

WITHDRAWN

February 21, 2001

UNFINISHED BUSINESS

REPORT NO.

01-0124-PO4

**Rescind 97-0827-PO4 and Adopt Residency Policy for All
Employees of the Board of Education**

Presented at the Board Meeting of January 24, 2001 and deferred.

**RESCIND 97-0827-PO4 AND ADOPT RESIDENCY POLICY
FOR ALL EMPLOYEES OF THE BOARD OF EDUCATION**

PURPOSE:

The purposes of this policy are to establish consistent, equitable, and enforceable guidelines concerning the Board's requirement that all officers and employees of the Board of Education be residents of the City of Chicago that are consistent with state law, 105 ILCS 5/34-83.1, and to establish new provisions to the residency requirement.

PRESENT POLICY:

The present policy, Board Report 97-0827-PO4, "Amend Residency Policy, 97-0827-PO4, For All Employees of the Board of Education," is hereby rescinded as of the effective date of this policy.

HISTORY OF BOARD ACTION:

On July 9, 1980, the Board adopted its "Resolution to Require Residency Within the City of Chicago of All Personnel Employed by the Board of Education On or after September 1, 1980" (See Resolution #80-149-2). The Board subsequently adopted Board Report 83-110, which superceded the previous resolution and which provided waivers to its residency policy under certain circumstances. On April 18, 1990, the 1983 resolution was amended to provide waivers for employees in "Special Need" categories and for exemption of principals from the residency requirement (See Resolution #90-0418-RS1). On November 20, 1996, the Board adopted its current residency policy, 96-1120-PO1, which exempted employees hired prior to September 1, 1980; allowed any employees hired between September 1, 1980, and August 26, 1996, whose address of record with the Department of Human Resources indicates that he/she resided outside the City of Chicago to continue to live outside the City; and required all new employees to be City residents. As amended, this policy allows a six-month grace period for compliance with the policy for newly hired or rehired employees and for those employees formerly in a special need exemption area.

POLICY TEXT:

INTRODUCTION

The boundaries of the school district under the charge of the Board of Education of the City of Chicago are coterminous with the boundaries of the City of Chicago. It has been, and continues to be, the belief of the governing board of the district that it is desirable to maintain a policy requiring that its officers and employees maintain their residence within the City of Chicago, and that its educational and governmental purposes are best served by the establishment of the residency policy contained herein.

The Board of Education, therefore, deems it proper and appropriate to maintain a residency requirement for its officers and employees for reasons which include, but are not limited to, the following:

- (a) quality of performance of duties by officers and employees of the Board will be enhanced by a more comprehensive knowledge of the conditions existing in the school system and by a feeling of greater personal stake in the system's progress;
- (b) resident officers and employees will be more likely to be involved in school and community activities, thus bringing them into contact with community leaders and citizens;
- (c) absenteeism and tardiness will be diminished;

- (d) economic benefits will accrue to the school system from local expenditure of salaries and the payment of local sales and real estate taxes, and educational benefits will be derived from residency by teachers, administrators and other employees in the City of Chicago.

The Chicago Board of Education, therefore, adopts without the necessity of annual readoption the following residency policy .

DEFINITIONS:

For the purposes of this policy only, the following definitions will apply:

- (a) "Residency" means an employee's domicile, the one actual place where an employee lives and has his or her true, permanent home to which, whenever he or she is absent, he or she has an intention of returning.
- (b) "Employees" means all full-time employees as defined by Section 4-48 of the Rules of the Board of Education of the City of Chicago and officers of the Board. "Employees" does not include the following: day-to-day substitute teachers; part-time employees including part-time Educational Support Personnel employees; full-time provisional substitute teachers; individuals working in the Troops to Teachers program; interns working for the Board on a part-time or temporary basis; or those individuals participating in professional training programs designed to prepare participants for full-time employment as CPS educators.
- (c) "Continuously employed" means employment that has not been interrupted by a break in service.
- (d) "Break in Service" means a loss of employment as a result of discharge, separation, and resignation not followed by rehire within one year. "Reassigned teachers" who are appointed to full-time teaching positions within two years following honorable termination shall not have had a break in service for purposes of this policy.

CURRENT EMPLOYEES HIRED ON OR AFTER NOVEMBER 20, 1996

All employees hired on or after November 20, 1996 will be required to be actual residents of the City of Chicago within six months from the day their employment begins. This residency requirement includes principals. A Sworn Residency statement must be completed by each prospective employee by the time his or her employment with the Board begins. The one exception to this residency requirement will be for employees working in assessed special needs areas. In the event that an employee hired on or after November 20, 1996 no longer works in a special needs area, the employee will be required to establish residency in Chicago within six months after the Board's assessment that the employee no longer works in a special needs area.

CURRENT EMPLOYEES HIRED PRIOR TO NOVEMBER 20, 1996

All employees hired prior to November 20, 1996 - the date when the Board originally adopted a residency policy requiring employees hired on or after November 20, 1996 to reside in Chicago - who have remained continuously employed by the Board shall not be required to live within the Chicago city limits regardless of whether such employees have moved into the city since November 20, 1996. Any employee hired prior to November 20, 1996 who has had a break in service after November 20, 1996 will be required to reside in Chicago within six months after returning to full-time employment with the Board unless the employee works in a Board determined special needs area.

NOTIFICATION OF CHANGE OF RESIDENCY

Employees subject to this policy have an obligation to notify the Board of their change of residency. Notification to the Board of a change of residency shall be made using the procedures, forms and documentation established and provided by the Department of Human Resources. Employees shall provide the Board with a change of residency notice within 60 days after their move.

PROOF OF RESIDENCY

For the purposes of this policy, the question of an employee's residence is principally one of where an employee intends to live and have his or her one true, permanent home or domicile to which an employee intends to return following an absence. The presumption in this policy is that the address an employee gives on a completed Residency Form is that employee's correct address. In disputed cases, the burden of proof rests with the employee to show that his or her claimed residence is the one where the employee intends to live and have as his or her one true permanent home or domicile. Because intent may be manifested in innumerable ways, any residency inquiry must consider all the pertinent factors on a case-by-case basis. Such an inquiry shall consider, but not be limited to, the following factors: voter registration, place of filing tax returns, property ownership, driver's license and car registration.

PENALTIES FOR VIOLATIONS OF THE RESIDENCY POLICY

A. Principals and Tenured Teachers

According to the Illinois School Code, tenured teachers and principals only may be discharged for conduct deemed "irremediable," or for "remediable" conduct which employees have been specifically warned may lead to their discharge if repeated. The School Code defines "irremediable" conduct as conduct which is cruel, immoral, negligent, or criminal or which in any way causes psychological harm or injury to a student. 105 ILCS 5/34-85. The Board shall consider any tenured teacher or principal who intentionally provides falsified documents and/or residential addresses as a means of avoiding the residency requirements set for in this policy **as having engaged in irremediable conduct punishable by discharge**. Other initial violations of this policy that do not involve the intentional falsification of documents and/or residential addresses in order to avoid the requirements of this policy shall not be treated as "irremediable" offenses. Accordingly, in those cases where no falsification of information occurs, a principal or tenured teacher who is subject to this policy may be discharged for failure to comply with the residency requirement if, after receiving a Warning Resolution from the Board, the employee fails to comply with the warning and establish his or her residency in Chicago.

B. Other Employees Subject to the Board's Residency Requirement

All Board employees other than tenured teachers and principals who are subject to the Board's residency requirement and fail to comply may be discharged. An employee in violation of this policy shall receive a written warning signed by the Chief Executive Officer indicating that the employee may be subject to discharge if he or she fails to establish residence in Chicago within six months after receipt of the warning. However, any employee, including newly hired individuals, who intentionally provides falsified documents and/or residential addresses in order to avoid the requirements of this policy shall be considered **as having engaged in irremediable conduct punishable by discharge**.

WAIVER OF RESIDENCY REQUIREMENT THROUGH BOARD ACTION

The Board shall have authority to waive the residency requirement when it determines that such waiver clearly will benefit the educational mission of the Chicago Public Schools. The Board shall determine on a case-by-case basis when a waiver is appropriate.

EDUCATIONAL REVIEW:

A committee consisting of members of the Board of Trustees, Department of Human Resources, Office of Policy and Research, and the Law Department has reviewed this policy.

FINANCIAL:

This policy has been reviewed by the Office of the Chief Fiscal Officer.

LEGAL REFERENCES:

105 ILCS 5/34-83.1; Prior Board Resolutions noted above; Agreements Between the Chicago Board of Education and the Chicago Teachers Union and other Unions; Fagiano v. Police Board, 98 Ill. 2d 277, 283, 456 N.E.2d 27 (1983); Hameetman v. City of Chicago, 776 F.2d 636, 641 (7th Cir. 1985); Vlandis v. Kline, 412 U.S. 441, 454, 93 S.Ct. 2230 (1973).

Approved for Consideration:


COZETTE BUCKNEY
Chief Education Officer

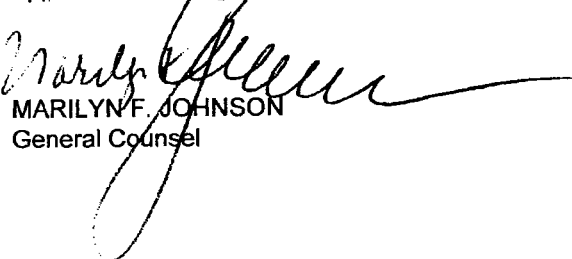
Approved:


PAUL G. VALLAS
Chief Executive Officer

Noted:


KENNETH GOTSCH
Chief Fiscal Officer

Approved as to Legal Form:


MARILYN F. JOHNSON
General Counsel