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TO: The Avoca School District 37 Board of Education

FROM: Suzie Harris, Assistant to the Superintendent 

RE: **Release of Closed Session Minutes and Destruction of Closed Session Recordings**

I have attached the Illinois compiled statutes (ILCS) that apply to the release of closed session minutes and the destruction of closed session recordings.

To summarize, minutes of meetings closed to the public are made available only after the board of education determines that it is no longer necessary to protect the public interest or the privacy of an individual by keeping them confidential. At least semi-annually a board must:

1. Review unopened closed session minutes to determine if their confidential treatment is necessary to protect the public interest or an individual's privacy; and
2. Report the results of the review and release those that no longer need confidential treatment. (5 ILCS 120/2.06 (d)).

In regards to the destruction of closed session recordings, ILCS states that the verbatim record may be destroyed 18 months after the meeting if a board:

1. Has adopted the written minutes for the closed session; and
3. Has approved the destruction of the verbatim record. (5 ILCS 120/2.06 (c)).

On a side note, the release of closed session minutes does not also release the closed session recording. The board would need to approve the release of the verbatim recording separately, but is not required to do so (5 ILCS 120/2.06 (e)).

Avoca's system for review of the closed session minutes has first been performed by the Superintendent, who then meets and reviews his recommendations with the Board President. The minutes that are recommended for release are provided to the Board in a closed session folder for their review prior to the Committee of the Whole meeting, where the board can then request an Open Meetings Act closed session to further discuss the release of the closed session minutes if necessary. The contents of closed session minutes are never discussed in open session. The board approves the release of minutes by resolution during the regular board of education meeting in open session. The destruction of verbatim recordings can be done at any time, however, to keep this type of "house-keeping" uniform we prefer to do this semi-annually along with the release of minutes.

*"The Mission of the Avoca School District
is to maximize the unique potential
of each child."*

(5 ILCS 120/2.06) (from Ch. 102, par. 42.06)

Sec. 2.06. Minutes; right to speak.

(a) All public bodies shall keep written minutes of all their meetings, whether open or closed, and a verbatim record of all their closed meetings in the form of an audio or video recording. Minutes shall include, but need not be limited to:

(1) the date, time and place of the meeting;

(2) the members of the public body recorded as either present or absent and whether the members were physically present or present by means of video or audio conference; and

(3) a summary of discussion on all matters proposed, deliberated, or decided, and a record of any votes taken.

(b) A public body shall approve the minutes of its open meeting within 30 days after that meeting or at the public body's second subsequent regular meeting, whichever is later. The minutes of meetings open to the public shall be available for public inspection within 10 days after the approval of such minutes by the public body. Beginning July 1, 2006, at the time it complies with the other requirements of this subsection, a public body that has a website that the full-time staff of the public body maintains shall post the minutes of a regular meeting of its governing body open to the public on the public body's website within 10 days after the approval of the minutes by the public body. Beginning July 1, 2006, any minutes of meetings open to the public posted on the public body's website shall remain posted on the website for at least 60 days after their initial posting.

(c) The verbatim record may be destroyed without notification to or the approval of a records commission or the State Archivist under the Local Records Act or the State Records Act no less than 18 months after the completion of the meeting recorded but only after:

(1) the public body approves the destruction of a particular recording; and

(2) the public body approves minutes of the closed meeting that meet the written minutes requirements of subsection (a) of this Section.

(d) Each public body shall periodically, but no less than semi-annually, meet to review minutes of all closed meetings. At such meetings a determination shall be made, and reported in an open session that (1) the need for confidentiality still exists as to all or part of those minutes or (2) that the minutes or portions thereof no longer require confidential treatment and are available for public inspection. The failure of a public body to strictly comply with the semi-annual review of closed session written minutes, whether before or after the effective date of this amendatory Act of the 94th General Assembly, shall not cause the written minutes or related verbatim record to become public or available for inspection in any judicial proceeding, other than a proceeding involving an alleged violation of this Act, if the public body, within 60 days of discovering its failure to strictly comply with the technical requirements of this subsection, reviews the closed session minutes and determines and thereafter reports in open session that either (1) the need for confidentiality still exists as to all or part of the minutes or verbatim record, or (2) that the minutes or recordings or portions thereof no longer require confidential treatment and are available for public inspection.

(e) Unless the public body has made a determination that the verbatim recording no longer requires confidential treatment or otherwise consents to disclosure, the verbatim record of a meeting closed to the public shall not be open for public

inspection or subject to discovery in any administrative or judicial proceeding other than one brought to enforce this Act. In the case of a civil action brought to enforce this Act, the court, if the judge believes such an examination is necessary, must conduct such in camera examination of the verbatim record as it finds appropriate in order to determine whether there has been a violation of this Act. In the case of a criminal proceeding, the court may conduct an examination in order to determine what portions, if any, must be made available to the parties for use as evidence in the prosecution. Any such initial inspection must be held in camera. If the court determines that a complaint or suit brought for noncompliance under this Act is valid it may, for the purposes of discovery, redact from the minutes of the meeting closed to the public any information deemed to qualify under the attorney-client privilege. The provisions of this subsection do not supersede the privacy or confidentiality provisions of State or federal law. Access to verbatim recordings shall be provided to duly elected officials or appointed officials filling a vacancy of an elected office in a public body, and access shall be granted in the public body's main office or official storage location, in the presence of a records secretary, an administrative official of the public body, or any elected official of the public body. No verbatim recordings shall be recorded or removed from the public body's main office or official storage location, except by vote of the public body or by court order. Nothing in this subsection (e) is intended to limit the Public Access Counselor's access to those records necessary to address a request for administrative review under Section 7.5 of this Act.

(f) Minutes of meetings closed to the public shall be available only after the public body determines that it is no longer necessary to protect the public interest or the privacy of an individual by keeping them confidential, except that duly elected officials or appointed officials filling a vacancy of an elected office in a public body shall be provided access to minutes of meetings closed to the public. Access to minutes shall be granted in the public body's main office or official storage location, in the presence of a records secretary, an administrative official of the public body, or any elected official of the public body. No minutes of meetings closed to the public shall be removed from the public body's main office or official storage location, except by vote of the public body or by court order. Nothing in this subsection (f) is intended to limit the Public Access Counselor's access to those records necessary to address a request for administrative review under Section 7.5 of this Act.

(g) Any person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body.

(Source: P.A. 99-515, eff. 6-30-16.)