that are too detailed, too restrictive, or too general to serve any real purpose** – Policies that are too detailed, specific, and narrow in focus do not lend themselves to consistent, faithful application. The goal of policy should be to provide guidance and enough flexibility to allow administrators to comfortably apply the policy in varying factual contexts. Policies that amount to mere truisms, tautologies, or abstract statements of philosophy (e.g., sexual harassment, drug use, unlawful discrimination “is a violation of board policy”) are of limited value. Conversely, policies that are overwritten (“under no circumstances shall a bus driver or aide ever leave a parked school bus for any period of time while any child remains on the bus”) create absolute standards that cannot (and that will not) always be met.
- **Adopting policies that recite or restate statutory or regulatory requirements** – Avoid the tendency to use policies as a means of compiling and summarizing laws affecting school board operations. Statutes, regulations, and court decisions are constantly evolving. Policies that amount to a restatement of the law will be obsolete (and sometimes inconsistent with the law) when the law itself changes. Such policies also contribute mightily to chronic PPP (“pointless policy proliferation”).

## *Questions to Ask Before Adopting a Policy*

The decision to adopt a policy--even a well-drafted one--should be carefully considered. Answering the following questions can assist boards in determining whether the benefits of adopting a proposed policy outweigh the burdens and risks inherent in policy administration:

- Does the situation or need that triggered consideration of the policy require “legislation,” or can the problem be addressed as well or better by an *ad hoc* (one time) measure/response?
- Is the proposed policy comprehensible and user friendly? Can it be understood and applied by administrators, teachers, and employees? Is the board willing to provide any training/orientation that may be required?
- Is sufficient breadth and flexibility built into the policy? Does it restrict options or tie hands? Is it drafted in a way that permits its continued application over time (i.e., will it be obsolete in two or three years)?

## ***Practical Recommendations for Avoiding Policy Problems***

The Board can ensure that its policy manual remains current and accomplishes its intended purposes without creating unintended liability by:

- Maintaining an ongoing policy review and revision process
- Considering the adoption of a “sunset” provision for policies that are not renewed within an established time period, or mandating periodic review of policies
- Incorporating disclaimers into policies or adopting a general disclaimer applicable to all policies that:
  - Disavows the contractual nature of policy enactment
  - Disavows any intent to create enforceable substantive or procedural rights
  - Reserves discretion in the board to deviate from or suspend policy under appropriate circumstances
- Treating the adoption of policies as the equivalent of enacting a statute or entering into a binding contract with every person affected by the policy
- Considering whether to treat a proposed rule, course of action, or procedure as a policy, by asking:
  - Whether the contemplated action implicates or affects substantial employee (or student) interests or fundamental educational conditions, criteria, or processes in a continuing way
  - Whether deeming the decision to be a matter of policy will establish an undesirable practical or legal precedent
- Applying the principle of “less is more”

# FIND OUT MORE ABOUT AASB'S 90-DAY POLICY REVIEW & ANALYSIS SERVICE?

*E-mail the following information to [Info@AlabamaSchoolBoards.org](mailto:Info@AlabamaSchoolBoards.org) or fax to 334/270-0000*

Name (Title): \_\_\_\_\_

Board of Education: \_\_\_\_\_

Your E-mail Address: \_\_\_\_\_

Your Telephone (if you'd like us to call you): \_\_\_\_\_

Best time to call you? \_\_\_\_\_

Are you interested in updating or editing an existing policy manual to change or a complete revision or replacement of your policy manual?

Yes  No

Does your board need help determining what policies are essential and what matters should rise to the level of policy versus other official pronouncements (administrative regulations, operating procedures, ad hoc directives, etc.)

Yes  No

What is your board's timetable for overall adoption of the policy manual?

\_\_\_\_\_

Would you be interested in a Policy Making Workshop (free to current AASB members)?

Yes  No

Would you like to purchase a copy of the AASB Policy Reference Guide — a resource for policy development that includes policy samples, Alabama laws, attorney general's opinions and other guidance materials on CD?

Yes  No

What other policy help may AASB provide? \_\_\_\_\_

**Contact Alabama Association of School Boards Policy Services at 800/562-0601,  
[info@AlabamaSchoolBoards.org](mailto:info@AlabamaSchoolBoards.org) or by fax at 334/270-0000.**



## *The Policy Revision Team*

### **The Alabama Association of School Boards**

The Alabama Association of School Boards represents all of the state's local school boards and serves more than 850 education leaders. Founded in 1949, AASB promotes the interests of local lay control of public education. AASB, which is based in Montgomery, offers members an array of services, including boardmanship training, information services, policy research, and risk management programs.

### **Bishop, Colvin, Johnson & Kent, LLC**

The firm of Bishop, Colvin, Johnson & Kent, LLC, has served public and private clients throughout Alabama for more than 60 years and has developed a substantial practice concentration in the area of education law. The firm has broad experience advising and representing public boards of education and other public education agencies in matters involving the full spectrum of claims and issues arising under state and federal law and in drafting school board policies, handbooks, contracts, and school related legislation. The firm also maintains continuing consulting relationships with several boards of education and with the Alabama Association of School Boards.

**Attn: Policy Revision Team  
Alabama Association of School Boards  
P.O. Drawer 230488  
Montgomery, AL 36123-0488  
1-800-562-0601  
[Info@alabamaschoolboards.org](mailto:Info@alabamaschoolboards.org)**