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## Meeting of the Board of Education Park Ridge – Niles School District 64

Regular Board Meeting Agenda  
Tuesday, February 18, 2020  
Jefferson School - Multipurpose Room  
8200 Greendale Avenue  
Niles, IL 60714

*On some occasions, the order of business may be adjusted as the meeting progresses to accommodate Board members' schedules, the length of session, breaks and other needs.*

### 5:30 p.m. Meeting of the Board Convenes

- Roll Call

#### **Board Recesses and Adjourns to Closed Meeting**

--The appointment, employment, compensation, discipline, performance, or dismissal of specific employees, specific individuals who serve as independent contractors, or specific volunteers of the District or legal counsel for the District, including hearing testimony on a complaint lodged against an employee, a specific individual who serves as an independent contractor, or a volunteer of the District or against legal counsel for the District to determine its validity. However, a meeting to consider an increase in compensation to a specific employee of a public body that is subject to the Local Government Wage Increase Transparency Act may not be closed and shall be open to the public and posted and held in accordance with this Act [5 ILCS 120/2(c)(1)]; collective negotiating matters between the District and its employees or their representatives, or deliberations concerning salary schedules for one or more classes of employees [5 ILCS 120/2(c)(2)]; and student disciplinary cases [5 ILCS 120/2(c)(9)].

### 7:00 p.m. Board Adjourns from Closed Meeting and Resumes the Regular Meeting

#### **Pledge of Allegiance & Welcome to Jefferson School**

--Lisa Halverson, Jefferson School Principal

#### **Opening Remarks from President of the Board**

#### **Public Comments**

### A-1 Approval of Meeting Agenda

--Board President

The Board reserves the right to review the agenda at the beginning of each meeting and request additions, amendments, or deletions prior to approval.

- A-2 Student/Staff Recognition**
- District Spelling Bee
  - Science Olympiad
  - Wrestling
  - Park Ridge Community Fund Campaign
- A-3 PT3 Update**  
--Director of Student Services/PT3 Representatives
- A-4 Preliminary Enrollment Projections for 2020-21 School Year and Discussion of 2020-21 Staffing**  
--Chief School Business Official/Assistant Superintendent for Human Resources
- A-5 Approval of Recommended Personnel Report**  
--Board President **Action Item 20-02-2**
- A-6 Update of Long-Range Financial Projections**  
--Chief School Business Official
- A-7 Discussion of Upcoming Third Amendment to Regular & Special Education Transportation Services Contract**  
--Chief School Business Official
- A-8 Discussion of Upcoming Natural Gas Supplier Contract Renewal**  
--Chief School Business Official
- A-9 Discussion of Upcoming Quest Food Management Services Contract Renewal**  
--Chief School Business Official
- A-10 Consent Agenda**  
--Board President **Action Item 20-02-3**
- Bills, Payroll and Benefits
  - Approval of Financial Update for the Period Ending January 31, 2020
  - Second Reading and Approval of Policies from PRESS Issue 102 and Policies 2:230 and 7:30
  - Destruction of Audio Closed Recordings
- A-11 Approval of Minutes**  
--Board President **Action Item 20-02-4**
- January 27, 2020 - Closed Session
  - January 27, 2020 - Regular Meeting
  - February 4, 2020 - Special Meeting
- A-12 Other Discussion and Items of Information**  
--Superintendent
- Upcoming Agenda
  - FOIA Requests

- Memorandum of Information:
  - Update on Unpaid Student Fees
- Minutes of Board Committees (None)

**A-13      New Business**

**Adjournment**

Next Meeting:      **Monday, March 16, 2020**  
Closed Meeting - 6:00 p.m.  
Regular Meeting - 7:00 p.m.  
**Washington School - Multipurpose Room**  
1500 Stewart Avenue  
Park Ridge, IL 60068

In accordance with the Americans with Disabilities Act (ADA), the Board of Education of Community Consolidated School District 64 Park Ridge-Niles will provide access to public meetings to persons with disabilities who request special accommodations. Any persons requiring special accommodations should contact the Director of Facility Management at (847) 318-4313 to arrange assistance or obtain information on accessibility. It is recommended that you contact the District, 3 business days prior to a school board meeting so we can make every effort to accommodate you or provide for any special needs.

Approval of Meeting Agenda

The Board reserves the right to review the agenda at the beginning of each meeting and request additions, amendments, or deletions prior to approval.

TO: Board of Education  
FROM: Dr. Eric Olson, Superintendent  
DATE: February 18, 2020  
RE: Student/Staff Recognition

### **DISTRICT SPELLING BEE**

A total of 115 students participated in the District 64 Spelling Bee this year which began with school competitions for students in grades 3-8. The top three spellers from each school were invited to the District 64 Bee on January 21 at Franklin Elementary School.

The District Bee, which included both spelling and vocabulary rounds, was challenging, going a total of 14 rounds. In the end, Franklin fifth-grader Ayesha Hakeem took top honors by correctly spelling “buffoonery.” Finishing in a tie for second place were fourth-graders Traver Cremins of Roosevelt School and Kevin Pedersen of Carpenter School. Ayesha went on to represent District 64 in the North Cook Regional Spelling Bee on Feb. 4 in Kenilworth. She went eight rounds with the top spellers from the region!

### **SCIENCE OLYMPIAD**

More than 434 participants and 1,000 spectators filled Emerson and Jefferson schools on Saturday for the 2020 Science Olympiad. Students in grades 3-5 were invited to solve a science or engineering challenge while working in teams and representing their home schools. The event supports the Next Generation Science Standards with its emphasis across science, engineering and the application of science.

The young science competitors practiced through the winter to compete in one of five events: Aerodynamics, Egg Drop, Mystery Box, Rubber Band Catapult or Structures. The top three winners in each event received medals. The winners are:

#### **Gold:**

Aerodynamics: Reed Maurer and Tyler Washburn  
Egg Drop Event: Augustin Drozd, Sam Mercado and Nicholas Walendzewicz  
Mystery Box: Linnea Norlock and Sophia Riley  
Rubber Band Catapult: Lincoln Lynch and Bennett Zalinski  
Structures: Nathan Hankla and Gabi Shaw

#### **Silver:**

Aerodynamics: Brandon Dai and Clayton Kallwitz  
Egg Drop: Isabella Griesenauer, Abigail Hayden and Giuliana Madura  
Mystery Box: Sienna Shanahan, Arianna Spiteri and Sophia Turcott  
Rubber Band Catapult: Jerzy Hicks, Samantha Lee and Marina Rice  
Structures: Emily Gilfert, Hafsa Hakeem and Elena Lagis

#### **Bronze:**

Aerodynamics: Andre De Rosa, Liam Duffy, and Mick Gillespie  
Egg Drop (Two-way tie): Nina Bunting and Maggie Potaczek; Chloe Staszal and Natalia Tajalle

Mystery Box (Three-way tie): Olivia Babula and Natalia Syjud; Jackson Adams and James Biagi; and Kieran MacDougall and Avery Udzielak.

Rubber Band Catapult: John Dobrinska and Jason Krause

Structures: Colin O'Brien, Evan Patel and Maddox Tobecksen

Thanks to all the staff and volunteers and especially to the students for their participation!

## **WRESTLING**

D64 is continuing its new practice of inviting our middle school student-athletes to be presented to the D64 Board for recognition. Tonight, D64 will recognize the 2019-20 wrestling teams from both middle schools. Lincoln Middle School offered wrestling for the first time this year. There was great interest from both Emerson and Lincoln with 60-70 students participating.

**Emerson Middle School's** wrestlers had a terrific season. The team finished with an 8-4 record, winning more than 60 percent of matches as a team! The season culminated at the Holmes Invitational Wrestling Tournament, where Emerson had three champions, two seconds, six thirds, two fourths, and one fifth-place finisher. As a team, Emerson finished third overall in the tournament. *(Coach Erich Marx)*

**Lincoln Middle School's** wrestling season started off on shaky ground and filled with uncertainty. But it ended with many triumphs. The small but mighty team worked hard at practice and performed well at the end-of-season conference meet. Three of our wrestlers finished in first place, two of them finished in second place, one in third and one in fifth. We are absolutely looking forward to next year's season and the absolute dominance we plan on bringing upon the other schools in our region. We would not have been as successful as we were if it wasn't for the guidance of Emerson Coach Erich Marx and our volunteer coaches Jake Bess and Mike Lanansa. *(Coach Katherine May)*

## **PARK RIDGE COMMUNITY FUND / 2019 EMPLOYEE CAMPAIGN**

It is our pleasure to report that District 64 employees and retirees contributed **\$17,326.04** to the 2019 Park Ridge Community Fund campaign during November and December. It was a wonderful community-building opportunity to combine efforts across the District in support of local social service agencies. Overall, the 2019 campaign was *record-breaking!* In all, 40 percent of employees contributed with a great turnout from our retirees as well.

A major factor in the success of this year's campaign was the focused outreach of the building representatives. Thanks to the following PRCF representatives: **Carpenter** - Holly Barrett, Joan Hoffman, Aimee Bergeron; **Field** - Katie Balogi, Jenny Fragale; **Franklin** - Laura Rousakis, Bianca Scroggins Shirlee Pater; **Jefferson** - Carrie Carmichael, Kathy Hirsch; **Roosevelt** - Linda Mirza, Amalya Wagner; **Washington** - Brittney Joyce, Sara Born; **Emerson** - Patty McLean; **Lincoln** - Tim Gleason; **ESC** - Dr. Eric Olson.

There were prize incentives for participants as well as opportunities to bid in silent auctions. Thanks to several business partners who contributed sports events tickets for these auctions. We would not be able to raise as much money as we did without the generosity of these partners.

Thanks to all for their generosity and commitment to the PRCF!

To: Board of Education  
Dr. Eric Olson, Superintendent  
From: Dr. Lea Anne Frost, Director of Student Services  
Date: February 18, 2020  
Re: PT3 Board Update

### Background

In the spring of 2018, D64 created a parent and staff group, naming it *Parents and Teachers Talking Together* or PT3. Initially, this group worked together to define features and issues related to improving the in-district special education programs and services. They further structured the group to consist of five smaller sub-groups: curriculum, staff training, district, students, and parent training.

In the fall of 2018, PT3 members concentrated on organizing the group by building relationships, establishing a PACT (Positively Addressing Challenges Together) and creating a purpose. In the spring of 2019, subgroups began working together on a monthly basis addressing activities. At the end of the school year, the group had:

- Created a mission for Special Education
- Constructed a parent survey in which the results were shared with the Board at the July 2019 Board meeting, and
- Created a professional development needs assessment, as required by IDEA, that was sent to every D64 employee. This information was compiled and reviewed for the planning of professional development training this school year.

### PT3 Update

PT3 has met on six occasions this school year: September 24, October 23, November 6, December 3, January 14 and February 13.

Our September 24 meeting served as a means to welcome new members, review the various groups and their roles (PT3, All Abilities, and the Special Education Board Committee), review the structure of PT3 and consider additional components (sub-group facilitators, public forum, and use of the audit). The group also met within their sub-groups to begin determining activities for the upcoming year.

Based upon information and comments gathered at the September 24 meeting, our October 23 meeting focused on the audit. Specifically, a chart was reviewed that contained the LMT and Padavic recommendations and its alignment to the findings reported to the Board. This chart also

contained progress in the department as noted from the July 2019 End-of-the-Year report and items to continue to address.

The November 6 meeting focused on the work the group would like to achieve this year. It was determined that PT3 will concentrate on developing parent education training and resources, stakeholder communications, and aspects related to increasing the district's continuum of services for students with special needs. The group began working on identifying points to consider in expanding its continuum of services by conversing on aspects that need to be in place, items that need to be built, and a process to communicate the plan and ideas to stakeholders.

On December 3, the meeting began by introducing new members to the group as we are continuously trying to ensure each building maintains parent and staff representation. This meeting focused entirely on the continuum of services. A review of the district's current continuum of services was presented and discussed at length in small and large groups.

The January 14 meeting continued to focus on the three priorities the group set in November. Work began on developing the parent education and stakeholder communication components. The continuum of services component was addressed by reviewing program models as well as reviewing the programs offered by District 62, 63 and 207.

The February 13 meeting will continue to focus on our three main topics: continuum of services, stakeholder communication, and parent education. We have scheduled two speakers: Mr. Tom Fisher to discuss the experience of a parent who has a student in outplacement, and staff from the former D64 STRIVE program to report on the history of that previous model. The group will also continue discussing parent education and stakeholder communication priorities.

At the board meeting, a staff and parent representative will also provide a report.

02/18/20

To: Board of Education  
Dr. Eric Olson, Superintendent

From: Luann Kolstad, Chief School Business Official  
Dr. Joel Martin, Assistant Superintendent for Human Resources

Date: February 18, 2020

Subject: Preliminary Enrollment Projections for 2020-21 School Year and Discussion  
of 2020-21 Staffing

### Overview of Enrollment Projections

Over the last four years, the administration has used the cohort survival projection method to determine future enrollments. Last year, District 64 engaged Dr. Jerome McKibben of McKibben Demographics to update our population and enrollment forecasts based on our September 30, 2019, enrollment. This exercise also extended our forecasts out through 2029-30. Typically, a district has the demographer prepare their data for the next 10 years and use this information as initially presented, with no updating, to determine their enrollments for each year. District 64 has a lot of movement throughout the year, with both new students entering and current students leaving the District. By updating our numbers with the demographer each fall, the administration believes that our projections are more accurate.

#### 2020-21 Enrollment Projections

Utilizing Dr. McKibben's enrollment projects for the 2020-21 school year, the administration anticipates an increase of 86 students over the District's September 30, 2019, numbers.

Building	September 30, 2019 Enrollment	Demographer 2020-21	Delta +/-
Carpenter	449	431	-18
Field	671	694	23
Franklin	561	572	11
Roosevelt	685	688	3
Washington	651	670	19
Emerson	871	883	12
Lincoln	721	757	36
<b>Total</b>	<b>4,609</b>	<b>4,695</b>	<b>86</b>

### Known Section Decrease

Carpenter is the only school that is losing a section for the 2020-21 school year. All other schools in the District are either staying even or increasing sections from this school year.

### Known Section Increases Due to Current Enrollment Numbers

There are two grade levels next year that will increase by 1 section due to students who are already enrolled in the District. Since these two sections are not contingent upon students enrolling within the District, the administration will be adding the appropriate staff for the next school year.

- Washington School fourth grade rolling into fifth grade
- Lincoln School sixth grade rolling into seventh grade

### Demographer Projected Enrollment Increases

The District has the possibility of increasing by an additional 5 to 6.5 sections based upon a combination of Dr. McKibben's enrollment projections as well as roll-over sections that are identified as being "bubbles."

There are 3.5 expected increases in sections (detailed below) centered upon Dr. McKibben's enrollment study. The sections are highlighted in purple on the attached document and are not identified as "bubble" sections as it is predicted that they will exceed the class size guideline at the specific particular grade level by more than three students.

- 1 section of first grade at Field School
- 1 section of first grade at Franklin School
- 1 section (.5) of kindergarten at Washington School
- 1 section of first grade at Washington School

Furthermore, the administration is also keeping watch on 5 "bubble sections" as highlighted in the attached enrollment projection document (attachment 1). A "bubble section" is defined as: *A grade level at a particular building that could either increase or decrease by one section prior to the start of the school year, if the projection varied by 3 or fewer students from the actual enrollment.*

- Three of the highlighted bubbles (shown in blue) would **increase** by 1 section if the actual enrollment was slightly higher than the projection.
- Two of the highlighted bubbles (shown in orange) would **decrease** by 1 section if actual enrollment was slightly lower than the projection.

Historically, if a "bubble section" exceeds the class size guideline **prior to the start of the school year**, the District opens another section and hires a teacher.

### Summary of Potential Section Increases

A summary of "bubble" and projected section increases for the 2020-21 is as follows:

- 1 section of first grade at Field School (McKibben projected increase)
- 1 section of fourth grade at Field School (bubble section)
- 1 section of first grade at Franklin School (McKibben projected increase)

- 1 section of second grade at Roosevelt School (bubble section)
- 1 section of fourth grade at Roosevelt School (bubble section)
- 1 section (.5) of kindergarten at Washington School (McKibben projected increase)
- 1 section of first grade at Washington School (McKibben projected increase)

This results in a maximum total potential increase of 6.5 classroom sections.

### **Staffing Request**

Based on the known increase in sections due to current enrollment numbers, the administration requests authorization to hire 2 core teachers and 0.5 special teachers. Additionally, the administration asks for authorization to staff for 6.5 core sections and 4 special sections should enough students enroll to open all of the projected section increases identified above due to projected enrollment. In sum, the administration would like authorization to hire 8.5 core teachers and 4.5 special teachers. Just a reminder that since Carpenter is losing a section, the maximum increase to the District and cost of staffing would only be for 7.5 core teachers.

Please note that the administration does not move forward with the *actual hiring* of any staff member until all students have proven residency and completed the enrollment process for the particular grade level which has exceeded the class size guideline. In addition, once the registration period begins for the 2020-21 school year, the District will be better able to determine if any additional staff is required. The District will continue to monitor the 2 “bubble” sections that may go down a section if students were to move out of that school’s boundaries. If that were to occur, the administration would re-assign staff to open positions within the District.

### **Reduction in Force**

Since the enrollment projections are calling for an increase in both enrollment and sections for the 2020-21 school year, administration does not anticipate needing to RIF any K-8 teachers strictly based on enrollment projections. However, the District may need to RIF teachers to account for staff returning from leaves, returning to full-time from part-time, or changes in enrollment in other programs. In addition, the District annually releases its entire non-tenured part-time staff, as we are unable to identify at this time if there will be a need for part-time staff for the 2012-21 school year. As a reminder, if the District does not dismiss this group of employees, the District would be obligated to rehire them at the same part-time FTE status for the upcoming school year. We anticipate RIF actions to be taken at the regular meeting on March 18.

### **Financial Implications**

The summary of the Financial Projections based on the additional staffing requests including a benefits allocation shows that the District will still be above the Board required 33.33 percent or 120 days Cash on Hand at the end of the 2021-22 fiscal year. The additional salary and benefits for potentially needed new teachers due to enrollment is included in the projections.

These recommendations represent the administration’s best projections based on current information and assumptions, and will continue to be refined as our planning for the 2020-21 school year moves forward. As always, our focus is on providing the resources needed to deliver a quality educational program to meet the needs of all D64 students. We look forward to reviewing these recommendations with the Board at its meeting on February 18.

# Attachment 1

Park Ridge-Niles School District 64

As of: 9/30/19 Enrollment data

## 2020-21 Enrollment/Section Projections with Average Class Size

	K	1	2	3	4	5	6	7	8	Totals		
<b>Class Size Guideline</b>	22	24	24	26	26	28	28	28	28			
										<b>2020-21</b>	<b>2019-20</b>	<b>Change</b>
<b>Carpenter</b>	59	64	79	67	89	73				431	449	-18
Sections	1.5	3.0	4.0	3.0	4.0	3.0				18.5	19.5	-1.0
Avg Class Size	19.67	21.33	19.75	22.33	22.25	24.33						
<b>Field</b>	103	124	112	118	128	109				694	671	23
Sections	2.5	6.0	5.0	5.0	5.0	4.0				27.5	26.5	1.0
Avg Class Size	20.60	20.67	22.40	23.60	25.60	27.25						
<b>Franklin</b>	91	104	75	117	98	87				572	561	11
Sections	2.5	5.0	4.0	5.0	4.0	4.0				24.5	23.5	1.0
Avg Class Size	18.20	20.80	18.75	23.40	24.50	21.75						
<b>Roosevelt</b>	101	117	122	115	127	106				688	685	3
Sections	2.5	5.0	6.0	5.0	5.0	4.0				27.5	27.5	0.0
Avg Class Size	20.20	23.40	20.33	23.00	25.40	26.50						
<b>Washington</b>	92	101	101	113	126	137				670	651	19
Sections	2.5	5.0	5.0	5.0	5.0	5.0				27.5	25.0	2.5
Avg Class Size	18.40	20.20	20.20	22.60	25.20	27.40						
<b>Emerson</b>							295	300	288	883	871	12
Sections							11	11	11	33.0	33.0	0.0
Avg Class Size							26.82	27.27	26.18			
<b>Lincoln</b>							250	237	270	757	721	36
Sections							9	9	10	28.0	27.0	1.0
Avg Class Size							27.78	26.33	27.00			
<b>Total Students</b>	446	510	489	530	568	512	545	537	558	4,695	4,609	86
<b>Total Sections</b>	11.5	24.0	24.0	23.0	23.0	20.0	20.0	20.0	21.0	186.5	182.0	4.5
2019-20 Sections	11.0	22.0	23.0	23.0	22.0	21.0	20.0	21.0	19.0			
Change	0.5	2.0	1.0	0.0	1.0	-1.0	0.0	-1.0	2.0			

**Orange highlights** Will decrease by 1 section if actual enrollment is less than projected enrollment by 3 students

**Blue highlights** Will increase by 1 section if actual enrollment is more than projected enrollment by 3 students

Note: Each kindergarten class is counted as 0.5 section to correlate to FTE staffing

1 Roosevelt Principal believes this will stay at 5.0. Adjusted students from 122 to 120

2 Field Principal believes we will stay at 5.00 sections. Adjusted students from 124 to 120

Approval of Recommended Personnel Report

ACTION ITEM 20-02-2

I move that the Board of Education of Community Consolidated School District 64, Park Ridge – Niles, Illinois, approve the Personnel Report, noting that the Personnel Report is based on the recommendation of the Superintendent and not upon the Board’s direct knowledge regarding any of the specific individuals selected for employment.

The votes were cast as follows:

Moved by \_\_\_\_\_ Seconded by \_\_\_\_\_

AYES:

NAYS:

PRESENT:

ABSENT:

02/18/20

February 18, 2020  
Personnel Report

Adam Tsikretsis	Employ as Teaching Assistant at Carpenter School effective February 18, 2020.
Caitlin Collins	Resign as Special Education Teacher at Field School effective June 10, 2020.
Pamela Sammons	Request a second year of leave of absence for personal reasons.

To: Board of Education  
Dr. Eric Olson, Superintendent  
From: Luann Kolstad, Chief School Business Official  
Date: February 18, 2020  
Subject: Update of Long-Range Financial Projections

As part of our annual financial cycle, once the Board has adopted the current year tax levy in December and the CPI-U for the next tax levy is released in mid-January, the administration brings to the Board updated long-term financial projections. These include a first pass at potential additional staff the District will need for the following school year (Attachment 1). The administration is bringing this version to the Board to provide an update on the CPI-U and to share with the Board the effect on the projections if we do need to hire the additional staff projected to meet class size guidelines.

### **Key Updates**

In terms of revenue, the 2019 CPI-U is 2.3%, increasing slightly from 1.9% CPI-U in 2018. The 2019 CPI-U directly impacts funding during the 2020-21 and 2021-22 fiscal years.

On the expense side, since all labor contracts are set to be renegotiated, the current three labor contracts [Park Ridge Education Association (PREA), Park Ridge Teachers Assistant Association (PRTAA), and the Support Staff Council (SSC)] and any employees not covered by a collective bargaining agreement (CBA) have raises set at an average of 3.0 percent. The 3.0 percent mirrors very closely the average increases that the labor contracts have seen each year over the last four years. All labor contacts now have a CPI-U component built into them.

In terms of 2020-21 staffing needs, the administration has built the 7.5 potential additional teacher positions into the projections. These placeholders represent the 7.5 positions discussed during the staffing report.

### **Other Assumptions**

The administration has budgeted future tax levies using a CPI-U of 2.0 percent and new construction has been estimated at \$8.9M for future years. Increases in the Equalized Assessed Valuation (EAV) of the District have also been set at 2.0 percent for future years. The administration continues to be very conservative with future new construction and EAV increases in future years.

While the projections are favorable, the District must remain vigilant in controlling costs and “living within our means” so the Board can continue to push off a rate increase referendum even further into the future.



To: Board of Education  
Dr. Eric Olson, Superintendent  
From: Luann Kolstad, Chief School Business Official  
Date: February 18, 2020  
Subject: Discussion of Upcoming Third Amendment to Regular & Special Education  
Transportation Services Contract

The administration will be bringing to the Board for approval a one-year extension of our current regular and special education transportation contract with Lakeview Bus Lines, Inc. Lakeview Bus Lines Inc. is offering an increase of 3.75 percent on the current rates that the District pays. No other transportation contractors have contacted the District requesting that we go out to bid. There is still a severe shortage of bus drivers, resulting in other districts receiving large increases in their transportation costs. The administration is happy with the services Lakeview provides both for regular and special education transportation.

**SECOND AMENDMENT TO  
REGULAR TRANSPORTATION SERVICES CONTRACT**

**THIS AMENDMENT** entered into as of the 23<sup>rd</sup> day of April, 2018 is made by and between the Board of Education of Park Ridge-Niles Community Consolidated School District No. 64, Cook County, Illinois, (“Board”) and Lakeview Bus Lines, Inc., (“Contractor”) (collectively referred hereto as “the Parties”).

**WITNESSETH**

**WHEREAS**, the Parties entered into that certain Transportation Services Contract, effective July 1, 2014, (“Agreement”), for regular and summer school student transportation services; and

**WHEREAS**, on April 24, 2017, the Parties entered into an Amendment to the Agreement, extending the term thereof through June 30, 2018; and

**WHEREAS**, the Parties desire to further extend the term of the Agreement.

**NOW, THEREFORE**, for good and valuable consideration the receipt of which is acknowledged by the Parties, it is mutually agreed to as follows:

1. **Term.** The term of the Agreement is hereby extend for one (1) additional year commencing July 1, 2018, and continuing through June 30, 2019. The Board shall have the right to extend the Agreement for an additional year (July 1, 2019 through June 30, 2020) by providing written notice thereof to Contractor (the “Option Year”) on the same terms and conditions, except that the compensation for the Option Year shall be as set forth in paragraph 2 below.

2. **Compensation.** The rates for the services provided hereunder shall increase in the amount of 3.75% over the rates for the 2017-2018 contract year. In the event the Board exercises its right to extend the Agreement for the 2019-2020 contract year, the rates for the services provided for such year shall increase in the amount of 3.75% over the rates for 2017-2018 contract year.

3. **Conflict of Terms.** Except as amended herein, all other terms and conditions of the Agreement shall remain in full force and effect. To the extent any of the terms and conditions of the original Agreement conflict with the terms and conditions of this Amendment, the terms and conditions contained herein shall control.

**SIGNATURE PAGE FOLLOWS**

IN WITNESS WHEREOF, this Amendment has been signed on behalf of the Parties hereto by persons duly authorized on the day and year first written above.

**BOARD OF EDUCATION OF  
PARK RIDGE-NILES COMMUNITY  
CONSOLIDATED SCHOOL DISTRICT  
NO. 64, COOK COUNTY,  
ILLINOIS**

By: \_\_\_\_\_

Its: 4/23/18

**LAKEVIEW BUS LINES, INC.**

By: \_\_\_\_\_

Its: PRESIDENT

**ATTEST:**

By: \_\_\_\_\_

Its: SECRETARY

493456\_1

**PARK RIDGE-NILES  
COMMUNITY CONSOLIDATED SCHOOL DISTRICT 64  
REGULAR STUDENT AND SPECIAL EDUCATION TRANSPORTATION  
SERVICES AND TRANSPORTATION MANAGEMENT  
BID PACKAGE**

Bid Opening Date: Monday, April 17, 2017 at 1:00 p.m.  
At the Administrative Office of  
Park-Ridge Niles Community Consolidated School District 64  
164 S. Prospect Avenue, Park Ridge, Illinois 60068

Mandatory Pre-Bid Meeting: Monday, April 3, 2017 at 1:00 p.m.  
At the Administrative Office of  
Park-Ridge Niles Community Consolidated School District 64  
164 S. Prospect Avenue, Park Ridge, Illinois 60068

Date Issued:

March 17, 2017

**REGULAR STUDENT, PRE-K STUDENT,  
AND SPECIAL EDUCATION STUDENT TRANSPORTATION  
SERVICES  
AND TRANSPORTATION MANAGEMENT  
BID PACKAGE**

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I. INSTRUCTIONS TO BIDDERS

- A. Community Consolidated School District 64 (“District”) is accepting bids for student transportation services and transportation management.
- B. The bid opening will be on April 17, 2017 at 1:00 p.m. local time at the District Administrative Building, located at 164 S. Prospect Avenue, Park Ridge, Illinois 60068. Bids will be announced to the public at that time.
- C. A bid proposal must be submitted on the Bid Form attached hereto in an opaque envelope, which is sealed and marked on the front “District 64 Student Transportation Services and Transportation Management Bid Proposal” and identifies the name and address of the Bidder, addressed to the Chief School Business Official (“CSBO”). **A bid proposal must consist of one original set of all required Bid Documents and supporting materials along with three (3) copies thereof.** Bid proposals will be accepted any time prior to, but not later than, April 17, 2017 at 1:00 p.m., local time, at the District Administrative Building, located at 164 S. Prospect Avenue, Park Ridge, Illinois 60068. For bids sent by the U.S Postal Service, courier or other delivery service, the Bidders shall be responsible for their delivery to the CSBO before the advertised hour for the receipt of bids. If the delivery service is delayed beyond the date and hour set for the bid’s receipt, bids so delayed will not be considered and will be returned unopened.
- D. Each bid shall be a firm and irrevocable offer from the date received by the District until at least one hundred (100) calendar days after the date bids are opened and announced to the public. Corrections, modifications or amendments to bids for any reason, including any error or miscalculation, shall not be permitted. The District reserves the right to reject any or all bids or portions thereof and to waive any informalities, irregularities or defects in any proposal should the District view any such action to be in its best interests. The Contract will be awarded, if at all, to the lowest responsible Bidder(s) meeting specifications, as determined by the District.
- E. Bidders are expected to review thoroughly all Bid Documents and to familiarize themselves with all the terms and conditions thereof (“Bid Specifications”). The District Map and current route information are included in the Bid Specifications. Failure of the successful Bidder to familiarize itself with these shall not relieve the successful Bidder of any of its obligations hereunder.

- F. All bids shall be accompanied by the following statement, on the Bidder's official stationery, executed by an authorized representative and addressed to the District:

The undersigned Bidder represents it has carefully read and examined the "Public Notice" and all Bid Documents contained in the Student Transportation Services and Transportation Management Bid Package dated March 17, 2017 including, without limitation, the "Instructions to Bidders," "Scope of Services," "Bidder Information Sheet," "Summary of Experience Sheet," "General Conditions," "Bid Form," and duly issued addendums. The undersigned will provide the services required in the Bid Documents for the prices bid and on the terms stated therein.

Further, the undersigned Bidder agrees and warrants that the bid submitted is a firm and irrevocable offer (not subject to correction, amendment or modification) from the date received by the District until at least one hundred (100) calendar days after the date the bid is opened and announced to the public.

- G. Bidders shall bid in strict accordance with the requirements of the Bid Specifications, and no bid shall be accepted that alters or qualifies the bid price, as required to be submitted on the Bid Form, or otherwise alters the terms and conditions of the Bid Specifications. Bidders shall submit a complete bid package, including a Bid Form containing responses to all items. The District shall not consider any incomplete bids. Bidders who wish to provide portions, but not all, of the levels of service set forth on the bid form must, nonetheless, complete the entire form by inserting the words "No Bid" or "N.B." in those portions of the form which refer to transportation services the bidder declines to quote. A bid containing incomplete blanks may be considered an incomplete bid and be rejected as non-responsive.
- H. Withdrawals of bids after the period of irrevocability has expired shall be made in writing and delivered by certified or registered mail, postage prepaid, addressed to the CSBO at Community Consolidated School District 64, District Administrative Building, 164 S. Prospect Avenue, Park Ridge, Illinois 60068.
- I. All required items as listed on the Bidder Information Sheet must be included in the bid envelope.

- J. A mandatory pre-bid meeting will be held at the District Administrative Building, 164 S. Prospect Avenue, Park Ridge, Illinois 60068, at 1:00 p.m. local time on April 3, 2017. The purpose of this meeting is to clarify all aspects of the Bid Documents. Questions from potential Bidders will be taken and written clarification provided via issued addenda.
- K. If a Bidder, contemplating submitting a bid, is in doubt as to the true meaning of any part of these Bid Specifications, Bid Documents or other Contract documents, he/she may submit, to the CSBO, a written request for an interpretation thereof no less than five (5) working days before the bids are due at the District Administrative Building, 164 S. Prospect Avenue, Park Ridge, Illinois 60068. Request for an interpretation may be sent to Luann Kolstad, Chief School Business Official, via email at [lkolstad@d64.org](mailto:lkolstad@d64.org), facsimile 847-318-4351 or hard copy to 164 S. Prospect Avenue, Park Ridge, Illinois 60068. Delivery of the written request for an interpretation shall be the responsibility of the Bidders. If the written request for an interpretation to the CSBO is not received prior to the five-day limit, it will not be addressed. Revisions, if any, to this Bid Solicitation will be made by an addendum duly issued by the CSBO, or her designee, prior to the due date of the bids. A copy of such addendum will be emailed to each Bidder receiving a set of Bid Documents and to such other prospective Bidders as shall have requested that they be furnished with a copy of each addendum. Failure on the part of the prospective Bidder to receive clarification prior to the time for receipt of bids will not be grounds for withdrawal of a bid. **Bidders will acknowledge receipt of each addendum issued on the Bid Form provided.** Oral explanations will not be binding.
- L. While the financial responsibility of the Bidder is of significant concern, the District is equally concerned with the proven ability of the Bidder to satisfactorily perform the Contract and fully render the services set forth in these Bid Specifications. Accordingly, the District will take into consideration the following items in determining the award of the Contract. This list shall be deemed non-exclusive, and the District shall be entitled to take into account any other information relevant to the determination of whether the Bidder is an acceptable, responsible Bidder.

At a minimum the Bidder shall submit the following information with the sealed bid package:

1. A statement of experiences in transporting public school students, including students with disabilities. Please provide evidence of successful performance of other transportation contracts similar in size, scope and nature of CCSD 64's proposed contract.
2. Approach to the transportation of students with special needs.

3. Copies of Insurance Certificates.
4. A list of references with service dates.
5. A list of all schools, school districts, or educational cooperatives presently being served any schools, school districts, or educational cooperatives formerly served, at any time, since the 2013-2014 school year through and including the 2016-2017 school year. Also include the names, addresses, telephone numbers, size and type of service for each district served.
6. A copy of all documents that relate to hiring, training, discipline, drug testing, and release of employees.
7. Staffing plan for the CCSD 64 transportations system, including, but not limited to; management and communications with District, communications and follow-up with parents, routing, dispatch, field and safety reviews, fleet maintenance, etc. The staffing plan shall detail the type and number of positions, the number of staff assigned, and the duties and responsibilities of each staff member.
8. Resumes of key management personnel, including, but not limited to the potential site manager and District manager.
9. Transition plan for the CCSD 64 transportation program including the approach to routing, pairing of buses, charters, and extracurricular routes.
10. Communications flow between the Bidder and District administration.
11. Description of vehicle maintenance programs and housing procedures, adequacy of maintenance staff, safety programs and procedures, and employee training classes on safety topics.
12. Experience with using Versatrans computerized routing software including information on the use of Versatrans in other districts.
13. Statement of Fiscal Ability: each Bidder must submit audited financial statements for the three (3) most recent fiscal years and the most recent quarterly report. Audited financial statements must include the auditor's letter of opinion, balance sheets, statement of income/loss, and accompanying footnotes. Bidders may be required to furnish other evidence of fiscal stability at the option of the District.
14. List describing all legal actions filed or initiated since January 1, 2013 in which the Bidder has been a debtor in bankruptcy, or a

defendant in any lawsuit, whether claiming a breach of an agreement or a contract, or seeking damages for personal injury, wrongful death or property damage, or a respondent in an administrative action for deficient performance, or a defendant in a criminal action.

The purpose of this information is to give the District a synopsis of each Bidder's method of operation in a format that will enable the District to determine each Bidder's responsibility. In determining whether a Bidder is responsible and meets the Bid Specifications, the District reserves the right, but is not obligated, to request additional information at any time from any or all Bidders to clarify issues based in its initial evaluation of bid submissions.

- M. **Award Criteria.** Award will be made to the bidder or bidders who the Community Consolidated School District 64 Board of Education, in the exercise of its discretion, determines to be most able to provide safety and comfort for the pupils, stability of service, and any other factors set forth in the bid regarding quality of service, and then price. Price will be a factor, but not be the sole determining factor, in the evaluation. Responsibility of the bidder will be evaluated based upon all the factors identified in Section L above, the materials supplied with the sealed bid package and the information garnered by the Community Consolidated School District 64 Board of Education and its agents through their independent investigation.

## II. SCOPE OF SERVICES

### A. INFORMATION ABOUT THE DISTRICT

The district map with school sites and attendance boundaries can be found at [www.d64.org](http://www.d64.org) by using the top navigation bar and selecting "About", then "School Boundaries" from the pull down menu. There are eight (8) schools in the District, five (5) elementary schools, two (2) middle schools and one (1) preschool/extended kindergarten school. The list of schools and their addresses are found in Attachment A. The District supports a number of specialized programs throughout the District, including, but not limited to, English Language Learners (EL), Channels of Challenge Program at all schools except Jefferson, Special Education Pre-K programs at Jefferson School, and Special Education programs at a number of school sites (in and out of the District).

### B. BASE BID

#### 1. Transportation Management Services

As part of the unit costs in the Regular Transportation base bid, the Bidders shall include the cost to provide management services of the type and kind as outlined below.

The contractor shall hire and retain staff adequate to provide the District with a well-organized and efficient transportation system. At a minimum, but not limited to, the Contractor shall provide a full time branch manager, site/satellite managers, dispatch personnel, safety offices, trainers, routers, certified mechanics, licensed drivers, driver assistants and clerical staff to meet this requirement. In addition, the Contractor shall provide the District with off-site management support at a corporate level to ensure the proper operation of the transportation system.

Five (5) years of branch management experience in the lead management position is required of the full-time branch manager assigned to manage the District's student transportation services. The Contractor shall use computerized route development using Versatrans School Transportation Software by Tyler Technologies. The Contractor shall furnish all necessary computer hardware and peripherals necessary to develop, implement and track the efficiency of the transportation routes at their offices. It is understood that all such software, software licensing and systems that are provided by the District are the property of the District. The routes developed for the District will be considered the property of the District. The Contractor shall provide copies of the routes prior to the start of the school year and any time the routes

are revised. Furthermore, the Contractor shall provide the District in hard copy or digital media upon the request of the District.

The Contractor shall conduct all of its activities subject to all current and future federal and state laws and ordinances, and the decisions, rules, guidelines, policies and procedures of the District (hereinafter, collectively, "District Policies") and pursuant thereto, the Contractor shall carry out the following functions and responsibilities of this Contract to include the following:

- The Contractor shall oversee, manage, and supervise all aspects of the operations of the transportation system.
- The Contractor shall provide the District with on-time busing. There is an expectation that buses should arrive no more than fifteen (15) minutes and no less than five (5) minutes before the start of school. Buses should arrive no less than five (5) minutes before the dismissal bell at the end of the school day. By the end of the third week of school, buses should arrive within this time frame. If the Contractor fails to meet this requirement a penalty of 20% of the cost of that route for that day will be assessed against the Contractor's billing for the month.
- The Contractor shall staff the main transportation facility from 5:30 a.m. to 6:00 p.m. on days when District schools are in session. In the event of snow days or other weather related emergencies, the Contractor shall staff the main facility as requested by the District to provide adequate notification of route feasibility and service availability.
- The Contractor shall provide emergency response contacts that are available beyond the required hours of staffing to provide adequate support for after hour's transportation charters and extracurricular runs and in the event of emergencies.
- Develop routes utilizing Versatrans School Transportation Software by Tyler technologies to assign students, schools, stops and buses to bus routes. When making bus route assignments the Contractor shall make maximum use of the time and capacity available for each bus in the System.
  - For regular school year service scheduling the District shall provide the Contractor an updated enrollment database.

- The routes will be reviewed each year and adjusted based upon ridership, capacity and length of the route.
  - The Contractor shall provide preliminary proposed routes for the regular school year to the District no later than August 1 prior to the start of the next school year.
  - The Contractor shall display in all buses, the name of the school and the route number so as to be easily identifiable by parents/guardians and students.
  - The Contractor shall have the route drivers test drive all routes prior to the implementation of the route and prior to the implementation of any route modifications.
  - The Contractor shall provide the District with final route sheets by the end of the second week of school.
  - The Contractor shall update route sheets as needed throughout the year and provide the District with updated route sheets prior to the implementation of the change.
  - The route sheets provided to the District shall include, at a minimum, the route number, the school site, listing of stop locations and estimated stop times, and a graphic representation of the route with stops denoted.
  - The District reserves the right to review and make final adjustments to the routes.
- With approval of the District the Contractor will institute a refined bus routing system. The Contractor will develop proposed pairings of routes to maximize the operations of the transportation system. Wherever possible the Contractor will provide a first, second and if possible, a third level of proposed pairings based upon bell times for each period of service (e.g. AM, PM and after school routes).
  - The Contractor shall provide System users information regarding the System to make the system more effective and responsive.
  - The Contractor shall perform a field review of routes as needed or as requested by the District.

- The Contractor shall recommend to the District short-term and long-term plans, processes and procedures that will improve student transportation services and upon the District's approval and adoption of such policies and procedures, implement the same.
- The Contractor shall evaluate the performance of each transportation system staff member.
- The Contractor shall address parent and District staff calls/emails regarding safety and performance concerns, requests for changes in route or stop locations, etc. within 24 hours.
- Route changes and stop changes are only to occur if they make the route run more efficiently or safely. Parent requests for stop changes to accommodate their personal situation are not allowed. Drivers are NOT to make personal arrangements with parents/guardians to add/change stops.
- The Contractor shall provide a complaint tracking system.
- The Contractor shall evaluate the effectiveness of the System and where appropriate, recommend to the District, District Policies to improve the effectiveness of the System.
- The Contractor shall, as requested, assist the CSBO, and assigned transportation support staff and other District departments with transportation issues.
- The Contractor shall as appointed by the District or CSBO, serve on District or other special committees concerning student transportation.
- The Contractor shall provide the District with the following reports and submittals:
  - Billing by the 10<sup>th</sup> of the month for the previous month of service.
  - On-time tracking of buses
  - The number of parent calls/complaints
  - Fuel management report
  - Mileage reports
  - Status of the fleet reports
  - Drop/add reports for the student riders
  - Year end reports for the transportation claim

- Assist with other required reports as needed

## **2. Transportation Services**

As part of the base bid, the Bidders shall include unit costs to provide transportation services as outlined below. In addition the Bidders shall provide the District with a total projected cost for years 2017-2018, 2018-2019, and 2019-2020.

### **Level I - Regular Education Routes**

The Bidder shall provide unit costs for morning (AM) take-in routes, mid-day kindergarten take-in and take-home routes, mid-day extended day kindergarten school to school shuttles, afternoon (PM) take-home routes, student activity after school and take-home routes. The unit costs shall be provided for one-way single stand-alone routes, paired (double) routes, where after the first run, the bus will perform a second run, and triple routes if possible.

The Bidder shall include in their Level I bid unit costs for back-up buses with drivers that are able to respond within a 15-20 minute window of a driver becoming incapacitated, the bus becoming mechanically disabled or involved with an accident to ensure students are able to arrive at their scheduled destination in a timely fashion.

### **St. Paul of the Cross**

The District currently provides busing for St. Paul of the Cross students who live within the District 64 boundaries and that qualify for busing. The District only provides to/from school routes.

### **Extended Day Kindergarten**

The District offers an Extended Day Kindergarten (EDK) option for morning/afternoon kindergarten students. The District provides mid-day transportation from the five elementary buildings to Jefferson to drop off/pick up students.

At the end of the school day, shuttle buses pick up kindergarten students that have been in the EDK program from Jefferson and drop students off at appropriate elementary school for after school daycare. The number of students per year requiring this service will change every year based on need.

### **Activity Runs**

The Bidder shall provide unit costs for extracurricular transportation. The Bidder shall provide unit costs for five (5) Activity runs.

**Interscholastic Routes**

The District participates in an athletic conference, which requires transporting middle school students to various other middle schools for competitions. These runs will begin between 2:30 pm – 2:45 pm with the return trip at the end of the competition. The number of routes per year will be subject to the number of off site competitions.

**Field Trip Runs**

The Bidder shall provide unit costs for and field trips.

The District does not guarantee the field trip runs to the Contractor and reserves the right to contract the work with other transportation vendors based upon need, cost and other.

**Total Level I Annual Costs**

The Bidder shall provide a combined projected total annual cost for each year 2018-2019 and 2019-2020 by applying the unit costs noted in each of the sections of the bid form applied to the 2017-2018 transportation model provided in this specification and adding together all levels of services by year.

It is understood that the actual number of routes and hours needed to provide for the transportation of students for the 2018-2019, and 2019-2020, school years may vary above or below the numbers provided for in the 2017-2018 transportation information.

The total actual estimated annual cost shall be calculated based upon the unit costs provided on the bid forms applied to the actual routes needed for any particular contract year.

**Level II - Transportation of Special Education Students to In-District and Out-of-District Day Schools with Buses**

The District is seeking bids to transport students via buses to in-district and out-of district facilities. Buses for the purpose of this bid are defined as yellow school buses with specific safety features including: flashing warning lights, reflective tape, stop arms and a safety crossing gate. Buses may vary in capacity from mini to full size passenger buses and may include modification for wheelchairs. The use of white activity buses, passenger vans, suburban or similar vehicles will **not** be accepted under this portion of the bid. Vehicles required to transport special needs students must be equipped with air conditioning. The busing option would be on an as-needed basis and there is no guarantee of work by the District to the Contractor.

The bid for busing will be based upon a route cost for one-way transportation of students and shall include all costs to perform the transportation of students.

The Bidder shall provide unit costs for morning (AM) take-in routes, mid-day routes, and afternoon (PM) take-home routes. The mid-day routes may be used to transport students either to or from their home school to a day school or similar facility. The unit costs shall be provided for one-way single stand-alone routes, paired (double) routes where after the first run, the bus will perform a second run, and triple routes where possible.

Routes transporting students with special needs may not exceed **one hour** in length. The time is calculated from the time the bus leaves the starting point until the delivery of the student(s) at the end destination of the route. The District reserves the right to enter into agreements with other districts that may have students along the route to in-District and out-of-District day school locations or a similar facility to provide their students with transportation services and share the cost of the route with the other districts.

The District does not guarantee the transportation of students to in-District or out-of-District day schools or other facilities to the Contractor, and reserves the right to contract the work with other transportation vendors and districts based upon the District needs, student needs, cost and other factors.

The Bidder shall include in their Level II bid unit costs for back-up buses with drivers that are able to respond within a 15-20 minute window of a driver becoming incapacitated, the bus becoming mechanically disabled or involved with an accident to ensure students are able to arrive at their destination in a timely fashion.

#### **Total Level II Annual Costs**

The Bidder shall provide a combined projected total annual cost for 2017-2018, 2018-2019 and 2019-2020 by applying the unit costs noted in each of the sections of the bid form applied to the 2017-2018 transportation model provided in this specification and adding together all levels of services by year

It is understood that the actual number of routes and hours needed to provide for the transportation of students for the 2018-2019 and 2019-2020 school years may vary above or below the numbers provided for in the 2017-2018 transportation information found in Attachment E.

The total actual estimated annual cost should be calculated based upon the unit costs provided on the bid forms applied to the actual routes needed for any particular contract year.

**Bus Assistant**

The Bidder shall also provide an hourly cost for a bus assistant. A bus assistant may be required for Levels I through Level IV. A bus assistant may be required to assist with the supervision of students and/or the transportation of students with special needs. The Contractor will be paid the hourly rate for the actual time the bus assistant rides with the transportation of students only.. The Contractor is responsible for managing this time accurately and to minimize excess time not needed.

Special Education - 2017-18  
2018-19  
2019-20

**BID FORM  
COMMUNITY CONSOLIDATED SCHOOL DISTRICT 64**

**STUDENT TRANSPORTATION SERVICES AND  
TRANSPORTATION MANAGEMENT BID**

**DUE DATE:** April 17, 2017 at 1:00 p.m.

**ATTENTION:** LUANN KOLSTAD

**CHIEF SCHOOL BUSINESS OFFICIAL**

**DISTRICT ADMINISTRATION BUILDING**

**164 S. PROSPECT AVENUE**

**PARK RIDGE, ILLINOIS 60068**

**LAKEVIEW BUS LINES INC.  
POLAR EXPRESS SCHOOL BUS. CO**

**BIDDER:**

**COMPANY:**

**CONTACT:**

**PHONE:**

**EMAIL:**

**SIGNATURE:**

Having received and read the Instructions to Bidders, the General Conditions, Scope of Services and other Bid Documents and understanding the same, the Bidder hereby submits this Bid Form and agrees to provide student transportation services and management to Community Consolidated School District 64, 164 S. Prospect Avenue, Park Ridge, Illinois 60068, in accordance with the provisions of said Instructions to Bidders, General Conditions and other Bid Documents and on the terms stated herein as selected by the District.

The Bidder acknowledges that the District reserves the right to reject any and all bids or portions thereof, to award a Contract to the bidder(s) most able to provide safety and comfort for the pupils, stability of service, and any other factors, and to waive any informalities, irregularities or defects in bidding or in any proposal, should it be in the best interests of the District to do so. Price will be a factor, but not be the sole determining

factor, in the evaluation. All rates bid herein shall be for the 2017-2018, 2018-2019, and 2019-2020 school years and shall be a firm and irrevocable offer from the date received by the District until at least one hundred (100) calendar days after the date bids are opened and announced to the public.

**ADDENDUM**

**The Bidder acknowledges the receipt of the following addendum(s):**

Addendum No. # 1 Date: 4/5/17  
Addendum No. # 2 Date: 2/19/17  
Addendum No. # 3 Date: 4/11/17

**The Bidders shall submit a sealed bid consisting of one original set of all required Bid Documents and supporting materials along with three copies thereof. In addition to the Bid Form, the bidders shall submit all signed Bidder Certifications, and the information required in Section I.L.**

<b>Regular Busing Cost Breakdown</b>	<b>2017 - 18 Number of Buses</b>	<b>2017 - 18 Number of Routes</b>	<b>2017 - 18 Cost Per Route</b>	<b>Average Total School Days Route Runs Per Year</b>	<b>2017 - 18 Total Annual Cost</b>
Single Middle School/Elementary morning busing	6	6	126	176	133056
Single Middle School/Elementary afternoon busing	6	6	126	176	133056
Paired Middle School/Elementary morning busing	16	32	63	176	354816
Paired Middle School/Elementary afternoon busing	16	32	63	176	354816
Kindergarten Noon Bus, To and From School	16	16	63	176	177408
St. Paul of the Cross Morning busing,	3	3	126	176	66528
St. Paul of the Cross Afternoon busing	3	3	126	176	66528
Extended Day Kindergarten (EDK) shuttles	2	2	58.5	176	20592
Middle School Activity Busing, No Wednesdays	5	5		144	52200
Interscholastic Routes	XX	XX			
Hourly Rate for Charter Trips	XX	XX			
<b>Total Annual Cost</b>					<b>1359000</b>

Our bid is being submitted on an all or none basis

**LAKEVIEW BUS LINES INC.  
POLAR EXPRESS SCHOOL BUS. CO**

<b>Regular Busing Cost Breakdown</b>	<b>2018 - 19 Number of Buses</b>	<b>2018 - 19 Number of Routes</b>	<b>2018 - 19 Cost Per Route</b>	<b>Average Total School Days Route Runs Per Year</b>	<b>2018 - 19 Total Annual Cost</b>
Single Middle School/Elementary morning busing	6	6	130	176	137280
Single Middle School/Elementary afternoon busing	6	6	130	176	137280
Paired Middle School/Elementary morning busing	16	32	65	176	366080
Paired Middle School/Elementary afternoon busing	16	32	65	176	366080
Kindergarten Noon Bus, To and From School	16	16	65	176	183040
St. Paul of the Cross Morning busing,	3	3	130	176	68640
St. Paul of the Cross Afternoon busing	3	3	130	176	68640
Extended Day Kindergarten (EDK) shuttles	2	2	60.5	176	21296
Middle School Activity Busing, No Wednesdays	5	5	75	144	54000
Interscholastic Routes	XX	XX			
Hourly Rate for Charter Trips	XX	XX			
<b>Total Annual Cost</b>					<b>1402336</b>

Our bid is being submitted on an all or none basis

**LAKEVIEW BUS LINES INC.  
POLAR EXPRESS SCHOOL BUS. CO**

Regular Busing Cost Breakdown	2019 - 20 Number of Buses	2019 - 20 Number of Routes	2019 - 20 Cost Per Route	Average Total School Days Route Runs Per Year	2019 - 20 Total Annual Cost
Single Middle School/Elementary morning busing	6	6	134	176	141504
Single Middle School/Elementary afternoon busing	6	6	134	176	141504
Paired Middle School/Elementary morning busing	16	32	67	176	377344
Paired Middle School/Elementary afternoon busing	16	32	67	176	377344
Kindergarten Noon Bus, To and From School	16	16	67	176	188672
St. Paul of the Cross Morning busing,	3	3	134	176	70752
St. Paul of the Cross Afternoon busing	3	3	134	176	70752
Extended Day Kindergarten (EDK) shuttles	2	2	62.5	176	22000
Middle School Activity Busing, No Wednesdays	5	5	77	144	55440
Interscholastic Routes	XX	XX			
Hourly Rate for Charter Trips	XX	XX			
<b>Total Annual Cost</b>					<b>1445312</b>

Special Education Bid Sheet 2017-2018

**LAKEVIEW BUS LINES INC.  
POLAR EXPRESS SCHOOL BUS. CO**

Estimated Annual Costs - The Bidders shall provide a projected total annual cost for the 2017-2018 school year using the unit costs noted. The projected total annual cost shall be inclusive of all fees required. All route assumptions for the delivery of the transportation services are provided in the Appendixes.

**In-District Routes**

Special Education Transportation	Number of Routes	Cost Per Route	Extended Cost
<b>AM Routes (One Way Only)</b>			
Single Route Cost	2	126	\$252.00
Double Route Cost	6	63	\$378.00
<b>Mid-day Routes (AM students home)</b>			
Single Route Cost	3	63	\$189.00
Double Route Cost			\$0.00
<b>Mid-day Routes (PM students to School)</b>			
Single Route Cost	4	63	\$252.00
Double Route Cost			\$0.00
<b>PM Routes (One Way Only)</b>			
Single Route Cost	2	126	\$252.00
Double Route Cost	6	63	\$378.00
<b>Special Education Transportation In-District Projected Cost</b>			<b>\$1,701.00</b>
I/D total 176 days		299376	

	Number of Routes	Cost Per Route	Extended Cost
<b>Wheel Chair Surcharge</b>	1	24	<b>\$24.00</b>
w/c total 176 days		4224	

**Information Only - Bus Driver Assistants**

Driver Assists for AM, Mid-day, and PM Routes

Hourly Rate	20	Total
Min 2 hrs per route		<b>\$303,600.00</b>

**Out-of-District Routes**

OUT-OF-DISTRICT LOCATIONS	Cost per Route (Round Trip)	Days	
Bridge Wiew/Challenger Day School, 6935 W. Touhy, Niles	\$ 230.00	176	\$40,480.00
Connections Day School South Campus, 909 E. Wilmette Rd. Palatine	\$ 285.00	176	\$50,160.00
Cumberland Elementary School, 700 E. Golf Rd., Des Plaines	\$ 295.00	176	\$51,920.00
Glen Oaks Therapeutic Day -North, 135 Brandon Dr., Glendale Heights	\$ 279.00	176	\$49,104.00
Joseph Academy, 11 N. 22nd Ave., Melrose Park	\$ 295.00	176	\$51,920.00
Kirk School, 520 S. Plum Grove, Palatine	\$ 330.00	176	\$58,080.00
Laureate Day/metro Prep, 2525 E. Oakton, Arlington Heights	\$ 295.00	176	\$51,920.00
Molloy Education Center, 8701 Menard Avenue, Morton Grove	\$ 340.00	176	\$59,840.00
New Hope Academy, 6289 W. Howard Street, Niles	\$ 235.00	176	\$41,360.00
North Shore Academy - E., 255 Revere Drive, Northbrook	\$ 260.00	176	\$45,760.00
Seal, 240 E. Progress Road, Lombard	\$ 324.00	176	\$57,024.00

Pricing includes attendant & w/c & A/C in this section

\$557,568.00

**Wheel Chair Surcharge**

24	Total	<b>\$861,168.00</b>
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**Information Only - Bus Driver Assistants**

Driver Assists for AM, Mid-day, and PM Routes

Hourly Rate	20	<b>\$861,168.00</b>
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Our bid is being submitted on an all or none basis

Min 2 hrs per route

**Special Education Bid Sheet 2018-2019**

**LAKEVIEW BUS LINES INC.  
POLAR EXPRESS SCHOOL BUS. CO**

Estimated Annual Costs - The Bidders shall provide a projected total annual cost for the 2017-2018 school year using the unit costs noted. The projected total annual cost shall be inclusive of all fees required. All route assumptions for the delivery of the transportation services are provided in the Appendixes.

**In-District Routes**

Special Education Transportation	Number of Routes	Cost Per Route	Extended Cost
<b>AM Routes (One Way Only)</b>			
Single Route Cost	2	130	\$260.00
Double Route Cost	6	65	\$390.00
<b>Mid-day Routes (AM students home)</b>			
Single Route Cost	3	65	\$195.00
Double Route Cost			\$0.00
<b>Mid-day Routes (PM students to School)</b>			
Single Route Cost	4	65	\$260.00
Double Route Cost			\$0.00
<b>PM Routes (One Way Only)</b>			
Single Route Cost	2	130	\$260.00
Double Route Cost	6	65	\$390.00
<b>Special Education Transportation In-District Projected Cost</b>			<b>\$1,755.00</b>
		I/D total 176 days	308880

	Number of Routes	Cost Per Route	Extended Cost
<b>Wheel Chair Surcharge</b>	1	25	<b>\$25.00</b>
	w/c total 176 days	4400	

**Information Only - Bus Driver Assistants**

Driver Assists for AM, Mid-day, and PM Routes

			Total
Hourly Rate	21		<b>\$313,280.00</b>
Min. 2 hrs per route			

**Out-of-District Routes**

OUT-OF-DISTRICT LOCATIONS	Cost per Route (Round Trip)	Days	
Bridge View/Challenger Day School, 6935 W. Touhy, Niles	\$ 238.00	176	\$41,888.00
Connections Day School South Campus, 909 E. Wilmette Rd. Palatine	\$ 295.00	176	\$51,920.00
Cumberland Elementary School, 700 E. Golf Rd., Des Plaines	\$ 305.00	176	\$53,680.00
Glen Oaks Therapeutic Day -North, 135 Brandon Dr., Glendale Heights	\$ 288.00	176	\$50,688.00
Joseph Academy, 11 N. 22nd Ave., Melrose Park	\$ 305.00	176	\$53,680.00
Kirk School, 520 S. Plum Grove, Palatine	\$ 339.00	176	\$59,664.00
Laureate Day/metro Prep, 2525 E. Oakton, Arlington Heights	\$ 303.00	176	\$53,328.00
Molloy Education Center, 8701 Menard Avenue, Morton Grove	\$ 350.00	176	\$61,600.00
New Hope Academy, 6289 W. Howard Street, Niles	\$ 242.00	176	\$42,592.00
North Shore Academy - E., 255 Revere Drive, Northbrook	\$ 269.00	176	\$47,344.00
Seal, 240 E. Progress Road, Lombard	\$ 334.00	176	\$58,784.00
Pricing includes attendant & w/c & A/C in this section			<b>\$575,168.00</b>

**Wheel Chair Surcharge**

	Total	<b>\$888,448.00</b>
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**Information Only - Bus Driver Assistants**

Driver Assists for AM, Mid-day, and PM Routes

Hourly Rate	21	<b>\$888,448.00</b>
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Our bid is being submitted on an all or none basis

Min. 2 hrs per route

**Special Education Bid Sheet 2019-2020**

**LAKEVIEW BUS LINES INC.  
POLAR EXPRESS SCHOOL BUS. CO**

*Estimated Annual Costs - The Bidders shall provide a projected total annual cost for the 2019-20 school year using the unit costs noted. The projected total annual cost shall be inclusive of all fees required. All route assumptions for the delivery of the transportation services are provided in the Appendixes.*

**In-District Routes**

<b>Special Education Transportation</b>	<b>Number of Routes</b>	<b>Cost Per Route</b>	<b>Extended Cost</b>
<b>AM Routes (One Way Only)</b>			
Single Route Cost	2	134	\$268.00
Double Route Cost	6	67	\$402.00
<b>Mid-day Routes (AM students home)</b>			
Single Route Cost	3	67	\$201.00
Double Route Cost			\$0.00
<b>Mid-day Routes (PM students to School)</b>			
Single Route Cost	4	67	\$268.00
Double Route Cost			\$0.00
<b>PM Routes (One Way Only)</b>			
Single Route Cost	2	134	\$268.00
Double Route Cost	6	67	\$402.00

**Special Education Transportation In-District Projected Cost** **\$1,809.00**

I/D total 176 days	318384	
Number of Routes	Cost Per Route	Extended Cost
1	26	<b>\$26.00</b>
w/c total 176 days	4576	

**Wheel Chair Surcharge**

**Information Only - Bus Driver Assistants**

Driver Assists for AM, Mid-day, and PM Routes	Hourly Rate	22	Total
	Min. 2 hrs per route		<b>\$322,960.00</b>

**Out-of-District Routes**

<b>OUT-OF-DISTRICT LOCATIONS</b>	<b>Cost per Route (Round Trip)</b>	<b>Days</b>	
Bridge View/Challenger Day School, 6935 W. Touhy, Niles	\$ 243.00	176	\$42,768.00
Connections Day School South Campus, 909 E. Wilmette Rd. Palatine	\$ 302.00	176	\$53,152.00
Cumberland Elementary School, 700 E. Golf Rd., Des Plaines	\$ 314.00	176	\$55,264.00
Glen Oaks Therapeutic Day -North, 135 Brandon Dr., Glendale Heights	\$ 295.00	176	\$51,920.00
Joseph Academy, 11 N. 22nd Ave., Melrose Park	\$ 312.00	176	\$54,912.00
Kirk School, 520 S. Plum Grove, Palatine	\$ 339.00	176	\$59,664.00
Laureate Day/metro Prep, 2525 E. Oakton, Arlington Heights	\$ 312.00	176	\$54,912.00
Molloy Education Center, 8701 Menard Avenue, Morton Grove	\$ 360.00	176	\$63,360.00
New Hope Academy, 6289 W. Howard Street. Niles	\$ 249.00	176	\$43,824.00
North Shore Academy - E., 255 Revere Drive, Northbrook	\$ 269.00	176	\$47,344.00
Seal, 240 E. Progress Road. Lombard	\$ 342.00	176	\$60,192.00

Pricing includes attendant & w/c & A/C in this section **\$587,312.00**

**Wheel Chair Surcharge** **\$910,272.00**

**Information Only - Bus Driver Assistants**

Driver Assists for AM, Mid-day, and PM Routes	Hourly Rate	22	<b>\$910,272.00</b>
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IV. CERTIFICATIONS MADE BY BIDDERS

CERTIFICATE OF ELIGIBILITY TO CONTRACT

I, M. W. Wagner, pursuant to Section 5/10-20.21(b) of the School Code, hereby certify that neither I nor any of my partners, or officers or owners of

**LAKEVIEW BUS LINES INC.**  
**POLAR EXPRESS SCHOOL BUS. CO**

NAME OF BUSINESS

1. Have been convicted in the past five (5) years of the offense of bid-rigging under Section 33E of the *Illinois Criminal Code of 1961*, 720 ILCS 5/33E -1 *et seq.*, as amended;
2. Have ever been convicted of the offense of bid rotating under Section 33E-4 of the *Illinois Criminal Code of 1961*, as amended;
3. Have ever been convicted of bribing or attempting to bribe an officer or an employee of the State of Illinois; or
4. Have made an admission of guilt of any of the above conduct, which is a matter of record.

Furthermore, I certify that I, my partners, officers or owners of

**LAKEVIEW BUS LINES INC.**  
**POLAR EXPRESS SCHOOL BUS. CO**

and its affiliates have and will

continue to collect and remit Illinois Use Tax, to the extent required under the *Illinois Use Tax Act*, 35 ILCS 105/1 *et seq.*

In certifying to the above, I hereby acknowledge that the School Board may declare any contract awarded pursuant to this bid void if this certification is false.

Date 4/11/17

Authorized Agent of Bidder

Subscribed and Sworn before me

this 11<sup>th</sup> day of APRIL, 2017

[Redacted Signature]



**CERTIFICATE OF COMPLIANCE WITH A  
DRUG-FREE WORK PLACE ACT**

I, M. W. Wagner, as an authorized agent, do hereby certify that

**LAKEVIEW BUS LINES INC.  
POLAR EXPRESS SCHOOL BUS. CO** (check appropriate box):

NAME OF BUSINESS

Has 25 or more employees and, pursuant to Section 3 of the *Illinois Drug Free Workplace Act*, 30 ILCS 580/1 *et seq.*, shall provide a drug free workplace for all employees engaged

in the performance of work under the contract by complying with the requirements of the *Illinois Drug Free Workplace Act*. I further certify that

**LAKEVIEW BUS LINES INC.  
POLAR EXPRESS SCHOOL BUS. CO**

NAME OF BUSINESS

is not ineligible for award contract by reason of debarment for a violation of the *Illinois Drug-Free Workplace Act*.

Has less than 25 employees and shall provide a drug free workplace for all employees engaged in the performance of work under the contract.

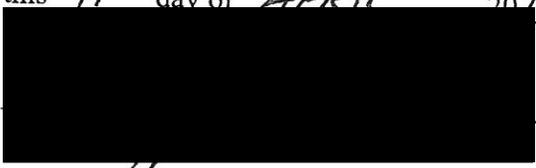
In certifying to the above, I hereby acknowledge that the School Board may declare any contract awarded pursuant to this bid void if this certification proves false.

4/11/17  
Date



Subscribed and Sworn before me

this 11<sup>th</sup> day of APRIL 2017



CERTIFICATE OF NON-DISCRIMINATION

I, M. W. WAGNER, as an authorized agent, do hereby certify that

**LAKEVIEW BUS LINES INC.**  
**POLAR EXPRESS SCHOOL BUS. CO**  
NAME OF BUSINESS

\_\_\_\_\_, does not engage in discriminatory practices regarding employment or delivery of or access to services and programming and that it fully complies with the requirements of federal and State civil rights laws, including but not limited to: the *Illinois Civil Rights Act of 2003*, P.A. 93-0425; *Illinois Human Rights Act*, 775 ILCS 5/1-101 et seq.; the *Americans with Disabilities Act*, 42 U.S.C.12101 et seq., and the *Rehabilitation Act of 1973*, as amended, 29 USC 701 et seq., as well as the rules and regulations promulgated there under.

In certifying to the above, I hereby acknowledge that the School Board may declare any contract awarded pursuant to this bid void if this certification pursues false.

2/16/17  
Date \_\_\_\_\_

Subscribed and Sworn before me

this 11<sup>th</sup> day of APRIL 2017  
\_\_\_\_\_



**CERTIFICATE REGARDING**  
**SEXUAL HARASSMENT POLICY**

**LAKEVIEW BUS LINES INC.**

**POLAR EXPRESS SCHOOL BUS, CO** does hereby certify pursuant to Section 2-105 of the *Illinois Human Rights Act* (775 ILCS 5/2-105) that it has a written sexual harassment policy that includes, at a minimum, the following information: (i) the illegality of sexual harassment; (ii) the definition of sexual harassment under State law; (iii) a description of sexual harassment, utilizing examples; (iv) an internal complaint process including penalties; (v) the legal recourse, investigative and complaint process available through the Department of Human Rights and Human Rights Commission; (vi) directions on how to contact the Department of Human Rights and Human Rights Commission; and (vii) protection against retaliation.

Date

4/11/17

A

Subscribed and Sworn before me

this 11<sup>th</sup> day of APRIL, 20 17

[Redacted Signature]



V. SUMMARY OF EXPERIENCE SHEET

For purposes of bidding only, it is estimated that the District's transportation requirements for 2016-2017 will be similar to its requirements for the 2017-2018, 2018-2019, and 2019-2020. During the 2016-2017 school year, the District provided transportation services to approximately 2,190 students.

Community Consolidated School District 64  
Regular Bus Rider Count by School for 2016-17 (as of March 1, 2017)

SCHOOL	2016/17 CURRENT YEAR	2017/18 ANTICIPATED*	TOTAL AM/PM ROUTES	MID- DAY ROUTES	TITLE ONE	#BUSES
Carpenter	130	108	4	2		3
Emerson	698	729	30			15
Field	241	186	6	2	1	5
Franklin	101	77	2	2	1	3
Lincoln	322	346	14			7
Roosevelt	264	208	8	2		5
Washington	213	174	8	2		5
St Paul	166	138	6			3

**\*DOES NOT INCLUDE INCOMING KINDERGARTEN**

Community Consolidated School District 64  
Special Education Bus Rider Count by School for 2016-17 (as of March 1, 2017)

SCHOOL	2016/17 Current Year	Total AM Routes	Total Mid- Day Routes	Total PM Routes	# Buses
Carpenter	0				
Emerson	6				1
Field	3				1
Franklin	4				1
Lincoln	3				1
Roosevelt	5				1
Washington	6				1
Jefferson	27	2	5	2	

Attachments C thru E contain specific details to the buses; the schools served and bell times. The information found in Attachments C thru E are estimates only, and the District reserves the right to increase or decrease the number of routes, trips or hours as needed to serve its students and their needs. By presenting its proposal, a Bidder agrees to abide by this provision in the event that it is awarded the Contract.

## GENERAL CONDITIONS

### a. INTRODUCTION

Community Consolidated School District 64 (as herein defined) and the Contractor (as herein defined) shall enter into a Contract (as herein defined) to provide the services at the price and on the terms and conditions specified in these General Conditions and other Bid Documents (as herein defined) and such other reasonable terms consistent therewith and necessary for the performance of the Contract. Such Contract shall be for a term commencing on July 1, 2017 and ending on June 30, 2020 and may, at the District's sole discretion, be extended for two (2) additional one-year periods, as provided for herein. However, the District reserves the right to modify the start date of the contract to provide for continuity in the delivery of transportation services for the 2017 Summer School program.

### b. GENERAL SCOPE OF WORK

This Contract is for a three-year student transportation services and management services agreement, including, but not limited to, responsibility for operating, maintaining, staffing, fueling and equipping a fleet of vehicles and terminal facilities sufficient to provide transportation services to all eligible students of the District. For the 2017-2018 school year, the District is providing transportation services to approximately 2,190 District students. Details of the 2016-2017 District transportation information can be found in Attachments D and E.

### c. DEFINITIONS

- i. "Board" or "Board of Education" shall mean the duly elected Board of Education of Community Consolidated School District 64 and the members thereof.
- ii. "District" shall mean Community Consolidated School District 64, 164 S. Prospect Avenue, Park Ridge, Illinois 60068.
- iii. "Bidder" shall mean one who submits a bid for a Contract with the District for the work described in the Bid Documents.
- iv. "Bid Documents" shall mean and include the Public Notice, Instructions to Bidders, Scope of Services, General Conditions, Bid Form, and other sample bidding and Contract and informational forms and all attachments to the foregoing. It also includes any Addenda issued prior to receipt of bids.
- v. "Bid Specifications" shall mean all terms and conditions as set forth in the Bid Documents.
- vi. "Contract" shall mean these General Conditions and Scope of Services, and the Bid Documents, including, but not limited to, any

ancillary agreement required by these General Conditions, and the bidder's response to this bid solicitation, including, but not limited to, the Bid Form, upon its acceptance by the Board of such bid.

- vii. "Contractor" shall mean the successful Bidder whose bid has been accepted by the District and to whom a Contract has been awarded.
- viii. "Route" shall mean the pattern or plan of travel including pick-up and departure points for buses transporting students and others entitled to school bus transportation.
- ix. "Run" shall mean a one-way trip from the point of initial departure to the point of final arrival on a bus route.
- x. "Superintendent" shall mean the duly appointed or acting superintendent of the District or his/her designee.

#### d. INTERPRETATION AND ERRORS

In the event that questions should arise requiring interpretation of these General Conditions or other Bid Documents, such questions shall be referred, in writing, to the CSBO, or their designee, whose decision shall be binding on all parties. No advantages shall be taken by any Bidder or the Contractor of manifest clerical errors or omissions in the General Conditions or other Bid Documents. All Bidders and the Contractor are requested to notify the CSBO immediately of any errors or omissions that may be encountered.

#### e. CONTRACTOR'S MANAGER AND OFFICE STAFF

The Contractor shall agree to maintain a terminal facility within ten (10) miles of the District's boundaries. The District reserves the right to negotiate the location of the terminal facility with the successful bidder.

The Contractor shall ensure that a manager is accessible on-site at all times (twelve months a year) during normal business hours. Should said manager not be accessible, on-site, back-up management support is required and must be accessible, on-site, to make decisions concerning any emergency situation requiring immediate action.

Said manager shall have complete authority with respect to the Contractor's employees and personnel, bus schedules and routes and record keeping, i.e. State claim information, field trip billing, etc. under this Contract.

The Contractor shall maintain sufficient staff, including, but not limited to, dispatchers and mechanics, at the local office and terminals to ensure the complete and timely performance of all obligations under the Contract. The

Contractor is required to staff the office serving the District Contract from **5:30 a.m. to 6:00 p.m.** on school days when students are transported. Failure of the Contractor to comply with these directives shall be sufficient cause for the District to find the Contractor in default.

## INSURANCE

The Contractor shall procure and maintain during the term of the Contract insurance coverage as listed below. Each Bidder shall provide at the time of bid submission a certificate of insurance evidencing ability to obtain insurance on the terms and conditions stated herein. Insurance shall be with companies licensed to do business in Illinois and satisfactory to the District. In light of the agreements that the District and the Contractor (i) may enter into governing the Contractor's exclusive use of the District's terminal facilities, (ii) may enter into for the sale and transfer of the District's fleet and (iii) may enter into for the leasing of the District fleet, the District agrees to cooperate, to the extent necessary, with the Contractor to secure any related insurance:

- i. Comprehensive General Liability  
Contractual Personal Injury  
Employer's Liability Limit                      \$ 1,000,000 combined single
- ii. Automobile Liability  
Comprehensive Liability                      \$ 2,000,000 combined
- iii. Medical Payment  
All vehicles  
occurrence                      \$ 100,000 per person, each
- iv. Excess Umbrella                      \$15,000,000 each occurrence
- v. Workers' Compensation Insurance shall be the minimum limits as specified by law.

The insurance (except the Workers' Compensation Insurance) shall, in addition to the Contractor, include as named insured the District, the Board of Education, all members of said Board and all officers, agents and employees of the District. The insurance policies providing Comprehensive General Liability coverage shall contain the Hold Harmless Agreement specified in Section G of these General Conditions, and all policies listed under this Section F shall also contain a waiver of all rights of subrogation against the District and the additional named insured's listed in this Section F, for all losses payable under said insurance policies.

For the first year of the Contract the Contractor with the District shall file only, final Certificates of Insurance within ten (10) days of Contract award, and for each remaining year of the Contract, the Contractor with the District shall file the Certificates of Insurance by July 1. The Certificates of Insurance shall show that the District, the Board and all relevant individuals have been duly named as

additional insured under each policy and showing that the insurance is not cancelable without first giving sixty (60) days advance written notice to the District. The Contractor shall incur a one hundred dollar (\$100) per diem penalty for each day it fails to file said Certificates of Insurance after the applicable due date. In the event of cancellation, the Contractor shall furnish evidence of new insurance at the earliest possible date, but not later than ten (10) days prior to the cancellation date of the original policy. Failure of the Contractor to obtain new insurance shall be cause for the District to terminate the Contract.

f. HOLD HARMLESS AGREEMENT

The Contractor agrees to indemnify, hold harmless and defend the District, the Board of Education, members of said Board and the District's officials, agents, employees, successors and assigns, against all suits, actions, legal proceedings, claims and demands, and against all personal injuries and property damages, losses, costs, expenses and attorney's fees, in any manner caused by, arising from, incident to, connected with any acts, omissions or failures to perform the Contract which are attributed to the Contractor, its officials, employees, agents, successors or assigns.

g. INVOICING

The Contractor shall do invoicing directly to the District, in a format acceptable to the District. In addition, the Contractor shall provide copies of all calculations deriving per-student charges from per-route and per-trip charges billed in accordance with these General Conditions. For all regular and special education summer school routes, the Contractor shall submit invoices to the District on or before the tenth (10<sup>th</sup>) day of each month. The District shall make payment to the Contractor monthly in arrears based upon actual routes at the appropriate unit prices per route, as specified in the Bid Form.

Payments for all other services under the Contract (i.e., field trips, early or late routes, etc.) shall be made monthly in arrears, upon submission by the Contractor of individual invoices covering the services provided. Such invoices shall be presented to the District on or before the tenth (10<sup>th</sup>) day of each month. Payments shall be made monthly after approval of the bills by the Board of Education based upon the Board of Education Board meeting schedule.

Final invoicing for the year will be provided to the District in time for approval at the last June Board meeting in order to include all cost in the Transportation Claim.

h. CONTRACT TERM AND EXTENSION AND CONTRACT PRICE

- i. The Contractor will be awarded the Contract for a three (3) year term, beginning on the date of award and ending on June 30, 2020. However, the District reserves the right to modify the start date of

the contract as provided for continuity in the delivery of transportation services for the 2017 Summer School program.

- ii. The District, at its sole discretion, may elect to extend the Contract for two (2) additional one-year periods (the 2020-2021 and 2021-2022 school years). However, if for any reason the District determines that continuation of this Contract is not in the best interests of the District, it may withdraw from and terminate the Contract at the end of any fiscal year (a fiscal year ends on June 30) covered by this Contract, provided that the District gives the Contractor written notice of its intention to so terminate the Contract by April 1 of said fiscal year. If the District elects to extend the Contract for an additional one-year period it shall so notify the Contractor in writing by March 1 of the year in which the Contract would otherwise expire.
- iii. The Contract price for the school year ending in June 2019 shall be determined in accordance with the submissions made on the Bid Form. The Contract price for the school year ending in June 2020 shall be determined in accordance with the submissions made on the Bid Form for the 2019-2020 School Year.
- iv. In the event the District elects to extend the contract for the fourth and fifth years, the negotiated, tentative Contract will be brought for approval before the District Board at the first regularly scheduled meeting after March 31 of the current year. The Contract base prices may be increased or decreased by no more than the lesser of five percent (5%) or the percentage increase or decrease reflected by the Chicago Metropolitan area Consumer Price Index for Urban Consumers, from March 1 of the previous calendar year to February 28 (or 29, as the case may be) of the current calendar year, as published by the United States Department of Labor, Bureau of Statistics. However, in the event there are economic factors beyond the control of the service provider, the District reserves the right to negotiate increases for contract extensions based upon actual cost increase. The current year's base prices listed for any Contract year shall be the basis for adjusting the Contract price for the next year.

i. EMERGENCY REQUIREMENTS

The Contractor prior to the start date of the Contract shall establish plans and programs for maintaining the following safety precautions and programs:

- i. At least one (1) assigned office worker familiar with the District Contract shall be available in the Contractor's office to field calls

or transmissions from parents, drivers and District staff each day students are transported from 5:30 a.m. to 6:00 p.m.

- ii. An answering service shall be provided by the Contractor to be used between the hours of 6:00 p.m. to 5:30 a.m. each day when students are transported to advise callers that the office is closed and in the event of an emergency to contact one or more individuals designated by the Contractor.
- iii. The Contractor shall maintain operable two-way radios in all vehicles, with a base receiver and transmitter in the District facility. Failure to have an operable radio on a route within twenty-four (24) hours of notice shall result in a one hundred percent (100%) penalty for such route for each day thereafter that the radio is inoperable.
- iv. The Contractor shall provide the District, in writing, the names of all assigned drivers and driver assistants and their home telephone numbers, and/or cell phone numbers. This shall be done at the onset of each Contract year and each time a new driver or assistant is assigned to a route. This notification must be provided to the Business Office at least twenty-four (24) hours prior to a new driver or assistant beginning service.
- v. The Contractor shall provide each driver and assistant with instruction on the District's student discipline procedures and a copy of these procedures, as set forth in the District's Student Handbook, and a copy must be kept on the bus at all times. All drivers and assistants shall strictly comply with the District's discipline procedures, including reporting requirements.
- vi. The Contractor shall provide the District with immediate notification of all accidents.
- vii. Accident reports are to be submitted within twenty-four (24) hours of the time of the accident.

j. EQUIPMENT AND VEHICLE MAINTENANCE

The Contractor shall be responsible for each of the items listed below relative to any vehicle that the Contractor uses or proposes to use to transport District students, regardless of whether the Contractor is the actual titleholder of the vehicle, and the Contractor shall certify, in writing, by August 1 of each year that this Contract is in effect, to the District that it has met each of these responsibilities:

- i. Ensuring that all equipment on vehicles conforms to all local, State and Federal statutes pertaining to school bus transportation, vehicle

specifications and safety, and to all relevant State and Federal regulations.

- ii. Obtaining in a timely fashion any and all required inspections and providing a copy of the inspection report for any vehicle upon request of the District.
- iii. Ensuring that each vehicle possesses the following safety equipment in good and working order: two-way radio able to transmit and receive with a base station in the local office, a first-aid kit, individual seat belts where required by Illinois law, padded seats, stop-arms, school bus flashers, emergency exit, reinforced roof, safety-glass windows and clearly visible markings as a school bus. Air conditioning is required for the Special Education vehicles.
- iv. Contractor must be able to provide eighty-four (84) seat capacity equipment when requested by the district due to enrollment or demographic changes.
- v. Contractor is to provide all car seats and five-point restraint harnesses that are required for each bus route. District prefers buses with built-in five-point restraint systems.
- vi. Failure to have a required car seat or five-point restraint harness on the bus at the scheduled route departure time will result in 100% penalty for that route for that day.
- vii. Ensuring that each vehicle is maintained in (i) a clean, sanitary condition and (ii) good mechanical condition, including the tires.
- viii. Repairing, at the Contractor's expense, any and all vandalism or damage to a vehicle.
- ix. Equipping all buses with identifying markings, as designated by the District, displayed in the right front side window of each vehicle and also in the right rear window in bold, with each character no less than six inches in height, and in a clearly visible material.
- x. Maintaining a safety program that, at a minimum, includes the following:
  1. Regularly scheduled in-service meetings for Drivers to include, but not limited to, defensive driver training, blood-borne pathogens training, and student behavior management.

2. District's safety procedures to be in-serviced by Contractor's designated Safety Supervisor.
3. Daily vehicle inspections.
4. Safety Supervisor(s) to enforce good driving practices with respect to safety, mechanical operation, adherence to time schedules and conformity with applicable laws and regulations.
5. Two (2) written Bus Driver evaluations per year by the bus manager and one (1) written Bus Assistant evaluation by the appropriate manager, both with input from the appropriate school building administrator(s). Upon request, the written evaluations of the Drivers and Assistants shall be provided to the Districts.
6. To ensure that Drivers, Assistants and Dispatcher(s) understand appropriate emergency procedures.
7. Prohibitions barring any Driver from driving a school bus and any Bus Assistant from serving on a school bus while smoking or being under the influence of alcohol or non-prescription drugs.
8. Every effort must be made to ensure that Drivers and Assistants are in good health, and adequate provision must be made for substitute Drivers and Assistants when regular personnel is absent.
9. Requirement that all Drivers wear their seat belt at all times when they are operating their vehicle.
10. Prohibitions barring all drivers and assistants from using a cellular telephone while operating or working on a bus, except in the event of a bus emergency.
- xi. Instructions that Drivers and Assistants routinely urge students to use, when available, the individual seat belts and that all drivers not begin their routes or move forward until all students are seated within the bus.
- xii. Equipping all buses that transport students of the District with cameras and digital recording equipment mounted in the front and rear of each vehicle. All video recordings and media copies shall become the sole and exclusive property of the District. The Contractor shall have no right to retain, or otherwise make use of any recordings and media copies.

- xiii. Recordings and media copies shall be turned into the District as requested. Review of the recordings and discipline for student misconduct as revealed by the recordings shall be the responsibility of the District.
- xiv. Each bus will be provided an updated detailed street map(s) of the District area.
- xv. Each bus will be provided route books containing copies of all the current bus routes. These route books will be updated upon issuance of new/updated route sheets.

k. DRIVER RESPONSIBILITY AND QUALIFICATIONS

All drivers shall be subject to State and Federal laws pertaining to the operation of school buses and the transportation of students, the Illinois School Code and the rules and regulations pertaining to same, and the policies and regulations of the District, and no driver shall be permitted to operate any vehicle under this Contract unless he or she is in full compliance with all such laws, rules, regulations and policies. All personnel operating vehicles used in the transportation of students and all driver assistants must be of the highest moral character, completely competent professionals, properly licensed and physically capable.

The Contractor shall provide to the District a detailed description of its procedures for screening and employing all employees. In addition, the Contractor shall supply to the District:

- i. Each employee's name and home address.
- ii. Each driver's commercial driver's license number and school bus driver's permit number.
- iii. The date on which each employee, as applicable, successfully passed drug and alcohol screening.
- iv. The date on which each employee, as applicable, was cleared by a criminal background check and checks of the Statewide Sex Offenders database.

All employees who are required to, but have not submitted to the background check and drug/alcohol testing or those who have not been cleared by a background check and drug/alcohol test may not be employed under this Contract. The best, most experienced drivers and assistants should be assigned to routes that serve students with special needs, including those students with behavior disorders. Drivers must have the ability without restriction, to lift and physically assist students into seats and child booster and car seats. In addition, detailed information on each driver and employee, as applicable, including certification,

criminal background check, and driving record shall be maintained at the Contractor's office and provided to the District upon request.

The District reserves the right to request the removal of a driver for specific routes or the from the entire District transportation system. The District is not liable for any unemployment claims resulting from any requested termination.

Any problems relative to transportation services between drivers or assistants and school staff should not be discussed in front of students. The driver or assistant should bring the problem to the attention of his or her supervisor who can then resolve the issue with the District's CSBO or her designee. Drivers and assistants are required to report behavior problems in a timely, accurate and appropriate manner. Drivers are required to ensure that their radios are on and in good repair at all times when transporting students. Failure to comply with any of the above should be cause for serious disciplinary action, and such incidents should become a part of their personnel records. The Contractor will keep a record of any and all accidents, commendations, complaints and concerns regarding each driver or assistant. These records shall be provided to the District on a monthly basis to the District's designated administrator. Accident records will be provided to the District no later than 24 hours after the event.

#### l. STUDENT AND TEACHER SAFETY TRAINING

The Contractor shall perform at each local school site two (2) hands-on bus evacuation drills per year. The first drill shall be completed by November 15 and the second by May 1 of each Contract year, and a written notice of completion shall be sent to the District. The District shall designate an individual(s) to work with the Contractor to coordinate and schedule the requisite drills.

#### m. STUDENT DISCIPLINE

Discipline on any transportation vehicle rests with the driver and/or assistant, as the case may be, and it shall be the driver's or the assistant's responsibility to maintain order. Drivers and assistants must promptly and accurately report student violations of bus rules in accordance with the District's discipline guidelines (which guidelines may from time to time be amended by the District). Final authority in matters of student discipline shall rest with the District.

A copy of the entire existing Student Discipline Guidelines is available at the District's Administrative Building for inspection. This document will be provided to the Contractor upon bid award.

#### n. ELIGIBLE STUDENTS; NUMBER OF DAYS OF TRANSPORTATION

- i. Eligible Students: Any student who is a resident of the District who is approved for transportation by the CSBO or her designee shall be deemed an eligible student.

- ii. No Unauthorized Persons: No unauthorized persons shall be allowed in any vehicle while it is engaged in transporting students; however, the District reserves the right to have an authorized District employee ride on any vehicle on any route, without prior notice to the Contractor. Rides by parents for personal reasons are expressly forbidden.
- iii. School Calendars: All transportation will be in accordance with the District calendar including provisions for holidays, institute days, early dismissal for in-service training, beginning time for the school day and ending time for the school day. The District shall, by July 1 of each year of the Contract, furnish the Contractor with a school calendar, including the Summer Program schedule (provided to Contractor 60 days prior to the start of the program), and subsequent changes to the school calendar will be furnished to the Contractor in a timely fashion. The 2017-18 school calendar is included as part of Attachment B of these Bid Documents.

o. ROUTES AND SCHEDULES

The Contractor shall establish routing plans on the basis of specific criteria developed in consultation with the District's CSBO or her designee, consistent with the general provisions of the Contract and Bid Documents, and the District agrees, to the extent necessary, to cooperate with the Contractor in developing said routing plan. At a minimum, routing plans shall include and be consistent with the following:

- i. The District shall establish the starting and closing times for individual classes and students. The basic rate shall apply to transportation consistent with these established times.
  - 1. The District may alter starting and closing times.
  - 2. The Contractor shall implement route schedule changes as soon as practicable but in no event shall such implementation take more than five (5) calendar days.
  - 3. Contractor shall implement individual student schedule changes as soon as practicable but in no event shall such implementation take more than three (3) business days.
  - 4. Route changes require parent notification as to changes in drivers and/or pick-up and drop-off time changes. Accommodations to facilitate bus scheduling cannot be negotiated individually with parents or local school staff.

5. The Contractor shall add new students to transportation service as soon as practicable but in no event shall such addition take more than three (3) business days.
- ii. The Contractor agrees to provide typed tentative routes (routes are also to be put into electronic format) to the District no later than August 1<sup>st</sup> for the transportation of students; the District may provide the Contractor with comments on the tentative routes. Revised typed "final" routes are to be furnished to the Districts by October 1 of each year for the regular school year; the final route shall be subject to the approval of the District. Typed routes shall include: (1) route number, (2) bus number, (3) driver's name, (4) estimated pick-up and drop-off times, and other information pertinent to the route as may be requested by the District.
- iii. Once the Contractor's routing plan has been fully approved by the District, the Contractor without the consent of the District may not change it. Changes may be agreed to via telephone, but must be confirmed within five (5) business days by written message. The Districts may require route changes based upon changing student population or other needs.
- iv. Contractor shall provide bus service for each school route designated by the District. Within the route, stops shall be so spaced so that the distance of travel from a student's home to a bus stop shall not be greater than two (2) typical city blocks or the equivalent, provided that Contractor should be aware that certain students require door-to-door service as requested by the District. Additionally, it shall not be necessary for a student to cross an arterial street or main thoroughfare to either reach a bus stop or reach their home after being dropped off. Maximum travel time for to/from routes shall typically not exceed thirty (30) minutes.
- v. The starting time for incoming routes shall be set to allow the bus to arrive at the school not more than fifteen (15) minutes or less than five (5) minutes before the designated start time on the route form contained in Attachments D and E of these Bid Documents. Outgoing routes shall be scheduled so that the bus arrives at the school at least five (5) minutes prior to and shall not depart until seven (7) minutes after the finish time indicated on the route form contained in Attachments D & E of these Bid Documents.
- vi. Seating capacity for Elementary students may be three (3) students per standard seat. Seating for Middle School routes may be two (2) students per standard seat. For Field Trips, seating shall be at not more than two (2) students per standard seat, unless specifically approved otherwise by the District.

- vii. The Contractor shall submit to the District, on an “as requested” basis, a Ridership Report covering one week for each “To and From” school route for each school building. The report shall indicate the seating capacity of the vehicle serving the route and the number of students entering the vehicle at each pick-up point for each route. The purpose of Ridership Reports is to ensure that routes are efficiently loaded and to provide data on which to base decisions regarding route removal, combination and expansion.
- viii. The following procedures shall apply to Field Trips.
  1. The school shall schedule at least one (1) faculty member or other approved adult supervisor on each Field Trip bus.
  2. The District Office shall schedule field trips at least seven (7) school days in advance of the field trip.
  3. The District Office at no charge may cancel field trips prior to the start of the field trip. All efforts shall be made to provide at least one (1) school day notification of cancellation. There shall be no penalty for a cancelled field trip by a school due to weather-related reasons.

p. **DISTRICT’S RIGHTS IN CONTRACT AWARD**

The District reserves the right to award the transportation Contract as it sees fit, selecting the Bidder(s) which it considers to be in the best interest of the District, or to reject any and all proposals. The District reserves the right to award any portion of the bid or portion thereof, including base bids and alternate bids as noted in the Scope of Services to one or more Bidders. Award will be made to the bidder or bidders who the Community **Consolidated School District 64** Board of Education, in the exercise of its discretion, determines to be most able to provide safety and comfort for the pupils, stability of service, and any other factors set forth in the request for proposal regarding quality of service, and then price. Price will be a factor, but not be the sole determining factor, in the evaluation. Responsibility of the bidder will be evaluated based upon all the factors identified in Section L of the Instructions To Bidders, the materials supplied with the sealed bid package and the information garnered by the Community **Consolidated School District 64** Board of Education and its agents through their independent investigation.

q. **EMERGENCY PROCEDURE**

In the event of an accident, the Contractor is responsible for notifying the District Office and then the specific school where the students attend by telephone within ten minutes, and then by written report filed within twenty-four (24) hours. The Contractor is responsible in the event of any accident to follow established procedures, including the prompt obtaining of any necessary medical assistance,

the notification of the responsible police department and to assist the District in parental notification if so requested. The Contractor shall provide a back-up bus for alternate transportation of the students at the site within 20 minutes of contact by the driver to the Contractor's management team.

r. INDEPENDENT CONTRACTOR

This Contract is for furnishing all or one of the following:

1. Student transportation service.
2. Student transportation management services.
3. Extracurricular routes
4. Charters and field trips

In performing this Contract, the Contractor is an independent contractor and is not an officer, member, agent or employee of the District.

s. COMPLIANCE WITH ALL LAWS

This Contract shall be governed and construed in accordance with the laws of the State of Illinois. If any provision hereof shall be held to contravene any applicable law, such provision shall be deemed reformed to the extent of conforming to said law, and in all other respects the terms hereof shall remain in full force and effect. The Contractor shall comply with all applicable laws, regulations and rules promulgated by the Federal, State, County, Municipal and/or other government unit or regulatory body now in effect or which may be in effect during the performance of the Contract. Included within the scope of the laws, regulations and rules referred to in this Paragraph, but in no way to operate as a limitation, are all forms of traffic regulations, public utility and Interstate Commerce Commission regulations, Workers' Compensation Laws, the Social Security Act, Occupational Safety and Health Act, the Consumer Product Safety Act, the Illinois School Code and the Illinois Motor Vehicle Code.

Additionally, the Contractor shall comply with all laws and regulations pertaining to equal opportunity and fair employment practices, including the Illinois Human Rights Act. The Contractor shall not discriminate against any worker, employee, or applicant, or any other member of the public because of race, religion, color, age, sex, handicap, marital status, national origin, or unsatisfactory military discharge, nor otherwise commit an unfair labor practice. The Contractor further agrees that this Paragraph will be incorporated by the Contractor in all contracts entered into with suppliers of materials and services, subcontractors and labor organizations, furnishing skilled, unskilled, or craft union skilled labor, or may perform any such labor or service in connection with this Contract.

Further, by its Bid Form, the Contractor will certify that it has adopted and implemented a written sexual harassment policy in full compliance with Public Act 87-1257 and Section 2-105A (4) of the Illinois Human Rights Act, 775 ILCS 5/2-105A (4), and in case of the Contractor having 25 or more employees, a drug-free workplace policy and practice in full compliance with Section 3 of the Illinois Drug-Free Workplace Act, 30ILCS 580/3. As well, the Contractor will comply with tobacco prohibition of the School Code.

Finally, by its bid form, the Contractor will certify that it is not ineligible for award of this Contract by reason of debarment for a violation of any of the above-referenced laws and regulations and acknowledges that any breach of the foregoing provisions shall constitute a breach of this Contract.

Failure of the Contractor to be in compliance with this Paragraph T shall be cause for the District to terminate the Contract.

t. ASSIGNMENT OF CONTRACT

The Contractor agrees not to assign this Contract, or any part of this Contract, to any other party without prior written consent of the District.

u. NONCOMPLIANCE PENALTIES

Should the District find the Contractor in noncompliance with the provisions of the Contract on a bus route or series of routes, the District will be entitled to impose the following penalties, provided that the Superintendent, or his designee, has provided the Contractor two (2) days oral notice of the noncompliance and the Contractor has not cured the noncompliance within said two days. For purposes of this Section of these General Conditions, "noncompliance" means, but is not limited to, the failure to transport students on a bus route or routes as contracted or as requested in strict accordance with the terms, conditions and provisions of this Contract, or the failure to make changes to routes as specified and directed by the Superintendent in accordance with the terms of this Contract, or the failure to comply with an explicit provision or requirement set forth in this Contract. Furthermore, for purposes of this Section of these General Conditions, the Contractor shall be deemed to have cured any noncompliance if the action, event or occurrence that caused the noncompliance is not repeated in any of the ten (10) business days following oral and/or written notification of the noncompliance by the Superintendent or his designee.

INCIDENT	PENALTY
1. No service on any to or from regularly scheduled route	100% of the per run cost
2. Late pick-up (15 minutes or more as defined on approved route sheet) at a school	20% of the per run cost
3. Late drop-off (15 minutes or more as defined on approved route sheet) at a school	20% of the per run cost
4. Missed stops on a route, provided that any missed stop has occurred on any three days per ten days of service	20% of the per run cost
5. Failure to provide a properly licensed and permitted bus driver for a to/from route	100% of the per run cost
6. Failure to make changes in a bus route(s)	\$50 per day per route

The District shall notify the Contractor in writing whenever it has elected to assess a penalty, whether assessed pursuant to this Section W or another paragraph of these General Conditions, stating the amount of and the reason for the penalty. The noncompliance penalties for late pick-up and drop-off shall not apply during weather involving hazardous driving conditions or delays due to a vehicle accident (non-bus). **A penalty, whether assessed pursuant to this Section V or another paragraph of these General Conditions, shall be deducted, at the District's sole discretion, from the first or second invoice following the noncompliance. The failure of the District to assess or collect any penalty under these General Conditions shall not be considered a waiver of the District's right to assess or collect that penalty in the future or a waiver with respect to any future violation committed by the Contractor.**

v. SERVICE INTERRUPTION

- i. In the event that service is interrupted for more than twenty-four (24) hours by reason of work stoppage or any other event, which prevents the Contractor from furnishing service, the District shall have the right to secure and substitute other transportation services. If the costs of the substitute transportation services are higher than the Contractor's cost (agreed upon in the Contract), then the

Contractor shall pay the difference between its charges and the charges of the substitute bus company.

- ii. In the event of severe weather conditions, or conditions beyond the Contractor's reasonable control, the Contractor shall notify the Superintendent, or his/her designee and request permission to interrupt service. Such decisions by the Superintendent shall be final.
- iii. If it is necessary to reschedule the days lost because of the Contractor's failure to perform, the Contractor shall provide bus service in accordance with this agreement, for each day rescheduled, at no cost to the District.
- iv. If schools serviced by the buses are closed on any day or days because of weather conditions or other emergency, notice will be given by the District of cancellation of service to the Contractor by telephone or otherwise, before 6:00 a.m. for such day(s). If notice is given after 5:45 a.m., then one-half (1/2) of daily rate shall be due the Contractor for each bus driver affected.

w. TERMINATION OF CONTRACT BY REASON OF DEFAULT

- i. If the Contractor or its drivers or employees at any time fail to comply with the terms of this Contract, or do not fully perform and strictly adhere to any of the terms hereof required to be performed, the District may, at its discretion, terminate this Contract, as provided herein.
- ii. In the event that the District determines that the Contractor has failed to comply fully, perform, or strictly adhere to this Contract, then the District may, at its discretion, through its CSBO, send written notice to the Contractor indicating the intention of the District to declare the Contractor in default. In such notice, the District shall state in what respect the Contractor has failed to comply with the terms of the Contract, and shall further state a date upon which the Contract will terminate, unless the Contractor, prior to such date, cures the defect to the satisfaction of the District. The Contractor shall provide the District a written correction plan to provide a cure for the non-compliance concerns within forty-eight (48) hours of the receipt of the District's notification. If prior to the date of termination stated in said notice, the District notifies the Contractor that the defect has been cured, the Contract will not terminate on the date stated in the notice but will be deemed to have remained in effect as of the date such notice was given. In the event the District does not so notify the Contractor that the defect has been cured, the District shall

terminate this Contract without further action on the date of termination stated in notice.

- iii. The date of termination stated in the notice of intent to declare the Contractor in default, as provided in paragraph two (2) above, may not be sooner than thirty (30) calendar days following the date of such notice unless there is a failure by the Contractor to provide the services required by this Contract which affect twenty-five per cent (25%) or more of the routes assigned to the Contractor, in which event the date of termination may be five (5) calendar days following the date of such notice.
- iv. The right of the District to terminate the Contract as provided in this Section is cumulative with all other rights of the District contained herein.

x. BACK-UP BUSES

The Contractor shall maintain a fleet of various sized back-up buses in an amount not less than 10% of the vehicles needed to satisfy in full the terms of this Contract that shall be available, as needed, to fulfill the terms of this Contract.

y. SYSTEM COMMUNICATIONS

- i. The Contractor shall provide a computer system able to receive and transmit data information from the District's SIS System and for the usage of Versatrans.
- ii. The Contractor shall provide printed post cards ready for school district postage and mailing by August 1st (or other date as agreed to by the District). These post cards will provide families with all student transportation information (route, time, bus stop location).

z. MISCELLANEOUS

Any notice or communication permitted or required under the Contract shall be in writing and shall become effective on the day of mailing thereof by email, followed by registered, certified, or express mail addressed to:

## VI. BUS DISCIPLINE PROCEDURES FOR DRIVERS

The information contained in this Section is being provided for informational purposes only, and it reflects the District's current policies as of the date this bid is released. The District retains the right to adjust, modify and amend these procedures as it sees fit. The District will provide the Contractor with the then-current procedures as soon as possible after the award of the Contract as well as any adjustments, modifications or amendments made to those procedures during the term of the Contract.

- a. The District Superintendent or his designee may from time to time issue instructions governing the behavior of students. The Contractor's drivers and driver assistants shall, to the best of their abilities, follow such instructions at all times. Such instructions shall include procedures for reporting misconduct.
- b. The Contractor will report each incident of student misconduct immediately by phone or in person to the Principal or his designee of the receiving school and follow up with a written report to the Company and the District.
- c. The Contractor will not permit either smoking or consumption of alcoholic beverages, or consumption of other non-prescription drugs, by students on a bus.
- d. The Contractor shall promptly notify the Principal or his designee whenever any student is recommended for suspension from transportation. The Principal shall make the final determination of suspension from transportation, subject to review by the Board of Education as provided under Article 10 of the School Code.
- e. The Contractor's drivers and driver assistants shall not, under any circumstances, administer physical punishment to any student on the bus. Restraint may be used by the drivers only when necessary to protect the safety of other students on the bus.

**If to the District:**

Community Consolidated School District 64  
164 S. Prospect Avenue  
Park Ridge, Illinois 60068  
Attention: Chief School Business Official  
(847) 318-4324 (telephone)

**If to the Contractor**

\_\_\_\_\_  
\_\_\_\_\_  
**LAKEVIEW BUS LINES INC.**  
**POLAR EXPRESS SCHOOL BUS. CO**  
\_\_\_\_\_  
\_\_\_\_\_

The undersigned warrants that he or she is duly authorized to execute and contractually bind the entity submitting this winning bid and acknowledges, by his or her signature, that he or she, on behalf of the submitting entity, has read and agrees to comply in all respects with the foregoing General Conditions.

**LAKEVIEW BUS LINES INC.**  
**POLAR EXPRESS SCHOOL BUS. CO**  
\_\_\_\_\_  
Company, Corporation, Partnership Name

§ \_\_\_\_\_  
\_\_\_\_\_

Michael W. Wagner  
Name

Partner CFO  
Title

The District has accepted the Bid and awards the Transportation Contract to the above entity.

**Board of Education Community Consolidated School District 64**

By: \_\_\_\_\_  
President

Attest: \_\_\_\_\_  
Secretary

To: Board of Education  
Dr. Eric Olson, Superintendent  
From: Luann Kolstad, Chief School Business Official  
Date: February 18, 2020  
Subject: Discussion of Upcoming Natural Gas Supplier Contract Renewal

The District's current three-year contract for natural gas will expire this spring. At this time, administration is working with Tradition Energy to secure pricing to bring to the Board at its March meeting. Tradition Energy is the awarded supplier of energy-related services through the U.S. Communities Program of which District 64 is a member. U.S. Communities is a national purchasing cooperative developed by government agencies utilizing the pooled power of public agencies nationwide. During our bidding process for electricity, Tradition Energy brought us 11 bids to consider, resulting in additional savings for the District. Administration is confident in Tradition Energies' ability to obtain competitive bids for our natural gas.

To: Board of Education  
Dr. Eric Olson, Superintendent  
From: Luann Kolstad, Chief School Business Official  
Date: February 18, 2020  
Subject: Discussion of Upcoming Quest Food Management Services Contract Renewal

The end of the 2019-20 school year marks the end of the District's first contract with Quest Food Management Services to provide lunch services at both the elementary and middle school level. The administration would like to continue to have Quest as our food service provider based on the service and quality of food we are receiving. Quest is not raising their fee with the renewal of the contract for another year.

Administration has heard concerns about the cost of lunch and à la carte items. The prices we charge for lunch are not set by Quest, they are set by the District. When the hot lunch program was implemented three years ago, the District had to purchase necessary equipment and other items to get the program up and running. The thought at that time was to set a higher price on lunch to help cover these one-time costs.

In addition, the District composts all food scraps including the compostable trays used at the elementary buildings. While there is an added cost for this type of product, we are keeping a lot of garbage out of the landfills that would be generated by the use of a product that is not compostable. This too was taken into consideration when the prices for lunch were set. To date, Lakeshore is still picking up all compostable materials at no cost to the District.

At the March meeting, administration will present information on any profits/losses that the District has experienced. We will also provide usage information for both the elementary and middle school programs. The hot lunch program should be a self-sustaining program with any profits used to offset the ongoing costs for equipment repair and replacement.

## FOOD AND BEVERAGE SERVICES AGREEMENT

*24<sup>th</sup>* This FOOD AND BEVERAGE SERVICES AGREEMENT is entered into this day of *April* 2017, by and between THE BOARD OF EDUCATION OF PARK RIDGE-NILES COMMUNITY CONSOLIDATED SCHOOL DISTRICT NO. 64 ("Client"), an Illinois public school district with its principal office at 164 South Prospect Avenue, Park Ridge, Illinois 60068 and QUEST FOOD MANAGEMENT SERVICES, INC. an Illinois corporation, with offices at 2500 South Highland Suite 250, Lombard, Illinois, 60148 ("Quest").

### WITNESSETH

WHEREAS, Client seeks to enter into a contract with a qualified and experienced food service management company to operate Client's food service facilities in accordance with the terms and conditions contained in and incorporated into this Agreement; and

WHEREAS, Quest submitted a bid in response to Client's request for food service bids, and the Board of Education awarded the bid to Quest at its meeting on April 24, 2017; and

WHEREAS, Quest agrees to operate Client's facilities in accordance with the terms and conditions contained in and incorporated into this Agreement.

NOW THEREFORE, in consideration of the above recitals, and the terms, conditions, and mutual covenants contained herein, Client and Quest agree as follows:

#### **I. Term and Termination of the Agreement**

A. The term of this Agreement shall commence on July 1, 2017 and shall expire on June 30, 2020. This Agreement shall be renewable annually on July 1 of each subsequent year thereafter by mutual written agreement of Client and Quest. Each such renewal of the Agreement shall contain the same provisions as this original Agreement unless modified in writing by mutual agreement of the Parties.

B. This Agreement may be terminated prior to its expiration in the following circumstances:

1. By Client for any reason, in Client's sole discretion, upon sixty (60) days written notice to Quest. Upon the expiration of sixty (60) days after such written notice is received by Quest, this Agreement shall terminate automatically.
2. By Quest for any reason, effective on June 30 of the then-current year, if notice of such termination is provided by Quest to Client no later than January 15 of that year.

3. By either party upon thirty (30) days written notice, in the event that either party defaults under any material term or condition of this Agreement or otherwise does not comply in all respects with (i) the rules, regulations and policies referenced in Section III, A. respecting the Services set forth or (ii) all applicable laws, ordinances, municipal codes, health and other governmental regulations whether on a local, state or federal level.

## **II. Scope of Services.**

A. During the term of this Agreement, Quest shall operate all of Client's food services facilities as detailed in the proposal submitted to Client in April 2017, which proposal is attached hereto and incorporated herein by reference as Exhibit B. The food and beverage services detailed in said proposal shall be referred to as "Food and Beverage Services."

B. Independent Contractor. Quest shall be an independent contractor and shall retain control over its employees and agents. Nothing in this Agreement shall be deemed to create a partnership, agency, joint venture or landlord-tenant relationship between Client and Quest, with the exception of Quest acting as an agent and fiduciary on behalf of Client for purchasing goods and supplies related to the food service program.

## **III. Selling Price, Ownership of Revenue, and Performance Obligations**

A. Client's Right to Monitor. Client may, at all times during the term of this Agreement, monitor Quest's performance of all of its duties under this Agreement. Client may make reasonable rules and regulations governing its food service operations, and Quest shall comply with any such regulation promptly, if Client provides notice of such rule or regulation. Client shall have the right to inspect its food service facilities at any time without prior notice to Quest.

B. Extension of Credit. Upon reasonable request by Client, Quest shall provide special services beyond the normal scope of the Food and Beverage Services, and shall charge Client for such services at reasonable rates, which are agreed to in writing and advance by the Parties. Quest will extend credit to Client and any other parties designated by Client for the performance of such services. Client will process all invoices for such services in accordance with the Local Government Prompt Payment Act.

C. Non-Discrimination. Further, Quest agrees to comply fully with the requirements of the Illinois *Human Rights Act* (775 ILCS 5/1-101 et seq.) including, but not limited to, the provision of sexual harassment policies and procedures pursuant to Section 2-105 of the Act. Quest further agrees to comply with all federal Equal

Employment Opportunity Laws, including, but not limited to, the *Americans With Disabilities Act* (42 U.S.C. § 12101 et seq.), and their rules and regulations.

As required by Illinois law, in the event of Quest's non-compliance with the provisions of the Equal Employment Opportunity Clause or the Illinois *Human Rights Act*, Quest may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be cancelled or voided in whole or in part, and other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, Quest agrees as follows:

1. That he or she will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, order of protection status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, military status or an unfavorable discharge from military service; and, further, that he or she will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any underutilization.

2. That, if he or she hires additional employees in order to perform this contract or any portion of this contract, he or she will determine the availability (in accordance with this Part) of minorities and women in the areas from which he or she may reasonably recruit and he or she will hire for each job classification for which employees are hired in a way that minorities and women are not underutilized.

3. That, in all solicitations or advertisements for employees placed by him or her or on his or her behalf, he or she will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, order of protection status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, military status or an unfavorable discharge from military service.

4. That he or she will send to each labor organization or representative of workers with which he or she has or is bound by a collective bargaining or other agreement or understanding, a notice advising the labor organization or representative of Quest's obligations under the Act and this Part. If any labor organization or representative fails or refuses to cooperate with Quest in his or her efforts to comply with the Act and this Part, Quest will promptly notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations under the contract.

5. That he or she will submit reports as required by this Part, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Act and this Part.

6. That he or she will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain compliance with the Act and the Department's Rules and Regulations.

7. That he or she will include verbatim or by reference the provisions of this clause in every subcontract awarded under which any portion of the contract obligations are undertaken or assumed, so that the provisions will be binding upon the subcontractor. In the same manner as with other provisions of this contract, Quest will be liable for compliance with applicable provisions of this clause by subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply with the provisions. In addition, Quest will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

D. Quest agrees to comply with all applicable laws, rules, and regulations, including health regulations promulgated by Federal, State, County and City Governments, and to procure and maintain all necessary licenses and permits which may be required of Client and/or Quest in connection with the performance of any of the Food and Beverage Services.

E. Record of Sales. Quest shall keep complete and accurate records of all revenues and expenses generated in connection with the performance of Food and Beverage Services. Client shall have the right to audit all of Quest's records that relate in any way to the performance of the Food and Beverage Services. Quest shall fully cooperate with any such audit.

#### **IV. Management and Personnel**

A. Quest shall provide a sufficient number of qualified management and personnel to provide the services necessary to properly perform the Food and Beverage Services. To the fullest extent permissible by law, Client may request in writing that Quest reassign any employee or independent contractor of Quest who is involved in the performance of the Food and Beverage Services, if the Client reasonably believes such person is disrupting Quest's performance of the Food and Beverage Services, endangering Client's students or administration, or in any way breaching any duty owed by Quest under this Agreement, or violating any rule, regulation, or law applicable to Quest's performance of the Food and Beverage Services. Upon Quest's receipt of such

request from Client, Quest shall prohibit such person from performing any Food and Beverage Services, and shall replace that person, without disruption in the Food and Beverage Services, and at no additional cost to Client. Client reserves the right to demand the immediate removal from Client's property of any Quest employee or independent contractor that the Client, in its sole discretion, reasonably believes presents a harm or disruption to the Client's students, parents, faculty, or staff.

B. For each day during the term of this Agreement on which Quest performs Food and Beverage Services, Quest shall provide an on-site, full time supervisor to oversee the performance of the Food and Beverage Services.

C. Quest shall comply with all federal, state and local laws and regulations related to wages and hours of employment, and health and safety, with respect to any of its employees involved in the performance of the Food and Beverage Services. Quest shall also comply with Executive Order 11246, entitled, "Equal Employment Opportunity," as amended, and all other Federal and State nondiscrimination laws and regulations.

D. Quest agrees that no employees of Client will be hired by Quest without specific written permission of Client for the term of this Agreement and six (6) months thereafter. Client agrees that without specific written permission from Quest, former managers of Quest working under this Agreement will neither be hired by Client for the term of this Agreement and six (6) months thereafter, nor will Client permit former managers of Quest to be employed directly or indirectly, nor will Client hire, or contract for food or beverage services with, any former manager of Quest, whether as an individual or as owner, majority stockholder, director, officer or employee of another firm for a period of six (6) months subsequent to the expiration or termination of the Agreement. For the purpose of the prohibition, "former managers" shall mean those persons who directly or indirectly performed any management-type services in connection with the Food and Beverage Services for the Client for at least a six (6) month period immediately prior to the expiration or termination of this Agreement.

E. Client agrees that Quest's managers have acquired special knowledge, information, skills, and contacts as a result of being employed with and trained by Quest. Quest agrees that Client's employees have acquired special knowledge, information, skills, and contacts as a result of being employed with and trained by Client. The parties agree that, in the event of a breach of Section IV.D., the breaching party shall pay the non-breaching party a fee equal to Fifty Thousand Dollars (\$50,000). This sum has been determined to be reasonable by both parties after due consideration of all relevant circumstances. This provision will survive termination of this Agreement.

F. Confidentiality. Quest acknowledges that during the course of this Agreement, Quest shall have access to business systems, techniques and methods of operation developed at great expense by Client, which Quest recognizes to be unique assets of Client's business. Quest agrees to keep such information confidential and shall not disclose such information directly or indirectly during or subsequent to the term

of this Agreement. In the event Quest breaches this provision, the Parties agree that Client may seek equitable remedies against Quest, including temporary and permanent injunctive relief.

## **V. Facilities and Equipment**

A. Client's Responsibilities. During the term of this Agreement, Client shall furnish the necessary food service equipment required for the performance of the Food and Beverage Services, including dishware, glassware, serving utensils, point of sale systems, and other similar items. Client shall also supply the following services:

1. Janitorial services for the dining room area;
2. Equipment maintenance and repair services;
3. All utilities, including telephone service;
4. Physical facilities for male and female employees of Quest;
5. Extermination services;
6. Disposal services for waste materials deposited in appropriate containers by Quest's employees;
7. Suitable and secure office space for Quest, including, but not limited to a desk, chairs, a four-door file cabinet, a safe, a calculator, appropriate registers, a computer with Microsoft Office software, an internet connection and a phone;
8. Maintenance personnel and outside maintenance services, parts, and supplies required to properly maintain the premises and equipment;
9. Provision of all capital equipment needed to operate a freshly prepared, in-district satellite program; and
10. A vehicle for daily transportation of food and supplies, and all capital equipment and transport supplies needed to safely transport food and supplies on a daily basis.

The premises and equipment provided by Client for use in Quest's performance of the Food and Beverage Services shall be in good condition and maintained by Client to ensure compliance with applicable laws concerning building conditions, sanitation, safety and health (including without limitation, OSHA regulations). Quest shall promptly notify Client of any malfunction or failure of any of the aforementioned equipment and of the need for any of the aforementioned services.

Client further agrees that any modifications or alterations to the workplace or the Premises (whether structural or non-structural) necessary to comply with any statute or governmental regulation shall be the responsibility of Client and shall be at Client's expense.

B. Quest's Responsibilities.

1. Quest shall be responsible for cleaning of all food preparation equipment, all food serving and dishwashing equipment, and all materials used or which may be used in the performance of the Food and Beverage Services. Quest shall maintain all food service areas in Client's facilities in a sanitary condition and shall operate all equipment in accordance with the manufacturer's recommendations. Specific division of responsibilities between Quest and Client is detailed in Exhibit A of this agreement.
2. Quest shall provide laundry services for all linen, aprons, uniforms and similar items used in the performance of the Food and Beverage Services.
4. All food preparations and serving equipment owned by Client shall remain on Client's premises at all times.
5. Management of all program revenues and point of sale operations.
6. Client's facilities shall not be used by Quest to prepare food, meals, or provide other related services for other organizations or entities aside from Client without Client's prior written approval.
7. Quest shall obtain and maintain at all times during the term of this Agreement state and local health certifications for any facility outside Client's facilities in which Quest intends to prepare food, meals, and/or beverages. Quest shall meet all applicable state and local health regulations in performing all Food and Beverage Services.
8. Upon termination of this Agreement, Quest shall surrender to Client all equipment and furnishings in the food service facilities in the same good condition as Quest received them at the commencement of the term of this Agreement, ordinary wear and tear excepted. Quest shall reimburse Client for any damage or loss to the school equipment or furnishings caused by Quest or its employees, representatives, subcontractors, or agents.

9. Quest shall purchase all food and beverage items to be furnished in connection with the Food and Beverage Services from reliable and reputable suppliers and, if required by law, all such food and beverages shall be approved by authorized governmental agencies with jurisdiction.
10. Quest shall purchase, pay for, and pass on as a direct cost to Client, with no markup by Quest, all food, supplies, and services to be utilized in Quest's performance of the Food and Beverage Services. Such purchases shall be made exclusively for the benefit of Client and shall be used solely for the performance of the Food and Beverage Services. Quest shall keep all such food and related supplies separate and apart from Quest's other inventories and title thereto shall remain in Client at all times. Quest shall credit all local trade discounts to Client's account, on a pro rata basis. Client shall be billed for purchases made hereunder as such food and supplies are procured by Quest for the performance of the Food and Beverage Services.
11. Quest's management personnel shall be certified in sanitation. Quest shall comply with all local and state sanitation requirements. Any costs incurred by Quest in maintaining such compliance shall be borne solely by Quest, and Client shall not be liable for any such charges.
12. Providing a qualified and licenses driver for daily transportation of food and supplies.

## **VI. Payment**

During each calendar month in which Quest performs its duties under this Agreement, Quest shall send an invoice and operating statement to Client within ten (10) days after the last day of that month. Such invoice shall state the following:

A. Quest's actual cost for all food, beverages, supplies, and materials purchased or otherwise procured by Quest for use in its performance of the Food and Beverage Services;

B. Quest's expenses for employee wages, fringe benefits, taxes, and insurance premiums, equal to 38% of direct wage expenses, which accrued as a result of Quest's employees' performance of the Food and Beverage Services during that month;

C. Other direct operating costs incurred by Quest in performing Food and Beverage Services during that month, including but not limited to laundry, disposable, cleaning supplies, and non-food items;

D. Quest will charge client a management fee equivalent to 5% of Total Program Revenue and an administrative fee equivalent fee to 2% of Total Program Revenue;

E. Catering shall be paid for directly by Client, and will be added to the monthly invoices submitted to Client. Quest shall keep and maintain for the Client complete accounting records and books of accounts relating to the Services and all sales made to the end-users;

F. Client's students will pay a minimum of \$4.00 per meal for the 2017-18 school year. A la carte pricing and future year pricing will be mutually agreed upon by both parties; and

G. A calculation of the Total Program Revenue for that month, which includes all revenue received from the Food and Beverage Services.

## **VII. Assumptions**

The financial terms contained in this Agreement are based upon existing conditions and the specifications of the Client and assumptions listed in Quest's proposal to Client.

## **VIII. Insurance**

A. Quest shall maintain the following insurance policies during the term of this Agreement and any extension hereof: (i) commercial general liability insurance policy with a limit of no less than \$1,000,000 per occurrence, \$3,000,000 in the aggregate; and (ii) excess liability insurance with a minimum policy limit of \$5,000,000 per occurrence and in the aggregate; (iii) workers' compensation and employer's liability insurance with statutory coverage with limits of no less than \$1,000,000/accident, \$1,000,000/Disease-Policy, \$1,000,000/Disease-per employee; and (iv) business automobile liability insurance for each automobile owned or leased by Quest, which is used in connection with the Food and Beverage Services with no less than a \$1,000,000 per accident. The insurance carrier shall have a rating no less than an A- AM Best Rating.

B. The Indemnitees shall be named as an additional insureds on the commercial general liability insurance, business automobile liability insurance and the excess liability insurance. Each policy shall contain an endorsement provision that coverage under that policy shall not be canceled, modified, or revised unless and until thirty (30) days prior written notice is sent to and received by Client. Quest shall submit to Client certificates of insurance evidencing that all required coverages are in effect prior to commencing performance of the Food and Beverage Services under this Agreement, and shall send to Client certificates of renewal of all such policies promptly upon Quest's receipt of such certificate from each such insurer.

C. To the extent that Quest utilizes any subcontractors to perform any of the services required under this Agreement, Quest shall ensure that additional insured status is granted to the Indemnitees on the subcontractor's commercial general liability insurance, business automobile liability insurance and excess liability insurance. Quest shall be responsible for all acts and omissions of its subcontractors.

D. All insurance required of Quest, with the exception of umbrella and excess insurance, shall be primary insurance on a non-contributory basis. The umbrella and excess policies shall follow the primary policies in all respects, including non-contributory obligations. If the additional insureds have other insurance that is applicable to the loss, it shall be on an excess or contingent basis.

#### **IX. Entire Agreement**

This Agreement, including any and all exhibits, which is incorporated herein by reference, represents the entire Agreement between the parties with respect to their subject matter, and there are no additional agreements or understandings, whether oral or written, other than those contained in this Agreement. This Agreement supersedes all prior negotiations, if any. This Agreement may only be modified by mutual written agreement of the Parties.

#### **X. Indemnification.**

A. Quest shall indemnify, defend, and hold Client, its individual Board members, employees, and agents ("Indemnitees") harmless from any and all expenses, claims, liabilities, losses, demands, damages, attorney's fees, court costs, or any claims of any nature, based upon contract or tort, statutory or otherwise, which are incurred by Client, and arise out of or relate in any way to Quest's actual or alleged performance or breach of any term, condition, specification, or covenant contained in or incorporated into this Agreement, or any act or omission of Quest or any employee, agent, or representative of Quest, in performing any duty under this Agreement. This provision shall survive expiration or termination of this Agreement.

B. Intentionally Deleted.

#### **XI. Miscellaneous**

A. Client's waiver of any breach or default by Quest of any provision of this Agreement shall not be deemed to constitute the waiver of such provision for any subsequent breach or default by Quest of the same or any other provision. The acceptance of any credit by Client, and/or the payment by Client of any of Quest's invoices, shall not be deemed to constitute the waiver of any prior occurring breach or default by Quest of any provision of the Agreement, regardless of whether Client was aware of such breach or default at the time of such acceptance or payment.

B. Neither Client nor Quest shall be liable under this Agreement for any losses resulting from delay or damage caused by wars, acts of public enemies, fires, floods, or acts of God.

C. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois, and venue for any lawsuit arising under this Agreement shall be in Cook County, Illinois.

D. The validity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.

E. This Agreement may be signed upon any number of counterparts with the same effect as if the signatures to each were upon the same Agreement.

F. All notices required or permitted to be given under this Agreement shall be deemed received when sent, and shall be sent either by hand delivery or by certified mail, returned receipt requested, via United States mail, with postage thereon prepaid, addressed to the other Party at the following addresses:

If to the Client:

Business Manager  
Park Ridge CCSD 64  
164 South Prospect Avenue  
Park Ridge, Illinois 60068

If to Quest:

Nicholas Saccaro, President  
Quest Food Management Services, Inc.  
2500 S. Highland, Suite 250  
Lombard, IL 60148

G. As required by the *Criminal Code*, 720 ILCS 5/33E-11, by executing this Agreement, Quest certifies that it is not barred from contracting with any unit of State or local government as a result of a violation of any criminal statute including, but not limited to, the bid rigging (Section 33E-3) or bid rotating (Section 33E-4) provisions of the *Criminal Code*. Quest agrees that if this certification is false, the Client may declare the Agreement void. Quest further certifies that it will provide a drug free workplace as required by the Illinois *Drug Free Workplace Act*, 30 ILCS 580/1 *et seq.*

H. Quest will comply with applicable requirements of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, and the Illinois School Student Records Act (ISSRA), 105 ILCS § 10/1 *et seq.*, regarding the confidentiality of student "education records" as defined in FERPA and "school student records" as defined in ISSRA. Any use of information contained in student education records to be released must be approved by the Client. To protect the confidentiality of student education records, Quest will limit access to student education records to those employees who reasonably need access to them in order to perform their responsibilities under this Agreement. Any student records in Quest's possession shall be returned to the Client when no longer needed for the purposes for which they were provided, or at the Client's written request, they shall be permanently destroyed and Quest shall provide written confirmation to the Client upon the destruction of student records.

I. Quest shall ensure, at its own expense, that required fingerprint-based criminal history records checks are conducted on all Quest employees assigned to the Client and the results are provided to the Client per the *School Code*, 105 ILCS 5/10-21.9. Furthermore, Quest is not permitted to employ on the premises of the Client any employee who has been convicted of an offense as described in 105 ILCS 5/21B-80. Quest also acknowledges that, pursuant to the *Illinois Criminal Code* (720 ILCS 5/11-9.3), it is unlawful for a child sex offender to knowingly be present on school property when persons under the age of 18 are present without the specific notification to and permission of the Superintendent or the Board. Child sex offenders found to be present on school property without permission will be considered trespassers and will be prosecuted in accordance with Illinois law. Quest shall ensure that its employees providing services under this Agreement are notified of this law and that no child sex offender shall be utilized in any of the services performed on the Client's premises or requiring contact with students. Further, Quest shall ensure that none of its employees violate this law and shall perform periodic checks of the Statewide Sex Offender Database, as authorized by the *Sex Offender Community Notification Law*, 730 ILCS § 152/101 *et seq.*, and the Statewide Child Murderer and Violent Offender Against Youth Database, as authorized by the *Child Murderer and Violent Offender Against Youth Community Notification Law*, 730 ILCS § 154/75-105. All results must be provided to the Client. Further, Quest shall ensure that all employees that have direct daily contact with students of Client have provided evidence of physical fitness to perform the duties assigned and freedom from communicable disease, as required by 105 ILCS 5/24, to Quest, and, moreover, Quest represents and warrants to Client that all such employees providing services under this Agreement have provided such evidence to Quest.

J. Quest shall ensure that its employees providing services under this Agreement shall abide by the provisions of the *Illinois Abused and Neglected Child Reporting Act*, with respect to reporting abused and neglected children during their time providing services under this Agreement. In addition, Quest and its employees shall abide by all applicable Client policies and procedures, including, but not limited to, policies applicable to conduct on school property.

K. The documents comprising the entirety of this Agreement include the Request for Proposal for Food Operations and Management Services, dated April 3, 2017 ("RFP"), which is attached hereto as Exhibit C, the Proposal for Dining Services & Hospitality Management from Quest Food Management Services, dated April 19, 2017 ("Response to RFP"), which is attached hereto as Exhibit B, and this Agreement (collectively, the "Contract Documents").

L. In the event any term or provision of this Agreement conflicts with a term or provision of the Response to the RFP or with a term or provisions of the RFP, the term or provision of this Agreement shall prevail. In the event that any term or provision of the Response to RFP conflicts with a term or provision of the RFP, the term or provision of the RFP shall prevail.

**SIGNATURE PAGE FOLLOWS**

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year last written below.

Quest Food Management Services, Inc.

By: 

Its: Nicholas Saccaro, President

Date: 05/24/2017

Client

By: 

Its: Chief School Business Official

Date: 5/25/17

## **EXHIBIT A CLEANING & MAINTENANCE SCHEDULE**

### Client Responsibilities:

- Cleaning floors, walls, fixtures and draperies/blinds of dining room
- Cleaning walls, fixtures and draperies/blinds of kitchen and serving area
- Cleaning spills and microwaves in dining room
- Extermination/pest controls services throughout
- Cleaning of dining room tables
- Trash removal in dining room
- Mop, wax and buff floors in dining room, server and kitchen area
- Quarterly, semi-annual and annual “deep cleaning”, including hood system, power washing throughout

### Quest’s Obligations:

- Sweeping of kitchen and serving area floors
- Cleaning spills in kitchen and serving area
- Laundry services for all linen, aprons, uniforms and similar items
- Daily removal of trash from kitchen and server
- Routine cleaning of kitchen and serving equipment (including walk-in cooler/freezer)

### Cleaning Schedule & Responsible Party:

- Daily
  - Dining room floors mopped, tables wiped down and sanitized (Client)
  - Kitchen and serving area floors swept; floors in dry storage and coolers mopped (Quest)
  - Kitchen, dining room and server floors mopped (Quest)
  - Routine kitchen and server equipment cleaning (Quest)
  - Kitchen Bathroom cleaned (Client)
  - Employee locker area cleaned (Quest)
  - Receiving area in & outside of the kitchen cleaned (Quest)
  - Food service office cleaned (Quest)
- Weekly
  - Clean fan guards in walk-ins (Client)
  - Spot cleaning of light fixtures (Client)
- Monthly
  - Empty & sanitize ice machine (Client)
  - Pest control servicing (Client)
  - Walls throughout kitchen, dining room and server washed (Client)
- Quarterly
  - Complete clean of light fixtures (Client)
  - Defrost and thorough clean walk-ins (Client)

- o Deep clean of kitchen equipment (oven, fryer, grill, flat top, etc.) (Quest)
- Annually
  - o Clean hoods (or 2x/year) (Client)
  - o Check fire extinguishers in facility (Client)
  - o Clean pilot lights on kitchen equipment (Client)
  - o Power wash walls, floors, etc. (Client)

**EXHIBIT B**  
**FOOD SERVICE PROGRAM PROPOSAL**

**EXHIBIT C**  
**REQUEST FOR PROPOSAL FOR FOOD OPERATIONS AND MANAGEMENT**  
**SERVICES, DATED APRIL 3, 2017**

433971\_1

Consent Agenda

ACTION ITEM 20-02-3

I move that the Board of Education of Community Consolidated School District 64, Park Ridge – Niles, Illinois, approve the Consent Agenda for February 18, 2020 which includes: Bills, Payroll and Benefits; Approval of Financial Update for the Period Ending January 31, 2020; Second Reading and Approval of Policies from PRESS Issue 102 and Policies 2:230 and 7:30; and the Destruction of Audio Closed Recordings.

The votes were cast as follows:

Moved by \_\_\_\_\_ Seconded by \_\_\_\_\_

AYES:

NAYS:

PRESENT:

ABSENT:

02/18/20

**Community Consolidated School District No. 64**

**Disbursement Detail Listing**

Bank Name: Accounts Payable  
 Bank Account: 885360644

Date Range: 02/01/2020 - 02/18/2020  
 Voucher Range: 1243 - 1249

Sort By: Vendor  
 Dollar Limit: \$0.00

Fiscal Year: 2019-2020

Print Employee Vendor Names     Exclude Voided Checks     Exclude Manual Checks     Include Non Check Batches

Check Number	Date	Voucher	Payee	Account	Description	Amount	
133081	02/12/2020	1247	Wilson Language Training Corp.	10.0000.1200.4100.000.00.462000	WRS End-of-Step Assessment (Steps 1-6)	\$44.90	
133081	02/12/2020	1247	Wilson Language Training Corp.	10.0000.1200.4100.000.00.462000	WRS Student Notebook (Steps 1-6) 10 Pack, 4th	\$71.00	
133081	02/12/2020	1247	Wilson Language Training Corp.	10.0000.1200.4100.000.00.462000	Shipping	\$13.26	
						Check Total:	\$179.06
NCB	02/12/2020	1248	Wow! Business	10.0000.2633.3420.000.00.000000	Internet-EM Feb 2020	\$864.99	
						Check Total:	\$864.99
133082	02/12/2020	1247	Zydek, Carol	10.0000.1520.3190.000.00.000000	VB ref 1-30-20	\$70.00	
133082	02/12/2020	1247	Zydek, Carol	10.0000.1520.3190.000.00.000000	VB ref 2-6	\$70.00	
						Check Total:	\$140.00
						Bank Total:	\$2,120,230.32

<u>Fund</u>	<u>Amount</u>
10	\$1,209,856.76
20	\$192,351.41
30	\$11,627.55
40	\$589,615.68
60	\$116,679.92
80	\$99.00
<b>Fund Totals:</b>	<b>\$2,120,230.32</b>

End of Report

Disbursements Grand Total: \$2,120,230.32

## Community Consolidated School District No. 64

### Fund Balances

Fiscal Year: 2019-2020

Month: January  
 Year: 2020  
 Fund Type:

Include Cash Balance  
 FY End Report

<u>Fund</u>	<u>Description</u>	<u>Beginning Balance</u>	<u>Revenue</u>	<u>Expense</u>	<u>Transfers</u>	<u>Fund Balance</u>
10	Education Fund	\$29,724,418.89	\$31,095,454.54	(\$31,953,480.40)	\$0.00	\$28,866,393.03
20	Operations & Maintenance Fund	\$7,366,731.80	\$3,150,334.02	(\$3,892,542.85)	(\$4,000,000.00)	\$2,624,522.97
30	Debt Services Fund	\$3,729,094.25	\$1,012,897.33	(\$2,278,471.48)	\$0.00	\$2,463,520.10
40	Transportation Fund	\$4,482,399.57	\$1,758,728.36	(\$1,797,501.85)	(\$2,000,000.00)	\$2,443,626.08
50	Municipal Retirement Fund	\$937,572.83	\$377,312.93	(\$496,248.95)	\$0.00	\$818,636.81
51	Social Security/Medicare Fund	\$816,625.05	\$421,312.22	(\$640,030.45)	\$0.00	\$597,906.82
60	Capital Projects Fund	\$5,640,794.22	\$23,976.88	(\$6,782,388.86)	\$6,000,000.00	\$4,882,382.24
61	Cap Projects Fund - 2017 Debt Certs	\$157,881.04	\$1,460.28	\$0.00	\$0.00	\$159,341.32
70	Working Cash Fund	\$247,831.27	\$258,295.66	\$0.00	\$0.00	\$506,126.93
80	Tort Fund	\$806,078.18	\$92,742.12	(\$496,482.68)	\$0.00	\$402,337.62
Grand Total:		\$53,909,427.10	\$38,192,514.34	(\$48,337,147.52)	\$0.00	\$43,764,793.92

End of Report

This Report Can be Viewed on the

[Financial Data Current](#)

To: Board of Education  
Dr. Eric Olson, Superintendent

From: Valerie Varhalla, Director of Business Services

Date: February 18, 2020

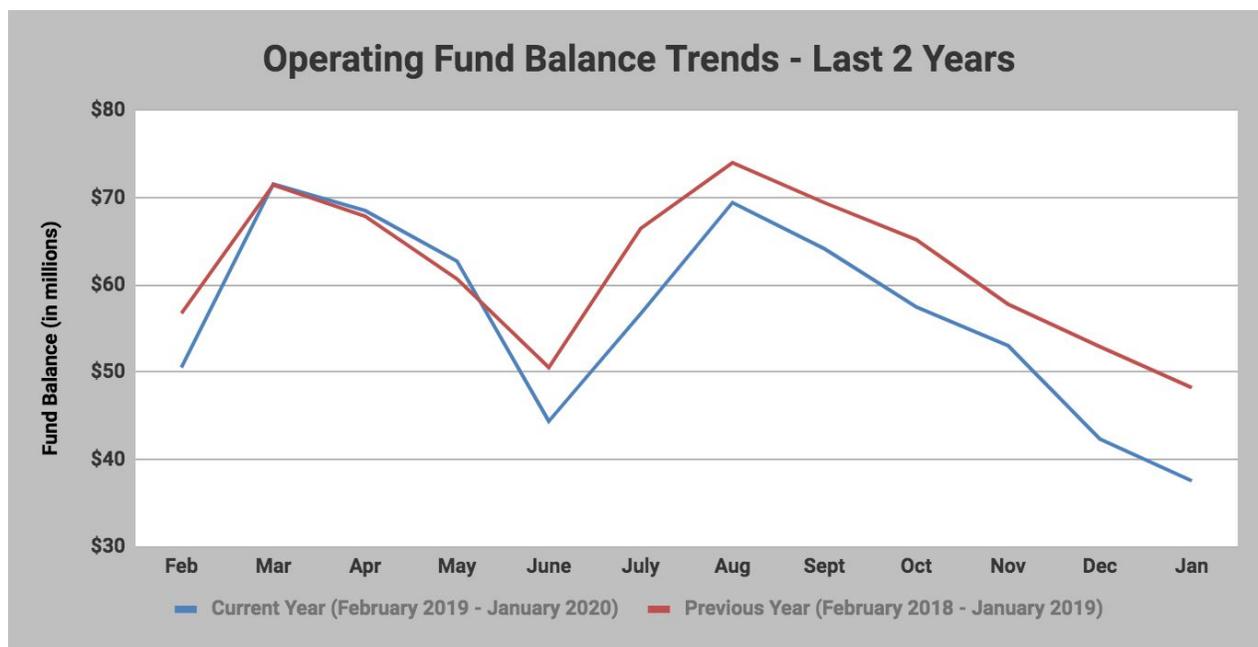
Subject: Financial Update for the Period Ending January 31, 2020

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Attached for your review are the following reports as of January 31, 2020:

- Fund Balance Report
- Revenue Summary Report
- Expenditure Summary Report

Fund balance in the Operating Funds decreased by \$4.8 million in January to \$37.5 million. The graph below shows a comparison of monthly fund balances over the last two years. The spikes in fund balance during February/March and July/August represent the District's property tax collections, which make up approximately 85% of the District's total annual revenues. It's very important for school districts to maintain fund balance reserves that are sufficient to cover operations in between those months, particularly during the fall/winter when revenues are typically scarce.



The most recent 12-month period followed a similar trend as the preceding year. Some notable exceptions are:

- May and June – The two fund balance lines decreased at varying angles because the District’s biweekly payroll schedule produced a different number of payrolls each month. Looking at the two months combined, fund balance in 2019 (blue line) decreased by \$1.2 million more than in 2018 (red line). This is due to the District transferring \$786,000 out of the Operating Funds in May 2018 to make its first yearly payment on the debt certificates. There was also a \$400,000 decline in registration fee revenue in 2018 because the District offered parents the option to defer payment on student fees until September for the first time this year.
- December-Fund balance in December decreased at a faster rate due to two board resolutions adopted at the December 16 Board of Education meeting. Resolution #1241 and #1242 directed the transfer of a total \$6 million to the Capital Projects Fund. Both Board resolutions were to help financially prepare the District with enough available funds for the upcoming Capital Projects.

From a macro-level perspective, the District continues to have a strong financial position at the start of the third quarter of the fiscal year. Fund balance is expected to start rising over the next two months of operations with the receipt of the spring property taxes. Throughout this long-term planning and forecasting the District continues to maintain the goal of operating within its means.

### **Revenue Summary - January 31, 2020**

Total revenue for the District was 48% of budgeted revenues as of January 31. This is in line with last year’s pace.

State and federal revenue was very significant in January resulting in the District receiving just over \$1,000,000. Payments included the standard two installments of Evidence Based Funding (\$306,000). As well as \$719,000 for IDEA and Title grants, and breakfast/milk program.

### **Expenditure Summary - January 31, 2020**

After completing seven months of the fiscal year, the District has expended 52% of its overall budget which is slightly behind last year’s pace (56%) but still in line with the amount of time elapsed for the fiscal year.

Table 1 below shows the year-to-date percentage of the payroll budget (salaries and benefits) that has been spent after each month as compared to last year. Total payroll expenditures are trending as projected in the budget with no major anomalies.

Table 1: Payroll Expenditures

Month	YTD Percent of Budget Spent	
	2019-20	2018-19
January	49%	48%
November	33%	33%
September	14%	14%
July	0%	1%

Table 2 displays the cumulative percentage of the accounts payable budget (purchased services, supplies, equipment, etc.) that has been spent after each month versus last year.

Table 2: Accounts Payable Expenditures

Month	YTD Percent of Budget Spent	
	2019-20	2018-19
January	60%	72%
November	48%	61%
September	33%	34%
July	12%	15%

Accounts payable spending is running behind last year's budget pace. The Capital Projects fund has a \$1.7 million larger budget this year compared to last year (FY19). The District has spent \$6.7 million as of January 31, which is \$875,000 less than at this point last year.

If you have any questions about the Financial Report, please contact Dr. Olson or myself.

## Community Consolidated School District No. 64

### Fund Balances

Fiscal Year: 2019-2020

Month: January  
 Year: 2020  
 Fund Type: Operating

Include Cash Balance  
 FY End Report

<u>Fund</u>	<u>Description</u>	<u>Beginning Balance</u>	<u>Revenue</u>	<u>Expense</u>	<u>Transfers</u>	<u>Fund Balance</u>
10	Education Fund	\$29,724,418.89	\$32,328,923.78	(\$31,956,925.73)	\$0.00	\$30,096,416.94
20	Operations & Maintenance Fund	\$7,366,731.80	\$3,193,400.07	(\$3,892,551.44)	(\$4,000,000.00)	\$2,667,580.43
40	Transportation Fund	\$4,482,399.57	\$1,764,842.26	(\$1,797,501.85)	(\$2,000,000.00)	\$2,449,739.98
50	Municipal Retirement Fund	\$937,572.83	\$378,699.62	(\$496,248.95)	\$0.00	\$820,023.50
51	Social Security/Medicare Fund	\$816,625.05	\$422,622.72	(\$640,030.45)	\$0.00	\$599,217.32
70	Working Cash Fund	\$247,831.27	\$259,047.96	\$0.00	\$0.00	\$506,879.23
80	Tort Fund	\$806,078.18	\$93,463.62	(\$496,482.68)	\$0.00	\$403,059.12
Grand Total:		\$44,381,657.59	\$38,441,000.03	(\$39,279,741.10)	(\$6,000,000.00)	\$37,542,916.52

End of Report

## Community Consolidated School District No. 64

### Fund Balances

Fiscal Year: 2019-2020

Month: January

Include Cash Balance

Year: 2020

Fund Type: Non-Operating

FY End Report

<u>Fund</u>	<u>Description</u>	<u>Beginning Balance</u>	<u>Revenue</u>	<u>Expense</u>	<u>Transfers</u>	<u>Fund Balance</u>
30	Debt Services Fund	\$3,729,094.25	\$1,018,285.70	(\$2,278,471.48)	\$0.00	\$2,468,908.47
60	Capital Projects Fund	\$5,640,794.22	\$31,662.71	(\$6,782,388.86)	\$6,000,000.00	\$4,890,068.07
61	Cap Projects Fund - 2017 Debt Certs	\$157,881.04	\$1,676.80	\$0.00	\$0.00	\$159,557.84
Grand Total:		\$9,527,769.51	\$1,051,625.21	(\$9,060,860.34)	\$6,000,000.00	\$7,518,534.38

End of Report

This Report Can be Viewed on the

[Financial Data Current](#)

**Second Reading and Approval of Policies from PRESS 102 and Policies 2:230 and 7:30**

<b>Policy</b>	<b>Issue</b>	<b>Title</b>	<b>District Policy Committee 12/13/2019 Change/No Change</b>	<b>Board Policy Committee 01/10/2020 Change/No Change</b>	<b>Board Meeting 01/27/2020 Change/No Change</b>
2:220	102	Power and duties of the School Board	N/C	N/C	N/C
2:70	102	Vacancies on the School Board	N/C	N/C	N/C
2:100	102	Board Member Conflict of Interest	N/C	N/C	N/C
2:105	102	Ethics and Gift Ban	N/C	N/C	N/C
2:110	102	Qualifications, Term, and Duties of the Board Officers	N/C	N/C	N/C
2:200	102	Types of School Board Meetings	N/C	N/C	N/C
2:220	102	School Board Meeting Procedure	N/C	N/C	N/C
2:250	102	Access to District Public Records	N/C	N/C	N/C
2:260	102	Uniform Grievance Procedure	N/C	N/C	N/C
3:50	102	Administrative Personnel Other Than the Superintendent	N/C	N/C	N/C
4:15	102	Identity Protection	N/C	N/C	N/C
4:30	102	Revenue and Investments	N/C	N/C	N/C
4:40	102	Incurring Debt	N/C	N/C	N/C

4:60	102	Purchases and Contracts	N/C	N/C	N/C
4:80	102	Accounting and Audits	See revisions on pages 2 & 3	See revisions on pages 2 & 3	See revisions on pages 2 & 3
4:110	102	Transportation	Keep the District's custom-built policy	Keep the District's custom-built policy	Keep the District's custom-built policy
4:140	102	Waiver of Student Fees	N/C	N/C	N/C
4:150	102	Facility Management and Building Programs	N/C	N/C	N/C
4:170	102	Safety	N/C	N/C	N/C
4:175	102	Convicted Child Sex Offender; Screening; Notifications	N/C	N/C	N/C
4:190	102	Targeted School Violence Prevention Program	N/C	N/C	N/C
5:10	102	Equal Employment Opportunity and Minority Recruitment	N/C	N/C	N/C
5:20	102	Workplace Harassment Prohibited	N/C	N/C	N/C
5:30	102	Hiring Process and Criteria	N/C	N/C	N/C
5:50	102	Drug and Alcohol-Free Workplace; E-Cigarette, Tobacco, and Cannabis Prohibition	N/C	N/C	N/C
5:90	102	Abused and Neglected Child Reporting	N/C	N/C	N/C
5:100	102	Staff Development Program	N/C	N/C	N/C
5:120	102	Employee Ethics; Conduct; and Conflict of Interest	N/C	N/C	N/C
5:125	102	Personal Technology and Social Media; Usage and Conduct	DO NOT ADOPT	DO NOT ADOPT	DO NOT ADOPT

5:150	102	Personnel Records	N/C	N/C	N/C
5:190	102	Teacher Qualifications	N/C	N/C	N/C
5:200	102	Terms and Conditions of Employment and Dismissal	N/C	N/C	N/C
5:220	102	Substitute Teachers	N/C	N/C	N/C
5:250	102	Leaves of Absence	Do not adopt / conflicts with the contract	Do not adopt / conflicts with the contract	Do not adopt / conflicts with the contract
5:260	102	Student Teachers	N/C	N/C	N/C
5:285	102	Drug and Alcohol Testing for School Bus and Commercial Vehicle Drivers	N/C	N/C	N/C
5:290	102	Employment Termination and Suspensions	Do not adopt / conflicts with the contract	Do not adopt / conflicts with the contract	Do not adopt / conflicts with the contract
5:330	102	Sick Days, Vacation, Holidays and Leaves	Match District' Contract	Match District' Contract	Match District' Contract
6:15	102	School Accountability	N/C	N/C	N/C
6:20	102	School Year Calendar and Day	N/C	N/C	N/C
6:60	102	Curriculum Content	N/C	N/C	N/C
6:65	102	Student Social and Emotional Development	N/C	N/C	N/C
6:150	102	Home and Hospital Instruction	N/C	N/C	N/C
6:180	102	Extended Instructional Programs	N/C	N/C	N/C
6:210	102	Instruction Materials	N/C	N/C	N/C
6:270	102	Guidance and Counseling Program	N/C	N/C	N/C
6:300	102	Graduation Requirements	N/C	N/C	N/C
7:20	102	Harassment of Students Prohibited	N/C	N/C	N/C
7:150	102	Agency and Police Interviews	N/C	N/C	N/C

7:180	102	Prevention of and Response to Bullying, Intimidation, and Harassment	N/C	N/C	N/C
7:190	102	Student Behavior	N/C	N/C	N/C
7:200	102	Suspension Procedures	N/C	N/C	N/C
7:270	102	Administering Medicines to Students	Changes on pages 3, 4, 5, 6 & 7	Changes on pages 3, 4, 5, 6 & 7	Changes on pages 3, 4, 5, 6 & 7
7:290	102	Suicide and Depression Awareness and Prevention	N/C	N/C	N/C
7:340	102	Student Records	Keep current policy	Keep current policy	Keep current policy
8:30	102	Visitors to and Conduct on School Property	N/C	N/C	N/C

These policies were previously set aside for further review by the administration and the Board policy committee. After further consideration and review, these policies have been revised and are now submitted for approval by the Board.

<b>Policy</b>	<b>Issue</b>	<b>Title</b>	<b>Board Meeting 08/19/2019 Change/No Change</b>	<b>Board Policy Committee 01/10/2020 Change/No Change</b>	<b>Board Meeting 01/27/2020 Change/No Change</b>
2:230	101	Public Participation at School Board Meetings and Petitions to the Board	Set aside for further review	See revised policy	Final revisions
7:30	n/a	Student Assignment & Intra-District Transfer	Set aside for further review	See revised policy	Final revision

## School Board

### Powers and Duties of the School Board; Indemnification

The major powers and duties of the School Board include, but are not limited to:

1. Organizing the Board after each consolidated election by electing officers and establishing its regular meeting schedule and, thereafter, taking action during lawfully called meetings to faithfully fulfill the Board's responsibilities in accordance with State and federal law. <sup>1</sup>
2. Formulating, adopting, and modifying Board policies, at its sole discretion, subject only to mandatory collective bargaining agreements and State and federal law. <sup>2</sup>
3. Employing a Superintendent and other personnel, making employment decisions, dismissing personnel, including determining whether an employee has willfully or negligently failed to report an instance of suspected child abuse or neglect as required by 325 ILCS 5/3 and establishing an equal employment opportunity policy that prohibits unlawful discrimination. <sup>4</sup>
4. Directing, through policy, the Superintendent, in his or her charge of the District's administration. <sup>5</sup>
5. Approving the annual budget, tax levies, major expenditures, payment of obligations, annual audit, and other aspects of the District's financial operation; and making available a statement of financial affairs as provided in State law. <sup>6</sup>
6. Entering contracts using the public bidding procedure when required. <sup>7</sup>

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>1</sup> State law controls this policy's content. School board powers listed in the School Code are not exclusive, meaning that a board may exercise "all other powers not inconsistent with this Act that may be requisite or proper for the maintenance, operation, and development of any school or schools under the jurisdiction of the board." 105 ILCS 5/10-20. This policy's intent is to list the *major* statutory powers and duties – not all of them. See also 105 ILCS 5/10-20.5 and 5/10-21.

For power/duty #1, see 105 ILCS 5/10-16 and 5/10-16.5 and policies 2:80, *Board Member Oath and Conduct*, and 2:210, *Organizational School Board Meeting*. Boards that elect officers for one-year terms and/or hold organizational meetings yearly, replace the default text in number 1 with the following:

Annually organizing the Board by electing officers and establishing its regular meeting schedule and, thereafter, taking action during lawfully called meetings to faithfully fulfill the Board's responsibilities in accordance with Board policy and State and federal law.

<sup>2</sup> 105 ILCS 5/10-20.5 and policy 2:240, *Board Policy Development*; 105 ILCS 5/10-21; and 115 ILCS 5/, III. Educational Labor Relations Act.

<sup>3</sup> 105 ILCS 5/10-23.12(c), added by P.A. 101-531; 105 ILCS 5/21B-75(b), amended by P.A. 101-531. For further discussion see f/n 22 in policy 5:90, *Abused and Neglected Child Reporting*. **Note:** While 105 ILCS 5/10-23.12(c) permits boards to *immediately* dismiss certain employees upon the determination that he or she has willfully or negligently failed to report, this does not negate a board's responsibility to provide employees with due process required by the law and district policies and procedures. Consult the board attorney for further guidance.

<sup>4</sup> 105 ILCS 5/10-21.4 (employing superintendent); 5/10-20.7 and 5/10-21.1 (teachers); 5/10-21.9 (criminal history records checks); 5/10-22.34 (non-certificated personnel (this statute still uses certificated rather than licensed)); 5/10-22.4 (dismissing teachers for cause); and 5/10-23.5 and 5/24-12 (reduction in force). See the policies in the **PRESS Policy Reference Manual** Sections 3, General School Administration, and 5, Personnel.

<sup>5</sup> 105 ILCS 5/10-16.7.

<sup>6</sup> 105 ILCS 5/10-20.19 and 5/17-1 et seq. See policies in the **PRESS Policy Reference Manual** Section 4, Operational Services.

<sup>7</sup> 105 ILCS 5/10-20.21. See policy 4:60, *Purchases and Contracts*.

7. Providing, constructing, controlling, and maintaining adequate physical facilities; making school buildings available for use as civil defense shelters; and establishing a resource conservation policy. **8**
8. Establishing an equal educational opportunities policy that prohibits unlawful discrimination. **9**
9. Approving the curriculum, textbooks, and educational services. **10**
10. Evaluating the educational program and approving School Improvement and District Improvement Plans. **11**
11. Presenting the District report card and School report card(s) to parents/guardians and the community; these documents report District, School, and student performance. **12**
12. Establishing and supporting student behavior policies designed to maintain an environment conducive to learning, including deciding individual student suspension or expulsion cases brought before it. **13**
13. Establishing attendance units within the District and assigning students to the schools. **14**
14. Establishing the school year. **15**
15. Requiring a moment of silence to recognize veterans during any type of school event held at a District school on November 11. **16**
16. Providing student transportation services pursuant to State law. **17**
17. Entering into joint agreements with other boards to establish cooperative educational programs or provide educational facilities. **18**
18. Complying with requirements in the Abused and Neglected Child Reporting Act ([ANCRA](#)). Specifically, each individual Board member must, if an allegation is raised to the member during an open or closed Board meeting that a student is an abused child as defined in [ANCRA the Act](#), direct or cause the Board to direct the Superintendent or other equivalent

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**8** For the first clause, see 105 ILCS 5/10-20.6, 5/10-20.12, 5/10-22.10, 5/10-22.35A, and 5/10-22.36; and policy 4:150, *Facility Management and Building Programs*. For the second clause, see 105 ILCS 5/10-22.35. For the third clause, see 105 ILCS 5/10-20.19c; and policy 4:70, *Resource Conservation*.

**9** Many civil rights laws guarantee equal educational opportunities; see policy 7:10, *Equal Educational Opportunities*.

**10** 105 ILCS 5/10-20.8. See policies in the **PRESS Policy Reference Manual** Section 6, Instruction.

**11** 105 ILCS 5/2-3.25d, which addressed school and district improvement plans, was repealed by P.A. 100-1046. 105 ILCS 5/2-3.25f, and 105 ILCS 5/27-1. For more specific information about school and district improvement plans, see policy 6:10, *Educational Philosophy and Objectives* and f/n 6 in policy 6:15, *School Accountability*.

**12** 105 ILCS 5/10-17a, amended by P.A.s 100-364, 100-465, 100-807, ~~and 100-863~~, [100-1121](#), and [101-68](#), *eff. 1-1-20*. This statute details the requirements for *presenting* the district report card and school report card(s), including presenting them at a regular school board meeting and posting them on the district's website.

**13** 105 ILCS 5/10-22.6, amended by P.A.s 100-105, 100-810, and 100-1035. See policies 7:190, *Student Behavior*; 7:200, *Suspension Procedures*; and 7:210, *Expulsion Procedures*.

**14** 105 ILCS 5/10-21.3 and 5/10-22.5. See policy 7:30, *Student Assignment and Intra-District Transfer*.

**15** 105 ILCS 5/10-19, amended by P.A.s [100-465](#) and [101-12](#), and 23 Ill.Admin.Code §1.420, amended at 42 Ill. Reg. 11512. See policy 6:20, *School Year Calendar and Day*.

**16** Recognizing veterans on Nov. 11 is required by 105 ILCS 5/10-20.46.

**17** 105 ILCS 5/10-22.22. See policy 4:110, *Transportation*.

**18** 105 ILCS 5/10-22.31a. See policy 1:20, *District Organization, Operations, and Cooperative Agreements*.

school administrator to comply with ~~the Act~~ ANCRA's requirements concerning the reporting of child abuse. **19**

19. Communicating the schools' activities and operations to the community and representing the needs and desires of the community in educational matters. **20**

### Indemnification **21**

To the extent allowed by law, the Board shall defend, indemnify, and hold harmless School Board members, employees, volunteer personnel (pursuant to 105 ILCS 5/10-22.34, 10-22.34a and 10-22.34b), mentors of certified staff (pursuant to 105 ILCS 5/2-3.53a, 2-3.53b, and 105 ILCS 5/21A-5 *et seq.*), and student teachers who, in the course of discharging their official duties imposed or authorized by law, are sued as parties in a legal proceeding. Nothing herein, however, shall be construed as obligating the Board to defend, indemnify, or hold harmless any person who engages in criminal activity, official misconduct, fraud, intentional or willful and wanton misconduct, or acts beyond the authority properly vested in the individual.

LEGAL REF.: 105 ILCS 5/10, 5/17-1, and 5/27-1.  
115 ILCS 5/, Ill. Educational Labor Relations Act.  
325 ILCS 5/, Abused and Neglected Child Reporting Act.

CROSS REF.: 1:10 (School District Legal Status), 1:20 (District Organization, Operations, and Cooperative Agreements), 2:10 (School District Governance), 2:80 (Board Member Oath and Conduct), 2:140 (Communications To and From the Board), 2:210 (Organizational School Board Meeting), 2:240 (Board Policy Development), 4:60 (Purchases and Contracts), 4:70 (Resource Conservation), 4:100 (Insurance Management), 4:110 (Transportation), 4:150 (Facility Management and Building Programs), 5:10 (Equal Employment Opportunity and Minority Recruitment), 5:90 (Abused and Neglected Child Reporting), 6:10 (Educational Philosophy and Objectives), 6:15 (School Accountability), 6:20 (School Year Calendar and Day), 7:10 (Equal Educational Opportunities), 7:30 (Student Assignment and Intra-District Transfer), 7:190 (Student Behavior), 7:200 (Suspension Procedures), 7:210 (Expulsion Procedures), 8:10 (Connection with the Community), 8:30 (Visitors to and Conduct on School Property)

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**19** 325 ILCS 5/4(d), amended by P.A. 101-564, eff. 1-1-20. *Abuse* and *neglect* are defined in 325 ILCS 5/3; for a *disabled adult student* see 20 ILCS 1305/1-17(b).

**20** See policy 8:10, *Connection with the Community*.

**21** 105 ILCS 5/10-20.20 (duty to indemnify) and 5/10-22.3 (duty to insure against loss or liability). These statutes identify the same individuals for protection except that the indemnification statute includes mentors of certified staff members. See ¶ 3 in policy 4:100, *Insurance Management*.

Public officials or employees who are sued or incur loss because of the performance of their duties imposed or authorized by law on behalf of the public entity are entitled to indemnification. McQuillan on Municipal Corporations §12.137 (3rd ed. 1973). Public employees who must defend themselves in actions based upon the performance of official duties are entitled to indemnification. Wayne Twp. Bd. of Auditors v. Ludwig, 154 Ill.App.3d 899 (2nd Dist. 1987). The public's interest is served by indemnifying public officials and employees in the performance of their official duties in order to recruit and retain qualified public employees and officials.

## School Board

### Vacancies on the School Board - Filling Vacancies 1

#### Vacancy

Elective office of a School Board member becomes vacant before the term's expiration when any of the following occurs: <sup>2</sup>

1. Death of the incumbent,
2. Resignation in writing filed with the Secretary of the Board,
3. Legal disability, <sup>3</sup>
4. Conviction of a felony, bribery, perjury, or other infamous crime or of any offense involving a violation of official oath or of a violent crime against a child, <sup>4</sup>
5. Removal from office,
6. The decision of a competent tribunal declaring his or her election void, <sup>5</sup>
7. Ceasing to be an inhabitant of the District or a particular area from which he or she was elected, if the residential requirements contained in the School Code are violated,
8. An illegal conflict of interest, <sup>6</sup> or
9. Acceptance of a second public office that is incompatible with Board membership. <sup>7</sup>

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<sup>1</sup> State law controls this policy's content. A helpful publication is on the IASB website, *Vacancies on the Board of Education*, published by the Ill. Council of School Attorneys (ICSA), available at: [www.iasb.com/law/vacancies.cfm](http://www.iasb.com/law/vacancies.cfm).

<sup>2</sup> 105 ILCS 5/10-11. See also 10 ILCS 5/25-2.

<sup>3</sup> *Id.* *Legal disability* is not defined, but must be interpreted consistently with other laws, e.g., laws prohibiting discrimination on the basis of a disability. A similar statute regarding the occurrence of vacancies on the State Board of Education provides guidance. It states that a vacancy occurs when: "a member is adjudicated to be a person under legal disability under the Probate Act of 1975, as amended, or a person subject to involuntary admission under the Mental Health and Developmental Disabilities Code." [105 ILCS 5/1A-2.1](#).

<sup>4</sup> *Id.* at f/n 2. See also Ill. Constitution, Art. XIII, and 5 ILCS 280/1. Depending on the authority, *infamous crime* has different meanings. Pursuant to 10 ILCS 5/25-2 felony, bribery, and perjury fall are *infamous crimes*. An *infamous crime* is one that is inconsistent with commonly accepted principles of honesty and decency. *People ex rel. City of Kankakee v. Morris*, 126 Ill.App.3d 722 (3rd Dist. 1984). An admission of guilt, pursuant to a plea agreement, to an otherwise office-disqualifying offense, constitutes a resignation. 10 ILCS 5/25-2. An Ill. Appellate court twice found that a felony forgery conviction in another state constituted an infamous crime rendering the individual ineligible to hold the office of school board member. *Alvarez v. Williams*, 23 N.E.3d 544 (Ill.App.1 2014); *Williams v. Cook Co. Officers Electoral Board*, 35 N.E.3d 82 (Ill.App.1 2015).

A board member commits official misconduct if he/she intentionally or recklessly fails to perform any mandatory duty required by law, knowingly performs an act forbidden by law, performs an act in excess of his or her lawful authority in order to obtain personal advantage for oneself or another, or solicits or knowingly accepts for doing any act a fee or reward which he or she knows is not authorized by law. 720 ILCS 5/33-3.

<sup>5</sup> See *Miceli v. Lavelle*, 114 Ill.App.3d 311 (1st Dist. 1983).

<sup>6</sup> *Id.* at f/n 2 and 50 ILCS 105/3. 105 ILCS 5/10-9 contains limited exceptions to the laws prohibiting board member interest in contracts (explained in footnotes to 2:100, *Board Member Conflict of Interest*). Virtually the same exceptions are stated in 50 ILCS 105/3. For more information, see *Conflict of Interest and Incompatible Offices FAQ* (ICSA), available at: [www.iasb.com/law/COI\\_FAQ.pdf](http://www.iasb.com/law/COI_FAQ.pdf).

## Filling Vacancies 8

Whenever a vacancy occurs, the remaining members shall notify the Regional Superintendent of Schools of that vacancy within five days after its occurrence and shall fill the vacancy until the next regular board election, at which election a successor shall be elected to serve the remainder of the unexpired term. However, if the vacancy occurs with less than 868 days remaining in the term or less than 88 days before the next regularly scheduled election, the person so appointed shall serve the remainder of the unexpired term, and no election to fill the vacancy shall be held. Members appointed by the remaining members of the Board to fill vacancies shall meet any residential requirements as specified in the School Code. The Board shall fill the vacancy within 6045 days after it occurred by a public vote at a meeting of the Board.

Immediately following a vacancy on the Board, the Board will publicize it and accept résumés from District residents who are interested in filling the vacancy.<sup>9</sup> After reviewing the applications, the Board may invite the prospective candidates for personal interviews to be conducted during duly scheduled closed meetings. <sup>10</sup>

LEGAL REF.: 105 ILCS 5/10-10 and 5/10-11.

CROSS REF.: 2:40 (Board Member Qualifications), 2:60 (Board Member Removal from Office), 2:120 (Board Member Development)

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<sup>7</sup> An individual may not hold simultaneously two offices that are incompatible; acceptance of the second office is a constructive resignation of the first office (Ill. Constitution, Art. IV, Sec. 2(e), and Art. VI, Sec. 13(b)). The offices of alderman, school board member, and park district commissioner are incompatible. People ex. Rel. Alvarez v. Price, 408 Ill.App.3d 457 (1st Dist. 2011). The court found that offices can be incompatible absent an actual conflict; the eventuality of a conflict is enough. See People v. Wilson, 357 Ill.App.3d 204 (3rd Dist. 2005)(simultaneously holding offices as a county board member and a school board member violates the Public Officer Prohibited Activities Act; this legislation prohibits a county board member from holding a second office). [For more information on incompatible offices, see the FAQ referenced in f/n 6.](#)

A board member may participate in a group health insurance program provided to an employee of the district that the board member serves if the board member is a dependent of that employee. 105 ILCS 5/10-22.3a.

<sup>8</sup> This paragraph restates the requirements in 105 ILCS 5/10-10, [amended by P.A. 101-67, eff. 1-1-20](#). If the board fails to act within 6045 days after the vacancy occurs, the regional superintendent, under whose supervision and control the district is operating, must then fill the vacancy within 30 days. Id.

105 ILCS 5/9-11.2 provides that in any school district that elects its board member according to area of residence and that has one or more unexpired term(s) to be filled at an election, the winner(s) of the unexpired term(s) shall be determined first and independently of those running for full terms.

If a vacancy for an area of residence remains unfilled, a board must submit a proposition at the next general election for the election of a board member at large. 105 ILCS 5/10-10.5, amended by P.A. 100-800, ~~eff. 1-1-19~~.

[Questions arise when fewer individuals run for seats on the board than are up for election. 105 ILCS 5/10-11 partially addresses this issue; it states “no elective office...becomes vacant until the successor of the incumbent of such office has been appointed or elected, as the case may be, and qualified.” Id. A board with potential holdover incumbent members should seek advice from the board attorney regarding \(1\) how long the seat can be held over by the incumbent member, and \(2\) the process by which the Board should fill the seat.](#)

Use this alternative for districts in suburban Cook County: replace “Regional Superintendent” with “appropriate Intermediate Service Center.”

<sup>9</sup> The process for filling a vacancy is at the board’s discretion. See 2:70-E, *Checklist for Filling Board Vacancies by Appointment*.

<sup>10</sup> The Open Meetings Act allows a board to consider in closed session the appointment of someone to fill a vacancy. 5 ILCS 120/2(c)(3).

## School Board

### Board Member Conflict of Interest 1

No School Board member shall: (1) have a beneficial interest directly or indirectly in any contract, work, or business of the District unless permitted by State or federal law;<sup>2</sup> or (2) solicit or accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to

**Commented [DJ1]:** Text from f/n 2 has been moved and revised in f/n 6.

~~The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.~~

<sup>1</sup> State law and federal regulations control this policy's content. Conflict of interest is comprehensively discussed in the Ill. Council of School Attorneys' publication, **Answers to FAQs, Conflict of Interest and Incompatible Offices**, [www.iasb.com/law/COI\\_FAQ.pdf](http://www.iasb.com/law/COI_FAQ.pdf).

<sup>2</sup> The School Code prohibits a school board member from having an interest in a contract with the district he or she serves. Exceptions to this rule permit a board member to provide materials, merchandise, property, services, or labor if: (1) the board member has less than a 7½% share in the ownership of the business; the board member publicly discloses the interest; the board member abstains from voting on the contract; the contract is approved by a majority vote; the contract is awarded after sealed bids to the lowest responsible bidder if the amount of the contract exceeds \$1,500, or awarded without bidding if the amount of the contract is less than \$1,500; and the award of the contract would not cause the aggregate amount of all such contracts so awarded in the same fiscal year to exceed \$25,000; OR (2) the contract is approved by a majority vote, provided that any such interested member shall abstain from voting; the amount of the contract does not exceed \$1,000 or the award of the contract does not cause the aggregate amount of such contracts to the same individual to exceed \$2,000 in the same fiscal year, or \$5,000 in the same fiscal year if the labor or materials to be provided are not otherwise available in the district; and the interested member publicly discloses the interest. See 105 ILCS 5/10-9 for other exceptions.

A board member does not have a prohibited interest in a contract with the district he or she serves "if the board member is an employee of a business that is involved in the transaction of business with the school district, provided that the board member has no financial interests other than as an employee," (105 ILCS 5/10-9).

The Public Officer Prohibited Activities Act prohibits a governing body member from being "in any manner financially interested directly in his own name or indirectly in the name of any other person, association, trust, or corporation, in any contract or the performance of any work in the making or letting of which such officer may be called upon to act or vote [.]<sup>3</sup>" (50 ILCS 105/3). Exceptions to this prohibition are similar to those in the School Code.

Generally, an individual may be a board member at a school district that employs his or her spouse. Indeed, 105 ILCS 5/10-22.3a specifically allows a board member to participate in a group health insurance program provided to a district employee if the board member is that employee's dependent, i.e., spouse or child. However, this is a fact-sensitive inquiry; a board member should seek legal counsel before voting on anything related to his or her spouse. See the **Answers to FAQs**, referenced in f/n 1.

A violation of the School Code or Public Officer Prohibited Activities Act is a Class 4 felony. Due to the severity of this penalty as well as to avoid the appearance of impropriety, a legal opinion should be obtained before a board member becomes financially interested in any contract with his or her district. Abstaining on the vote, or absence from the meeting when the vote is taken, does not negate an otherwise illegal conflict of interest.

~~2 C.F.R. §200.318(c)(1) prohibits employees, officers, or agents of a school district from participating in the selection, award, or administration of a contract supported by a federal award if they have a real or apparent conflict of interest. Conflicts of interest arise when one of the following individuals has a financial or other interest in the entity selected for the award:~~

~~School district employee, officer, or agent;~~

~~Any member of the employee, officer, or agent's immediate family;~~

~~The employee, officer, or agent's business partner; and~~

~~An organization that employs or is about to employ one of above.~~

~~For a discussion of what an apparent conflict of interest means, see the discussion about avoiding the appearance of impropriety discussed in the Ill. Council of School Attorneys' publication, **Answers to FAQs, Conflict of Interest and Incompatible Offices** cited above in f/n 1.~~

~~If the district has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization. 2 C.F.R. §200.318(c)(2).~~

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agreements or contracts with the District.<sup>3</sup> Situations in which the interest is not substantial or the gift is an unsolicited item of nominal value must comply with State law and Board policy 2:105, *Ethics and Gift Ban*.<sup>4</sup>

Board members must annually file a *Statement of Economic Interests* as required by the Illinois Governmental Ethics Act.<sup>5</sup> Each Board member is responsible for filing the statement with the county clerk of the county in which the District's main office is located by May 1.

#### Federal and State Grant Awards <sup>6</sup>

No Board member shall participate in the selection, award, or administration of a contract supported by a federal award or State award governed by the Grant Accountability and Transparency Act (GATA) (30 ILCS 708/) if he or she has a real or apparent conflict of interest. A conflict of interest arises when a Board member or any of the following individuals has a financial or other interest in the entity selected for the contract:

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>3</sup> 2 C.F.R. §200.318(c)(1).

<sup>4</sup> *Id.* The rule provides flexibility for school districts to “set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value,” along with “disciplinary actions to be applied for violations.” Referring to sample policy 2:105, *Ethics and Gift Ban* for these standards provides clarity and consistency. Policy 2:105, *Ethics and Gift Ban* refers to **Limitations on Receiving Gifts** in the Ethics Act at 5 ILCS 430/10-10 – 10-30, along with discussion of the specific penalties available under the Ethics Act at 5 ILCS 430/50-5 in its **Enforcement** subhead.

<sup>5</sup> 5 ILCS 420/4A-101.5, ~~and 4A-105, 106.5, and through 107, amended by P.A. 101-221~~. Any county clerk may implement a system of Internet-based filing for economic interest statements. 5 ILCS 420/4A-108, ~~amended by P.A. 101-221, amended by P.A. 99-108~~. If an Internet-based filing system is used, the clerk must post the statements, without filers' addresses or signatures, on a publicly accessible website. *Id.*

Each candidate for the school board must file with the county clerk or the county board of election commissioners, whichever is applicable, a receipt from the county clerk showing that the candidate has filed a *Statement of Economic Interests* as required by the Ill. Governmental Ethics Act. 5 ILCS 420/4A-108(b)(3). A candidate's name will be stricken from the ballot if he or she files the incorrect *Statement of Economic Interests* form. *Ferrand v. Chicago Bd of Election Comm.*, 6 N.E.3d 779 (Ill.App.1, 2014) ~~Ill.App.1st 140225 (2-13-2014)~~; *Cortez v. Municipal Officers Electoral Board*, 986 N.E.2d 689 (Ill. App.1, 2013)).

<sup>6</sup> 2 C.F.R. §200.318(c)(1) prohibits employees, officers, or agents of a school district from participating in the selection, award, or administration of a contract supported by a federal award if they have a *real or apparent conflict of interest*. ~~Conflicts of interest arise when one of the following individuals has a financial or other interest in the entity selected for the award:~~

- ~~a. School district employee, officer, or agent;~~
- ~~b. Any member of the employee, officer, or agent's immediate family;~~
- ~~c. The employee, officer, or agent's business partner; and~~
- ~~d. An organization that employs or is about to employ one of above.~~

The term *participate* is not specifically defined in the federal regulation; consult the board attorney regarding other actions the board can take to limit the influence of a conflicted board member, beyond abstention from the board's evaluation and vote on a contract. The uniform federal rules on procurement standards in 2 C.F.R. Part 200 also apply to eligible State grants through the Grant Accountability Transparency Act (GATA), 30 ILCS 708/. Authoritative sources and guidance regarding conflict of interest and financial disclosure are provided through the GATA Resource Library at [www.grants.illinois.gov](http://www.grants.illinois.gov). —See also the Ill. State Board of Education's *Procurement and Purchasing Checklist* at: [www.isbe.net/Pages/Audit-and-Monitoring-Review-Requirements-and-Tools.aspx](http://www.isbe.net/Pages/Audit-and-Monitoring-Review-Requirements-and-Tools.aspx).

The law does not specifically define an *apparent conflict of interest*. For a discussion of what an *apparent conflict of interest* may mean, see the discussion about avoiding the *appearance of impropriety* ~~see in~~ the **Answers to FAQs**, cited above in f/n 1.

If the district has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-federal entity must also maintain written standards of conduct covering organizational conflicts of interest. *Organizational conflicts of interest* means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization. 2 C.F.R. §200.318(c)(2).

1. Any person that has a close personal relationship with a Board member that may compromise or impair the Board member's fairness and impartiality, including a member of the Board member's immediate family or household;
2. The Board member's business partner; or
- ~~3.~~ An entity that employs or is about to employ the Board member or one of the individuals listed in one or two above.

LEGAL REF.: 5 ILCS 420/4A-101.5, 420/4A-105, 420/4A-106.5, and 420/4A-107.  
30 ILCS 708/ Grant Accountability and Transparency Act.  
50 ILCS 105/3.  
105 ILCS 5/10-9.  
2 C.F.R. §200.318(c)(1).

CROSS REF.: 2:105 (Ethics and Gift Ban), 4:60 (Purchases and Contracts), 5:120 (Employee Ethics; Conduct; and Conflict of Interest)

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## School Board

### Ethics and Gift Ban <sup>1</sup>

#### Prohibited Political Activity

The following precepts govern political activities being conducted by District employees and School Board members:

1. No employee shall intentionally perform any *political activity* during any *compensated time*, as those terms are defined herein. <sup>2</sup>
2. No Board member or employee shall intentionally use any District property or resources in connection with any political activity. <sup>3</sup>
3. At no time shall any Board member or employee intentionally require any other Board member or employee to perform any political activity: (a) as part of that Board member's or employee's duties, (b) as a condition of employment, or (c) during any compensated time off, such as, holidays, vacation, or personal time off.
4. No Board member or employee shall be required at any time to participate in any political activity in consideration for that Board member or employee being awarded additional compensation or any benefit, whether in the form of a salary adjustment, bonus, compensatory time off, continued employment or otherwise; nor shall any Board member or employee be awarded additional compensation or any benefit in consideration for his or her participation in any political activity.

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<sup>1</sup> The State Officials and Employees Ethics Act (SOEEA) (5 ILCS 430/) requires a policy on this subject matter and controls its content. ~~(5 ILCS 430/70-5, amended by P.A. 101-221)~~. This policy contains items on which collective bargaining may be required. Any policy that impacts wages, hours, or terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. This policy concerns an area in which the law is unsettled.

The Ill. Attorney General developed a model ethics ordinance to assist units of local government and school districts. See [www.ag.state.il.us/government/ethics\\_ordinance.html](http://www.ag.state.il.us/government/ethics_ordinance.html). The model ordinance provides that the local governmental entity will enforce the policy through quasi-criminal proceedings or through hiring an attorney to prosecute violators. These penal enforcement provisions present an obvious difficulty for school districts – the legislature has **not** granted school districts the power to adopt penal ordinances and penalties. This sample policy, while based on the Attorney General's model ordinance, does **not** contain penal provisions and penalties and it does **not** contemplate the hiring of an attorney to prosecute violators.

<sup>2</sup> In addition to constitutional free speech rights, two State laws must be considered when enforcing the SOEEA. The first law, the Local Governmental Employees Political Rights Act (50 ILCS 135/), prohibits: (1) districts from inhibiting or prohibiting employees in the exercise their political rights, and (2) employees from using their employment to coerce or inhibit others in the free exercise of their political rights and from engaging in political activities while at work. The other law, the Personnel Record Review Act (820 ILCS 40/9), prohibits districts from gathering records about an employee's political activities unless the activities interfere with the performance of work duties or could cause the district financial liability.

<sup>3</sup> The Election Interference Prohibition Act prohibits the use of public funds to “urge any elector to vote for or against any candidate or proposition.” 10 ILCS 5/9-25.1. Spending within the statutory definition of public funds to disseminate facts to the public is permitted under section 9-25.1 and is not *electioneering*. Consequently, a district should not become a political committee by spending funds to disseminate facts. 10 ILCS 5/9-1.14, legislatively overturning Citizens Organized to Save the Tax Cap v. State Bd. of Elections, Northfield Twp. High Sch. Dist., 392 Ill.App.3d 392 (1st Dist. 2009). Consult the board attorney for advice.

A Board member or employee may engage in any activity that: (1) is otherwise appropriate as part of his or her official duties, or (2) is undertaken by the individual on a voluntary basis that is not prohibited by this policy.

#### Limitations on Receiving Gifts 4

Except as permitted by this policy, no Board member or employee, and no spouse of or immediate family member living with a Board member or employee, shall intentionally solicit or accept any *gift* from any *prohibited source*, as those terms are defined herein, or that is otherwise prohibited by law or policy. No prohibited source shall intentionally offer or make a gift that violates this policy.

The following are exceptions to the ban on accepting gifts from a prohibited source:

1. Opportunities, benefits, and services that are available on the same conditions as for the general public.
2. Anything for which the Board member or employee, or his or her spouse or immediate family member, pays the fair market value.
3. Any: (a) contribution that is lawfully made under the Election Code, or (b) activities associated with a fundraising event in support of a political organization or candidate.
4. Educational materials and missions.
5. Travel expenses for a meeting to discuss business.
6. A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiancé or fiancée.
7. Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the

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4 5 ILCS 430/10-10 through 10-30 (Gift Ban); 30 ILCS 708/ (Grant Accountability Transparency Act (GATA)); and 2 C.F.R. §200.318(c)(1)(uniform federal procurement standards prohibit board members from soliciting or accepting gratuities, favors, or anything of monetary value from contractor performing work under a contract supported by a federal grant award). GATA adopts the uniform federal rules for State agencies' administration of eligible State and federal grants.

Generally, 2 C.F.R. §200.318(c)(1) prohibits employees, officers, or agents of a school district from participating in the selection, award, or administration of a contract supported by a federal award if they have a real or apparent *conflict of interest*. For more discussion on conflict of interest, see sample policy 2:100, *Board Member Conflict of Interest*. Specifically, 2 C.F.R. §200.318(c)(1) requires school districts to "set standards for situations in which the gift is an unsolicited item of nominal value (*standards*)," along with "disciplinary actions to be applied for violations (*disciplinary actions*)" without defining *nominal value*.

To avoid confusion and because 2 C.F.R. §200.318(c)(1) provides flexibility to school boards regarding setting *standards* and *disciplinary actions*, sample policy 2:100, *Board Member Conflict of Interest*, refers to this sample policy's subheads: **Limitations on Receiving Gifts** in the Ethics Act at 5 ILCS 430/10-10 – 10-30 (for the federal regulation's *standards*), and **Enforcement** at 5 ILCS 430/50-5 (discussing the specific penalties available under the Ill. Ethics Act for the federal regulation's *disciplinary actions*).

If a board wishes to develop further *standards* and *disciplinary actions* than the Gift Ban section of the SOEEA requires, consult the board attorney.

For further discussion, see the *Grant Accountability and Conflicts of Interest* section in the Ill. Council of School Attorneys' publication, **Answers to FAQs, Conflict of Interest and Incompatible Offices** at: [www.iasb.com/law/COI\\_FAQ.pdf](http://www.iasb.com/law/COI_FAQ.pdf).

official position or employment of the recipient or his or her spouse or immediate family member and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as: (a) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals; (b) whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (c) whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other Board members or employees, or their spouses or immediate family members.

8. Food or refreshments not exceeding \$75 per person in value on a single calendar day; provided that the food or refreshments are: (a) consumed on the premises from which they were purchased or prepared; or (b) catered. *Catered* means food or refreshments that are purchased ready to consume, which are delivered by any means.
9. Food, refreshments, lodging, transportation, and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of a Board member or employee), if the benefits have not been offered or enhanced because of the official position or employment of the Board member or employee, and are customarily provided to others in similar circumstances.
10. Intra-governmental and inter-governmental gifts. *Intra-governmental gift* means any gift given to a Board member or employee from another Board member or employee, and *inter-governmental gift* means any gift given to a Board member or employee from an officer or employee of another governmental entity.
11. Bequests, inheritances, and other transfers at death.
12. Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100.

Each of the listed exceptions is mutually exclusive and independent of every other.

A Board member or employee, his or her spouse or an immediate family member living with the Board member or employee, does not violate this policy if the recipient promptly takes reasonable action to return a gift from a prohibited source to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under [Section 26 U.S.C. § 501\(c\)\(3\)](#) ~~of the Internal Revenue Code~~.

### Enforcement

The Board President and Superintendent shall seek guidance from the Board attorney concerning compliance with and enforcement of this policy and State ethics laws. <sup>5</sup> The Board may, as necessary or prudent, appoint an Ethics Advisor for this task.

Written complaints alleging a violation of this policy shall be filed with the Superintendent or Board President. If attempts to correct any misunderstanding or problem do not resolve the matter, the Superintendent or Board President shall, after consulting with the Board Attorney, either place the alleged violation on a Board meeting agenda for the Board's disposition or refer the complainant to Board policy 2:260, *Uniform Grievance Procedure*. A Board member who is related, either by blood

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<sup>5</sup> This provision is consistent with sample policy 2:160, *Board Attorney*.

or by marriage, up to the degree of first cousin, to the person who is the subject of the complaint, shall not participate in any decision-making capacity for the Board. If the Board finds it more likely than not that the allegations in a complaint are true, it shall notify the State's Attorney and/or consider disciplinary action for the employee. <sup>6</sup>

### Definitions <sup>7</sup>

Unless otherwise stated, all terms used in this policy have the definitions given in the State Officials and Employees Ethics Act, 5 ILCS 430/1-5.

*Political activity* means:

1. Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event.
2. Soliciting contributions, including but not limited to the purchase of, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event.
3. Soliciting, planning the solicitation of, or preparing any document or report regarding anything of value intended as a campaign contribution.
4. Planning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
5. Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
6. Assisting at the polls on Election Day on behalf of any political organization or candidate for elective office or for or against any referendum question.
7. Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.
8. Initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question.
9. Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.

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<sup>6</sup> The Ill. Attorney General's model ethics ordinance includes the specific penalties from the Ethics Act. 5 ILCS 430/50-5. Elsewhere the Act states that a "governmental entity **may** provide in [its] ordinance or resolution ... for penalties similar to those provided in this Act for similar conduct." 5 ILCS 430/70-10. Thus, school boards do not need to enact policy containing criminal sanctions. Rather, as provided in this sample policy, violations can be referred to the State's Attorney.

The Ill. Attorney General's guidance document provides for the unit of local government to use an Ethics Commission to manage complaints. A board that wants to use an Ethics Commission should replace this paragraph, after the first sentence, with the following:

As soon as possible after a complaint is filed, the Superintendent shall appoint a 3-member Ethics Commission. If the Superintendent is the subject of the complaint, the Board President shall perform this duty. Commission members may be any District resident, except that no person shall be appointed who is related, either by blood or by marriage, up to the degree of first cousin, to the person who is the subject of the complaint. If the Commission finds it more likely than not that the allegations in a complaint are true, it shall notify the State's Attorney and/or recommend disciplinary action for the employee.

<sup>7</sup> The definitions contained in this policy are all from 5 ILCS 430/5-15 with minor adaptations.

10. Preparing or reviewing responses to candidate questionnaires.
11. Distributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question.
12. Campaigning for any elective office or for or against any referendum question.
13. Managing or working on a campaign for elective office or for or against any referendum question.
14. Serving as a delegate, alternate, or proxy to a political party convention.
15. Participating in any recount or challenge to the outcome of any election.

With respect to an employee whose hours are not fixed, *compensated time* includes any period of time when the employee is on premises under the control of the District and any other time when the employee is executing his or her official duties, regardless of location. <sup>8</sup>

*Prohibited source* means any person or entity who:

1. Is seeking official action by: (a) a Board member, or (b) an employee, or by the Board member or another employee directing that employee;
2. Does business or seeks to do business with: (a) a Board member, or (b) an employee, or with the Board member or another employee directing that employee;
3. Conducts activities regulated by: (a) a Board member, or (b) an employee or by the Board member or another employee directing that employee;
4. Has an interest that may be substantially affected by the performance or non-performance of the official duties of the Board member or employee;
5. Is registered or required to be registered with the Secretary of State under the Lobbyist Registration Act, except that an entity does not become a prohibited source merely because a registered lobbyist is one of its members or serves on its board of directors; or
6. Is an agent of, a spouse of, or an immediate family member living with a prohibited source.

*Gift* means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to government employment or the official position of a Board member or employee.

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<sup>8</sup> The Ethics Act prohibits employees from engaging in political activities on *compensated time* but does not define the term. *Compensated time* is easy to determine for employees with fixed working hours. Determining *compensated time* for a salaried employee who does not have obligatory hours of attendance is more difficult. For this reason, the term *compensated time* should include both the time when the employee is physically present on district premises as well as any other time when the employee is engaged in official duties.

## Complaints of Sexual Harassment Made Against Board Members by Elected Officials 9

Pursuant to the State Officials and Employees Ethics Act (5 ILCS 430/70-5), members of the Board and other elected officials are encouraged to promptly report claims of sexual harassment by a Board member. Every effort should be made to file such complaints as soon as possible, while facts are known and potential witnesses are available. If the official feels comfortable doing so, he or she should directly inform the individual that the individual's conduct or communication is offensive and must stop.

Board members and elected officials should report claims of sexual harassment against a member of the Board to the Board President or Superintendent. If the report is made to the Superintendent, the Superintendent shall promptly notify the President, or if the President is the subject of the complaint, the Vice President. Reports of sexual harassment will be confidential to the greatest extent practicable. 10

When a complaint of sexual harassment is made against a member of the Board by another Board member or other elected official, the Board President shall appoint a qualified outside investigator who is not a District employee or Board member to conduct an independent review of the allegations. If the allegations concern the President, or the President is a witness or otherwise conflicted, the Vice President shall make the appointment. If the allegations concern both the President and Vice President, and/or they are witnesses or otherwise conflicted, the Board Secretary shall make the appointment. The investigator shall prepare a written report and submit it to the Board. 11

If a Board member has engaged in sexual harassment, the matter will be addressed in accordance with the authority of the Board. 12

The Superintendent will post this policy on the District website and/or make this policy available in the District's administrative office. 13

**The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.**

9 Required. Under the SOEEA, by 2-9-20, school districts must, by resolution, amend their sexual harassment policies "to provide for a mechanism for reporting and independent review of allegations of sexual harassment made against an elected official of the governmental unit by another elected official of a governmental unit." 5 ILCS 430/70-5, amended by P.A. 101-221. This policy includes both elected and appointed board members to effectuate the intent of the law, to comprehensively address sexual harassment in the workplace, and for consistent treatment. The statute does not address whether the *independent review* must or may be limited to a board member's conduct in his or her official capacity, or if it can extend to a board member's behavior in his or her individual capacity. Consult the board attorney for advice.

See policy 5:20, *Workplace Harassment Prohibited*, and its f/n's for information about what types of conduct may rise to the level of unlawful sexual harassment under federal and State laws. This policy only addresses the requirements of the SOEEA; it does not address harassment complaints made by employees or other non-elected individuals against board members. Such complaints may be processed under policy 2:260, *Uniform Grievance Procedure*. See policy 2:260 at f/n 16.

Unlike employees, board members are not legally required to take sexual harassment prevention training; however, it is a best practice. The Ill. Dept. of Human Rights will be offering a free online training module. See 5:20, *Workplace Harassment Prohibited* at f/n 4 for more information.

10 The Open Meetings Act (OMA) does not provide a specific exemption for discussion of complaints against a members of a public body in closed session. 5 ILCS 120/2(c)(1), amended by P.A. 101-459.

11 5 ILCS 430/70-5(a), amended by P.A. 101-221, eff. 1-1-20. The law requires governmental units, including school districts, to conduct an *independent review* of allegations of sexual harassment made against an elected official by another elected official; however, that term is not defined. Consult the board attorney about how to investigate such complaints.

For boards that wish to authorize the superintendent to appoint the outside investigator in these cases, substitute "Superintendent" for "Board President" in the first sentence, delete the second and third sentences in the paragraph, and delete the Cross Reference to 2:110, *Qualifications, Term, and Duties of Board Officers*.

12 A board's ability to address the harassing behavior of a board member is relatively limited because it does not have the legal authority to remove one of its members. See policy 2:60, *Board Member Removal from Office*, and its footnotes for more information about board member removal. Consult the board attorney when dealing with a claim of sexual harassment by a board member to discuss enforcement options, as well as the accused board member's participation in any decisions regarding the complaint.

LEGAL REF.: 5 ILCS 430/, State Officials and Employees Ethics Act.  
10 ILCS 5/9-25.1, Election Interference Prohibition Act.

CROSS REF.: 2:100 (Board Member Conflict of Interest), [2:110 \(Qualifications, Term, and Duties of Board Officers\)](#), [2:260 \(Uniform Grievance Procedure\)](#), 4:60 (Purchases and Contracts), 5:120 (Employee Ethics; Conduct; and Conflict of Interest)

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<sup>13</sup> [This paragraph is optional, but it aligns with the intent of P.A. 101-221. See f/n 9, above.](#)

## School Board

### Qualifications, Term, and Duties of Board Officers 1

The School Board officers are: President, Vice President, Secretary, and Treasurer.<sup>2</sup> These officers are elected or appointed by the Board at its organizational meeting.

#### President 3

The Board elects a President from its members for a two-year term. The duties of the President are to:

1. Preside at all meetings;
2. Focus the Board meeting agendas on appropriate content;
3. Make all Board committee appointments, unless specifically stated otherwise; <sup>4</sup>
4. Attend and observe any Board committee meeting at his or her discretion; <sup>5</sup>
5. Represent the Board on other boards or agencies;
6. Sign official District documents requiring the President's signature, including Board minutes and Certificate of Tax Levy;
7. Call special meetings of the Board;
8. Serve as the head of the public body for purposes of the Open Meetings Act and Freedom of Information Act; <sup>6</sup>
9. Ensure that a quorum of the Board is physically present at all Board meetings; <sup>7</sup>
10. Administer the oath of office to new Board members; ~~and~~ <sup>8</sup>
11. Serve as or appoint the Board's official spokesperson to the media; ~~and~~

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<sup>1</sup> State law controls this policy's content. Selection of officers must be in open session. 5 ILCS 120/2. Board officer vacancies are discussed in *Answers to FAQs: Vacancies on the Board of Education*, Ill. Council of School Attorneys, [www.iasb.com/law/vacancies.cfm](http://www.iasb.com/law/vacancies.cfm).

<sup>2</sup> Districts governed by a board of directors have three officers: a president, clerk, and treasurer. The president and clerk must be board members 105 ILCS 5/10-5.

<sup>3</sup> 105 ILCS 5/10-13. The board by resolution may decrease to one year the term of office for the president. Of the listed duties, only the following are imposed by law: #1, preside at meetings (*Id.*); #6, sign minutes (105 ILCS 5/10-7) and sign certificate of tax levy (105 ILCS 5/17-11); #7, call special meetings (105 ILCS 5/10-16); and #8, serve as *head of the public body* for the Open Meetings Act (OMA) and the Freedom of Information Act (FOIA) purposes (5 ILCS 140/2(e), 140/7(f), and 140/9.5).

<sup>4</sup> Alternatively, strike the "unless" clause and substitute: "subject to Board approval." Be sure this treatment is consistent with policy 2:150, *Committees*.

<sup>5</sup> Optional. A board that wants the president to participate in committee meetings may use the following alternative: "Be a member of all Board committees." Using this alternative, the president would be counted to determine the number of members that constitutes a quorum for each board committee meeting. If a board would like the superintendent to attend any or all meetings of a board committee, it should consider asking the superintendent to be a committee resource person (or other such title) rather than an ex-officio member of the board committee itself. That way, the superintendent will not count to determine the number of committee members that constitutes a quorum.

<sup>6</sup> The *head of the public body* or its attorney may request an advisory opinion from the Ill. Attorney General Public Access Counselor (PAC) concerning compliance with OMA or FOIA. 5 ILCS 120/3.5(h) and 5 ILCS 140/9.5(h). FOIA defines *head of the public body* to mean *president* or "such person's duly authorized designee." 5 ILCS 140/2(e). Preliminary drafts, recommendations, and other records in which opinions are expressed, or policies are formulated, lose this exemption from disclosure if a relevant portion of a requested record is publicly cited and identified by the *head of the public body*. 5 ILCS 140/7(f).

<sup>7</sup> Optional. Requiring the president to monitor the presence of a quorum assists compliance with OMA's mandate that a quorum be physically present at all board meetings. 5 ILCS 120/7.

<sup>8</sup> Optional. Omit this duty if policy 2:80, *Board Member Oath and Conduct* provides that the board member oath is given by other means.

44-12. Except when the Board President is the subject of a complaint of sexual harassment, a witness, or otherwise conflicted, appoint a qualified outside investigator to conduct an independent review of allegations of sexual harassment made against a Board member by another Board member or elected official. 9

The President is permitted to participate in all Board meetings in a manner equal to all other Board members, including the ability to make and second motions.

The Vice President fills a vacancy in the Presidency. 10

#### Vice President 11

The Board elects a Vice President from its members for a two-year term. The Vice President performs the duties of the President if:

1. The office of President is vacant;
2. The President is absent; or
3. The President is unable to perform the office's duties.

A vacancy in the Vice Presidency is filled by a special Board election.

#### Secretary 12

The Board elects a Secretary for a two-year term. The Secretary may be, but is not required to be, a Board member. The Secretary may receive reasonable compensation as determined by the Board before appointment. However, if the Secretary is a Board member, the compensation shall not exceed \$500 per year, as fixed by the Board at least 180 days before the beginning of the term.<sup>13</sup> The duties of the Secretary are to:

1. Keep minutes for all Board meetings, and keep the verbatim record for all closed Board meetings;
2. Mail meeting notification and agenda to news media who have officially requested copies;
3. Keep records of the Board's official acts, and sign them, along with the President, before submitting them to the Treasurer at such times as the Treasurer may require;

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

9 See policy 2:105, Ethics and Gift Ban, Complaints of Sexual Harassment Made Against Board Members by Elected Officials subhead. 5 ILCS 430/70-5, amended by P.A. 101-221, requires school districts to amend their sexual harassment policies "to provide for a mechanism for reporting and independent review of allegations of sexual harassment made against an elected official of the governmental unit by another elected official of a governmental unit." If the board has chosen to have the Superintendent appoint an outside investigator in these cases (see 2:105, Ethics and Gift Ban, at f/n 11), remove item 12 from the list of board president duties and delete the Cross Reference to 2:105, Ethics and Gift Ban.

<sup>10</sup> 105 ILCS 5/10-13.1 states that the "vice-president shall perform the duties of the president if there is a vacancy in the office of president or in case of the president's absence or inability to act ... ." However, an earlier enacted statute calls for the appointment of a *president pro tempore* if the president is absent from any meeting or refuses to perform his or her duties, and specifies that the "vice-president, if the board elects such officer, shall be appointed the president pro tempore." 105 ILCS 5/10-13. This policy resolves any confusion by implementing the latter enacted statute and stating that the vice president fills a vacancy in the presidency.

<sup>11</sup> 105 ILCS 5/10-13.1. The board by resolution may decrease to one year the term of office for the vice president.

<sup>12</sup> 105 ILCS 5/10-14. The board by resolution may decrease to one year the term of office for the secretary. In districts governed by a board of directors, a clerk who is a board member performs these duties. 105 ILCS 5/10-5. The policy's provisions regarding compensation are required by 105 ILCS 5/10-14 (governs secretaries who are board members and non-board members) and by 50 ILCS 145/2 (governs secretaries who are board members).

Of the listed duties, only the following are imposed by law: #1, board meeting minutes (105 ILCS 5/10-7; see policy 2:220, *School Board Meeting Procedure*, for the requirements for minutes); #3, records board's official acts and submits them to the treasurer (105 ILCS 5/10-7); #4, treasurer's report (105 ILCS 5/10-8); #5, local election official (see f/ns 2 and 7 of policy 2:30, *School District Elections*); #6, public inspection of the budget (105 ILCS 5/17-1).

**Use this alternative for districts in suburban Cook County:** replace "Regional Superintendent" in item #4 with "appropriate Intermediate Service Center."

<sup>13</sup> 105 ILCS 5/10-14 and 50 ILCS 145/2.

4. Report to the Treasurer on or before July 7, annually, such information as the Treasurer is required to include in the Treasurer's report to the Regional Superintendent;
5. Act as the local election official for the District;
6. Arrange public inspection of the budget before adoption;
7. Publish required notices;
8. Sign official District documents requiring the Secretary's signature; and
9. Maintain Board policy and such other official documents as directed by the Board.

The Secretary may delegate some or all of these duties, except when State law prohibits the delegation. The Board appoints a secretary pro tempore, who may or may not be a Board member, if the Secretary is absent from any meeting or refuses to perform the duties of the office. A permanent vacancy in the office of Secretary is filled by special Board election.

#### Recording Secretary 14

The Board may appoint a Recording Secretary who is a staff member. The Recording Secretary shall:

1. Assist the Secretary by taking the minutes for all open Board meetings;
2. Assemble Board meeting material and provide it, along with prior meeting minutes, to Board members before the next meeting; and
3. Perform the Secretary's duties, as assigned, except when State law prohibits the delegation.

In addition, the Recording Secretary or Superintendent receives notification from Board members who desire to attend a Board meeting by video or audio means. **15**

#### Treasurer 16

The Treasurer of the Board shall be either a member of the Board who serves a one-year term or a non-Board member who serves at the Board's pleasure.<sup>17</sup> A Treasurer who is a Board member may not be compensated.<sup>18</sup> A Treasurer who is not a Board member may be compensated provided it is established before the appointment.<sup>19</sup> The Treasurer must: **20**

1. Be at least 21 years old;

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**14** This section is optional.

**15** To allow attendance by video or audio means, a board must adopt policy language conforming to the restrictions in OMA. 5 ILCS 120/2.01 and 120/7. See subhead **Quorum and Participation by Audio or Video Means** in policy 2:220, *School Board Meeting Procedure, and its f/n 31*.

**16** This section is for: (1) districts in a Class I, or (2) a Class II county (Cook Co.) district that has withdrawn from the authority of the township treasurer or is located in a township in which the office of township treasurer was abolished. 105 ILCS 5/5-1 defines Class I county school units as districts in counties with less than 2,000,000 inhabitants. Those districts in Cook County (Class II county) under the authority of the trustees of schools of the township and the township treasurers should use this alternative: "Qualifications, appointment, and duties of the Treasurer for the School District shall be as provided in the School Code." See 105 ILCS 5/8-1(a) for how the township treasurer is appointed and the term of office; duties are found in 105 ILCS 5/8-2, 5/8-6, 5/8-16, and 5/8-17.

**17** 105 ILCS 5/8-1(b). The treasurer's term of office is two years if the district is located in a Class II county (Cook Co.) that was under the jurisdiction and authority of the township treasurer and township trustees of schools at the time those offices were abolished. 105 ILCS 5/8-1(c). Those boards should use the following alternative:

The Treasurer of the Board shall serve a two-year term beginning and ending on the first day of July.

**18** 105 ILCS 5/8-1(b) and (c).

**19** 105 ILCS 5/8-3.

**20** Qualification #1 is required for treasurers in a Class I county or Class II county (Cook Co.) that withdrew from the authority of the township treasurer and township trustees of schools. 105 ILCS 5/8-1(b). This sample policy makes it applicable to Class II county (Cook Co.) districts that were under the authority of the township treasurer and township trustees of schools at the time those offices were abolished.

Qualification #2 is required for treasurers in a Class I county or Class II county (Cook Co.) that withdrew from the authority of the township treasurer and township trustees of schools. 105 ILCS 5/8-1(b). Districts in a Class II county (Cook Co.) that were under the authority of the township treasurer and township trustees of schools at the time those offices were abolished should replace this qualification as follows: "2. Not be the District Superintendent." 105 ILCS 5/8-1(c).

2. Not be a member of the County Board of School Trustees; and
3. Have a financial background or related experience, or 12 credit hours of college-level accounting.

The Treasurer shall: **21**

1. Furnish a bond, which shall be approved by a majority of the full Board;
2. Maintain custody of school funds;
3. Maintain records of school funds and balances;
4. Prepare a monthly reconciliation report for the Superintendent and Board; and
5. Receive, hold, and expend District funds only upon the order of the Board.

A vacancy in the Treasurer's office is filled by Board appointment.

LEGAL REF.: 5 ILCS 120/7 and 420/4A-106.  
105 ILCS 5/8-1, 5/8-2, 5/8-3, 5/8-6, 5/8-16, 5/8-17, 5/10-1, 5/10-5, 5/10-7, 5/10-8,  
5/10-13, 5/10-13.1, 5/10-14, 5/10-16.5, and 5/17-1.

CROSS REF.: 2:80 (Board Member Oath and Conduct), [2:105 \(Ethics and Gift Ban\)](#), 2:150  
(Committees), 2:210 (Organizational School Board Meeting), 2:220 (School  
Board Meeting Procedure)

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Qualification #3 is required for treasurers in a Class I county. 105 ILCS 5/8-1(d). This qualification should be replaced by the following for districts in a Class II county (Cook Co.): "Upon being appointed for his or her first term, be a certified public accountant or a certified chief school business official as defined in the School Code; experience as a township treasurer in a Class II county school before July 1, 1989 is deemed equivalent." 105 ILCS 5/8-1(e).

**21** 105 ILCS 5/8-2, 5/8-6, and 5/8-16.

## School Board

### Types of School Board Meetings <sup>1</sup>

#### General

For all meetings of the School Board and its committees, the Superintendent or designee shall satisfy all notice and posting requirements contained herein as well as in the Open Meetings Act. ~~This shall include mailing meeting notifications to news media that have officially requested them and to others as approved by the Board.~~<sup>2</sup> Unless otherwise specified, all meetings are held in the District's main office.<sup>3</sup> Board policy 2:220, *School Board Meeting Procedure*, governs meeting quorum requirements.

The Superintendent is designated on behalf of the Board and each Board committee to receive the training on compliance with the Open Meetings Act that is required by Section 1.05(a) of that Act. The Superintendent may identify other employees to receive the training.<sup>4</sup> ~~In addition, each Board member must complete a course of training on the Open Meetings Act as required by Section 1.05(b) or (c) of that Act.~~ <sup>5</sup>

**The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.**

<sup>1</sup> State law controls this policy's content. The provisions of the Open Meetings Act (OMA) do not apply to collective bargaining negotiations, [including negotiating team strategy sessions](#), and grievance arbitrations as provided in 115 ILCS 5/18, [amended by P.A. 100-768](#).

<sup>2</sup> 5 ILCS 120/2.02. These responsibilities may be given to anyone.

<sup>3</sup> State law only requires that meetings be held in a location convenient and open to the public and no open meeting is allowed to be held on a legal holiday unless the regular meeting day falls on that holiday. ~~(5 ILCS 120/2.01).~~ According to an Ill. Atty. Gen. Public Access Counselor Opinion, a board may not meet in a private residence because it would not be convenient and open to the public ~~(PAO 12-8).~~ A board meeting 26 miles away from its regular location, while open to the public, was inconvenient because "the public, as a practical matter, would be deterred from attending it." ~~(PAO 13-14).~~ Any person may record an open meeting. ~~(5 ILCS 120/2.05).~~ See policy 2:220, *School Board Meeting Procedure*.

<sup>4</sup> Each board must designate at least one employee or member to receive training on compliance with OMA. ~~(5 ILCS 120/1.05).~~ Revise this paragraph if the board designates other individual(s) to receive the training. A list of designated individual(s) must be submitted to the [Ill. Attorney General's Public Access Counselor \(PAC\)](#). The designated individual(s) must successfully complete an electronic training curriculum administered by the ~~Attorney General's Public Access Counselor~~ [PAC](#) within 30 days after that designation, and thereafter must successfully complete an annual training program. The OMA does not specify duties for the designated individuals who receive the training but presumably they would assist the board in its OMA compliance efforts.

<sup>5</sup> 5 ILCS 120/1.05(b) applies to training administered by the [Ill. Attorney General's office](#); 1.05(c) applies to training administered by IASB. Board members elected or appointed after 1-1-12 must complete the training not later than 90 days after taking the oath of office. Even before this law, compliance with the OMA has always been considered a shared responsibility of board members. Failing to complete the OMA training does not affect the validity of an action taken by the board nor is it considered a criminal violation. ~~(5 ILCS 120/1.05(b)) and 120/4.~~ However, a person found to have violated any other provisions of the OMA is guilty of a Class C misdemeanor punishable by a \$1,500 fine [and/or](#) 30 days in jail. ~~(5 ILCS 120/4).~~

## Regular Meetings

The Board announces the time and place for its regular meetings at the beginning of each fiscal year.<sup>6</sup> The Superintendent shall prepare and make available the calendar of regular Board meetings. The regular meeting calendar may be changed with ~~10~~<sup>ten</sup> days' notice in accordance with State law.<sup>7</sup>

A meeting agenda shall be posted at the District's main office and the Board's meeting room, or other location where the meeting is to be held, at least 48 hours before the meeting.<sup>8</sup>

## Closed Meetings<sup>9</sup>

The Board and Board committees may meet in a closed meeting to consider the following subjects:

1. The appointment, employment, compensation, discipline, performance, or dismissal of specific employees, specific individuals who serve as independent contractors in a park, recreational, or educational setting, or specific volunteers of the public body or legal counsel for the public body, including hearing testimony on a complaint lodged against an employee, a specific individual who serves as an independent contractor in a park, recreational, or educational setting, or a volunteer of the public body or against legal counsel for the public body to determine its validity.<sup>10</sup> However, a meeting to consider an increase in compensation to a specific employee of a public body that is subject to the Local Government Wage Increase Transparency Act may not be closed and shall be open to the public and posted and

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<sup>6</sup> The OMA and the School Code have different provisions regarding the establishment of a regular meeting schedule. The OMA requires each public body to prepare and make available a regular meeting schedule at the beginning of each calendar or fiscal year. ~~(5 ILCS 120/2.03)~~. The School Code states that this task is accomplished during the organizational meeting. By *announcing* the schedule at the beginning of each calendar or fiscal year and by *fixing* the schedule at the organizational meeting, a board can implement both laws. Note that the phrase in this sample policy, "at the beginning of each fiscal year," can be changed to "at the beginning of each calendar year."

<sup>7</sup> Regular meeting dates may be changed by giving at least 10 days' notice in a newspaper of general circulation and posting a notice at the district's main office. ~~(5 ILCS 120/2.03)~~. Districts with a population of less than 500, in which no newspaper is published, may give the ~~10~~<sup>ten</sup> days' notice by posting a notice in at least three prominent places within the district, in addition to posting a notice at the district's main office. ~~(Id.)~~. Notice shall also be given to those news media having filed an annual request to receive notifications. ~~(Id.)~~.

<sup>8</sup> 5 ILCS 120/2.02(a). The posting location may need modification to comply with the law's requirement that the agenda be posted at the district's main office. For agenda requirements, see policy 2:220, *School Board Meeting Procedure*.

OMA also requires that "any requested notice and agenda for the meeting be *continuously available* for public review during the entire 48-hour period preceding the meeting." Emphasis added, 5 ILCS 120/2.02(c). The requirement for *continuously available* is satisfied if the district posts any required notice and agenda on its website. However, to comply with the legislative intent, posting on the district website does not replace the posting described in this sentence. See Rep. Pihos remarks reported in *New open-meetings law; is hard-copy posting of agendas still required?*, Sept. 2012, Illinois Bar Journal.

For districts that do not post board meeting agendas on a website (because they do not have a website maintained by a fulltime staff member), add the following sentence:

The agenda shall be continuously available for public review during the entire 48-hour period preceding the meeting.

If a notice or agenda is not continuously available for the full 48-hour period due to actions outside of the district's control, the lack of availability does not invalidate any meeting or action taken.

<sup>9</sup> The reasons for closed meetings are frequently addressed in court decisions and Attorney General opinions; only a few of these decisions/opinions are mentioned in the footnotes.

<sup>10</sup> "Th[is] exception is not intended to allow private discussion of fiscal matters, notwithstanding that they may directly or indirectly impact the employees of the public body." See PAOs 12-11 and 15-03. Discussing the elimination of an employee's position for reasons unrelated to the performance of the employee is not within the scope of Section 2(c)(1). See PAO 15-07. Nor does the exception permit a public body to hold closed sessions to discuss employees in general or issues that may ultimately have an impact on employees. See PAOs 15-05, 16-13, and 18-12.

held in accordance with [the Open Meetings Act]. 5 ILCS 120/2(c)(1), amended by P.A. ~~99-646~~[101-459](#). <sup>11</sup>

2. Collective negotiating matters between the public body and its employees or their representatives, or deliberations concerning salary schedules for one or more classes of employees. 5 ILCS 120/2(c)(2). <sup>12</sup>
3. The selection of a person to fill a public office, as defined in the Open Meetings Act, including a vacancy in a public office, when the public body is given power to appoint under law or ordinance, or the discipline, performance or removal of the occupant of a public office, when the public body is given power to remove the occupant under law or ordinance. -5 ILCS 120/2(c)(3).
4. Evidence or testimony presented in open hearing, or in closed hearing where specifically authorized by law, to a quasi-adjudicative body, as defined in the Open Meetings Act, provided that the body prepares and makes available for public inspection a written decision setting forth its determinative reasoning. -5 ILCS 120/2(c)(4).
5. The purchase or lease of real property for the use of the public body, including meetings held for the purpose of discussing whether a particular parcel should be acquired. 5 ILCS 120/2(c)(5).
6. The setting of a price for sale or lease of property owned by the public body. 5 ILCS 120/2(c)(6).
7. The sale or purchase of securities, investments, or investment contracts. 5 ILCS 120/2(c)(7).
8. Security procedures, school building safety and security, and the use of personnel and equipment to respond to an actual, a threatened, or a reasonably potential danger to the safety of employees, students, staff, the public, or public property. -5 ILCS 120/2(c)(8), ~~amended by P.A. 99-235, eff. 1-1-16.~~
9. Student disciplinary cases. 5 ILCS 120/2(c)(9).
10. The placement of individual students in special education programs and other matters relating to individual students. 5 ILCS 120/2(c)(10).

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<sup>11</sup> The Local Government Wage Increase Transparency Act, 50 ILCS 155/4, ~~added by P.A. 99-646~~, allows *disclosable payments* (described below) to IMRF employees only when the school board has first discussed the specific payment to be made at a meeting open to the public and posted and held in accordance with the requirements of ~~the Open Meetings Act~~[OMA, 50 ILCS 155/5, amended by P.A. 101-228](#).

The provisions apply only to disclosable payments made to participating employees under Article Seven of the Illinois Pension Code (IMRF) who began participation before 1-1-11 and who are not subject to a collective bargaining agreement with respect to the employment upon which the participation is based.

*Disclosable payments* means a payment, whether in the form of an increase in the rate of earnings or a lump-sum payment, that would:

1. Be made by a participating employer to a participating employee after the employee has expressed to the employer his or her intent to retire or withdraw from service;
2. Have the effect of increasing the employee's reportable monthly earnings from that employer by more than 6% compared to the previous month; and
3. Be made between 12 months and 90 days prior to the employee's expected termination of service.

A disclosable payment also includes payment for accumulated sick leave; ~~it~~ does not include a refund of contributions or any payment required to be paid by State or federal law.

<sup>12</sup> Discussing a hiring freeze is not within the scope of Section 2(c)(2). See PAO 15-07. And if a public body is not engaged in collective bargaining at the time of the meeting, discussion of a hiring freeze does not constitute a collective negotiating matter. Id.

11. Litigation, when an action against, affecting or on behalf of the particular public body has been filed and is pending before a court or administrative tribunal, or when the public body finds that an action is probable or imminent, in which case the basis for the finding shall be recorded and entered into the minutes of the closed meeting. -5 ILCS 120/2(c)(11).
12. The establishment of reserves or settlement of claims as provided in the Local Governmental and Governmental Employees Tort Immunity Act, if otherwise the disposition of a claim or potential claim might be prejudiced, or the review or discussion of claims, loss or risk management information, records, data, advice or communications from or with respect to any insurer of the public body or any intergovernmental risk management association or self insurance pool of which the public body is a member. -5 ILCS 120/2(c)(12).
13. Self evaluation, practices and procedures or professional ethics, when meeting with a representative of a statewide association of which the public body is a member. 5 ILCS 120/2(c)(16). **13**
14. Discussion of minutes of meetings lawfully closed under the Open Meetings Act, whether for purposes of approval by the body of the minutes or semi-annual review of the minutes as mandated by Section 2.06. 5 ILCS 120/2(c)(21).
15. Meetings between internal or external auditors and governmental audit committees, finance committees, and their equivalents, when the discussion involves internal control weaknesses, identification of potential fraud risk areas, known or suspected frauds, and fraud interviews conducted in accordance with generally accepted auditing standards of the United States of America. 5 ILCS 120/2(c)(29).

The Board may hold a closed meeting, or close a portion of a meeting, by a majority vote of a quorum, taken at an open meeting. The vote of each Board member present, and the reason for the closed meeting, will be publicly disclosed at the time of the meeting and clearly stated in the motion and the meeting minutes. **14**

A single motion calling for a series of closed meetings may be adopted when such meetings will involve the same particular matters and are scheduled to be held within three months of the vote.-**15**

No final Board action will be taken at a closed meeting. **16**

#### Reconvened or Rescheduled Meetings

A meeting may be rescheduled or reconvened. Public notice of a rescheduled or reconvened meeting shall be given in the same manner as that for a special meeting, except that no public notice is required when the original meeting is open to the public and: (1) is to be reconvened within 24 hours,

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**13** IASB field services directors are available to facilitate a board self-evaluation.

**14** 5 ILCS 120/2a. Provided the open meeting was properly noticed, no additional notice is required to close the meeting. A motion to close a meeting can be as simple as, "I move that the Board hold [go into] a closed session to discuss [state one of the closed meeting grounds with reference to the specific section authorizing the closed meeting]."

The adequacy of a motion to go into closed session was discussed in Henry v. Anderson and Champaign Community Unit School Dist. No. 4, 827 N.E.2d 522 (Ill.App.4, 2005). A statutory citation is not required in the motion to go into closed session, but the OMA does require a reference to the specific exception. The *litigation* exception is tricky. If the litigation has been filed and is pending, the motion to go into closed session need only state that the board will discuss litigation that has been filed and is pending. If the litigation has not been filed, the board must: (1) find that the litigation is probable or imminent, and (2) record and enter into the minutes the basis for that finding.

**15** Id.

**16** 5 ILCS 120/2(e). See also PAOs 13-03, 13-07, and 14-01.

or (2) an announcement of the time and place of the reconvened meeting was made at the original meeting and there is no change in the agenda. 17

### Special Meetings

Special meetings may be called by the President or by any three members of the Board by giving notice thereof, in writing, stating the time, place, and purpose of the meeting to remaining Board members by mail at least 48 hours before the meeting, or by personal service at least 24 hours before the meeting. 18

Public notice of a special meeting is given by posting a notice at the District's main office at least 48 hours before the meeting and by notifying the news media that have filed a written request for notice. A meeting agenda shall accompany the notice. 19

All matters discussed by the Board at any special meeting must be related to a subject on the meeting agenda. 20

### Emergency Meetings

Public notice of emergency meetings shall be given as soon as practical, but in any event, before the meeting to news media that have filed a written request for notice. 21

### Posting on the District Website 22

In addition to the other notices specified in this policy, the Superintendent or designee shall post the following on the District website: (1) the annual schedule of regular meetings, which shall remain posted until the Board approves a new schedule of regular meetings; (2) a public notice of all Board meetings; and (3) the agenda for each meeting which shall remain posted until the meeting is concluded.

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17 5 ILCS 120/2.02.

18 105 ILCS 5/10-16 (two members of a board of directors; 105 ILCS 5/10-6). Lawyers disagree whether three members may call a special meeting without violating ~~the~~OMA, although there is general agreement that no violation occurs if three members call a special meeting while they are participating in a lawful board committee meeting with the matter on the agenda.

19 5 ILCS 120/2.02. News media that gave the board an address or telephone number within the district's territorial jurisdiction must be given notice in the same manner as given board members.

OMA requires that "any required notice and agenda be *continuously available* for public viewing during the entire 48-hour period preceding the meeting." Emphasis added, 5 ILCS 120/2.02(c). The requirement for *continuously available* is satisfied if the district posts any required notice and agenda on its website. Posting on the district website does not replace the posting described in this paragraph. See f/n 8.

For districts that do not post board meeting notices and agendas on a website (because they do not have a website maintained by a fulltime staff member), add the following sentence:

The notice and agenda shall be continuously available for public review during the entire 48-hour period preceding the meeting.

20 Lawyers disagree whether ~~the Open Meetings Act~~OMA mandates this restriction, i.e., whether it restricts board *discussions* to items related to an item on the special meeting agenda. ~~OMA~~The ~~Act~~ limits board *action* to items on the agenda (5 ILCS 120/2.02(c)); it states that the validity of any action taken "which is germane to a subject on the agenda shall not be affected by other errors or omissions in the agenda." 5 ILCS 120/2.02(a). For agenda requirements, see policy 2:220, *School Board Meeting Procedure*.

21 5 ILCS 120/2.02(a).

22 Required *only if* the district has a website that is maintained by a full-time staff member; if not, this section may be omitted. ~~5 ILCS 120/2.02~~. Note that 5 ILCS 120/2.02(b) requires that a notice of *all* meetings be posted on the district website, but only notices of *regular* meetings must remain posted until the *regular* meeting is concluded. As this is an obvious oversight, it is wise to leave the notice of every meeting on the website until after the meeting occurred. The agenda must remain on the district website until the meeting is concluded. ~~(Id.)~~.

LEGAL REF.: 5 ILCS 120/, [Open Meetings Act](#).  
5 ILCS 140/, [Freedom of Information Act](#).  
105 ILCS 5/10-6 and 5/10-16.

CROSS REF.: 2:110 (Qualifications Term, and Duties of Board Officers), 2:120 (Board Member Development), 2:210 (Organizational School Board Meetings), 2:220 (School Board Meeting Procedure), 2:230 (Public Participation at School Board Meetings and Petitions to the Board), 6:235 (Access to Electronic Networks)

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## School Board

### School Board Meeting Procedure 1

#### Agenda

The School Board President is responsible for focusing the Board meeting agendas on appropriate content.<sup>2</sup> The Superintendent shall prepare agendas in consultation with the Board President. The President shall designate a portion of the agenda as a consent agenda for those items that usually do not require extensive discussion ~~or explanation~~ before Board action. Upon the request of any Board member, an item will be withdrawn from the consent agenda and placed on the regular agenda for independent consideration.<sup>3</sup>

Each Board meeting agenda shall contain the general subject matter of any item that will be the subject of final action at the meeting.<sup>4</sup> Items submitted by Board members to the Superintendent or the President shall be placed on the agenda for an upcoming meeting.<sup>5</sup> District residents may suggest inclusions for the agenda.<sup>6</sup> The Board will take final action only on items contained in the posted agenda; items not on the agenda may still be discussed.<sup>7</sup>

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>1</sup> State law requires boards to have a policy concerning: (1) the public's right to record meetings (5 ILCS 120/2.05), and (2) if applicable, attendance by video or audio means (5 ILCS 120/7). Boards are not mandated to have a policy on the remaining topics covered in this policy. The following items are matters of local discretion: agenda preparation and contents, process for board members to have items placed on agenda, receipt and handling of residents' requests for agenda inclusions, and order of business.

<sup>2</sup> Appropriate agenda content includes: establishing board processes, clarifying the district's purpose, delegating authority, defining operating limits, monitoring district progress, and taking legally required board action. See *IASB Foundational Principles of Effective Governance*.

<sup>3</sup> To comply with the Open Meetings Act's (OMA's) mandate that minutes contain a "summary of discussion on all matters proposed, deliberated, or decided," a board should include a list of consent items in the agenda. OMA also requires that any final action "be preceded by a public recital of the nature of the matter being considered and other information that will inform the public of the business being conducted." 105 ILCS 120/2(e). Some level of explanation of the consent agenda items must be verbally given before a board votes to approve a consent agenda. The Ill. Supreme Court has held that "the recital must announce the nature of the matter under consideration, with sufficient detail to identify the particular transaction or issue, but need not provide an explanation of its terms or its significance." Bd. of Education of Springfield Sch. Dist. No. 186 v. Atty. Gen. of Ill., 77 N.E.3d 625 (Ill. 2017).

<sup>4</sup> 5 ILCS 120/2.02(c). The Ill. Appellate Court held that ~~the Open Meetings Act~~ OMA prohibits a board from voting on a matter at a regular meeting that is not on the pre-meeting published agenda. ~~(Rice v. Board of Trustees of Adams County, 762 N.E.2d 1205 (Ill.App.4, 2002))~~ 326 Ill.App.3d 1120 (4th Dist. 2002).

<sup>5</sup> An alternative follows:

Any Board member may submit suggested agenda items to the Board President for his or her consideration.

<sup>6</sup> See policy 2:230, *Public Participation at School Board Meetings and Petitions to the Board*. In districts governed by a board of school directors, an appointed board official must give a person requesting consideration of a matter by the board a formal written response no later than 60 days after receiving the request. The response must establish a meeting before the board or list the reasons for denying the request. ~~(105 ILCS 5/10-6).~~

Options follow to restrict the addition of new agenda items; the phrases between [ ] may be used together, separately, or eliminated.

Discussion items may be added to the agenda [at the beginning of a regular meeting] [upon unanimous approval of those Board members present].

<sup>7</sup> An opinion from the Ill. Public Access Counselor found no violation of the OMA when a board removed an item from the agenda within the 48-hour notice time period. ~~(PAO 14-3).~~ Removals inform the public that the board does not plan to proceed on the topic.

The Superintendent shall provide a copy of the agenda, with adequate data and background information, to each Board member at least 48 hours before each meeting, except a meeting held in the event of an emergency.<sup>8</sup> The meeting agenda shall be posted in accordance with Board policy 2:200, *Types of School Board Meetings*.

The Board President shall determine the order of business at regular Board meetings. Upon consent of a majority of members present, the order of business at any meeting may be changed.

### Voting Method

Unless otherwise provided by law, when a vote is taken upon any measure before the Board, with a quorum being present, a majority of the votes cast shall determine its outcome.<sup>9</sup> A vote of *abstain* or *present*, or a vote other than *yea* or *nay*, or a failure to vote, is counted for the purposes of determining whether a quorum is present. A vote of *abstain* or *present*, or a vote other than *yea* or

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<sup>8</sup> State law does not require this, except that 105 ILCS 5/10-16 requires members to receive a written notice of a special meeting that includes the meeting's purpose.

<sup>9</sup> In most situations, the failure of a member to vote has the effect of acquiescence or concurrence with the majority of votes cast. *Prosser v. Village of Fox Lake*, 438 N.E.2d 134 (Ill., 1982); *People v. Bertrand*, 978 N.E.2d 681 (Ill. App. 1st Dist., 2012). For example, a motion passes with a vote of two *yeas*, one *nay*, and four *abstentions*. A motion fails with a vote of two *yeas*, three *nays*, and two *abstentions*. A motion fails with a vote of three *yeas*, three *nays*, and one *abstain* because there is no majority. Exceptions include when a statute requires the *affirmative vote* of a majority or extra. Statutory exceptions include the following board actions:

1. Dismissing a teacher for any reason other than reduction of staff or elimination of that position requires approval by the majority of all members. ~~(105 ILCS 5/24-12).~~
2. Directing the sale of district real property or buildings thereon must be approved by at least 2/3 of the board members (105 ILCS 5/5-22, ~~amended by P.A. 99-794, eff. 1-1-17~~), unless the sale is residential property constructed or renovated by students as part of a curricular program, in which case, the board could engage the services of a licensed real estate broker to sell the property for a commission not to exceed 7%, contingent upon the public listing of the property on a multiple listing service for a minimum of 14 calendar days and a sale of the property happens within 120 days.
3. Making or renewing a lease of school property to another school district or municipality or body politic and corporate for a term longer than ten years, or to alter the terms of such a lease whose unexpired term exceeds 10 years, requires approval by at least 2/3 of the board's full membership. ~~(105 ILCS 5/10-22.11).~~
4. Leasing any building, rooms, grounds, and appurtenances to be used by the district for school or administration purposes for a term longer than ten years, or to alter the terms of such a lease whose unexpired term exceeds ten years, requires approval by at least 2/3 of the board's full membership. ~~(105 ILCS 5/10-22.12).~~
5. Obtaining personal property by lease or installment contract requires approval by an affirmative vote of at least 2/3 of the board members. *Personal property* includes computer hardware and software and all equipment, fixtures, and improvements to existing district facilities to accommodate computers. ~~(105 ILCS 5/10-22.25a).~~
6. Adopting a supplemental budget after a successful referendum requires approval by a majority of the full board. ~~(105 ILCS 5/17-3.2).~~
7. Petitioning the circuit court for an emergency election requires approval by a majority of the members. ~~(10 ILCS 5/2A-1.4).~~
8. Expending funds in emergency situation in the absence of required bidding requires approval by at least 3/4 of the board. ~~(105 ILCS 5/10-20.21).~~
9. Exchanging school building sites requires approval by at least a 2/3 majority of the board. ~~(105 ILCS 5/5-23).~~
10. Waiving the administrative cost cap requires approval by an affirmative vote of at least 2/3 of the board. ~~105 ILCS 5/17-1.5).~~
11. Authorizing an advisory question of public policy to be placed on the ballot at the next regularly scheduled election requires approval by a majority of the board. ~~(105 ILCS 5/9-1.5).~~

*nay*, or a failure to vote, however, is not counted in determining whether a measure has been passed by the Board, unless otherwise stated in law. The sequence for casting votes is rotated. **10**

On all questions involving the expenditure of money and on all questions involving the closing of a meeting to the public, a roll call vote shall be taken and entered in the Board's minutes. An individual Board member may request that a roll call vote be taken on any other matter; the President or other presiding officer may approve or deny the request but a denial is subject to being overturned by a majority vote of the members present. **11**

### Minutes

The Board Secretary shall keep written minutes of all Board meetings (whether open or closed), which shall be signed by the President and the Secretary.**12** The minutes include: **13**

1. The meeting's date, time, and place;
2. Board members recorded as either present or absent;
3. A summary of the discussion on all matters proposed, deliberated, or decided, and a record of any votes taken;
4. On all matters requiring a roll call vote, a record of who voted *yea* and *nay*;
5. If the meeting is adjourned to another date, the time and place of the adjourned meeting;
6. The vote of each member present when a vote is taken to hold a closed meeting or portion of a meeting, and the reason for the closed meeting with a citation to the specific exception contained in the Open Meetings Act authorizing the closed meeting;
7. A record of all motions, including individuals making and seconding motions;
8. Upon request by a Board member, a record of how he or she voted on a particular motion;**14** and
9. The type of meeting, including any notices and, if a reconvened meeting, the original meeting's date.

The minutes shall be submitted to the Board for approval or modification at its next regularly scheduled open meeting. Minutes for open meetings must be approved within 30 days after the meeting or at the second subsequent regular meeting, whichever is later. **15**

At least semi-annually in an open meeting, the Board: (1) reviews minutes from all closed meetings that are currently unavailable for public release, and (2) decides which, if any, no longer require

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**10** Voting sequence is at the board's discretion. A board may indicate how frequently it changes the voting sequence by adding *after each vote*, *monthly*, or *annually* to the end of the sentence. All board members, including officers, may make motions and vote.

**11** This paragraph's first sentence contains the requirements in 105 ILCS 5/10-7. The second sentence is optional and may be deleted or amended. Other optional provisions include:

**Option 1:** Any Board member may include a written explanation of his or her vote in the District file containing individual Board member statements; the explanation will not be part of the minutes.

**Option 2:** Any Board member may request that his or her vote be changed before the President announces the result.

**12** 105 ILCS 5/10-7 and 5 ILCS 120/2.06. The minutes are the only record showing that the board took official action, including necessary prerequisites to make such action legally sufficient. A non-member recording secretary or clerk may be given these responsibilities. ~~(105 ILCS 5/10-14).~~

**13** All items listed are required to be recorded in minutes **except** items 7-9; other items may be included at the board's discretion. ~~(5 ILCS 120/2.06 and 120/2a; 105 ILCS 5/10-7).~~ The Ill. Public Access Counselor (PAC) found a board's vague reference to a *personnel matter* insufficient to meet the requirements of #3. ~~(PAO 13-07).~~

**14** The intent behind this optional item is to give an individual member a means of recording his or her support or opposition to a motion that was taken by oral vote; it will record that the individual took an alternative position to that of the majority without having the minutes recite unnecessary detail.

**15** Required by 5 ILCS 120/2.06(b).

confidential treatment and are available for public inspection.<sup>16</sup> The Board may meet in a prior closed session to review the minutes from closed meetings that are currently unavailable for public release.<sup>17</sup>

The Board's meeting minutes must be submitted to the Board Treasurer at such times as the Treasurer may require.<sup>18</sup>

The official minutes are in the custody of the Board Secretary.<sup>19</sup> Open meeting minutes are available for inspection during regular office hours within ~~10~~<sup>ten</sup> days after the Board's approval;<sup>20</sup> they may be inspected in the District's main office, in the presence of the Secretary, the Superintendent or designee, or any Board member.

Minutes from closed meetings are likewise available, but only if the Board has released them for public inspection, except that Board members may access closed session minutes not yet released for public inspection (1) in the District's administrative offices or their official storage location, and (2) in the presence of the Recording Secretary, the Superintendent or designated administrator, or any elected Board member.<sup>21</sup> The minutes, whether reviewed by members of the public or the Board, shall not be removed from the District's administrative offices or their official storage location except by vote of the Board or by court order.<sup>22</sup>

The Board's open meeting minutes shall be posted on the District website within ten days after the Board approves them; the minutes will remain posted for at least 60 days.<sup>23</sup>

#### Verbatim Record of Closed Meetings

The Superintendent, or the Board Secretary when the Superintendent is absent, shall audio record all closed meetings.<sup>24</sup> If neither is present, the Board President or presiding officer shall assume this responsibility. After the closed meeting, the person making the audio recording shall label the recording with the date and store it in a secure location. ~~The Superintendent shall ensure that: (1) an audio recording device and all necessary accompanying items are available to the Board for every~~

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<sup>16</sup> Required by 5 ILCS 120/2.06(c). While board notes from closed sessions may be confidential under the Freedom of Information Act, they may be discoverable by the opposing party in a lawsuit. Bobkoski v. Cary School Dist. 26, 141 F.R.D. 88 (N.D. Ill., 1992).

The failure to strictly comply with the semi-annual review does not cause the written minutes or related verbatim record to become public, provided that the board, within 60 days of discovering its failure to strictly comply, reviews the closed session minutes and reports the result of that review in open session. ~~(5 ILCS 120/2.06).~~

<sup>17</sup> 5 ILCS 120/2 allows boards to discuss the confidentiality needs of closed meeting minutes in closed meetings.

<sup>18</sup> Required by 105 ILCS 5/10-7.

<sup>19</sup> Optional provision: "A copy of the minutes is kept in a secure location appropriate for valuables."

<sup>20</sup> Required by 5 ILCS 120/2.06(b).

<sup>21</sup> 5 ILCS 120/2.06(e), ~~amended by P.A. 99-515~~. The listed individuals in the statute are matched to the titles in the IASB Policy Reference Manual. If the board wishes to mirror the statutory language, delete: ~~the Recording Secretary, the Superintendent or designated administrator, or any elected Board member~~ and replace with: "a records secretary, an administrative official of the public body, or any elected official of the public body."

See the discussion in paragraph two of f/n 27 below about what *in the presence of* means.

<sup>22</sup> Id.

<sup>23</sup> Posting on the website is required *only if* the district has a website that is maintained by a full-time staff member; if not, this sentence may be omitted. ~~(5 ILCS 120/2.06(b)).~~

<sup>24</sup> Boards must keep a verbatim record of their closed meetings in the form of an audio or video recording. ~~(5 ILCS 120/2.06, amended by P.A. 99-515)~~. This sample policy uses audio recording only; a board that uses a video recording should amend this policy and exhibit 2:220-E1, *Board Treatment of Closed Meeting Verbatim Recordings and Minutes*.

The interests of continuity, efficiency, and ease of holding someone accountable suggest that the superintendent be made responsible for making and storing the verbatim recordings. If the superintendent is not present, e.g., during discussions concerning the superintendent's contract, the tasks should be given to a board member.

closed meeting, and (2) a secure location for storing closed meeting audio recordings is maintained close to the Board's regular meeting location. <sup>25</sup>

After 18 months have passed since being made, the audio recording of a closed meeting is destroyed provided the Board approved: (1) its destruction, and (2) minutes of the particular closed meeting. <sup>26</sup>

Individual Board members may access verbatim recordings in the presence of the Recording Secretary, the Superintendent or designated administrator, or any elected Board member.<sup>27</sup> Access to the verbatim recordings is available at the District's administrative offices or the verbatim recording's official storage location.<sup>28</sup> Requests shall be made to the Superintendent or Board President. While a Board member is listening to a verbatim recording, it shall not be re-recorded or removed from the District's main office or official storage location, except by vote of the Board or by court order. <sup>29</sup>

Before making such requests, Board members should consider whether such requests are germane to their responsibilities, service to District, and/or Oath of Office in policy 2:80, *Board Member Oath and Conduct*. In the interest of encouraging free and open expression by Board members during

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<sup>25</sup> Alternatively, use: "is maintained within the District's administrative offices or their official storage location."

<sup>26</sup> This paragraph paraphrases 5 ILCS 120/2.06(c). No notification to, or the approval of, a records commission or the State Archivist is needed if a recording is destroyed under the conditions listed.

<sup>27</sup> 5 ILCS 120/2.06(e), ~~amended by P.A. 99-515~~. The listed individuals align with the other titles used in the IASB Policy Reference Manual. If the board wishes to mirror the statute, delete: ~~the Recording Secretary, the Superintendent or designated administrator, or any elected Board member~~ and replace with: "a records secretary, an administrative official of the public body, or any elected official of the public body."

The intent of the *in the presence of* language is meant to protect both (1) the verbatim recordings/closed session minutes (see f/n 21 above), and (2) the board members requesting access to them. It ensures that a school district official is present at all times when a requesting board member accesses the verbatim recording/closed session minutes. The requirement is meant to prevent misuse and removal of the verbatim recording/closed session minutes from the district offices or official storage location. It is also meant to protect the board member who requests the access from being alone and in a situation where he or she could potentially be accused of tampering with or taking the verbatim recording/closed session minutes.

Consult the board attorney about:

1. The practice of sending an *appointed* board member to be present with a board member who requests access to verbatim recordings/closed session minutes. 5 ILCS 120/2.06(e) states, "any *elected* member of the Board;" appointed is not listed but is mentioned elsewhere in the language of this section of the law;
2. Access to verbatim recordings/closed session minutes by other officials employed by the district, e.g., superintendent or other high-level administrators and even the board attorney; and
3. How this law affects the sharing of closed session minutes with board members prior to a meeting at which the closed session minutes will be approved.

The intent of P.A. 99-515, which amended 5 ILCS 120/2.06(e), was to manage a board member's *individual* request for access to these items in his or her individual capacity (see 2:80, *Board Member Oath and Conduct*), not change prior practices in regard to other officials and board attorneys or the required work of school boards under various laws. While many attorneys do not interpret the new law to restrict access or change procedures for these other high-level school officials and attorneys employed by the district, some attorneys do and it is important to obtain legal advice on this specific issue.

<sup>28</sup> Id.

<sup>29</sup> Id.

closed meetings, the recordings of closed meetings should not be used by Board members to confirm or dispute the accuracy of recollections. <sup>30</sup>

### Quorum and Participation by Audio or Video Means <sup>31</sup>

A quorum of the Board must be physically present at all Board meetings. A majority of the full membership of the Board constitutes a quorum.

Provided a quorum is physically present, a Board member may attend a meeting by video or audio conference if he or she is prevented from physically attending because of: –(1) personal illness or disability, (2) employment or District business, or (3) a family or other emergency. If a member wishes to attend a meeting by video or audio means, he or she must notify the recording secretary or Superintendent at least 24 hours before the meeting unless advance notice is impractical. The recording secretary or Superintendent will inform the Board President and make appropriate arrangements. A Board member who attends a meeting by audio or video means, as provided in this policy, may participate in all aspects of the Board meeting including voting on any item.

### Rules of Order

Unless State law or Board-adopted rules apply, the Board President, as the presiding officer, will use Robert’s Rules of Order, Newly Revised (11<sup>th</sup> Edition), as a guide when a question arises concerning procedure. <sup>32</sup>

### Broadcasting and Recording Board Meetings

Any person may record or broadcast an open Board meeting.<sup>33</sup> Special requests to facilitate recording or broadcasting an open Board meeting, such as seating, writing surfaces, lighting, and access to electrical power, should be directed to the Superintendent at least 24 hours before the meeting.

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<sup>30</sup> This paragraph is optional. It provides boards an opportunity to discuss and encourage each member to carefully think about purposes for their requests to listen to verbatim recordings, which historically has been and should continue to be to “access information relevant to the exercise of duties” for the public body. Intra-board conflicts may escalate if the recording is used to confirm or dispute who-said-what. Prior to P.A. 99-515, ~~the Open Meetings Act~~ OMA did (and still does) allow boards to release these types of information. ~~(5 ILCS 120/2.06(e)).~~ Further, ~~Ill. Atty. Gen. Op. 32, 1996,~~ opined that board members cannot be denied access to information relevant to the exercise of his or her duties. Board members should evaluate whether their requests under ~~P.A. 99-515~~ ILCS 120/2.06(e) are “relevant to the exercise of their duties” before making such requests. Confirming or disputing who-said-what diverts resources away from operations of the district in educating its students. Additional considerations in listening to verbatim recordings may include personnel and student records confidentiality issues, which should be discussed with the board attorney.

<sup>31</sup> 5 ILCS 120/2.01 and 120/7. See also 105 ILCS 5/10-6 and 5/10-12. In order to allow attendance by video or audio means, a board must adopt a policy conforming to the restrictions in ~~the Open Meetings Act~~ OMA. The statute requires the board member who wishes to attend remotely to notify the “recording secretary or clerk of the public body.” The policy includes the superintendent as a possible person to receive the notice. Everything in this section is required aside from provisions on the length of notification that is given the secretary and the process for accommodating the request. Alternatively, a board may: (1) prohibit members from participating by video or audio means by omitting this section, (2) add other requirements, or (3) alter the 24 hour notification. Note that the statute does not contemplate someone either *approving* or *denying* a request, only that the request be accommodated if the notification is provided.

In a non-binding opinion, the PAC found a public body violated OMA when it allowed a board member to join a closed session meeting remotely without first taking action at that particular meeting in open session to approve the remote participation. 2019 PAC 57660. Therefore, even with the adoption of this policy to approve remote participation, best practice is to ensure the public is informed of any board members that are participating remotely for a particular board meeting. Consult the board attorney for advice on whether the board should take action every time it wishes to permit a member to participate remotely or in those instances where a board member objects to such participation.

<sup>32</sup> Boards are not required to follow any particular rules of order. Rules, however, must be in writing and available for public inspection, in order to have any legal effect. ~~(105 ILCS 5/10-20.5).~~

Recording meetings shall not distract or disturb Board members, other meeting participants, or members of the public. The Board President may designate a location for recording equipment, may restrict the movements of individuals who are using recording equipment, or may take such other steps as are deemed necessary to preserve decorum and facilitate the meeting.

LEGAL REF.: 5 ILCS 120/2a, 120/2.02, 120/2.05, and 120/2.06.  
105 ILCS 5/10-6, 5/10-7, 5/10-12, and 5/10-16.

CROSS REF.: 2:80 (Board Member Oath and Conduct), 2:200 (Types of School Board Meetings), 2:150 (Committees), 2:210 (Organizational School Board Meeting), 2:230 (Public Participation at School Board Meetings and Petitions to the Board)

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**33** The public's right to record meetings must be addressed in board policy. ~~{5 ILCS 120/2.05}~~. However, a provision requiring advance notice to record a meeting is invalid. ~~{PAO 12-10}~~.

## School Board

### Access to District Public Records 1

Full access to the District's *public records* is available to any person as provided in the Illinois Freedom of Information Act (FOIA), this policy, and implementing procedures. The Superintendent or designee shall: (1) provide the Board with sufficient information and data to permit the Board to monitor the District's compliance with FOIA and this policy, and (2) report any FOIA requests during the Board's regular meetings along with the status of the District's response. 2

### Freedom of Information Officer 3

The Superintendent shall serve as the District's Freedom of Information Officer and assumes all the duties and powers of that office as provided in FOIA and this policy. The Superintendent may delegate these duties and powers to one or more designees, but the delegation shall not relieve the Superintendent of the responsibility for the action that was delegated.

### Definition 4

The District's *public records* are defined as records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all other documentary material pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of the School District.

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<sup>1</sup> The Illinois Freedom of Information Act (FOIA) governs the subject matter in this policy. 5 ILCS 140/. School districts are required to make public records available to any person for inspection or copying, unless they fall within an exception. 5 ILCS 140/3(a). The f/ns only discuss sections of FOIA that are relevant to school districts. State law does not explicitly require boards to adopt a policy on access to their records. However, a board policy is the logical instrument to memorialize the actions that are required to implement FOIA. The laws limiting the disclosure of employee evaluations are discussed in f/n 7.

Any person denied access to a public record may request a review by the Ill. Public Access Counselor (PAC) established in the office of the Ill. Atty. Gen. 5 ILCS 140/9.5. As a result of the review, the PAC may issue an opinion binding on the requester and public body. IASB reports on the opinions relevant to school districts on its website at:

[www.iasb.com/law/decisions.cfm?SubjectArea=Freedom%20of%20Information%20Act%20-%20FOIA](http://www.iasb.com/law/decisions.cfm?SubjectArea=Freedom%20of%20Information%20Act%20-%20FOIA).

<sup>2</sup> This sentence allows a board to monitor the district's compliance with FOIA. This is an important duty as illustrated by FOIA's provision stating: "It is a fundamental obligation of government to operate openly and provide public records as expeditiously and efficiently as possible." The School Code requires the FOIA report described in #2 (105 ILCS 5/10-16); it is optional, however, for districts governed by a board of school directors.

<sup>3</sup> Each board must designate one or more official(s) or employee(s) to act as its freedom of information officer(s). 5 ILCS 140/3.5 (referred to in the f/ns as **FOIA Officer**). A board may replace *Superintendent* in this paragraph with another job title, or may replace the paragraph with one of the alternatives below:

Alternative 1: The Board will appoint an employee to serve as the District's Freedom of Information Officer. That appointee assumes all the duties and powers of that office as provided in FOIA and this policy.

Alternative 2: The Superintendent shall appoint an employee, who may be himself or herself, to [continue as with alternative 1].

<sup>4</sup> The definition is quoted from 5 ILCS 140/2(c). Substitute the following alternative for this paragraph if desired:

The definition of *public records*, for purposes of this policy, is the definition contained in [Section 2\(e\) of FOIA 5 ILCS 140/2\(e\)](#) without amendment.

## Requesting Records <sup>5</sup>

A request for inspection and/or copies of public records must be made in writing and may be submitted by personal delivery, mail, telefax, or email directed to the District's Freedom of Information Officer. Individuals making a request are not required to state a reason for the request other than to identify when the request is for a commercial purpose or when requesting a fee waiver. The Superintendent or designee shall instruct District employees to immediately forward any request for inspection and copying of a public record to the District's Freedom of Information Officer or designee.

## Responding to Requests

The Freedom of Information Officer shall approve all requests for public records unless:

1. The requested material does not exist; <sup>6</sup>
2. The requested material is exempt from inspection and copying by the Freedom of Information Act; <sup>7</sup> or
3. Complying with the request would be unduly burdensome. <sup>8</sup>

Within five business days after receipt of a request for access to a public record, the Freedom of Information Officer shall comply with or deny the request, unless the time for response is extended as

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<sup>5</sup> This section restates 5 ILCS 140/3(c). Districts may, but are not required to, accept oral requests. Compliance with an oral request may stave off the formal written request and permit more flexibility in the response. If the district wants to accept oral requests, delete ~~must be made in writing and~~ from the first sentence and add the following:

Oral requests may be accepted provided personnel are available to handle them, but otherwise must be made in writing.

The response to an oral request should be documented. Districts may provide a request form for convenience but may not require its use. See 2:250-E1, *Written Request for District Public Records*.

<sup>6</sup> FOIA does not require a public body to create a record. 5 ILCS 140/1; [Chicago Tribune Co. v. Dept. of Financial and Professional Regulation](#), 8 N.E.3d 11 (4th Dist. 2014). However, compiling information already in the public body's possession into a different format in order to respond to a FOIA request does not constitute the creation of a new record. (PAO 15-10). See also [Hites v. Waubensee Community College](#), 56 N.E.3d 1049 (Ill App. 2, 2nd Dist. 2016) (holding that databases that house aggregations of data and do not merely store documents are subject to FOIA).

<sup>7</sup> 5 ILCS 140/7, amended by P.A. 101-434, eff. 1-1-20, and 140/7.5 describe numerous explicit exceptions to the presumption that all public records are available for public inspection. Each record is "presumed to be open to inspection or copying" and the district will have "the burden of proving by clear and convincing evidence that it is exempt." 5 ILCS 140/1.2 and 140/11(f). A person who prevails in a court proceeding to enforce FOIA will be awarded attorney's fees; the public body may incur a civil penalty of between \$2,500 and \$5,000 for each occurrence of a willful or intentional violation of FOIA or other action in bad faith; and courts may impose additional penalties of up to \$1,000 for each day the violation continues if (1) the board fails to comply with the court's order after 30 days, (2) the court's order is not on appeal or stayed, and (3) the court does not grant the public body additional time to comply with the court's order to disclose public records. 5 ILCS 140/11(i) and (j), amended by P.A. 99-586. School officials should seek the board attorney's advice concerning the denial of a record request.

Two State laws limit the disclosure of employee personnel evaluations:

1. The Personnel Record Review Act prohibits the disclosure of performance evaluations. 820 ILCS 40/11.
2. The School Code prohibits the disclosure of public school teacher, principal, and superintendent performance evaluations except as otherwise provided in the certified employee evaluation laws. 105 ILCS 5/24A-7.1.

<sup>5</sup> ILCS 140/7(kk), added by P.A. 101-434, eff. 1-1-20, exempts from disclosure "the public body's credit card numbers, debit card numbers, bank account numbers, Federal Employer Identification Number, security code numbers, passwords, and similar account information" that could result in identity theft or fraud of a government entity or a person.

<sup>8</sup> 5 ILCS 140/3(g).

specified in Section 3 of FOIA.<sup>9</sup> The Freedom of Information Officer may extend the time for a response for up to five business days from the original due date.<sup>10</sup> If an extension is needed, the Freedom of Information Officer shall: (1) notify the person making the request of the reason for the extension, and (2) either inform the person of the date on which a response will be made, or agree with the person in writing on a compliance period. <sup>11</sup>

The time periods are extended for responding to requests for records made for a *commercial purpose*, requests by a *recurrent requester*, or *voluminous requests*, as those terms are defined in Section 2 of FOIA. The time periods for responding to those requests are governed by Sections 3.1, 3.2, and 3.6 of FOIA. <sup>12</sup>

When responding to a request for a record containing both exempt and non-exempt material, the Freedom of Information Officer shall redact exempt material from the record before complying with the request. <sup>13</sup>

#### Fees <sup>14</sup>

Persons making a request for copies of public records must pay any and all applicable fees. The Freedom of Information Officer shall establish a fee schedule that complies with FOIA and this policy and is subject to the Board's review. The fee schedule shall include copying fees and all other fees to the maximum extent they are permitted by FOIA, including without limitation, search and review fees for responding to a request for a *commercial purpose* and fees, costs, and personnel hours in connection with responding to a *voluminous request*.

Copying fees, except when fixed by statute, shall be reasonably calculated to reimburse the District's actual cost for reproducing and certifying public records and for the use, by any person, of its

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<sup>9</sup> 5 ILCS 140/3(d). Reasons for extensions are addressed at 5 ILCS 140/3(e). Public bodies must respond to FOIA requests. PAOs 16-05, 16-04, ~~16-04, and~~ 16-03, and 16-01. Public bodies must also conduct a reasonable search for public records responsive to a FOIA request, which includes searching public employees' communications on personal devices or accounts for records pertaining to the transaction of public business. PAO 16-06.

<sup>10</sup> 5 ILCS 140/3(e).

<sup>11</sup> 5 ILCS 140/3(f). A board may replace the default paragraph with the following alternative:

The Freedom of Information Officer shall respond to record requests according to the time periods described in [Section 3 of FOIA](#) 5 ILCS 140/3.

<sup>12</sup> The timelines are extended to respond to a: (1) *recurrent requester* (defined in 5 ILCS 140/2(g)); (2) request with a *commercial purpose* (defined in 5 ILCS 140/2(c-10)); and (3) *voluminous request* (defined in 5 ILCS 140/2(h)). To use the extended timelines, a district must follow the requirements in 5 ILCS 140/3.2 for responding to a *recurrent requester*; 5 ILCS 140/3.1 for responding to a request with a *commercial purpose*; and 5 ILCS 140/3.6 for responding to a *voluminous request*. See ~~the~~ administrative procedure; 2:250-AP1, *Access to and Copying of District Public Records*, for additional information.

<sup>13</sup> 5 ILCS 140/7, [amended by P.A. 101-434, eff. 1-1-20](#). Redacting exempt portions is permitted, but not required, except that contractors' employees' addresses, telephone numbers, and social security numbers must be redacted before disclosure. 5 ILCS 140/2.10. Reviewing past responses to FOIA requests will promote uniform treatment of requests for similar records.

<sup>14</sup> 5 ILCS 140/6. The first paragraph's intent is to be efficient and avoid paraphrasing a complex law. See 2:250-AP1, *Access to and Copying of District Public Records*, for a fee schedule identifying the maximum fees permitted.

5 ILCS 140/6(a) states: "If a request is *not* a request for a *commercial purpose* or a *voluminous request*, a public body *may not* charge the requester for the costs of any search for and review of the records or other personnel costs associated with reproducing the records." (Emphasis added.) This implies that a search and review fee may be charged when responding to a request for a *commercial purpose* or a *voluminous request*. However, 5 ILCS 140/6(b) states that the search and review fee described in 5 ILCS 140/6(f) may be charged *only to* someone making a *commercial request*. 5 ILCS 140/6(f) contains the maximum amounts that may be charged for search and review but does not explain when they may be charged. The FOIA Officer will need to consult the board attorney concerning fees.

equipment to copy records. In no case shall the copying fees exceed the maximum fees permitted by FOIA. If the District's actual copying costs are equal to or greater than the maximum fees permitted by FOIA, the Freedom of Information Officer is authorized to use FOIA's maximum fees as the District's fees. No copying fees shall be charged for: (1) the first 50 pages of black and white, letter or legal sized copies, or (2) electronic copies other than the actual cost of the recording medium, except if the response is to a *voluminous request*, as defined in FOIA.

A fee reduction is available if the request qualifies under Section 6 of FOIA. The Freedom of Information Officer shall set the amount of the reduction taking into consideration the amount of material requested and the cost of copying it. **15**

#### Provision of Copies and Access to Records

A public record that is the subject of an approved access request will be available for inspection or copying at the District's administrative office during regular business hours, unless other arrangements are made by the Freedom of Information Officer. **16**

Many public records are immediately available from the District's website including, but not limited to, the process for requesting a public record.<sup>17</sup> The Freedom of Information Officer shall direct a requester to the District's website if a requested record is available there. If the requester is unable to reasonably access the record online, he or she may resubmit the request for the record, stating his or her inability to reasonably access the record online, and the District shall make the requested record available for inspection and copying as otherwise provided in this policy. **18**

#### Preserving Public Records

Public records, including email messages, shall be preserved and cataloged if: (1) they are evidence of the District's organization, function, policies, procedures, or activities, (2) they contain informational data appropriate for preservation, (3) their retention is required by State or federal law, or (4) they are subject to a retention request by the Board Attorney (e.g., a litigation hold), District auditor, or other

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**15** 5 ILCS 140/6(c) makes it mandatory to furnish records "without charge or at a reduced charge" if the request is in the *public interest* as defined by FOIA. If a board wants to indicate when a reduction is available by paraphrasing the statute, it may substitute the following alternative for the default paragraph:

A fee reduction is available if the person requesting the record states a specific purpose for the request and indicates that a fee reduction is in the public interest by having as its principal purpose the preservation of the general public's health, safety, welfare, or legal rights and is not for the principal purpose of personal or commercial benefit. The Freedom of Information Officer shall set the amount of the reduction, taking into consideration the amount of material requested and the cost of copying it.

**16** Public bodies may adopt rules for the times and places where records will be made available. 5 ILCS 140/3(h). A board may amend this sentence to reflect other times and/or places where records will be made available.

**17** 5 ILCS 140/4. A district may reduce FOIA requests by posting records on its website. Many records are required to be web-posted, see 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. If the district does not have a website, change this paragraph as follows:

Some public records are available for immediate access including a description of the process for requesting a public record, and a list of all types or categories of records under its control.

For a list of required web-postings, see 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. Using the district's website is also a convenient way to comply with FOIA's requirement to identify documents that are *immediately* available. 5 ILCS 140/3.5(a). Although not required to be web-posted, a list of all types or categories of records under its control must be prepared and made available. 5 ILCS 140/5; see 2:250-AP1, *Access to and Copying of District Public Records*.

**18** 5 ILCS 140/8.5.

individual authorized by the School Board or State or federal law to make such a request.<sup>19</sup> Unless its retention is required as described in items numbered 3 or 4 above, a public record, as defined by the Illinois Local Records Act, may be destroyed when authorized by the Local Records Commission. <sup>20</sup>

LEGAL REF.: 5 ILCS 140/, Illinois Freedom of Information Act.  
105 ILCS 5/10-16 and 5/24A-7.1.  
820 ILCS 40/11.  
820 ILCS 130/5.

CROSS REF.: 2:140 (Communications To and From the Board), 5:150 (Personnel Records),  
7:340 (Student Records)

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<sup>19</sup> The Local Records Act, (50 ILCS 205/3), requires the preservation of records described in items #1-3. The preservation of records described in item #3 is also required by the Family Educational Rights and Privacy Act (20 U.S.C. §1232g) and the Ill. School Student Records Act (105 ILCS 10/), among other laws. An example of a record described in item #4 is a record subject to a *litigation hold* or a document preservation requirement pursuant to Federal Rules of Civil Procedure, Rules 16 and 26.

Categorizing email messages is complicated because two laws apply and the rules differ when a board member is a party. See sample policy 2:140, *Communications To and From the Board*, for a discussion of email between or among board members. When employees or agents are using email for school purposes, the email messages may be *public records*, but will not necessarily be subject to disclosure depending on the topic discussed. FOIA's list of exemptions from disclosure determines whether these emails are subject to disclosure. For exemptions, see 5 ILCS 140/7, amended by P.A. 101-434, eff. 1-1-20, and 140/7.5.

Not all email messages between or among employees must be preserved, even if they are *public records* for purposes of FOIA. The definition of *public record* in the Local Records Act (50 ILCS 205/3) is narrower than its definition in FOIA. Thus, staff email, like all district records, must be retained only when it contains material described in #1-4. While this is a slippery slope without definitive parameters, employee email that is conversational or personal, or contains brainstorming may generally be deleted.

The Prevailing Wage Act (820 ILCS 130/5, amended by P.A. 100-1177, eff. 6-1-19) requires contractors, while participating in public works, to keep certified payroll records of all laborers, mechanics, and other workers employed by them on the project and to submit this record no later than the 15<sup>th</sup> of the month to the public body, until the Ill. Dept. of Labor (IDOL) activates an electronic database for certified payrolls no later than 4-1-20, at which time contractors will submit certified payrolls only to that database. Id. The public body in charge of the project must keep the records submitted before 1-1-14 for a period of not less than three years. Records submitted on or after 1-1-14 must be kept for a period of five years or until the IDOL activates the electronic database for certified payrolls, whichever is less. Id. Records may be retained in paper or electronic format. These records are considered public records, except for contractors' employees' addresses, telephone numbers, social security numbers, race, ethnicity, and gender, and they must be made available in accordance with FOIA. Id. **Note:** 820 ILCS 130/5, amended by P.A. 100-1177, eff. 6-1-19, requires contractors to maintain records of the race, ethnicity, gender, and veteran status of workers on a public works project. FOIA, however, was not similarly amended to require public bodies to redact the workers' race, ethnicity, and gender from certified payroll records before disclosure. See 5 ILCS 140/2.10. The Ill. Atty. Gen. has previously issued at least one non-binding opinion finding that disclosure of a person's gender is not an unwarranted invasion of personal privacy under 5 ILCS 140/7(1)(c). Districts should consult with their board attorneys regarding what categories of information may be properly redacted in response to a FOIA request for certified payroll records.

<sup>20</sup> 50 ILCS 205/. Preservation and destruction of documents is covered in 2:250-AP2, *Protocols for Record Preservation and Development of Retention Schedules*. See also the Ill. Secretary of State's website for information on preserving and destroying records, [www.cyberdriveillinois.com/departments/archives/records\\_management/](http://www.cyberdriveillinois.com/departments/archives/records_management/).

## School Board

### Uniform Grievance Procedure 1

A student, parent/guardian, employee, or community member should notify any District Complaint Manager if he or she believes that the School Board, its employees, or its agents have violated his or her rights guaranteed by the State or federal Constitution, State or federal statute, or Board policy<sup>2</sup>, or have a complaint regarding any one of the following: <sup>3</sup>

1. Title II of the Americans with Disabilities Act <sup>4</sup>
2. Title IX of the Education Amendments of 1972
3. Section 504 of the Rehabilitation Act of 1973 <sup>5</sup>
4. Title VI of the Civil Rights Act, 42 U.S.C. §2000d et seq.

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<sup>1</sup> State or federal law requires this subject matter be covered by policy and controls this policy's content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. Employee grievance procedures are a mandatory subject of bargaining and cannot be changed without the employee exclusive representative's consent. This policy is in addition to, and not a substitute for, the employee grievance procedure contained in a collective bargaining agreement.

A grievance procedure is required by many civil rights acts and implementing regulations, including those listed. For the sake of consistency and ease of administration, this policy consolidates all board grievance procedures into one policy, except those contained in collective bargaining agreements. See the cross references for the policies referring to this uniform grievance procedure policy.

<sup>2</sup> Including the phrase "guaranteed by the State or federal Constitution, State or federal statute, or Board policy" broadens the scope of this policy beyond the items listed. Consult the board attorney regarding whether to retain this phrase and/or to otherwise limit the scope of this policy.

<sup>3</sup> The Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §1400 et seq.) is not included in the list of statutes that may serve as the basis of a grievance, and attorneys disagree whether it should be. Many believe that IDEA provides the exclusive remedy; others believe that including IDEA allows parents an opportunity to get their position before the board. Unique and specific complaint resolution mechanisms are expressly provided under IDEA, Article 14 of the School Code, and their respective implementing regulations. These mechanisms follow: (1) IDEA at 20 U.S.C. §1415 (procedural safeguards-mediation and due process); (2) IDEA regulations at 34 C.F.R. §§300.151-300.153 (state complaints), 300.506 (mediation), and 300.507 et seq. (due process); (3) School Code at §§14/8.02a (mediation and due process) and 14/8.02b (expedited due process); and (4) special education regulations at 23 Ill.Admin.Code §§226.560 (MediationState complaints), 226.570 (State Complaint Proceduresmediation), and Subpart G (due process). A board that would like to include IDEA should consult the board attorney.

<sup>4</sup> The Americans with Disabilities Act Amendments Act (ADAAA)-(Pub. L. 110-325), made significant changes to the Americans with Disabilities Act's definition of disability by broadening the scope of coverage. The ADAAA also overturned a series of U.S. Supreme Court decisions that interpreted the Americans with Disabilities Act of 1990 in a way that made it difficult to prove that impairments were a disability. The U.S. Equal Employment Opportunity Commission's (EEOC) regulations, 29 C.F.R. Part 1630, are at: [www.eeoc.gov/laws/types/disability\\_regulations.cfm](http://www.eeoc.gov/laws/types/disability_regulations.cfm).

Boards should consult with their attorneys regarding how the ADAAA and its implementing regulations impact their districts.

Title II of the ADA of 1990 also includes website accessibility. Addressing website accessibility is complicated. Many entities addressing website accessibility use *Web Content Accessibility Guidelines* (WCAG) 2.0, a frequently cited accessibility standard that contains guidelines developed by a private group of accessibility experts. WCAG 2.0 is the standard the U.S. Dept. of Justice referenced in its recent Title II rulemaking; however, it is not adopted as the formal legal standard for public accommodation websites. While it is not adopted as the formal legal standard for public accommodation websites, it has been used in many consent decrees and settlement agreements. See [www.w3.org/TR/WCAG20/](http://www.w3.org/TR/WCAG20/).

<sup>5</sup> See f/n 4's discussion of website accessibility above. To avoid allegations that a district violated Section 504 of the Rehabilitation Act of 1973 and Title II of the ADA of 1990, many attorneys suggest that school districts' websites meet the WCAG 2.0 guidelines. But see the discussion in f/n 2 of policy 8:70, *Accommodating Individuals with Disabilities*.

5. Equal Employment Opportunities Act (Title VII of the Civil Rights Act), 42 U.S.C. §2000e et seq.
6. Sexual harassment (State Officials and Employees Ethics Act<sup>6</sup>, Illinois Human Rights Act, Title VII of the Civil Rights Act of 1964, and Title IX of the Education Amendments of 1972)<sup>7</sup>

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<sup>6</sup> 5 ILCS 430/70-5(a), amended by P.A. ~~s~~ 100-554, and 101-221, requires governmental entities (including school districts) to adopt an ordinance or resolution establishing a policy to prohibit sexual harassment that contains certain prescribed elements. See policy 5:20, Workplace Harassment Prohibited, at f/n 3 and subhead Complaints of Sexual Harassment Made Against Board Members by Elected Officials in policy 2:105, Ethics and Gift Ban, for further detail. Complaints of sexual harassment made against board members by fellow board members or other elected officials of governmental units must undergo an independent review, which is not a term defined in the statute. Unlike the powers granted by the Ill. General Assembly to municipalities to pass ordinances, school boards govern by rules referred to as *policies*. 105 ILCS 5/10-20.5. Further, school boards may only exercise powers given to them that are consistent with the School Code that may be requisite or proper for the maintenance, operation, and development of any school or schools under the jurisdiction of the board. 105 ILCS 5/10-20. School districts are also required to create, maintain, and implement an age-appropriate sexual harassment policy. 105 ILCS 5/10-20.69 (final citation pending), added by P.A. 101-418, eff. 1-1-20. See policy 7:20, Harassment of Students Prohibited, and its f/n 7 for further information.

~~The policy must include, at a minimum:~~

- ~~(1) a prohibition on sexual harassment;~~
- ~~(2) details on how an individual can report an allegation of sexual harassment, including options for making a confidential report to a supervisor, ethics officer, Inspector General, or the Ill. Dept. of Human Rights;~~
- ~~(3) a prohibition on retaliation for reporting sexual harassment allegations, including availability of whistleblower protections under the State Officials and Employees Ethics Act, the Whistleblower Act (740 ILCS 174), and the Ill. Human Rights Act (775 ILCS 5/); and~~
- ~~(4) the consequences:~~
  - ~~(a) of a violation of the prohibition on sexual harassment; and~~
  - ~~(b) for knowingly making a false report.~~

~~Id. See policy 5:20, Workplace Harassment Prohibited.~~

A new publication law, 50 ILCS 205/3c, added by P.A. 100-1040, requires a school district to post on its website and make available to news media specific information about severance agreements that it enters into because an employee or contractor was “found to have engaged in sexual harassment or sexual discrimination, as defined by the Ill. Human Rights Act or Title VII of the Civil Rights Act of 1964.” Consult the board attorney about the word *found*. It raises many practical application questions, e.g., when does the word *found* trigger a board’s compliance responsibility pursuant to this law. Such questions include, but are not limited to:

1. Must a school board make a *finding* to trigger this requirement? If the severance agreement is entered into post-termination, a record of board *findings* rarely exists.
2. Are charges for termination *findings*? Often superintendents submit charges for termination, but these are not technically *findings*.
3. Are charges based on a complaint manager’s report and determination(s) *findings* under the law when a board still has the ability to review and reject the complaint manager’s determination(s)?

Next, contrast the above publication law with the Government Severance Pay Act (GSPA), 5 ILCS 415/10(a)(2), added by P.A. 100-895, ~~eff. 1-1-19~~. GSPA prohibits an employee of a school district with contract provisions for severance pay from receiving any severance if he or she is fired for *misconduct* by the board. GSPA defines *misconduct* to include sexual harassment and/or discrimination. Id. at 415/5.

Consult the board attorney about how to reconcile whether sexual harassment and/or sexual discrimination is misconduct for which a severance would be prohibited under the GSPA, and therefore, not available to be published under 50 ILCS 205/3c, added by P.A. 100-1040. And for further discussion and other applicable transparency laws that apply to this issue, see also f/n 119 in policy 5:20, *Workplace Harassment Prohibited*.

7. Breastfeeding accommodations for students, 105 ILCS 5/10-20.60 **8**
8. Bullying, 105 ILCS 5/27-23.7 **9**
9. Misuse of funds received for services to improve educational opportunities for educationally disadvantaged or deprived children **10**
10. Curriculum, instructional materials, and/or programs
11. Victims' Economic Security and Safety Act, 820 ILCS 180/
12. Illinois Equal Pay Act of 2003, 820 ILCS 112/
13. Provision of services to homeless students
14. Illinois Whistleblower Act, 740 ILCS 174/ **11**
15. Misuse of genetic information (Illinois Genetic Information Privacy Act (GIPA), 410 ILCS 513/ and Titles I and II of the Genetic Information Nondiscrimination Act (GINA), 42 U.S.C. §2000ff et seq. **12**

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**7** Consult the board attorney to ensure the district's nondiscrimination coordinator and complaint managers are trained to appropriately respond to allegations of discrimination based upon bullying and/or sexual violence under Title IX's sexual harassment umbrella. In September 2017, the U.S. Dept. of Education (DOE) withdrew its sexual violence Title IX guidance issued in 2011 and 2014, which mandated procedures for processing student-on-student sexual conduct, including using a preponderance of the evidence standard for student discipline. The DOE has issued interim guidance until new rulemaking is promulgated: *Q&A on Campus Sexual Misconduct* (OCR September 2017) at: [www2.ed.gov/about/offices/list/ocr/docs/qa-title-ix-201709.pdf?utm\\_content=&utm\\_medium=email&utm\\_name=&utm\\_source=govdelivery&utm\\_term](http://www2.ed.gov/about/offices/list/ocr/docs/qa-title-ix-201709.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term). An earlier guidance document also highlights appropriate responses to sexual violence under Title IX. See *Revised Sexual Harassment Guidance: Harassment of Student by School Employees, Other Students, or Third Parties, January 2001* at: [www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf](http://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf) [www2.ed.gov/offices/OCR/archives/pdf/shguide.pdf](http://www2.ed.gov/offices/OCR/archives/pdf/shguide.pdf).

Consult the board attorney regarding proper filing and storage of these investigation documents, including whether certain student-related investigation documents are *sole possession records*, a Family Policy Compliance Office (FPCO)-created exemption to the Family Education Rights Privacy Act (FERPA) (20 U.S.C. §1232g). See *Letter to Ruscio*, 115 LRP 18601 (FPCO 12-17-14).

**8** 105 ILCS 5/10-20.60, added by P.A. 100-29, requires schools to implement the Ill. sex equity grievance procedures when processing student complaints about breastfeeding accommodations. Complainants must be informed that the board's decision may be appealed to the Regional Superintendent and, thereafter, to the State Superintendent. 23 Ill.Admin.Code §200.40. **Note:** Certain claims brought under Sec. 10-20.60 may also be covered by the anti-discrimination protections of Title IX; consult the board attorney for further advice. Guidance from U.S. Dept. of Education on Title IX requirements for pregnant and parenting students (June 2013) is available at: [www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf](http://www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf).

**9** All districts must have a policy on bullying. 105 ILCS 5/27-23.7. See policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*. The inclusion of *bullying* in the list of topics that may serve as the basis of a grievance furthers the obligation to communicate this policy to students and their parents/guardians.

**10** Parents/guardians of educationally disadvantaged children may sue a district for misuse of funds allocated by State law for the benefit of such children. *Noyola v. Bd. of Educ.*, 171 Ill.2d 121 (Ill. 1997) (affirming the appellate court's conclusion in *Noyola v. Bd. of Educ.*, 284 Ill.App.3d 128 (1st Dist. 1996) that parents/guardians may pursue a claim to enforce the requirements of the School Code but holding that the proper action for enforcement is by means of mandamus not an implied right of action).

**11** The Ill. Whistleblower Act (740 ILCS 174/) includes school districts in the definition of employer. It protects employees from employer retaliation for disclosing information to a government or law enforcement agency. Section 15 also contains language prohibiting employers from retaliating against employees who disclose information in a court, an administrative hearing, or before a legislative commission or committee, or in any other proceeding where the employee has reasonable cause to believe that the information reveals a violation of a State or federal law, rule or regulation. The Ill. Whistleblower Reward and Protection Act (740 ILCS 174~~5~~/) includes school districts in its definition of *State*. A strict interpretation of this language appears to allow school boards to collect civil penalties and costs against someone making a false claim. Before disciplining any employee, boards should thoroughly investigate the ramifications of these acts in consultation with their attorney and liability insurance carriers.

**12** The Genetic Information Nondiscrimination Act (GINA) (42 U.S.C. §2000ff et seq.) is a federal law. Title I addresses the use of genetic information pertaining to health insurance. Title II protects job applicants, current and former employees, labor union members, and apprentices and trainees from discrimination based on their genetic information. GINA covers employers with 15 or more employees.

## 16. Employee Credit Privacy Act, 820 ILCS 70/ 13

The Complaint Manager will first attempt to resolve complaints without resorting to this grievance procedure. If a formal complaint is filed under this policy, the Complaint Manager will address the complaint promptly and equitably. A student and/or parent/guardian filing a complaint under this policy may forego any informal suggestions and/or attempts to resolve it and may proceed directly to this grievance procedure. The Complaint Manager will not require a student or parent/guardian complaining of any form of harassment to attempt to resolve allegations directly with the accused (or the accused's parents/guardians); this includes mediation.

### Right to Pursue Other Remedies Not Impaired

The right of a person to prompt and equitable<sup>14</sup> resolution of a complaint filed under this policy shall not be impaired by the person's pursuit of other remedies, e.g., criminal complaints, civil actions, etc. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies and use of this grievance procedure does not extend any filing deadline related to the pursuit of other remedies. If a person is pursuing another remedy subject to a complaint under this policy, the District will continue with a simultaneous investigation under this policy.

### Deadlines

All deadlines under this policy may be extended by the Complaint Manager as he or she deems appropriate. As used in this policy, *school business days* means days on which the District's main office is open.

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GINA broadly defines genetic information to include information about an individual's genetic tests, their family members, and, among other things, the manifestation of a disease or disorder in the individual or the individual's family members. Information about an individual's or family member's age or gender is excluded from genetic information. Its remedies mirror those available under a Title VII of the Civil Rights Act claim: back pay, reinstatement, attorneys' fees and compensatory and punitive damages. Retaliation against an individual who brings a claim under GINA is also prohibited. Federal regulations are available at 29 C.F.R. Part 1635, and background information on these regulations is available at: [www.eeoc.gov/policy/docs/qanda\\_geneticinfo.html](http://www.eeoc.gov/policy/docs/qanda_geneticinfo.html). An FAQ titled, *FAQs on the Genetic Information Nondiscrimination Act* is available at: [www.dol.gov/agencies/ebsa/laws-and-regulations/laws/ginawww.dol.gov/ebsa/faqs/faq\\_GINA.html](http://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/ginawww.dol.gov/ebsa/faqs/faq_GINA.html).

The Ill. Genetic Information Protection Act (GIPA) (410 ILCS 513/, amended by P.A. 100-396) also prohibits employers from making employment decisions on the basis of any employee's genetic testing information and from penalizing employees who do not want to disclose their genetic information as part of a workplace wellness program. GIPA includes the federal GINA's definition of genetic information and creates more stringent obligations on Ill. employers. While the federal GINA exempts small employers (those with less than 15 employees), Illinois' GIPA covers all employers, even those with one employee. GIPA also provides penalties for negligent and intentional mishandling of genetic information. Note that Title II of GINA does not preempt GIPA's greater protections to Illinois employees.

Before using any sort of genetic information, consult the board attorney for guidance regarding GINA's and GIPA's specific applications to the district and how these laws integrate with other related federal laws, such as the Family Medical Leave Act and the ADA, and State laws governing time off for sickness and workers' compensation.

<sup>13</sup> 820 ILCS 70/. Unless a satisfactory credit history is an *established bona fide occupational requirement* of a particular position, an employer may not: (1) refuse to hire, discharge, or otherwise discriminate against an individual with respect to employment because of the individual's credit history or credit report; (2) inquire about an applicant's or employee's credit history; or (3) order or obtain an applicant's or employee's credit report from a consumer reporting agency. The Act identifies circumstances that permit a satisfactory credit history to be a job requirement, such as, when the position's duties include custody of or unsupervised access to cash or marketable assets valued at \$2,500 or more. A person who is injured by a violation of this Act may bring a civil action to obtain injunctive relief and/or damages. 820 ILCS 70/25. The court must award costs and reasonable attorneys' fees to a prevailing plaintiff.

<sup>14</sup> The phrase "prompt and equitable resolution" comes from Title IX implementing regulation 34 C.F.R. §106.8(b) which requires schools to "adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints" of sex discrimination.

### Filing a Complaint

A person (hereinafter Complainant) who wishes to avail him or herself of this grievance procedure may do so by filing a complaint with any District Complaint Manager. The Complainant shall not be required to file a complaint with a particular Complaint Manager and may request a Complaint Manager of the same gender.<sup>15</sup> The Complaint Manager may request the Complainant to provide a written statement regarding the nature of the complaint or require a meeting with a student's parent(s)/guardian(s). The Complaint Manager shall assist the Complainant as needed.

For any complaint alleging bullying and/or cyberbullying of students, the Complaint Manager shall process and review the complaint according to Board policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*, in addition to any response required by this policy. For any complaint alleging sexual harassment or other violation of Board policy 5:20, *Workplace Harassment Prohibited*, the Complaint Manager shall process and review the complaint according to that policy, in addition to any response required by this policy 2:260, *Uniform Grievance Procedure*.

### Investigation

The Complaint Manager will investigate the complaint or appoint a qualified person to undertake the investigation on his or her behalf.<sup>16</sup> The Complaint Manager shall ensure both parties have an equal opportunity to present evidence during an investigation. If the Complainant is a student under 18 years of age, the Complaint Manager will notify his or her parent(s)/guardian(s) that they may attend any investigatory meetings in which their child is involved. The complaint and identity of the Complainant will not be disclosed except: (1) as required by law or this policy, (2) as necessary to fully investigate the complaint, or (3) as authorized by the Complainant.

The identity of any student witnesses will not be disclosed except: (1) as required by law or any collective bargaining agreement, (2) as necessary to fully investigate the complaint, or (3) as authorized by the parent/guardian of the student witness, or by the student if the student is 18 years of age or older.

The Complaint Manager will inform, at regular intervals, the person(s) filing a complaint under this policy about the status of the investigation. Within 30 school business days of the date the complaint was filed, the Complaint Manager shall file a written report of his or her findings with the Superintendent. The Complaint Manager may request an extension of time.

The Superintendent will keep the Board informed of all complaints.

If a complaint contains allegations involving the Superintendent or Board member(s), the written report shall be filed directly with the Board, which will make a decision in accordance with paragraph four of the following section of this policy.

### Decision and Appeal

Within five school business days after receiving the Complaint Manager's report, the Superintendent shall mail his or her written decision to the Complainant and the accused by first class U.S. mail as

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<sup>15</sup> This is a best practice.

<sup>16</sup> This policy gives complaint managers the flexibility to appoint another individual to conduct an investigation, which may be appropriate in cases where the neutrality or efficacy of the complaint manager is an issue, and/or where the district wishes to have the expertise and related attorney-client and work product privileges that an in-house or outside attorney may afford an investigation. Such alternative appointments are often made in consultation with the superintendent or other district-level administrator (except in cases involving complaints about those individuals).

well as to the Complaint Manager. All decisions shall be based upon the *preponderance of evidence* standard. **17**

Within 10 school business days after receiving the Superintendent's decision, the Complainant or the accused may appeal the decision to the Board by making a written request to the Complaint Manager. The Complaint Manager shall promptly forward all materials relative to the complaint and appeal to the Board.

Within 30 school business days, the Board shall affirm, reverse, or amend the Superintendent's decision or direct the Superintendent to gather additional information. Within five school business days of the Board's decision, the Superintendent shall inform the Complainant and the accused of the Board's action.

For complaints containing allegations involving the Superintendent or Board member(s), within 30 school business days after receiving the Complaint Manager's or outside investigator's report, the Board shall mail its written decision to the Complainant and the accused by first class U.S. mail as well as to the Complaint Manager.

This policy shall not be construed to create an independent right to a hearing before the Superintendent or Board. The failure to strictly follow the timelines in this grievance procedure shall not prejudice any party. **18**

#### Appointing a Nondiscrimination Coordinator and Complaint Managers **19**

The Superintendent shall appoint a Nondiscrimination Coordinator to manage the District's efforts to provide equal opportunity employment and educational opportunities and prohibit the harassment of employees, students, and others. The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator. **20**

The Superintendent shall appoint at least one Complaint Manager to administer the complaint process in this policy. If possible, the Superintendent will appoint two Complaint Managers, one of each gender. The District's Nondiscrimination Coordinator may be appointed as one of the Complaint Managers.

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**17** *Preponderance of evidence* is a standard of proof in civil cases. It means "evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not." See *Black's Law Dictionary, 9th ed. 2009*.

**18** The Ill. sex equity regulations require districts to have "specific timelines for completion of each step and rendering of a written decision, and shall provide for final appeal of grievance decisions made at the system level to the system's governing board." 23 Ill.Admin.Code §200.40. To avoid arguments over these timelines, this sample policy provides that the failure to strictly follow the timelines does not prejudice any party. The grievance procedure is worthless if complaints are not thoroughly and promptly investigated.

**19** Title IX regulations require districts to identify the name, address, and telephone number of the person who is responsible for coordinating the district's compliance efforts. OCR prefers that school districts make Title IX information and coordinators visible to the community, and it has provided materials designed to remind schools of their obligation to designate a Title IX coordinator. These materials include: (1) a *Dear Colleague Letter on Title IX Coordinators*; (2) a *Letter to Title IX Coordinators* that provides them with more information about their role; and (3) a *Title IX Resource Guide* that includes an overview of Title IX's requirements with respect to several key issues. See [www2.ed.gov/policy/rights/guid/ocr/title-ix-coordinators.html](http://www2.ed.gov/policy/rights/guid/ocr/title-ix-coordinators.html).

While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored.

**20** Best practice is that throughout the board policy manual, the same individual be named as Nondiscrimination Coordinator. In contrast, Complaint Managers identified in individual policies may vary depending upon local district needs.

The Superintendent shall insert into this policy and keep current the names, addresses, and telephone numbers of the Nondiscrimination Coordinator and the Complaint Managers. 21

**Nondiscrimination Coordinator:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email

\_\_\_\_\_  
Telephone

**Complaint Managers:**

_____ Name	_____ Name
_____ Address	_____ Address
_____ Email	_____ Email
_____ Telephone	_____ Telephone

LEGAL REF.: Age Discrimination in Employment Act, 29 U.S.C. §621 et seq.  
Americans With Disabilities Act, 42 U.S.C. §12101 et seq.  
Equal Employment Opportunities Act (Title VII of the Civil Rights Act), 42 U.S.C. §2000e et seq.  
Equal Pay Act, 29 U.S.C. §206(d).  
Genetic Information Nondiscrimination Act, 42 U.S.C. §2000ff et seq.  
Immigration Reform and Control Act, 8 U.S.C. §1324a et seq.  
McKinney-Vento Homeless Assistance Act, 42 U.S.C. §11431 et seq.  
Rehabilitation Act of 1973, 29 U.S.C. §791 et seq.  
Title VI of the Civil Rights Act, 42 U.S.C. §2000d et seq.  
Title IX of the Education Amendments, 20 U.S.C. §1681 et seq.  
State Officials and Employees Ethics Act, 5 ILCS 430/70-5(a).  
105 ILCS 5/2-3.8, 5/3-10, 5/10-20.7a, 5/10-20.60, 5/10-22.5, 5/22-19, 5/24-4, 5/27-1, 5/27-23.7, and 45/1-15.  
Illinois Genetic Information Privacy Act, 410 ILCS 513/.  
Illinois Whistleblower Act, 740 ILCS 174/.  
Illinois Human Rights Act, 775 ILCS 5/.

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21 The board may include the following option to address publication of such contact information:  
“The Superintendent or designee shall ensure that students, parents/guardians, employees, and members of the community are informed of the contact information for the District’s Nondiscrimination Coordinator and Complaint Managers on an annual basis.”  
Publicizing the contact information for the Nondiscrimination Coordinator and Complaint Managers through personnel handbooks, student handbooks, and/or on the district’s website is a best practice. The Illinois Principals Association maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: [www.ilprincipals.org/resources/model-student-handbook](http://www.ilprincipals.org/resources/model-student-handbook).

Victims' Economic Security and Safety Act, 820 ILCS 180/, 56 Ill.Admin.Code Part 280.

Equal Pay Act of 2003, 820 ILCS 112/.

Employee Credit Privacy Act, 820 ILCS 70/.

23 Ill.Admin.Code §§1.240 and 200.40.

CROSS REF.: 2:105 (Ethics and Gift Ban), 5:10 (Equal Employment Opportunity and Minority Recruitment), 5:20 (Workplace Harassment Prohibited), 5:30 (Hiring Process and Criteria), 6:120 (Education of Children with Disabilities), 6:140 (Education of Homeless Children), 6:170 (Title I Programs), 6:260 (Complaints About Curriculum, Instructional Materials, and Programs), 7:10 (Equal Educational Opportunities), 7:15 (Student and Family Privacy Rights), 7:20 (Harassment of Students Prohibited), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:310 (Restrictions on Publications; Elementary Schools), 7:315 (Restrictions on Publications; High Schools), 8:70 (Accommodating Individuals with Disabilities), 8:95 (Parental Involvement), 8:110 (Public Suggestions and Concerns)

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## General School Administration

### Administrative Personnel Other Than the Superintendent 1

#### Duties and Authority

The School Board establishes District administrative and supervisory positions in accordance with the District's needs and State law. This policy applies to all administrators other than the Superintendent, including without limitation, Building Principals. The general duties and authority of each administrative or supervisory position are approved by the Board, upon the Superintendent's recommendation, and contained in the respective position's job description.<sup>2</sup> In the event of a conflict, State law and/or the administrator's employment agreement shall control.

#### Qualifications

All administrative personnel shall be appropriately licensed and shall meet all applicable requirements contained in State law and Illinois State Board of Education rules.<sup>3</sup>

#### Evaluation

The Superintendent or designee shall evaluate all administrative personnel and make employment and salary recommendations to the Board.<sup>4</sup>

**The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.**

<sup>1</sup> State or federal law controls this policy's content. 105 ILCS 5/10-23.8a requires each principal, assistant principal, and other school administrator to be employed under either: (1) a one-year contract, in which case he or she gains and retains tenure rights, or (2) a multi-year performance-based contract, in which case he or she waives all tenure rights but does not lose any previously acquired tenure credit with the district. A multi-year performance-based contract must contain specific student performance and academic improvement goals and indicators.

<sup>2</sup> Job descriptions are advisable, but optional. See policy 5:30, *Hiring Process and Criteria*, for a discussion of job descriptions. An ISBE rule (23 Ill.Admin.Code §1.310) allows *divided service*, meaning that a superintendent or principal may be employed by two school districts or serve in two professional capacities provided that full-time equivalency results in a maximum of one full-time position. In districts with an enrollment of 100 or fewer, an individual may serve as superintendent/principal and teach up to one-half day.

<sup>3</sup> 105 ILCS 5/21B-20 and 5/21B-25 govern Professional Educator Licenses and administrative, principal, and chief school business official endorsements. The requirements for supervisory or administrative staff are in 23 Ill.Admin.Code §1.705; the requirements for endorsements are in 23 Ill.Admin.Code Part 25, Subpart E. Standards for Administrative Endorsements are in 23 Ill.Admin.Code Part 29.

The following option may be added at the end of this paragraph:

Administrative personnel must reside in the District within a specified period as provided in their initial employment agreement.

State law (105 ILCS 5/24-4.1) prohibiting residency requirements for teachers does not apply to non-instructional personnel, e.g., assistant principals. Owen v. Kankakee School Dist., 632 N.E.2d 1073, 261 Ill.App.3d 298 (3d Dist. Ill.App.3, 1994). A board may impose residency requirements on a principal or assistant principal only if the individual's initial contract with the district made residency an express condition of employment or continued employment as a principal. ~~(105 ILCS 5/10-21.4a)~~. Residency within a district may not be considered in determining a principal's compensation, assignment, or transfer Id.

<sup>4</sup> All licensed school district employees must be evaluated. ~~(105 ILCS 5/24A-1, 23 Ill.Admin.Code §1.320)~~. Each district must implement a performance evaluation plan for its principals and assistant principals. ~~(105 ILCS 5/24A-15, 23 Ill.Admin.Code §50.300)~~. The statutory deadline for evaluating principals and assistant principals depends on whether the individual's employment contract is for one year or multiple years: (1) the evaluation of individuals on a single year contract must take place annually by March 1, and (2) the evaluation of individuals on a multi-year contract must take place by March 1 of the contract's final year. ~~(105 ILCS 5/24A-15)~~. Individual contracts may require an earlier deadline. 105 ILCS 5/24A-3 requires that an individual who conducts an evaluation of a teacher, principal, or assistant principal, (1) be prequalified before undertaking any evaluation, and (2) participate in a regularly scheduled retraining program.

Administrators shall annually present evidence to the Superintendent of professional growth through attendance at educational conferences, additional schooling, in-service training, and Illinois Administrators' Academy courses, or through other means as approved by the Superintendent. <sup>5</sup>

### Administrative Work Year

The work year for administrators shall be the same as the District's fiscal year, July 1 through June 30, unless otherwise stated in the employment agreement. In addition to legal holidays, administrators shall have vacation periods as approved by the Superintendent. All administrators shall be available for work when their services are necessary. <sup>6</sup>

### Compensation and Benefits

The Board and each administrator shall enter into an employment agreement that complies with Board policy and State law.<sup>7</sup> The terms of an individual employment contract, when in conflict with this policy, will control.

The Board will consider the Superintendent's recommendations when setting compensation for individual administrators. These recommendations should be presented to the Board no later than the March Board meeting or at such earlier time that will allow the Board to consider contract renewal and nonrenewal issues. <sup>8</sup>

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<sup>5</sup> The professional growth reporting requirements in this paragraph are optional. However, professional development activities are required for license renewal. 105 ILCS 5/21B-45, amended by P.A. ~~99-594~~[101-85](#), eff. 1-1-~~2017~~, contains the license renewal process, along with the professional development hours and carry over of these hours.

A school board must require the administrators who evaluate employees to complete training on the evaluation of licensed personnel that is provided or approved by ISBE. ~~(105 ILCS 5/24A-3 and 5/24A-20(a)(4)).~~ Any prequalification process or retraining program developed and used by a school district must, at a minimum, meet the requirements of 23 Ill.Admin.Code Part 50, Subpart E. Administrative personnel must participate in this training (1) before they evaluate, and (2) at least once during each certificate renewal cycle. ~~(Id.)~~. [105 ILCS 5/24-3](#).

<sup>6</sup> Legal holidays are provided by 105 ILCS 5/24-2.

<sup>7</sup> According to 105 ILCS 5/10-23.8a, a principal, assistant principal, and any other school administrator must be employed under either: (1) a one-year contract, in which case he or she gains and retains tenure rights, or (2) a multi-year performance-based contract, in which case he or she waives all tenure rights but does not lose any previously acquired tenure credit with the district. A multi-year performance-based contract must contain specific student performance and academic improvement goals and indicators.

The employment contract should be *in writing* even though the School Code does not require it to be written. Contact the board attorney for assistance. An administrator who is not working under a written contract is presumed to have a contract of one year's duration. Schaumburg Community Consolidated School Dist. v. TRS, [985-984 N.E.2d 305-66 \(Ill.App.4,4th Dist. 2013\)](#)(interpreting 105 ILCS 5/10-23.8a). The Ill. Statute of Frauds may make it impossible to execute an *oral* multi-year administrator contract or to *orally* extend a multi-year written contract. ~~(740 ILCS 80/1)~~.

The Open Meetings Act requires all Ill. Municipal Retirement Fund (IMRF) employers, which includes school boards, to: (1) within six business days after approving a budget, web-post each employee's total compensation package if it exceeds \$75,000 per year; and (2) at least six days before approval, web-post an employee's total compensation package if it is \$150,000 or more. ~~(5 ILCS 120/7.3)~~. Conflicting opinions concern whether school districts must comply with these posting requirements for their employees who do not participate in IMRF. Contact the board attorney for advice.

Annually by Oct. 1, each school board must report to ISBE the base salary and benefits of the superintendent, administrators, and teachers it employs. ~~(105 ILCS 5/10-20.47)~~. Before this annual reporting to ISBE, the information must be presented at a regular school board meeting and then posted on the district's website, if any.

<sup>8</sup> State law does not address when the board should consider salary issues. The March deadline was chosen because the statutory notice deadline for reclassification is April 1 of the year in which a principal or assistant principal's contract expires unless the contract provides for an earlier deadline. ~~(105 ILCS 5/10-23.8b)~~. Alternatively, the policy could require that recommendations be presented "in a timely manner."

Unless stated otherwise in individual employment contracts, all benefits and leaves of absence available to teaching personnel are available to administrative personnel. <sup>9</sup>

LEGAL REF: 105 ILCS 5/10-21.4a, 5/10-23.8a, 5/10-23.8b, 5/21B, and 5/24A.  
23 Ill.Admin.Code §§1.310, 1.705, and 50.300; and Parts 25 and 29.

CROSS REF: 3:60 (Administrative Responsibility of the Building Principal), 5:30 (Hiring Process and Criteria), 5:250 (Leaves of Absence)

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<sup>9</sup> State law does not require that administrative and teaching personnel receive identical benefits and leaves of absence, but it does set the minimum in days and type for all certificated personnel.

## Operational Services

### Identity Protection 1

The collection, storage, use, and disclosure of social security numbers by the School District shall be consistent with State and federal laws. The goals for managing the District's collection, storage, use, and disclosure of social security numbers are to: 2

1. Limit all activities involving social security numbers to those circumstances that are authorized by State or federal law.
2. Protect each social security number collected or maintained by the District from unauthorized disclosure.

The Superintendent is responsible for ensuring that the District complies with the Identity Protection Act, 5 ILCS 179/. Compliance measures shall include each of the following: 3 4

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**1 Consult the board attorney before adoption of this policy.** Districts may choose to provide or implement more protections than the statutory requirements outlined in this sample policy. While the laws that apply to this policy govern current management of sensitive information, best practices may outpace the law's ability to keep up. See also f/n 19 to sample policy 2:250, *Access to District Public Records*, detailing the preservation requirements of the Local Records Act (50 ILCS 205/3), the Family Educational Rights and Privacy Act (20 U.S.C. §1232g), and the Ill. School Student Records Act (105 ILCS 10/), and litigation holds or document preservation requirements pursuant to Federal Rules of Civil Procedure (Rules 16 and 26).

The Identity Protection Act (IPA) (5 ILCS 179/) requires that this subject matter be covered in policy and controls its content. 5 ILCS 179/35. The Act places greater limits on the use of social security numbers (SSNs) than federal law. The IPA defines *identity-protection policy* as "any policy created to protect social security numbers from unauthorized disclosure." *Social security number* is not capitalized in the IPA. 5 ILCS 179/5. Much of a district's collection, storage, use, and disclosure of SSNs applies to employee records only. But limited exceptions may exist where a school district may need to ask students or their parents/guardians to provide SSNs, and any collection and retention of students' SSNs must also be in accordance with this policy.

Another State law, the Personal Information Protection Act (PIPA) (815 ILCS 530/, amended by P.A. 101-343, eff. 1-1-20, amended by P.A. 99-503) requires *data collectors* of *personal information* to provide certain notice to Illinois residents, and in certain cases, the Ill. Attorney General, when the collector's system data is breached. 815 ILCS 530/10, amended by P.A. 101-343, eff. 1-1-20. Under PIPA, *data collector* is broadly defined to include *government agencies* and any entities that deal with nonpublic *personal information*. *Personal information* is defined as: (1) an individual's first name or first initial combined with a SSN, driver's license number or State identification card number, financial account information (including without limitation, credit or debit card numbers), medical or health insurance information or biometric data; or (2) a username or email address in combination with a password or security question and answer that would permit access to an online account. Id. at 530/5. Depending on whether the *data collector* owns or merely maintains or stores the information, additional notification requirements will also apply. Finally, PIPA requires *units of local governments* to dispose of *personal information* so that it may not be read or reconstructed. Id. at 530/40. ~~Many lawyers disagree~~ It is unclear whether Section 530/40 applies to school districts because PIPA does not specifically identify school districts as *units of local governments* (Ill. Constitution Article VII, Sec. 1). However, the Ill. State Board of Education (ISBE) considers PIPA to apply to the handling of personally identifiable information under grant awards. See the ISBE Checklist for Protection of Personally Identifiable Information Review, referenced in f/n 9, below. **Consult the board attorney for advice on the applicability of PIPA's various mandates to your district.** See f/n 4, below for more information about options to include PIPA requirements in this sample policy.

2 The list of goals is optional; it may be deleted, augmented, or otherwise amended.

3 The IPA requires items #1-4 to be covered in a policy. 5 ILCS 179/35(a).

4 For boards that want to include PIPA mandates in this Policy, insert the following option after the IPA items #1-4, or if the board includes items #5 and #6 (discussed in f/n 6, below), after items #1-6, and add "815 ILCS 530/, Personal Information Protection Act" to the Legal References:

1. All employees having access to social security numbers in the course of performing their duties shall be trained to protect the confidentiality of social security numbers. Training should include instructions on the proper handling of information containing social security numbers from the time of collection through the destruction of the information.
2. Only employees who are required to use or handle information or documents that contain social security numbers shall have access to such information or documents.
3. Social security numbers requested from an individual shall be provided in a manner that makes the social security number easily redacted if the record is required to be released as part of a public records request.
4. When collecting a social security number or upon request by an individual, a statement of the purpose(s) for which the District is collecting and using the social security number shall be provided. The stated reason for collection of the social security number must be relevant to the documented purpose. <sup>5</sup>
5. All employees must be advised of this policy's existence, and a copy of the policy must be made available to each employee. The policy must also be made available to any member of the public, upon request. <sup>6</sup>
6. If this policy is amended, employees will be advised of the existence of the amended policy and a copy of the amended policy will be made available to each employee. <sup>7</sup>

No District employee shall collect, store, use, or disclose an individual's social security number unless specifically authorized by the Superintendent.<sup>8</sup> This policy shall not be interpreted as a

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The Superintendent is also responsible for ensuring the District complies with the Personal Information Protection Act, 815 ILCS 530/. Compliance measures shall include each of the following:

1. Written or electronic notification to an individual and, if applicable, the owner of the information, as required by 815 ILCS 530/10 whenever his or her personal information was acquired by an unauthorized person; *personal information* means either:
  - a. An individual's first name or first initial and last name in combination with any one or more of his or her (i) social security number, (ii) driver's license number or State identification card number, (iii) financial account information (with any required security codes or passwords), (iv) medical information, (v) health insurance information, and/or (vi) unique biometric data or other unique physical or digital representation of biometric data, when either the name or the data elements are not encrypted or redacted or are encrypted or redacted but the keys to unencrypt or unredact or otherwise read the name or data elements have been acquired through the breach of security; or
  - b. An individual's username or email address, in combination with a password or security question and answer that would permit access to an online account, when either the username or email address or password or security question and answer are not encrypted or redacted or are encrypted or redacted but the keys to unencrypt or unredact or otherwise read the data elements have been obtained through the breach of security.

2. Notification to the Ill. Attorney General as required by 815 ILCS 530/10, if a single breach of the security system requires the District to notify more than 500 Illinois residents.

2-3. Cooperation with the owner of the information in matters relating to the breach, if applicable, as required by 815 ILCS 530/10.

3-4. Disposal of materials containing personal information in a manner that renders the personal information unreadable, unusable, and undecipherable; personal information has the meaning stated in #1, above.

<sup>5</sup> See 4:15-E2, *Statement of Purpose for Collection of Social Security Numbers*.

<sup>6</sup> Items #5 and #6 are not required to be in policy but districts are required to perform the described action(s). 5 ILCS 179/35(b). These compliance measures are covered in 4:15-API<sub>1</sub>, *Protecting the Privacy of Social Security Numbers*.

<sup>7</sup> Optional. See f/n 6 above.

guarantee of the confidentiality of social security numbers and/or other personal information. The District will use best efforts to comply with this policy, but this policy should not be construed to convey any rights to protection of information not otherwise afforded by law.

### Treatment of Personally Identifiable Information Under Grant Awards 9

The Superintendent ensures that the District takes reasonable measures to safeguard: (1) *protected personally identifiable information*,<sup>10</sup> (2) other information that a federal awarding agency, pass-through agency or State awarding agency designates as sensitive, such as *personally identifiable information* (PII)<sup>11</sup> and (3) information that the District considers to be sensitive consistent with applicable laws regarding privacy and confidentiality (collectively, *sensitive information*), when administering federal grant awards and State grant awards governed by the Grant Accountability and Transparency Act (30 ILCS 708/).

The Superintendent shall establish procedures for the identification, handling, storage, access, disposal and overall confidentiality of sensitive information.<sup>12</sup> The Superintendent shall ensure that employees and contractors responsible for the administration of a federal or State award for the

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<sup>8</sup> This sentence is optional. Its intent is to inform employees of the need to have proper authority before collecting, storing, using, or disclosing SSNs. A board may attach a sanction to the paragraph by adding the following option:

An employee who has substantially breached the confidentiality of social security numbers may be subject to disciplinary action or sanctions up to and including dismissal in accordance with District policy and procedures.

<sup>9</sup> While the federal regulations on procurement standards in 2 C.F.R. Part 200 do not specifically require a written policy on the treatment of *personally identifiable information* (PII) under grant-funded programs, the Ill. State Board of Education's (ISBE's) *Checklist for Protection of Personally Identifiable Information Review* (ISBE Checklist), at [www.isbe.net/Pages/Audit-and-Monitoring-Review-Requirements-and-Tools.aspx](http://www.isbe.net/Pages/Audit-and-Monitoring-Review-Requirements-and-Tools.aspx), requires an approved policy or policies related to the identification, handling, storage, access, disposal, and overall protection of PII as evidence of legal compliance with the Grant Accountability and Transparency Act (GATA) (30 ILCS 708/) and federal regulations. The ISBE Checklist is specific to PII handled by districts in connection with their administration of grants. The uniform federal rules on procurement standards in 2 C.F.R. Part 200 apply to eligible State grants through the Grant Accountability and Transparency Act (GATA) (30 ILCS 708/). This policy and accompanying administrative procedure 4:15-AP2, *Personally Identifiable Information Under Grant Awards*, are designed to help districts meet the standard set forth in 2 C.F.R. 200.303(e) and the documentation items on the ISBE Checklist.

<sup>10</sup> *Protected personally identifiable information* (Protected PII) means an individual's first name or first initial and last name in combination with any one or more types of information, including, but not limited to, social security number, passport number, credit card numbers, clearances, bank numbers, biometrics, date and place of birth, mother's maiden name, criminal records, medical records, financial records, or educational transcripts. Protected PII does not include *personally identifiable information* (PII) that is required by law to be disclosed. 2 C.F.R. §200.82. See 4:15-AP2, *Personally Identifiable Information Under Grant Awards*. Protected PII is similar to, but broader than, the definition of *personal information* under PIPA.

<sup>11</sup> PII is a broader concept than Protected PII. Said another way, Protected PII is a subset of PII.

PII means information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual. Some information that is considered to be PII is available in public sources such as telephone books and public websites, and it is considered to be Public PII. Public PII includes, for example, first and last name, address, work telephone number, email address, home telephone number, and general educational credentials. The definition of PII is not anchored to any single category of information or technology. Rather, it requires a case-by-case assessment of the specific risk that an individual can be identified. Non-PII can become PII whenever additional information is made publicly available, in any medium and from any source, that, when combined with other available information, could be used to identify an individual. 2 C.F.R. §200.79.

In addition to 2 C.F.R. 200.303(e), depending upon the type of record being created or used in connection with a grant-funded program, multiple laws may govern the treatment of *personally identifiable information* (PII) under a grant, including the IPA (5 ILCS 179/), PIPA (815 ILCS 530/), Family Educational Rights and Privacy Act, (20 U.S.C. 1232g), III. School Student Records Act (105 ILCS 10/), Student Online Personal Protection Act, (105 ILCS 85/, amended by P.A. 101-516, eff. 7-1-21), Personnel Record Review Act (820 ILCS 40/), and Local Records Act (50 ILCS 205/3).

<sup>12</sup> See 4:15-AP2, *Personally Identifiable Information Under Grant Awards*.

District receive regular training in the safeguarding of sensitive information.<sup>13</sup> Employees mishandling sensitive information are subject to discipline, up to and including dismissal.

LEGAL REF.: 2 C.F.R. §200.303(e).  
5 ILCS 179/, Identity Protection Act.  
30 ILCS 708/. Grant Accountability and Transparency Act  
50 ILCS 205/3, Local Records Act.  
105 ILCS 10/, Illinois School Student Records Act.

CROSS REF: 2:250 (Access to District Public Records), 5:150 (Personnel Records), 7:340 (Student Records)

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<sup>13</sup> The ISBE Checklist requires districts to maintain documentation of training of all employees/contractors on the handling of PII, including evidence of the date(s) of the training and attendance/completion of the training. See [www.isbe.net/Pages/Audit-and-Monitoring-Review-Requirements-and-Tools.aspx](http://www.isbe.net/Pages/Audit-and-Monitoring-Review-Requirements-and-Tools.aspx). Because many individuals in a district can be involved in day-to-day administration of activities supported by a federal or State grant, best practice is to regularly train all employees on the safeguarding of such sensitive information, e.g., upon hire and then annually or semi-annually.

## Operational Services

### Revenue and Investments 1

#### Revenue

The Superintendent or designee is responsible for making all claims for property tax revenue, State Aid, special State funds for specific programs, federal funds, and categorical grants.

#### Investments

The Superintendent shall either appoint a Chief Investment Officer or serve as one.<sup>2</sup> The Chief Investment Officer shall invest money that is not required for current operations, in accordance with this policy and State law. <sup>3</sup>

The Chief Investment Officer and Superintendent shall use the standard of prudence when making investment decisions. They shall use the judgment and care, under circumstances then prevailing, that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the safety of their capital as well as its probable income. <sup>4</sup>

#### Investment Objectives 5

The objectives for the School District’s investment activities are:

1. Safety of Principal - Every investment is made with safety as the primary and over-riding concern. Each investment transaction shall ensure that capital loss, whether from credit or market risk, is avoided.
2. Liquidity - The investment portfolio shall provide sufficient liquidity to pay District obligations as they become due. In this regard, the maturity and marketability of investments shall be considered.
3. Rate of Return - The highest return on investments is sought, consistent with the preservation of principal and prudent investment principles.
4. Diversification - The investment portfolio is diversified as to materials and investments, as appropriate to the nature, purpose, and amount of the funds.

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<sup>1</sup> Each district must have an investment policy; its detail and complexity must be appropriate to the nature of the funds, the funds’ purpose, and the amount of the public funds within the investment portfolio. 30 ILCS 235/2.5(a).

<sup>2</sup> 30 ILCS 235/2.5(a)(7). Districts having a chief business official may use this alternative: “The Chief Business Official shall serve as the District’s Chief Investment Officer.” If a Township Treasurer manages the district funds, substitute this sentence:

The Township Treasurer shall serve as the Chief Investment Officer.

<sup>3</sup> Township and school treasurers are authorized by 105 ILCS 5/8-7 to enter into agreements regarding the deposit, investment, and withdrawal of district funds.

<sup>4</sup> The policy must include a standard of care. 30 ILCS 235/2.5(a)(2).

<sup>5</sup> The policy must address safety, liquidity, return (30 ILCS 235/2.5(a)), as well as diversification (30 ILCS 235/2.5(a)(4)). These objectives also serve as investment guidelines. 30 ILCS 235/2.5(a)(3). How these are addressed is at the board’s discretion.

## Authorized Investments <sup>6</sup>

The Chief Investment Officer may invest District funds in one or more of the following:

1. Bonds, notes, certificates of indebtedness, treasury bills, or other securities now or hereafter issued, that are guaranteed by the full faith and credit of the United States of America as to principal and interest.
2. Bonds, notes, debentures, or other similar obligations of the United States of America, its agencies, and its instrumentalities.

The term “agencies of the United States of America” includes: (a) the federal land banks, federal intermediate credit banks, banks for cooperative, federal farm credit banks, or any other entity authorized to issue debt obligations under the Farm Credit Act of 1971 and Acts amendatory thereto, (b) the federal home loan banks and the federal home loan mortgage corporation, and (c) any other agency created by Act of Congress.

3. Interest-bearing savings accounts, interest-bearing certificates of deposit or interest-bearing time deposits or any other investments constituting direct obligations of any bank as defined by the Illinois Banking Act.
4. Obligations of corporations organized in the United States with assets exceeding \$500,000,000 if: (a) such obligations are rated at the time of purchase at one of the three highest classifications established by at least two standard rating services and that mature not later than three years from the date of purchase, (b) such purchases do not exceed 10% of the corporation’s outstanding obligations, and (c) no more than one-third of the District’s funds may be invested in short term obligations of corporations.
5. Money market mutual funds registered under the Investment Company Act of 1940, provided that the portfolio of any such money market mutual fund is limited to obligations described in paragraph (1) or (2) and to agreements to repurchase such obligations.
6. Interest-bearing bonds of any county, township, city, village, incorporated town, municipal corporation, school district, the State of Illinois, any other state, or any political subdivision or agency of the State of Illinois or any other state, whether the interest earned is taxable or tax-exempt under federal law. The bonds shall be (a) registered in the name of the municipality, county, or other governmental unit, or held under a custodial agreement at a bank, and (b) rated at the time of purchase within the four highest general classifications

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<sup>6</sup> The policy must contain a “listing of authorized investments.” 30 ILCS 235/2.5(a)(1). 30 ILCS 235/2(a-1) allows school districts to invest public funds in interest-bearing bonds of any local government (see paragraph 6). Investments from which a board may choose are listed in this policy. See 30 ILCS 235/2, amended by P.A. 100-752. Alternatively, a board may refer to that law by stating:

The Chief Investment Officer may invest any District funds in any investment as authorized in 30 ILCS 235/2, and Acts amendatory thereto.

Some attorneys are of the opinion that the Investment of Municipal Funds Act (IMFA) (50 ILCS 340/) authorizes school districts to invest funds in certain tax anticipation warrants. The IMFA applies to counties, park districts, sanitary districts, and other *municipal corporations*. *Id.* at 340/1. *Municipal corporation* is not specifically defined in the IMFA. Consult with the board attorney and/or bond counsel regarding the authority for such investments and the inclusion of the IMFA in this policy.

As part of its mission to protect public entities, the Municipal Securities Rulemaking Board (MSRB) has resources available that school officials may find helpful at: [www.msrb.org/EducationCenter/Issuers/Issuing.aspx](http://www.msrb.org/EducationCenter/Issuers/Issuing.aspx). It provides information about bond issuance, required disclosures, and working with municipal advisors.

established by a rating service of nationally recognized expertise in rating bonds of states and their political subdivisions.

7. Short term discount obligations of the Federal National Mortgage Association or in shares or other forms of securities legally issuable by savings banks or savings and loan associations incorporated under the laws of this State or any other state or under the laws of the United States. Investments may be made only in those savings banks or savings and loan associations, the shares, or investment certificates that are insured by the Federal Deposit Insurance Corporation. Any such securities may be purchased at the offering or market price thereof at the time of such purchase. All such securities so purchased shall mature or be redeemable on a date or dates prior to the time when, in the judgment of the Chief Investment Officer, the public funds so invested will be required for expenditure by the District or its governing authority.
8. Dividend-bearing share accounts, share certificate accounts, or class of share accounts of a credit union chartered under the laws of this State or the laws of the United States; provided, however, the principle office of any such credit union must be located within the State of Illinois. Investments may be made only in those credit unions the accounts of which are insured by applicable law.
9. A Public Treasurers' Investment Pool created under Section 17 of the State Treasurer Act. The District may also invest any public funds in a fund managed, operated, and administered by a bank, subsidiary of a bank, or subsidiary of a bank holding company or use the services of such an entity to hold and invest or advise regarding the investment of any public funds.
10. The Illinois School District Liquid Asset Fund Plus. <sup>7</sup>
11. Repurchase agreements of government securities having the meaning set out in the Government Securities Act of 1986, as now or hereafter amended or succeeded, subject to the provisions of said Act and the regulations issued there under. The government securities, unless registered or inscribed in the name of the District, shall be purchased through banks or trust companies authorized to do business in the State of Illinois.

Except for repurchase agreements of government securities that are subject to the Government Securities Act of 1986, as now or hereafter amended or succeeded, the District may not purchase or invest in instruments that constitute repurchase agreements, and no financial institution may enter into such an agreement with or on behalf of the District unless the instrument and the transaction meet all of the following requirements:

- a. The securities, unless registered or inscribed in the name of the District, are purchased through banks or trust companies authorized to do business in the State of Illinois.
- b. The Chief Investment Officer, after ascertaining which firm will give the most favorable rate of interest, directs the custodial bank to "purchase" specified securities from a designated institution. The "custodial bank" is the bank or trust company, or agency of government, that acts for the District in connection with repurchase agreements involving

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<sup>7</sup> The Illinois School District Liquid Asset Fund Plus is an Illinois trust organized to permit Illinois school districts, community colleges, and educational service regions to pool their investment funds to obtain the highest possible investment yield consistent with maintaining liquidity and preserving capital, and to engage in cooperative cash management activities resulting in more efficient financial resource utilization. The program was developed in cooperation with the Ill. Association of School Boards, the Ill. Association of School Business Officials, and the Ill. Association of School Administrators. ~~To receive marketing information and the name of the marketing representative, contact: PMA Financial Network, Inc., Illinois School District Liquid Asset Fund Plus.~~ For more information, including regional representative contact information, see [www.isdlafplus.com](http://www.isdlafplus.com).

the investment of funds by the District. The State Treasurer may act as custodial bank for public agencies executing repurchase agreements.

- c. A custodial bank must be a member bank of the Federal Reserve System or maintain accounts with member banks. All transfers of book-entry securities must be accomplished on a Reserve Bank's computer records through a member bank of the Federal Reserve System. These securities must be credited to the District on the records of the custodial bank and the transaction must be confirmed in writing to the District by the custodial bank.
  - d. Trading partners shall be limited to banks or trust companies authorized to do business in the State of Illinois or to registered primary reporting dealers.
  - e. The security interest must be perfected.
  - f. The District enters into a written master repurchase agreement that outlines the basic responsibilities and liabilities of both buyer and seller.
  - g. Agreements shall be for periods of 330 days or less.
  - h. The Chief Investment Officer informs the custodial bank in writing of the maturity details of the repurchase agreement.
  - i. The custodial bank must take delivery of and maintain the securities in its custody for the account of the District and confirm the transaction in writing to the District. The custodial undertaking shall provide that the custodian takes possession of the securities exclusively for the District; that the securities are free of any claims against the trading partner; and that any claims by the custodian are subordinate to the District's claims to rights to those securities.
  - j. The obligations purchased by the District may only be sold or presented for redemption or payment by the fiscal agent bank or trust company holding the obligations upon the written instruction of the Chief Investment Officer.
  - k. The custodial bank shall be liable to the District for any monetary loss suffered by the District due to the failure of the custodial bank to take and maintain possession of such securities.
12. Any investment as authorized by the Public Funds Investment Act, and Acts amendatory thereto. Paragraph 11 supersedes paragraphs 1-10 and controls in the event of conflict.

Except as provided herein, investments may be made only in banks, savings banks, savings and loan associations, or credit unions that are insured by the Federal Deposit Insurance Corporation or other approved share insurer. <sup>8</sup>

The Chief Investment Officer and Superintendent shall regularly consider material, relevant, and decision-useful sustainability factors in evaluating investment decisions, within the bounds of financial and fiduciary prudence. Such factors include, but are not limited to: (1) corporate governance and leadership factors, (2) environmental factors, (3) social capital factors, (4) human capital factors, and (5) business model and innovation factors, as provided under the Ill. Sustainable Investing Act, 30 ILCS 238/. <sup>9</sup>

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<sup>8</sup> 30 ILCS 235/2, amended by P.A. 100-752.

<sup>9</sup> This statement is required by 30 ILCS 235/2.5(a-5), added by P.A. 101-473, eff. 1-1-20. See the Ill. Sustainable Investing Act (SIA)(30 ILCS 238/, added by P.A. 101-473, eff. 1-1-20) for examples of these five *sustainability factors*. *Id.* at 238/20. Under the SIA, school districts, must “prudently integrate sustainability factors into its investment decisions-making, investment analysis, portfolio construction, due diligence, and investment ownership in order to maximize anticipated financial returns, minimize projected risk, and more effectively execute its fiduciary duty.” *Id.*

### Selection of Depositories, Investment Managers, Dealers, and Brokers 10

The Chief Investment Officer shall establish a list of authorized depositories, investment managers, dealers and brokers based upon the creditworthiness, reputation, minimum capital requirements, qualifications under State law, as well as a long history of dealing with public fund entities. The Board will review and approve the list at least annually.

In order to be an authorized depository, each institution must submit copies of the last two sworn statements of resources and liabilities or reports of examination that the institution is required to furnish to the appropriate State or federal agency.<sup>11</sup> Each institution designated as a depository shall, while acting as such depository, furnish the District with a copy of all statements of resources and liabilities or all reports of examination that it is required to furnish to the appropriate State or federal agency. <sup>12</sup>

The above eligibility requirements of a bank to receive or hold public deposits do not apply to investments in an interest-bearing savings account, interest-bearing certificate of deposit, or interest-bearing time deposit if: (1) the District initiates the investment at or through a bank located in Illinois, and (2) the invested public funds are at all times fully insured by an agency or instrumentality of the federal government. <sup>13</sup>

The District may consider a financial institution's record and current level of financial commitment to its local community when deciding whether to deposit funds in that financial institution. The District may consider factors including: <sup>14</sup>

1. For financial institutions subject to the federal Community Reinvestment Act of 1977, the current and historical ratings that the financial institution has received, to the extent that those ratings are publicly available, under the federal Community Reinvestment Act of 1977;
2. Any changes in ownership, management, policies, or practices of the financial institution that may affect the level of the financial institution's commitment to its community;
3. The financial impact that the withdrawal or denial of District deposits might have on the financial institution;
4. The financial impact to the District as a result of withdrawing public funds or refusing to deposit additional public funds in the financial institution; and
5. Any additional burden on the District's resources that might result from ceasing to maintain deposits of public funds at the financial institution under consideration.

### Collateral Requirements 15

All amounts deposited or invested with financial institutions in excess of any insurance limit shall be collateralized in accordance with the Public Funds Investment Act, 30 ILCS 235/. The Superintendent or designee shall keep the Board informed of collateral agreements.

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<sup>10</sup> The policy must address these topics. 30 ILCS 235/2.5(a)(11).

<sup>11</sup> 30 ILCS 235/6.

<sup>12</sup> *Id.*

<sup>13</sup> 30 ILCS 235/6.5.

<sup>14</sup> This paragraph is optional, but is authorized by 30 ILCS 235/8.

<sup>15</sup> Collateral requirements are permissive; if used, guidelines regarding their use must be included in the policy. 30 ILCS 235/2.5(a)(5). The requirements for collateral agreements are in 30 ILCS 235/6(d). The sample policy contains one guideline, that is, that the board be kept informed of collateral agreements. An optional guideline follows:

In addition, the financial institution must provide the Board with a copy of its board of directors' meeting minutes evidencing that the board of directors approved the collateral agreement.

### Safekeeping and Custody Arrangements 16

The preferred method for safekeeping is to have securities registered in the District's name and held by a third-party custodian. Safekeeping practices should qualify for the Governmental Accounting Standards Board Statement No. 3, Deposits with Financial Institutions, Investments (including Repurchase Agreements), and Reverse Repurchase Agreements, Category I, the highest recognized safekeeping procedures.

### Controls and Report 17

The Chief Investment Officer shall establish a system of internal controls and written operational procedures to prevent losses arising from fraud, employee error, misrepresentation by third parties, or imprudent employee action.

The Chief Investment Officer shall provide a quarterly investment report to the Board. The report will: (1) assess whether the investment portfolio is meeting the District's investment objectives, (2) identify each security by class or type, book value, income earned, and market value, (3) identify those institutions providing investment services to the District, and (4) include any other relevant information. The investment portfolio's performance shall be measured by appropriate and creditable industry standards for the investment type. **18**

The Board will determine, after receiving the Superintendent's recommendation, which fund is in most need of interest income and the Superintendent shall execute a transfer. This provision does not apply when the use of interest earned on a particular fund is restricted. **19**

### Ethics and Conflicts of Interest 20

The Board and District officials will avoid any investment transaction or practice that in appearance or fact might impair public confidence. Board members are bound by the Board policy 2:100, *Board Member Conflict of Interest*. No District employee having influence on the District's investment decisions shall:

1. Have any interest, directly or indirectly, in any investments in which the District is authorized to invest,
2. Have any interest, directly or indirectly, in the sellers, sponsors, or managers of those investments, or
3. Receive, in any manner, compensation of any kind from any investments in that the agency is authorized to invest.

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**16** The policy must address safekeeping and custody arrangements. 30 ILCS 235/2.5(a)(5). Registration requirements are in 30 ILCS 235/3.

**17** The policy must provide for internal controls, periodic review, and at least quarterly written investment reports. 30 ILCS 235/2.5(a)(6), (9), and (10). The operational procedures to prevent losses are best addressed by each district in consultation with its auditor and legal counsel. See policy 4:80, *Accounting and Audits*; 4:80-AP1, *Checklist for Internal Controls*; and 4:80-AP2, *Fraud, Waste, and Abuse Awareness Program*.

**18** The policy must include performance measures. 30 ILCS 235/2.5(8).

**19** 105 ILCS 5/10-22.44. "Chief Business Official" may replace "Superintendent." Interest income earned on any funds for IMRF, Tort Immunity Act, Fire Prevention, Safety and Environmental Energy, and Capital Improvement Act are restricted to the respective fund. *Id.*

**20** The policy must address these topics. 30 ILCS 235/2.5(a)(12). The conflict of interest prohibition is in 30 ILCS 235/2.

LEGAL REF.: 30 ILCS 235/, [Public Funds Investment Act.](#)  
[30 ILCS 238/, Ill. Sustainable Investing Act.](#)  
105 ILCS 5/8-7, 5/10-22.44, 5/17-1, and 5/17-11.

CROSS REF.: 2:100 (Board Member Conflict of Interest), 4:10 (Fiscal and Business Management), 4:80 (Accounting and Audits)

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## Operational Services

### Incurring Debt <sup>1</sup>

The Superintendent shall provide early notice to the School Board of the District's need to borrow money. The Superintendent or designee<sup>2</sup> shall prepare all documents and notices necessary for the Board, at its discretion, to: (1) issue State Aid Anticipation Certificates,<sup>3</sup> tax anticipation warrants,<sup>4</sup> working cash fund bonds,<sup>5</sup> bonds,<sup>6</sup> notes,<sup>7</sup> and other evidence of indebtedness,<sup>8</sup> or (2) establish a line of credit with a bank or other financial institution.<sup>9</sup> The Superintendent shall notify the State Board of Education before the District issues any form of long-term or short-term debt that will result in outstanding debt that exceeds 75% of the debt limit specified in State law. <sup>10</sup>

### Bond Issue Obligations <sup>11</sup>

In connection with the Board's issuance of bonds, the Superintendent shall be responsible for ensuring the District's compliance with federal securities laws, including the anti-fraud provisions of

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<sup>1</sup> State law controls this policy's content. School districts are subject to a statutory debt limitation (105 ILCS 5/19-1(a)); other provisions in 5/19-1 contain exceptions. Not all forms of indebtedness are subject to the statutory debt limitations. Before incurring any debt, the board must be certain that the debt will be within the district's debt limitation.

<sup>2</sup> Boards that employ business managers may want to substitute "Business Manager", "Chief School Business Official", or another locally-equivalent title for "Superintendent or designee" and "Superintendent" as they appear throughout this policy; the business manager most commonly performs the duties described in this policy.

<sup>3</sup> 50 ILCS 420/1 *et seq.* and 105 ILCS 5/18-18.

<sup>4</sup> 105 ILCS 5/17-16.

<sup>5</sup> 105 ILCS 5/20-2, 5/20-4, and 5/20-5, *amended by P.A. 101-416*; 30 ILCS 305/2.

<sup>6</sup> 105 ILCS 5/19-1 *et seq.*; 30 ILCS 350/.

<sup>7</sup> 50 ILCS 420/0.01 *et seq.* A district may borrow money and issue bonds for the purposes stated in 105 ILCS 5/19-3, provided the board properly adopted an election referendum and subsequently the voters approved the proposition. 10 ILCS 5/28-2. Districts have the authority to issue bonds for certain purposes without a direct referendum, e.g., School Fire Prevention and Safety Bonds, Working Cash Fund Bonds, Funding Bonds, and Insurance Reserve Bonds. However, as is the case with Working Cash Fund Bonds, certain types of bonds still require boards to follow backdoor referendum procedures.

<sup>8</sup> Other types of indebtedness include funding bonds and refunding bonds (105 ILCS 5/19-1 *et seq.*), as well as debt certificates and alternate bonds authorized by the Local Government Debt Reform Act (30 ILCS 350/).

<sup>9</sup> 105 ILCS 5/17-17.

<sup>10</sup> 105 ILCS 5/19-1.

<sup>11</sup> Optional. This subhead is offered for boards that want to: (1) expressly address their obligations to comply with federal securities laws; and (2) authorize the creation of written procedures to protect the status of tax-exempt (or otherwise tax-advantaged) bonds issued by the board. As a matter of best practice and to reduce potential future liabilities, many attorneys recommend that board policy address these obligations. Consult the board attorney and/or bond counsel for guidance.

The Internal Revenue Service strongly encourages, but does not currently require, issuers of tax-exempt bonds to establish written post-issuance compliance monitoring procedures. For guidance regarding the recommended content of such procedures, see *IRS Publication 4079, Tax-Exempt Governmental Bonds*, at: [www.irs.gov/pub/irs-pdf/p4079.pdf](http://www.irs.gov/pub/irs-pdf/p4079.pdf). Such procedures may be included in a written bond resolution for a specific bond issue, and/or they may be established more generally. Consult the board attorney and/or bond counsel regarding the establishment of such procedures for tax-exempt bonds.

If a board does not accept this subhead, delete the Administrative Procedure Reference and the following Legal References: Securities Act of 1933, 15 U.S.C. §77a *et seq.*; Securities Exchange Act of 1934, 15 U.S.C. §78a *et seq.*; and 17 C.F.R. §240.15c2-12.

the Securities Act of 1933, as amended<sup>12</sup> and, if applicable, the continuing disclosure obligations under Rule 15c2-12 of the Securities Exchange Act of 1934, as amended. <sup>13</sup>

Additionally, in connection with the Board's issuance of bonds, the interest on which is excludable from *gross income* for federal income tax purposes, or which enable the District or bond holder to receive other federal tax benefits, the Board authorizes the Superintendent to establish written procedures for post-issuance compliance monitoring for such bonds to protect their tax-exempt (or tax-advantaged) status.

The Board may contract with outside professionals, such as bond counsel and/or a qualified financial consulting firm, to assist it in meeting the requirements of this subsection. <sup>14</sup>

LEGAL REF.: Securities Act of 1933, 15 U.S.C. §77a et seq.  
Securities Exchange Act of 1934, 15 U.S.C. §78a et seq.  
17 C.F.R. §240.15c2-12.  
Bond Authorization Act, 30 ILCS 305/2.  
Bond Issue Notification Act, 30 ILCS 352/.  
Local Government Debt Reform Act, 30 ILCS 350/.  
Tax Anticipation Note Act, 50 ILCS 420/.  
105 ILCS 5/17-16, 5/17-17, 5/18-18, and 5/19-1 et seq.

CROSS REF.: 4:10 (Fiscal and Business Management)

ADMIN. PROC.: 4:40-AP (Preparing and Updating Disclosures)

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<sup>12</sup> 15 U.S.C. §77q.

<sup>13</sup> 17 C.F.R. §240.15c2-12. See 4:40-AP, *Preparing and Updating Disclosures*, for a detailed set of sample procedures designed to facilitate a district's compliance with disclosure requirements of federal securities laws.

<sup>14</sup> Delete the last paragraph of this subhead if the board does not want to include a sentence in this policy that addresses the use of outside professionals for assistance with compliance. Boards that regularly utilize outside professionals to assist them in meeting bond disclosure requirements may want to include this language to memorialize their current practice. Contracts for the services of individuals possessing a high degree of professional skill, such as attorneys and financial consultants, are exempt from competitive bidding requirements. 105 ILCS 5/10-20.21(a)(i).

## Operational Services

### Purchases and Contracts 1

The Superintendent shall manage the District's purchases and contracts in accordance with State law, the standards set forth in this policy, and other applicable School Board policies.

#### Standards for Purchasing and Contracting

All purchases and contracts shall be entered into in accordance with State law. The Board Attorney shall be consulted as needed regarding the legal requirements for purchases or contracts. All contracts shall be approved or authorized by the Board.

All purchases and contracts should support a recognized District function or purpose as well as provide for good quality products and services at the lowest cost, with consideration for service, reliability, and delivery promptness, and in compliance with State law.<sup>2</sup> No purchase or contract shall be made or entered into as a result of favoritism, extravagance, fraud, or corruption.

Adoption of the annual budget authorizes the Superintendent or designee to purchase budgeted supplies, equipment, and services, provided that State law is followed. Purchases of items outside budget parameters require prior Board approval, except in an emergency.<sup>3</sup>

When presenting a contract or purchase for Board approval, the Superintendent or designee shall ensure that it complies with applicable State law, including but not limited to, those specified below:

1. Supplies, materials, or work involving an expenditure in excess of \$25,000 must comply with the State law bidding procedure, 105 ILCS 5/10-20.21, unless specifically exempted.<sup>4</sup>
2. Construction, lease, or purchase of school buildings must comply with State law and Board policy 4:150, *Facility Management and Building Programs*.
3. Guaranteed energy savings must comply with 105 ILCS 5/19b-1 et seq.
4. Third party non-instructional services must comply with 105 ILCS 5/10-22.34c.<sup>5</sup>

**The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.**

<sup>1</sup> State law controls this policy's content. 105 ILCS 5/10-20.21, amended by P.A. 101-570, contains bidding plus other requirements. Other laws also govern district contracts. For example, the Prevailing Wage Act requires, among other things, that a district specify in all contracts for public works that the prevailing wage rate must be paid, (820 ILCS 130/). When a district awards work to a contractor without a public bid, contract, or project specification, the district must provide the contractor with written notice on the purchase order or a separate document indicating that not less than the prevailing rate of wages shall be paid to all laborers, workers, and mechanics performing work on the project. In addition, the district must notify all contractors of any rate changes by the Ill. Dept. of Labor (IDOL), 820 ILCS 130/4(a-2). The law allows a district to discharge this duty by including the following language in all contracts: "Any prevailing rate of wages as they are revised by the Ill. Dept. of Labor (IDOL) shall apply to this contract. You are notified that any rate changes to the prevailing wage rate are available on ~~the Dept. IDOL's~~ the Dept. IDOL's official website." (820 ILCS 130/4(1), ~~and s~~ See 4:60-E, Notice to Contractors, for sample language).

<sup>2</sup> This end statement should be amended according to local board discretion.

<sup>3</sup> An optional addition follows: "Notwithstanding the above, the Superintendent shall not commit to any single, non-customary purchase or expenditure, excluding personnel, of greater than \$ \_\_\_\_\_ without prior Board approval." This optional provision's intent is to provide an internal control as well as to keep the board involved when the district is making a large purchase or expenditure, e.g., copiers, computers, textbooks, or something that might not happen every year. It is intended to cover purchases/expenditures regardless of whether they were previously budgeted.

<sup>4</sup> See 4:60-API, *Purchases*, for bidding exemptions and the requirements for electronic bid opening. A board may set a lower bidding threshold by policy but should first seek its attorney's advice because such action may expand a board's vulnerability to a bidding challenge.

5. Goods and services that are intended to generate revenue and other remunerations for the District in excess of \$1,000, including without limitation vending machine contracts, sports and other attire, class rings, and photographic services, must comply with 105 ILCS 5/10-20.21(b-5). The Superintendent or designee shall keep a record of: (1) each vendor, product, or service provided, (2) the actual net revenue and non-monetary remuneration from each contract or agreement, and (3) how the revenue was used and to whom the non-monetary remuneration was distributed. The Superintendent or designee shall report this information to the Board by completing the necessary forms that must be attached to the District's annual budget. <sup>6</sup>
6. Any contract to purchase food with a bidder or offeror must comply with 105 ILCS 5/10-20.21(b-10). <sup>7</sup>
7. The purchase of paper and paper products must comply with 105 ILCS 5/10-20.19c and Board policy 4:70, *Resource Conservation*. <sup>8</sup>
8. Each contractor with the District is bound by each of the following:
  - a. In accordance with 105 ILCS 5/10-21.9(f): (1) prohibit any of its employees who is or was found guilty of a criminal offense listed in 105 ILCS 5/10-21.9(c) and 5/21B-80(c)<sup>9</sup> to have direct, daily contact at a District school or school-related activity with one or more student(s); (2) prohibits any of the contractor's employees from having direct, daily contact with one or more students if the employee was found guilty of any offense in 5/21B-80(b) (certain drug offenses) until seven years following the end of the employee's sentence for the criminal offense;<sup>10</sup> and (3) require each of its employees who will have direct, daily contact with student(s) to cooperate during the District's fingerprint-based criminal history records check on him or her. <sup>11</sup>
  - b. In accordance with 105 ILCS 5/24-5: (1) concerning each new employee of a contractor that provides services to students or in schools who begins providing services in the District after June 16, 2014, provide the District with evidence of physical fitness to perform the duties assigned and freedom from communicable disease if the employee will have direct, daily contact with one or more student(s); and (2) require any new or existing employee who has and will have direct, daily contact with one or more student(s) to complete additional health examinations as required by the District and be

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<sup>5</sup> Concerning collective bargaining requirements, see McLean Co. Unit Dist. 5 v. AFSCME & IELRB, 2014 Ill.App. (4th), No. 4-13-0294 (6-4-14), 12 N.E.2d 120 (4th Dist. 2014) (good faith bargaining on the decision to subcontract requires notice of the consideration of the subcontract before it is finalized; meeting with the union to provide an opportunity to discuss and explain the decision; providing information to the union; and giving consideration to any counterproposal the union makes).

<sup>6</sup> 105 ILCS 5/10-20.21(b-5).

<sup>7</sup> 105 ILCS 5/10-20.21(b-10), added by P.A. 99-552.

<sup>8</sup> 105 ILCS 5/10-20.19c.

<sup>9</sup> 105 ILCS 5/10-21.9(c), amended by P.A. 101-531; 105 ILCS 5/21B-80(c), amended by P.A. 99-667/101-531.

<sup>10</sup> Id.

<sup>11</sup> The implementation process is in 4:60-AP3, ~~Administrative Procedure~~—*Criminal History Records Check of Contractor Employees*. See 5:30-AP2, *Investigations*, for a list of offenses which disqualify an individual from having direct, daily contact with one or more students until seven years following the end of the individual's sentence for the criminal offense.

subject to additional health examinations, including tuberculosis screening, as required by the ~~Illinois~~ Department of Public Health rules or order of a local health official. <sup>12</sup>

The Superintendent or designee shall: (1) execute the reporting and website posting mandates in State law concerning District contracts, and (2) monitor the discharge of contracts, contractors' performances, and the quality and value of services or products being provided. <sup>13</sup>

LEGAL REF.: 105 ILCS 5/10-20.19c, 5/10-20.21, 5/10-21.9, 5/10-22.34c, 5/19b-1 et seq., and 5/24-5.  
820 ILCS 130/.

CROSS REF.: 2:100 (Board Member Conflict of Interest), 4:70 (Resource Conservation), 4:150 (Facility Management and Building Programs), 4:175 (Convicted Child Sex Offender; Screening; Notifications)

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<sup>12</sup> 105 ILCS 5/24-5, amended by P.A. 101-81. P.A. 98-716, effective 7-16-14, expanded the scope of 105 ILCS 5/24-5 by adding a definition of *employee* that includes contractors' employees for whom a criminal history records check is required. ~~As of~~ Since Aug. 2014, the Ill. Dept. of Public Health ~~does~~ has not required school employees to be screened for tuberculosis other than workers in child day care and preschool settings. (~~77~~ Ill.Admin.Code §696.140(a)(3)). Before requesting a contractor's employee for a health examination, contact the board attorney concerning this action's legality under other personnel laws, including the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.).

<sup>13</sup> This is an optional provision. The numerous reporting and website posting mandates are in 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. As an alternative to the policy's default language, a board may insert the underscored:

The Superintendent or designee shall: (1) execute the reporting and website posting mandates in State law concerning District contracts and maintain a status report for monthly presentation to the Board, and (2) monitor the discharge of contracts, contractors' performances, and the quality and value of services or products being provided.

## Operational Services

### Accounting and Audits 1

The School District's accounting and audit services shall comply with the *Requirements for Accounting, Budgeting, Financial Reporting, and Auditing*, as adopted by the Ill. State Board of Education (ISBE), State and federal laws and regulations, and generally accepted accounting principles. Determination of liabilities and assets, prioritization of expenditures of governmental funds, and provisions for accounting disclosures shall be made in accordance with government accounting standards as directed by the auditor designated by the Board. The Superintendent, in addition to other assigned financial responsibilities, shall report monthly on the District's financial performance, both income and expense, in relation to the financial plan represented in the budget.

### Annual Audit 2

At the close of each fiscal year, the Superintendent shall arrange an audit of the District funds, accounts, statements, and other financial matters. The audit shall be performed by an independent certified public accountant designated by the Board and be conducted in conformance with prescribed standards and legal requirements. A complete and detailed written audit report shall be provided to each Board member and to the Superintendent. The Superintendent shall annually, on or before October 15, submit an original and one copy of the audit to the Regional Superintendent of Schools.

### Annual Financial Report 3

The Superintendent or designee shall annually prepare and submit the Annual Financial Report on a timely basis using the form adopted by the ISBE. The Superintendent shall review and discuss the Annual Financial Report with the Board before it is submitted.

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**1** State or federal law controls this policy's content. A board policy or resolution is required concerning revolving funds and petty cash. 23 Ill.Admin.Code §100.70. This policy is intended to facilitate the board's fiscal oversight role. The last sentence of the first paragraph should be modified to align with local conditions. The *Requirements for Accounting, Budgeting, Financial Reporting, and Auditing* at 23 Ill.Admin.Code Part 100 replaced 23 Ill.Admin.Code Part 110, *Program Accounting Manual* and 23 Ill.Admin Code Part 125, *Student Activity Funds and Convenience Accounts*.

**2** Audit requirements are found in 105 ILCS 5/3-7 and 5/3-15.1, and 23 Ill.Admin.Code §100.110. The federal Single Audit Act adds audit requirements for federal programs. 31 U.S.C. §7501 *et seq.*

Use this alternative for districts in suburban Cook County: replace "Regional Superintendent of Schools" with "appropriate Intermediate Service Center."

The following optional sentence establishes an audit committee: "The Board will annually establish an audit committee to help the Board select an external auditor, confer with the auditor regarding the audit's scope, and oversee the audit process." **Note:** All board committees are subject to the Open Meetings Act.

The following optional sentence establishes a competitive process for selecting the external auditor; it prevents a long-term relationship with an auditor and reduces the possibility of audits being too routine or friendly: "The Board will annually advertise a request for proposals to perform the external audit." Substitute "periodically" for "annually" if desired.

**3** Requirements for the annual financial report are found in 105 ILCS 5/2-3.27 and 5/3-15.1; 23 Ill.Admin.Code §100.100. The last sentence of this section should be modified to align with local conditions.

#### Inventories 4

The Superintendent or designee is responsible for establishing and maintaining accurate inventory records. The inventory record of supplies and equipment shall include a description of each item, quantity, location, purchase date, and cost or estimated replacement cost, unless the supplies and equipment are acquired by the District pursuant to a federal or State grant award, in which case the inventory record shall also include the information required by 2 C.F.R. 200.313, if applicable.<sup>5</sup> The Superintendent shall establish procedures for the management of property acquired by the District under grant awards that comply with federal and State law.<sup>6</sup>

#### Capitalization Threshold 7

To be considered a capital asset for financial reporting purposes, a capital item must be at or above a capitalization threshold of ~~\$5,000~~ and have an estimated useful life greater than one year.

#### Disposition of District Property 8

The Superintendent or designee shall notify the Board, as necessary, of the following so that the Board may consider its disposition: (1) District personal property (property other than buildings and land) that is no longer needed for school purposes, and (2) school site, building, or other real estate that is unnecessary, unsuitable, or inconvenient. Notwithstanding the above, the Superintendent or

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<sup>4</sup> The Ill. Program Accounting Manual (IPAM) was repealed and replaced with the *Requirements for Accounting, Budgeting, Financial Reporting, and Auditing*. While these rules contain much of the IPAM information, the information about inventories was not included. That information is still useful and may be found at [www.isbe.net/Documents/ipam.pdf](http://www.isbe.net/Documents/ipam.pdf). The last sentence of this section should be modified to align with local conditions.

<sup>5</sup> 2 C.F.R. §200.313. The uniform federal rules that govern federal grant awards in 2 C.F.R. Part 200 apply to State grant awards through the Grant Accountability Transparency Act (GATA) (30 ILCS 708/), unless exempted in whole or in part by the Governor's Office of Management of Budget, 30 ILCS 708/55. See [www.isbe.net/gata](http://www.isbe.net/gata) for further information about the scope of GATA's application to federal awards and State-funded grant programs administered by the Ill. State Board of Education (ISBE). See 4:80-AP3, *Inventory Management for Federal and State Awards*. ISBE guidance is available at: [www.isbe.net/Documents/fiscal\\_procedure\\_handbk.pdf](http://www.isbe.net/Documents/fiscal_procedure_handbk.pdf) and [www.isbe.net/Pages/Audit-and-Monitoring-Review-Requirements-and-Tools.aspx](http://www.isbe.net/Pages/Audit-and-Monitoring-Review-Requirements-and-Tools.aspx).

<sup>6</sup> Id. In connection with ISBE's grant monitoring function, ISBE published a *Checklist for Equipment and Inventory Review* which requires an approved policy (or procedure) related to the management of equipment at [www.isbe.net/Pages/Audit-and-Monitoring-Review-Requirements-and-Tools.aspx](http://www.isbe.net/Pages/Audit-and-Monitoring-Review-Requirements-and-Tools.aspx).

<sup>7</sup> Optional. 23 Ill. Admin. Code §100.60 requires school boards to adopt a capitalization threshold, which can be done through policy. The capitalization threshold is a dollar figure above which the cost of an item will be included on financial statements and depreciated. A minimum threshold of \$5,000 and useful life greater than one year complies with the definition of equipment under federal grant rules, but may be adjusted, and/or multiple thresholds can be established, for different categories of capital assets. 2 C.F.R. §§200.33 and 200.313(e). The Government Accounting Standards Board (GASB) Statement No. 34 at para. 115(e) states that a government should disclose its policy "for capitalizing assets and for estimating the useful lives of those assets." See GASB Statement 34 and *Guide to Implementation of GASB Statement 34 on Basic Financial Statements* (p.28), both available at [www.gasb.org](http://www.gasb.org). There are no specific requirements for such policies; however, district auditors may require or recommend a district have a more comprehensive capitalization policy and/or procedure. Such an accounting policy or procedure should be developed in consultation with the district's accounting professional(s) and tailored to reflect local conditions.

<sup>8</sup> The requirements in this section are specified in 105 ILCS 5/5-22, ~~amended by P.A. 99-794~~ (allowing property constructed or renovated by students as part of a curricular program to be sold through the services of a licensed real estate broker subject to certain requirements), ~~and 5/10-22.8; and 2 C.F.R. §200.313(e) for federal awards and State awards governed by GATA. See f/n 5, above, regarding grant award requirements.~~ A board that desires to act on the disposition of property having any value should use the following alternative to this section's last sentence: "Notwithstanding the above, the Superintendent or designee may unilaterally dispose of worthless personal property."

The recipient (through either sale or donation) of any discarded school bus must immediately: (1) remove, cover, or conceal the "SCHOOL BUS" signs and any other insignia or words indicating the vehicle is a school bus; (2) render inoperable or remove entirely the stop signal arm and flashing signal system; and (3) paint the school bus a different color from those under Sec. 12-801 of the Ill. Vehicle Code. 625 ILCS 5/12-806(b), added by P.A. 100-277.

designee may unilaterally dispose of personal property of a diminutive value. The Superintendent shall establish procedures for the disposition of property acquired by the District under grant awards that comply with federal and State law. (or designee)

#### Taxable Fringe Benefits <sup>9</sup>

The Superintendent or designee shall: (1) require that all use of District property or equipment by employees is for the District's convenience and best interests unless it is a Board-approved fringe benefit, and (2) ensure compliance with the Internal Revenue Service regulations regarding when to report an employee's personal use of District property or equipment as taxable compensation.

#### Controls for Revolving Funds and Petty Cash <sup>10</sup>

Revolving funds and the petty cash system are established in Board policy 4:50, *Payment Procedures*. The Superintendent shall: (1) designate a custodian for each revolving fund and petty cash fund, (2) obtain a bond for each fund custodian, and (3) maintain the funds in compliance with this policy, State law, and ISBE rules. A check for the petty cash fund may be drawn payable to the designated petty cash custodian. Bank accounts for revolving funds are limited to a maximum balance of \$500.00. All expenditures from these bank accounts must be directly related to the purpose for which the account was established and supported with documentation, including signed invoices or receipts. All deposits into these bank accounts must be accompanied with a clear description of their intended purpose. The Superintendent or designee shall include checks written to reimburse revolving funds on the Board's monthly listing of bills indicating the recipient and including an explanation.

#### Control Requirements for Checks <sup>11</sup>

The Board must approve all bank accounts opened or established in the District's or a District school's name or with the District's Federal Employer Identification Number. All checks issued by

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<sup>9</sup> The intent of this optional section is twofold: (1) to control personal use of district property and equipment; and (2) to ensure compliance with IRS rules. As to the first point, allowing personal use of district property or equipment is arguably prohibited by the Ill. Constitution, Art. VIII, Sec. 1 which states: "Public funds, property or credit shall be used only for public purposes." As to the second point, any fringe benefit an employer provides is taxable and must be included in the recipient's pay unless the law specifically excludes it. See Publication 15-B (2019~~7~~), *Employer's Tax Guide to Fringe Benefits*, [www.irs.gov/pub/irs-pdf/p15b.pdf](http://www.irs.gov/pub/irs-pdf/p15b.pdf).

<sup>10</sup> 105 ILCS 5/10-20.19(2); 23 Ill.Admin.Code §100.70. This paragraph's contents are mandatory, except for the \$500 cap on the maximum balance of revolving funds. The cap amount may be changed or the following alternative used: "Each revolving fund shall be maintained in a bank that has been approved by the Board and established in an amount approved by the Superintendent consistent with the annual budget."

The School Code defines petty cash as a type of revolving fund. *Id.* It and other revolving funds carry a standard balance and are regularly reimbursed to maintain the standard balance amount (generally referred to as an *imprest system* of financial accounting). In practice, petty cash is paid out of a de minimis cash amount maintained by a fund custodian. Disbursement from a revolving fund other than petty cash is typically made against an imprest checking account, by an authorized signor who is readily available in the district, e.g., a superintendent or building principal. The authorized signor manages the revolving fund and requests the board to reimburse the fund for expenses incurred to bring the imprest account back to its standard balance.

<sup>11</sup> This section is largely up to the local board's discretion; additional controls may be added. The following alternative to the second sentence will mandate two signatories for checks:

Two of the following individuals: the Treasurer, Board President, and/or Board Vice-President, shall sign all checks issued by the School District, except that checks from an account containing student activity funds and revolving accounts may be signed by the respective account custodian.

A board must comply with State law requirements concerning the use of facsimile or electronic signatures on checks. The Secretary of State, Index Department, maintains certified manual signatures of officers authorized to sign checks. Uniform Facsimile Signature of Public Officials Act, 30 ILCS 320/. Electronic records and signatures are governed by the Electronic Commerce Security Act, 5 ILCS 175/5. Attorneys disagree about the applicability of these laws to school districts.

the School District must be signed by either the Treasurer or Board President, except that checks from an account containing student activity funds and revolving accounts may be signed by the respective account custodian.

### Internal Controls 12

The Superintendent is primarily responsible for establishing and implementing a system of internal controls for safeguarding the District's financial condition; the Board, however, will oversee these safeguards. The control objectives are to ensure efficient business and financial practices, reliable financial reporting, and compliance with State law and Board policies, and to prevent losses from fraud, waste, and abuse,<sup>13</sup> as well as employee error, misrepresentation by third parties, or other imprudent employee action.

The Superintendent or designee shall annually audit the District's financial and business operations for compliance with established internal controls and provide the results to the Board. The Board may from time-to-time engage a third party to audit internal controls in addition to the annual audit.

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<sup>12</sup> This section is largely up to the local board's discretion. The annual audit must include a "review and testing of the internal control structure." 23 Ill.Admin.Code §100.110. This review's limited scope means that boards should not rely on it to reveal uncontrolled financial risks. The board's responsibility is to establish policy to safeguard the district's financial condition. Indeed, the oath of office includes this promise: "I shall respect taxpayer interests by serving as a faithful protector of the school district's assets." In this sample policy, the board sets the control objectives and the superintendent is responsible for developing an internal controls system. In addition, ISBE has issued guidance on internal controls pursuant to its administration of the Grant Accountability and Transparency Act (GATA), 30 ILCS 708/. See the *Fiscal Procedures Handbook*, at: [www.isbe.net/Documents/fiscal\\_procedure\\_handbk.pdf](http://www.isbe.net/Documents/fiscal_procedure_handbk.pdf), which states that "to establish a strong control environment, grantees must...[d]esign internal controls that are in compliance with guidance in *Standards for Internal Control in the Federal Government* issued by the Comptroller General of the United States" (a free resource, available at: [www.gao.gov/assets/670/665712.pdf](http://www.gao.gov/assets/670/665712.pdf)) or the *Internal Control Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (a fee-based resource, available at: [www.coso.org/Pages/default.aspx](http://www.coso.org/Pages/default.aspx)). Boards that wish to take a larger oversight role regarding internal controls may list the numbered sentences in the IASB sample administrative procedure 4:80-AP1, *Checklist for Internal Controls*, as required inclusions in the superintendent's program for internal controls. This alternative, for insertion at the end of this section's first paragraph, follows:

The District's system of internal controls shall include the following:

1. All financial transactions must be properly authorized and documented.
2. Financial records and data must be accurate and complete.
3. Accounts payable must be accurate and punctual.
4. District assets must be protected from loss or misuse.
5. Incompatible duties should be segregated, if possible.
6. Accounting records must be periodically reconciled.
7. Equipment and supplies must be safeguarded.
8. Staff members with financial or business responsibilities must be properly trained and supervised, and must perform their responsibilities with utmost care and competence.
9. Any unnecessary weaknesses or financial risks must be promptly corrected.

<sup>13</sup> Unless specifically exempted, grantees receiving funds from any State agency, including ISBE, must comply with GATA and annually complete a *Fiscal and Administrative Internal Controls Questionnaire* (ICQ). The ICQ covers a number of different topics related to internal controls. Districts that are identified as having one or more areas of elevated risk based on their answers to the ICQ are required to develop and implement corrective action to address the area(s). Districts that fail to take necessary corrective action to address weak areas of internal control put their grant funding at risk. One of the sections of the ICQ addresses a grantee's internal controls for fraud, waste, and abuse, including whether the grantee has a *fraud awareness program*. See 4:80-AP1, *Checklist for Internal Controls*, and 4:80-AP2, *Fraud, Waste, and Abuse Awareness Program*, which incorporate ISBE-recommended practices related to fraud, waste, and abuse.

LEGAL REF.: 2 C.F.R. §200 et seq.  
30 ILCS 708/, Grant Accountability and Transparency Act, implemented by 44  
Ill.Admin.Code 7000 et seq.  
105 ILCS 5/2-3.27, 5/2-3.28, 5/3-7, 5/3-15.1, 5/5-22, 5/10-21.4, 5/10-20.19, 5/10-  
22.8, and 5/17-1 et seq.  
23 Ill.Admin.Code Part 100.

CROSS REF.: 4:10 (Fiscal and Business Management), 4:50 (Payment Procedures), 4:55 (Use  
of Credit and Procurement Cards), 4:90 (Activity Funds)

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## Operational Services

### Transportation 1

The District shall provide free transportation for any student in the District who resides: (1) at a distance of one and one-half miles or more from his or her assigned school, unless the School Board has certified to the Illinois State Board of Education that adequate public transportation is available,<sup>2</sup> or (2) if adequate public transportation is not available, within one and one-half miles from his or her assigned school where walking to or from school or to or from a pick-up point or bus stop would constitute a *serious safety hazard* due to either (a) vehicular traffic or rail crossing or (b) *a course or pattern of criminal activity*, as defined in the Ill. Streetgang Terrorism Omnibus Prevention Act, 740

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<sup>1</sup> State law controls this policy's content. 105 ILCS 5/29-1 *et seq.* and 23 Ill.Admin.Code Part 120. **Important: The board of a district that does not provide transportation must amend this policy.** F/n <sup>2</sup> discusses when districts must provide free transportation. Please contact an IASB Policy Consultant for *gratis* help customizing this policy. You may also need to consult the board attorney.

A district that chooses to consider locations other than individual students' residences as pick-up and drop-off locations must adopt a policy establishing this practice to receive State reimbursement. 23 Ill.Admin.Code §120.30(a)(1)(B).

Each district must have a pre-trip and post-trip inspection policy. 625 ILCS 5/12-816(a). An [Ill. State Board of Education \(ISBE\)](#) rule requires boards to "institute policies and practices that promote the safety and well-being of school bus passengers." 23 Ill.Admin.Code §1.510(g). To comply with these requirements, this policy lists relevant administrative procedures at the end.

The policy does not address an *automatic traffic enforcement* system which may be enacted by a municipality or county. An *automatic traffic law enforcement system* is a device that senses and records a motor vehicle that illegally fails to stop for a school bus. 625 ILCS 5/11-208.9. Each school board within that municipality or county's jurisdiction may approve the system's implementation. The board is then required to enter into an intergovernmental agreement with the municipality or county and contract with vendors for the system's installation, maintenance, and operation. Each applicable school bus must be posted with a sign indicating that it is being monitored by an automated traffic law enforcement system. The proceeds from a school district's automated traffic law enforcement system's fines shall be divided equally between the school district and the municipality or county administering the automated traffic law enforcement system.

<sup>2</sup> The one and one-half miles distance is measured from the exit of the property where the student resides to the point where pupils are normally unloaded at the attendance center to which they are assigned. 105 ILCS 5/29-3; 23 Ill.Admin.Code §120.30(a)(1)(A). Only the following districts must provide free transportation as described in the sample policy: community consolidated districts, community unit districts, consolidated districts, consolidated high school districts, and combined school districts if the combined district includes any district that was previously required to provide transportation. 105 ILCS 5/29-3, amended by P.A. 100-1142, and 23 Ill.Admin.Code §1.510(a). Districts that are not required to provide free transportation may do so. *Id.* To qualify for State reimbursement, districts electing to provide transportation when they are not required to do so must afford the same service to all students in that same situation. 23 Ill.Admin.Code §1.510(b). Districts may provide transportation within one and one-half miles and may charge for such transportation. 105 ILCS 5/29-2.

Optional provision: (105 ILCS 5/29-3.1)

The District may provide transportation to and from school-sponsored activities and may charge for such transportation.

ILCS 147/.<sup>3</sup> A student's parent(s)/guardian(s) may file a petition with the Board requesting transportation due to the existence of a serious safety hazard.<sup>4</sup> Free transportation service and vehicle adaptation is provided for a special education student if included in the student's individualized educational program.<sup>5</sup> Non-public school students shall be transported in accordance with State law.<sup>6</sup> Homeless students shall be transported in accordance with Section 45/1-15 of the Education for Homeless Children Act.<sup>7</sup> Foster care students shall be transported in accordance with Section 6312(c)(5)(B) of the Elementary and Secondary Education Act. <sup>8</sup>

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<sup>3</sup> 105 ILCS 5/29-3, amended by P.A. 100-1142 and 23 Ill.Admin.Code §1.510. The determination as to what constitutes a *serious safety hazard* regarding vehicular traffic or rail crossings is made by the board, in accordance with guidelines issued by the Ill. Dept. of Transportation, in consultation with the State Superintendent of Education. The Ill. Streetgang Terrorism Omnibus Prevention Act defines *course or pattern of criminal activity* as two or more gang-related criminal offenses committed in whole or in part within Illinois when: (1) one or more of the offenses was committed after 1-25-1993, (2) both offenses were committed within five years of each other; and (3) at least one offense involved a felony or forcible felony under the Ill. Criminal Code of 1961 or 2012. 740 ILCS 147/10. It also includes criminal defacement of property that includes a streetgang sign or symbol. Id. The determination as to what constitutes a *serious safety hazard* due to a *course or pattern of criminal activity* under 105 ILCS 5/29-3 is made by the board, in accordance with guidelines determined by local law enforcement, in consultation with the State Superintendent of Education. Ill. State Board of Education SBE guidance on safety hazards due to criminal gang activity is available at: [www.isbe.net/transportation](http://www.isbe.net/transportation).

<sup>4</sup> Required by 105 ILCS 5/29-3, amended by P.A. 100-1142. Another statute provides a process for *qualifying students* to seek reimbursement from ISBE for *qualified transportation expenses*. 105 ILCS 5/29-5.2; 23 Ill.Admin.Code §120.240. 23 Ill.Admin.Code §120.230 requires, among other things, that each attendance center designate a representative to assist parents/guardians with this process. This process does not need to be in board policy and is not covered herein.

<sup>5</sup> 34 C.F.R. §300.34 and 23 Ill.Admin.Code §226.750.

<sup>6</sup> 105 ILCS 5/29-3.2 and 5/29-4.

<sup>7</sup> 105 ILCS 45/. State law implements the McKinney-Vento Homeless Assistance Act, 42 U.S.C. §11431 et seq.

P.A. 100-332 amended the School Code and the Education for Homeless Children Act to permit school districts to use their State transportation funds to provide financial assistance to children that are defined as homeless or *at risk of becoming homeless*, provided certain criteria are satisfied. 105 ILCS 5/29-5; 105 ILCS 45/1-17. Financial assistance may include: (1) mortgage or rental assistance that will allow a child to remain permanently in his/her living situation or obtain a new living situation; and/or (2) assistance with unpaid bills, loans, or other financial debts that result in housing being inadequate. 105 ILCS 45/1-17(a). For further detail, see 6:140-AP, *Education of Homeless Children*.

<sup>8</sup> Required if the district receives Title I funds. 20 U.S.C. §6312(c)(5)(B). The Elementary and Secondary Education Act (ESEA) requires the district to collaborate with the State or local child welfare agency to develop and implement clear written procedures governing how transportation to maintain children in foster care in the school of origin (when in their best interest) will be provided, arranged, and funded for the duration of their time in foster care. ISBE guidance on transportation procedures for students in foster care is available at: [www.isbe.net/Documents/Guidance\\_on\\_Foster\\_Care\\_Transportation\\_Procedures.pdf#search=guidance%20on%20transportation%20procedures%20for%20students](http://www.isbe.net/Documents/Guidance_on_Foster_Care_Transportation_Procedures.pdf#search=guidance%20on%20transportation%20procedures%20for%20students) [www.isbe.net/Pages/Funding\\_and\\_Disbursements\\_Transportation\\_Programs.aspx](http://www.isbe.net/Pages/Funding_and_Disbursements_Transportation_Programs.aspx). The U.S. Depts. of Education and Health and Human Services, in *Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care* (6-23-16) at: [www2.ed.gov/policy/elsec/leg/essa/edhhsfostercarenonregulatorguide.pdf](http://www2.ed.gov/policy/elsec/leg/essa/edhhsfostercarenonregulatorguide.pdf), opine that ESEA requirements apply to students who meet the definition of *foster care* set forth at 45 C.F.R. §1355.20(a):

*Foster care* means 24-hour substitute care for children placed away from their parents or guardians and for whom the title IV-E agency has placement and care responsibility. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes. A child is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made by the State, Tribal or local agency for the care of the child, whether adoption subsidy payments are being made prior to the finalization of an adoption, or whether there is Federal matching of any payments that are made.

ESEA foster care transportation requirements also apply to students *awaiting* foster care placement.

105 ILCS 5/10-20.59 added by P.A.100-201-P.A. 99-781, permits school boards to appoint at least one employee to act as a liaison to facilitate the enrollment and transfer of records of students in the legal custody of the Ill. Department of Children and Family Services (DCFS) when enrolling in or changing schools. Liaison responsibilities may include, among other things, working with DCFS to help students maintain their school placement, if appropriate.

If a student is at a location within the District, other than his or her residence, for child care purposes at the time for transportation to and/or from school, that location may be considered for purposes of determining the one and one-half miles from the school attended. Unless the Superintendent or designee establishes new routes, pick-up and drop-off locations for students in day care must be along the District's regular routes. The District will not discriminate among types of locations where day care is provided, which may include the premises of licensed providers, relatives' homes, or neighbors' homes. <sup>9</sup>

Bus schedules and routes shall be determined by the Superintendent or designee and shall be altered only with the Superintendent or designee's approval and direction. In setting the routes, the pick-up and discharge points should be as safe for students as possible. <sup>10</sup>

No school employee may transport students in school or private vehicles unless authorized by the administration. <sup>11</sup>

Every vehicle regularly used for the transportation of students must pass safety inspections in accordance with State law and Illinois Department of Transportation regulations.<sup>12</sup> The strobe light on a school bus may be illuminated only when the bus is actually being used as a school bus and (1) is stopping or stopped for loading or discharging students on a highway outside an urban area, or (2) is bearing one or more students.<sup>13</sup> The Superintendent shall implement procedures in accordance with State law for accepting comment calls about school bus driving. <sup>14</sup>

All contracts for charter bus services must contain the clause prescribed by State law regarding criminal background checks for bus drivers. <sup>15</sup>

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<sup>9</sup> This paragraph should be deleted if a district will not seek State reimbursement for transportation to and from locations other than individual students' residences. As a condition for receiving State reimbursement, an ISBE rule requires boards to have a policy with the provisions in this paragraph. 23 Ill.Admin.Code §120.30(a)(1)(B). This rule also contains the non-discrimination language.

<sup>10</sup> The paragraph is optional. As an alternative, a board may state that pick-up and discharge points "should be as safe and convenient as possible."

<sup>11</sup> Optional. This presents an opportunity for each board to discuss this issue with the superintendent and direct the superintendent to include it in the curriculum for the required in-service on educator ethics, teacher-student conduct, and school employee-student conduct for all personnel. 105 ILCS 5/10-22.39. See 5:100, *Staff Development Program* (f/n 3), and 5:120, *Employee Ethics; Conduct; and Conflict of Interest* (f/n 2), for more detailed discussions. Include policies 5:100, *Staff Development Program*, and 5:120, *Employee Ethics; Conduct; and Conflict of Interest*, in the Cross References when this sentence is used.

<sup>12</sup> 625 ILCS 5/13-109. The vehicle and other requirements for transporting students to and from interscholastic or school-sponsored activities, including curriculum-related activities, are found in 105 ILCS 5/29-6.3 and 625 ILCS 5/11-1414.1. These statutes also contain requirements for the use of multi-function school activity buses (defined at 625 ILCS 5/1-148.3a-5). The legislature frequently amends these statutes, along with many transportation laws; they should be double-checked before relying on them.

<sup>13</sup> 625 ILCS 5/12-815. The statute, like the policy, identifies the conditions in which illuminating the strobe light is permissible instead of mandating when they must be illuminated.

<sup>14</sup> 625 ILCS 5/12-821(b) requires districts that own school buses and multifunction school activity buses to establish procedures for accepting comment calls and responding to them. In accordance with good governance principles, this duty is delegated to the superintendent. For a sample procedure, see 4:110-AP2, *Bus Driver Communication Devices; Pre-Trip and Post-Trip Inspection; Bus Driving Comments*.

<sup>15</sup> 105 ILCS 5/10-20.21a, requires all contracts for providing charter bus services to transport students to or from interscholastic athletic or interscholastic or school sponsored activities to contain clause (A) except that a contract with an out-of-state company may contain clause (B) or clause (A). The clause must be set forth in the contract's body in at least 12-point typeface and all upper case letters:

(A) "ALL OF THE CHARTER BUS DRIVERS WHO WILL BE PROVIDING SERVICES UNDER THIS CONTRACT HAVE, OR WILL HAVE BEFORE ANY SERVICES ARE PROVIDED:

## Pre-Trip and Post-Trip Vehicle Inspection 16

The Superintendent or designee shall develop and implement a pre-trip and post-trip inspection procedure to ensure that the school bus driver: (1) tests the two-way radio or cellular radio telecommunication device and ensures that it is functioning properly before the bus is operated, and (2) walks to the rear of the bus before leaving the bus at the end of each route, work shift, or work day, to check the bus for children or other passengers in the bus.

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(1) SUBMITTED THEIR FINGERPRINTS TO THE DEPARTMENT OF STATE POLICE IN THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT OF STATE POLICE. THESE FINGERPRINTS SHALL BE CHECKED AGAINST THE FINGERPRINT RECORDS NOW AND HEREAFTER FILED IN THE DEPARTMENT OF STATE POLICE AND FEDERAL BUREAU OF INVESTIGATION CRIMINAL HISTORY RECORDS DATABASES. THE FINGERPRINTING CHECK HAS RESULTED IN A DETERMINATION THAT THEY HAVE NOT BEEN CONVICTED OF COMMITTING ANY OF THE OFFENSES SET FORTH IN SUBDIVISION (C-1)(4) OF SECTION 6-508 OF THE ILLINOIS VEHICLE CODE; AND

(2) DEMONSTRATED PHYSICAL FITNESS TO OPERATE SCHOOL BUSES BY SUBMITTING THE RESULTS OF A MEDICAL EXAMINATION, INCLUDING TESTS FOR DRUG USE, TO A STATE REGULATORY AGENCY.”

(B) “NOT ALL OF THE CHARTER BUS DRIVERS WHO WILL BE PROVIDING SERVICES UNDER THIS CONTRACT HAVE, OR WILL HAVE BEFORE ANY SERVICES ARE PROVIDED:

(1) SUBMITTED THEIR FINGERPRINTS TO THE DEPARTMENT OF STATE POLICE IN THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT OF STATE POLICE. THESE FINGERPRINTS SHALL BE CHECKED AGAINST THE FINGERPRINT RECORDS NOW AND HEREAFTER FILED IN THE DEPARTMENT OF STATE POLICE AND FEDERAL BUREAU OF INVESTIGATION CRIMINAL HISTORY RECORDS DATABASES. THE FINGERPRINTING CHECK HAS RESULTED IN A DETERMINATION THAT THEY HAVE NOT BEEN CONVICTED OF COMMITTING ANY OF THE OFFENSES SET FORTH IN SUBDIVISION (C-1)(4) OF SECTION 6-508 OF THE ILLINOIS VEHICLE CODE; AND

(2) DEMONSTRATED PHYSICAL FITNESS TO OPERATE SCHOOL BUSES BY SUBMITTING THE RESULTS OF A MEDICAL EXAMINATION, INCLUDING TESTS FOR DRUG USE, TO A STATE REGULATORY AGENCY.”

**16** 625 ILCS 5/12-816(a) requires school districts to have a school bus pre- and post-trip inspection policy with the components as contained in this policy. See also 23 Ill.Admin.Code §1.510(i)(3) and 92 Ill.Admin.Code §458.1030. For a sample procedure, see 4:110-AP2, *Bus Driver Communication Devices; Pre-Trip and Post-Trip Inspection; Bus Driving Comments*. School districts that contract with a private sector school bus company must require the company to have a pre- and post-trip inspection policy that is equivalent to this section of the policy. 625 ILCS 5/12-816(b).

Each school bus must contain an operating two-way radio or cellular radio telecommunication device while the school bus driver is in possession of a school bus. 625 ILCS 5/12-813.1(e). “Cellular radio telecommunication device” means a device capable of sending or receiving telephone communications without an access line for service and which requires the operator to dial numbers manually; it does not include citizens band radios or citizens band radio hybrids. 625 ILCS 5/12-813.1(a). The two-way radio or cellular radio telecommunication device must be turned on and adjusted in a manner that would alert the driver of an incoming communication request. 625 ILCS 5/12-813.1(e). A school bus driver may not operate a school bus while using a cellular radio telecommunication device except in the following situations: (1) in an emergency situation to communicate with an emergency response operator; a hospital; a physician’s office or health clinic; an ambulance service; a fire department, fire district, or fire company; or a police department; (2) in the event of a “mechanical breakdown or other mechanical problem;” (3) to communicate with school authorities about bus operation or the safety of a passenger on the bus; and (4) when the bus is parked. 625 ILCS 5/12-813.1(c). However under no circumstances may the cellular radio telecommunication device be used for anything else including personal use. 625 ILCS 5/12-813.1(c)(2).

- LEGAL REF.: 20 U.S.C. §6312(c)(5)(B), Elementary and Secondary Education Act.  
42 U.S.C. §11431 et seq., McKinney-Vento Homeless Assistance Act.  
105 ILCS 5/10-22.22 and 5/29-1 et seq.  
105 ILCS 45/1-15 and /1-17.  
625 ILCS 5/1-148.3a-5, 5/1-182, 5/11-1414.1, 5/12-813.1, 5/12-815, 5/12-816,  
5/12-821, and 5/13-109.  
23 Ill.Admin.Code §§1.510 and 226.750; Part 120.  
92 Ill.Admin.Code Part 440.
- CROSS REF.: 4:170 (Safety), 5:100 (Staff Development Program), 5:120 (Employee Ethics;  
Conduct; and Conflict of Interest), 5:280 (Educational Support Personnel -  
Duties and Qualifications), 6:140 (Education of Homeless Children), 6:170 (Title  
I Programs), 7:220 (Bus Conduct)
- ADMIN. PROC.: 4:110-AP2 (Bus Driver Communication Devices; Pre-Trip and Post-Trip  
Inspection; Bus Driving Comments), 4:110-AP3 (School Bus Safety Rules),  
4:110-E (Emergency Medical Information for Students Having Special Needs or  
Medical Conditions Who Ride School Buses), 6:140-AP (Education of Homeless  
Children)

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## Operational Services

### Waiver of Student Fees 1

The Superintendent will recommend to the School Board a schedule of fees, if any, to be charged students for the use of textbooks, consumable materials, extracurricular activities, and other school student fees. Students must also pay for the loss of or damage to school books or other school-owned materials.

Fees for textbooks, other instructional materials, and driver education are waived for students who meet the eligibility criteria for a fee waiver as described in this policy.<sup>2</sup> In order that no student is denied educational services or academic credit due to the inability of parents/guardians to pay student fees, the Superintendent will recommend to the Board which additional fees, if any, the District will waive for students who meet the eligibility criteria for fee waiver.<sup>3</sup> Students receiving a fee waiver are not exempt from charges for lost and damaged books, locks, materials, supplies, and equipment. <sup>4</sup>

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<sup>1</sup> State law requires this subject matter be covered by policy and controls its content. 105 ILCS 5/10-20.13; 23 Ill.Admin.Code §1.245. State law provides that “[n]o discrimination or punishment of any kind, including the lowering of grades or exclusion from classes, may be exercised against a student whose parents or guardians are unable to purchase required textbooks or instructional materials or to pay required fees,” 105 ILCS 5/28-19.2. This policy concerns an area in which the law is unsettled (see footnotes 2 and 3).

<sup>2</sup> Districts must waive textbooks fees (105 ILCS 5/10-20.13) and driver education fees (105 ILCS 5/27-24.2) for students whose parents/guardians are unable to afford them. In order to effectuate the law’s intent, the term “textbook” should be interpreted broadly to include fees for instructional materials, laboratory fees, and workbooks. The enforceability of 105 ILCS 5/10-20.13(b) and ISBE regulations (23 Ill.Admin.Code §1.245) requiring districts to waive “other fees” is questionable because they are unfunded mandates. ISBE regulations on school fees may not be enforceable because the General Assembly failed to make necessary appropriations. See the Weekly Message from State Superintendent Robert Schiller, 8-15-03.

A school district may charge up to \$50 to students who participate in the driver education course. The fee may be increased up to \$250, provided the district completes the requirements in ~~S~~section 27-24.2. The fee must be waived for any student who is unable to pay. 105 ILCS 5/27-24.2; 23 Ill.Admin.Code §252.30.

Resident tuition fees are not permissible, but a board’s authority under 105 ILCS 5/10-20.13 to charge for textbooks and towel fees does not violate the Ill. Constitution’s provision guaranteeing free public education through the secondary level. Hamer v. Board of Ed., Sch. Dist. No. 109, 9 Ill.App.3d 663 (2nd Dist. 1973).

<sup>3</sup> 105 ILCS 5/10-20.13(b) was added in 1983 to require districts to waive “other fees” in addition to the costs of textbooks. P.A. 83-603. The General Assembly, however, never appropriated the necessary funds. Thus, the amendment may be unenforceable because it violated the State Mandates Act. 30 ILCS 805/1; see above footnote. Use the following alternative if the board wants to make a longstanding commitment to waive specific fees, amending the list of fees that will be waived as desired:

In order that no student is denied educational services or academic credit due to the inability of parents/guardians to pay fees, the following fees are also waived for students who meet the eligibility criteria for fee waiver: athletic participation fees, lock fees, towel fees, shop fees, laboratory fees, and registration fees.

Alternatively, a board may decide to waive all school student fees and substitute the following sentence for the first two sentences of this paragraph:

All school student fees as defined by the Ill. State Board of Education (ISBE) are waived for students who meet the eligibility criteria for a fee waiver contained in this policy.

~~<sup>4</sup> Districts in which a referendum was approved to provide students with free textbooks must have a policy on textbook care and preservation. 105 ILCS 5/28-17. The textbook loan-block grant program operated by the ISBE is found at 105 ILCS 5/48-172-3.155, amended by P.A. 101-227, eff. 7-1-20.~~

## Notification

The Superintendent shall ensure that applications for fee waivers are widely available and distributed according to State law and Ill. State Board of Education (ISBE) rule and that provisions for assisting parents/guardians in completing the application are available.

## Eligibility Criteria

A student shall be eligible for a fee waiver when the student currently lives in a household that meets the same income guidelines, with the same limits based on household size, that are used for the federal free meals program. <sup>5</sup>

The Superintendent or designee will give additional consideration where one or more of the following factors are present: <sup>6</sup>

- Illness in the family;
- Unusual expenses such as fire, flood, storm damage, etc.;
- Unemployment;
- Emergency situations;
- When one or more of the parents/guardians are involved in a work stoppage.

## Verification <sup>7</sup>

The Superintendent or designee shall establish a process for determining a student's eligibility for a waiver of fees in accordance with State law requirements. The Superintendent or designee may require family income verification at the time an individual applies for a fee waiver and anytime thereafter, but not more often than once every 60 calendar days. The Superintendent or designee shall not use any information from this or any independent verification process to determine free or reduced-price meal eligibility.

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<sup>5</sup> Required by 105 ILCS 5/10-20.13. The federal free meals program is found at 42 U.S.C. §1758; 7 C.F.R. Part 245. A board has a choice regarding verification – it may: (1) establish a process to determine eligibility for fee waivers that is completely independent of the federal free meals eligibility guidelines, or (2) tie the application for fee waivers to the free meals program and only ask for *verification* in accordance with the free or reduced-price meals program. See [www.isbe.net/Pages/School-Fee-Waivers.aspx](http://www.isbe.net/Pages/School-Fee-Waivers.aspx) for further explanation. This sample policy assumes that option #1 will be chosen but would allow for option #2 if the alternative is used in the *Verification* section. See f/n 7.

<sup>6</sup> This paragraph is optional and may be omitted.

<sup>7</sup> By using a process for determining eligibility for fee waivers that is completely separate from the process for determining eligibility for free meals, a district may require income verification at the time an application is submitted for a fee waiver and may do so thereafter, but not more than once every 60 calendar days. 105 ILCS 5/10-20.13; 23 Ill.Admin.Code §1.245(d). Income verification may include such things as payroll stubs, tax returns, or evidence of receipt of food stamps or Temporary Assistance for Needy Families.

An application for fee waivers that is completely separate from the application for free lunches cannot ask whether a student lives in a household that meets free lunch eligibility guidelines and request income verification with reference to *free lunch* eligibility guidelines. In the completely separate fee waiver application, the district should supply its own income guidelines with the same limits based on household size that are used for the federal meals program and have the parents indicate if they meet the income guidelines used to determine eligibility for *fee waivers*. The independent fee waiver income guidelines should not be any higher than those for eligibility for free lunch (or reduced-price, if the district voluntarily provides fee waivers for those students who qualify), but the district should not reference or indicate that the guidelines are for the free meals program. In this completely separate application process for fee waivers, the district may ask for verification, but cannot use any information it receives for fee waiver verification though this process for determining eligibility for free or reduced meals.

Alternatively, a board should replace both paragraphs in this section with the following alternative if it wants to use eligibility guidelines for free meals as the basis for waiving school fees:

The Superintendent or designee must follow the verification requirements of 7 C.F.R. §245.6a when using the free lunch or breakfast eligibility guidelines pursuant to The National School Lunch Act as the basis for waiver of the student's fee(s).

If a student receiving a fee waiver is found to be no longer eligible during the school year, the Superintendent or designee shall notify the student's parent/guardian and charge the student a prorated amount based upon the number of school days remaining in the school year.

Determination and Appeal **8**

Within 30 calendar days after the receipt of a waiver request, the Superintendent or designee shall mail a notice to the parent/guardian whenever a waiver request is denied. The denial notice shall include: (1) the reason for the denial, (2) the process and timelines for making an appeal, and (3) a statement that the parent/guardian may reapply for a waiver any time during the school year if circumstances change. If the denial is appealed, the District shall follow the procedures for the resolution of appeals as provided in the ISBE rule on waiver of fees.

LEGAL REF.: 105 ILCS 5/10-20.13, 5/10-22.25, 5/27-24.2, and 5/28-19.2.  
23 Ill.Admin.Code §1.245 [may contain unenforceable provisions].

CROSS REF.: 4:130 (Free and Reduced-Price Food Services), 6:220 (Bring Your Own Technology (BYOT) Program; Responsible Use and Conduct)

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**8** An ISBE rule requires that the policy state that the district will mail a copy of a denial notice within 30 calendar days after the receipt of the waiver request. 23 Ill.Admin.Code §1.245(c)(3). This rule also specifies timelines and procedures, including a requirement that “the person who decides the appeal shall not be the person who initially denied the fee waiver or a subordinate of this person.” Thus, a board may be required to hear an appeal if the superintendent made the initial decision to deny a fee waiver. The board’s participation is avoided by the principal making initial fee waiver decisions and the superintendent or other main office administrator deciding the appeals.

## Operational Services

### Facility Management and Building Programs 1

The Superintendent shall manage the District's facilities and grounds as well as facility construction and building programs in accordance with the law, the standards set forth in this policy, and other applicable School Board policies. The Superintendent or designee shall facilitate: (1) inspections of schools by the Regional Superintendent and State Fire Marshal or designee, (2) review of plans and specifications for future construction or alterations of a school if requested by the relevant municipality, county (if applicable), or fire protection district, and (3) compliance with the 10-year safety survey process required by the School Code. <sup>2</sup>

### Standards for Managing Buildings and Grounds

All District buildings and grounds shall be adequately maintained in order to provide an appropriate, safe, and energy efficient physical environment for learning and teaching. The Superintendent or designee shall provide the Board with periodic reports on maintenance data and projected maintenance needs that include cost analysis. Prior Board approval is needed for all renovations or permanent alterations to buildings or grounds when the total cost will exceed \$12,500, including the

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<sup>1</sup> Each district with a school having 50 or more students must have a green school cleaning policy. Green Cleaning School Act, 105 ILCS 140/. See policy 4:160, *Environmental Quality of Buildings and Grounds*, which fulfills the requirement to have a procedure on compliance with the Chemical Safety Acts. 105 ILCS 5/10-20.49. Many other State and federal laws control facility management and building programs. Good subjects for administrative procedures include management of custodial services, security, and green cleaning, among others.

The federal rules implementing the Americans with Disabilities Act of 1990 (ADA),<sup>2</sup> (42 U.S.C. §12101 *et seq.*) prohibit discrimination on the basis of disability in services and facilities. 28 C.F.R. Parts 35 and 36. The 2010 ADA Standards for Accessible Design (28 C.F.R. Part 36, Appendix) are available from a link on the ADA home page, [www.ada.gov/](http://www.ada.gov/). Consult the board attorney about how these standards apply to alterations and new construction.

The Prevailing Wage Act is generally applicable to all construction projects. 820 ILCS 130/, amended by P.A. 100-1177, *eff. 6-1-19*. It requires, among other things, that: (1) all workers on a public works project be paid no less than the prevailing hourly rate (820 ILCS 130/1); (2) the district specify in all public works contracts that the prevailing rate must be paid (820 ILCS 130/4(e), amended by P.A. 100-1177, *eff. 6-1-19*); and (3) until such time as the Ill. Dept. of Labor activates an electronic database for certified payrolls, all contractors must submit certain employment records to the district, and the district must keep these records as required by law (820 ILCS 130/5, amended by P.A. 100-1177, *eff. 6-1-19*).

105 ILCS 5/10-20.63, added by P.A. 100-163, requires school districts to make feminine hygiene products (defined as tampons and sanitary napkins for use in connection with the menstrual cycle) available, at no cost to students, in the bathrooms of school buildings serving students in grades 6 through 12. **Note:** The statute does not delineate between types of bathrooms (student, staff, girls, boys, unisex, etc.). Consult with the board attorney about implementing this law.

410 ILCS 35/25, added by P.A. 101-165, *eff. 1-1-20*, requires schools to identify all single-occupancy restrooms as all-gender and designated for use by no more than one person at a time or for family or assisted use. *Eff. 1-1-20*, all single-occupancy restrooms must have an exterior sign that marks it as a restroom and does not indicate any specific gender, e.g., signage which reads *all genders*. *Id.* at 35/20 and 35/25. It is unclear if this law will apply only to those restrooms made available to members of the public in schools, or if it will also include facilities designated as employee-only. The Ill. Dept. of Public Health enforces this requirement and may issue regulations to address this issue.

<sup>2</sup> 105 ILCS 5/2-3.12, 105 ILCS 5/3-14.20, and 5/3-14.21, *amended by P.A. 100-465*.

Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center."

105 ILCS 5/2-3.12 and 23 Ill.Admin.Code Part 180 contain the school building code and Health/Life and Safety Code for Public Schools (HLS Code), respectively. The board must hire a licensed architect or engineer to conduct a decennial inspection of its school buildings and produce a ten-year safety survey report, which is submitted to the Regional Superintendent (ROE) or Intermediate Service Center (ISC) and the State Superintendent for approval. The board must also report to the ROE or ISC annually on its completion of the report recommendations to comply with the HLS Code. See the Health Life Safety Handbook at [www.isbe.net/Pages/Health-and-Life-Safety.aspx](http://www.isbe.net/Pages/Health-and-Life-Safety.aspx) for more information about the safety survey process.

cost equivalent of staff time.<sup>3</sup> This policy is not intended to discourage efforts to improve the appearance of buildings or grounds that are consistent with the designated use of those buildings and grounds.

#### Standards for Green Cleaning <sup>4</sup>

For each District school with 50 or more students, the Superintendent or designee shall establish and supervise a green cleaning program that complies with the guidelines established by the Illinois Green Government Coordinating Council.

#### Standards for Facility Construction and Building Programs <sup>5</sup>

As appropriate, the Board will authorize a comprehensive study to determine the need for facility construction and expansion. On an annual basis, the Superintendent or designee shall provide the Board with projected facility needs, enrollment trends, and other data impacting facility use. Board approval is needed for all new facility construction and expansion.

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<sup>3</sup>This provision is optional and the amount may be changed. The \$12,500 spending limit is one-half of the bidding threshold for purchases or contracts. 105 ILCS 5/10-20.21. This provision's intent is to ensure that the board is kept informed about significant renovations and permanent alterations. A board should discuss this provision with its superintendent before including it in the policy.

<sup>4</sup> Required by the Green Cleaning School Act (105 ILCS 140/) and Green Cleaning for Elementary and Secondary Schools (23 Ill.Admin.Code Part 2800). The Ill. Green Government Coordinating Council established *Guidelines and Specifications for the Green Cleaning Schools Act* which state: "While not mandatory, schools should implement the practices set forth in the Recommendations section of these guidelines where applicable and appropriate." See *Guidelines and Specifications for the Green Cleaning Schools Act* at: <http://www.newsonline.com/wp-content/uploads/2014/05/Illinois-GreenCleanFinalGuidelines.pdf> <https://www2.illinois.gov/sites/green/Pages/GreenCleaning.aspx>.

<sup>5</sup> The inclusion and identification of the facility goals listed in the second paragraph are at the board's discretion.

After 1-1-15, all "new school building construction" must include a storm shelter that meets or exceeds the ICC/NSSA Standard for the Design and Construction of Storm Shelters (ICC-500) published jointly by the International Code Council and the National Storm Shelter Association. 105 ILCS 5/2-3.12(e-5); 23 Ill.Admin.Code §180.60(b)(3). Any facility project for which the design contract is executed after 7-1-16 must meet standards of the 2015 International Building Code and its subcodes. 23 Ill.Admin.Code 180.60(a).

The Ill. Environmental Barriers Act (IEBA) (410 ILCS 25/) and the Ill. Accessibility Code (IAC) (71 Ill.Admin.Code Part 400) ensure that "the built environment in the State of Illinois is designed, constructed, and altered to be accessible to and usable by all, including individuals with disabilities." 71 Ill.Admin.Code §400.110(a). **Note:** Press boxes constructed on school property do not have to comply with the IAC if the press boxes are in bleachers that have points of entry at only one level, and the aggregate area of the press box is no more than 500 square feet. 105 ILCS 5/10-20.51; 23 Ill.Admin.Code 180.60(b)(4).

A building intended for classroom or instructional use may be constructed only after voter approval at a referendum unless the building is: (1) leased by the district, or (2) purchased with funds from the sale or disposition of other buildings or structures, or with funds received as a grant under the School Construction Law or as a gift, provided that no funds (other than lease payments) are derived from the district's bonded indebtedness or its tax levy. 105 ILCS 5/10-22.36, amended by P.A. 101-455.

A district may levy a tax for "fire prevention, safety, energy conservation, disabled accessibility, school security, and specified repair purposes." 105 ILCS 5/17-2.11. An expedited process may be available in emergency situations. 105 ILCS 5/17-2.11(a). A district may levy a tax or issue bonds if it determines: (1) it is necessary for school security purposes and the protection and safety of students and staff to hire a school resource officer, or that personnel costs for school counselors, mental health experts, or school resources officers are necessary; and (2) it does not need funds for any other purpose set forth in 105 ILCS 5/17-2.11(d), amended by P.A. 101-455. A board may, subject to certain notice requirements, transfer surplus life safety taxes and interest earnings on them to the Operations and Maintenance Fund for building repair work until June 30, 2020. 105 ILCS 5/17-2.11(j), amended by P.A. 100-465.

The Green Buildings Act requires all new State-funded building construction and major renovation projects to meet specified environmental requirements. 20 ILCS 3130/. Waivers may be granted by the Capital Development Board in certain situations. 20 ILCS 3130/15(e). For environmental impact laws, see policy 4:160, *Environmental Quality of Buildings and Grounds*.

When making decisions pertaining to design and construction of school facilities, the Board will confer with members of the staff and community, the Ill. State Board of Education, and educational and architectural consultants, as it deems appropriate. The Board's facility goals are to:

1. Integrate facilities planning with other aspects of planning and goal-setting.
2. Base educational specifications for school buildings on identifiable student needs.
3. Design buildings for sufficient flexibility to permit new or modified programs.
4. Design buildings for maximum potential for community use.
5. Meet or exceed all safety requirements.
6. Meet requirements on the accessibility of school facilities to disabled persons as specified in State and federal law.
7. Provide for low maintenance costs, energy efficiency, and minimal environmental impact.

#### Naming Buildings and Facilities <sup>6</sup>

Recognizing that the name for a school building, facility, or ground or field reflects on its public image, the Board's primary consideration will be to select a name that enhances the credibility and stature of the school or facility. Any request to name or rename an existing facility should be submitted to the Board.<sup>7</sup> When a facility is to be named or renamed, the Board President will appoint a special committee to consider nominations and make a recommendation, along with supporting rationale, to the Board. The Board will make the final selection. The Superintendent or designee may name a room or designate some area on a school's property in honor of an individual or group that has performed outstanding service to the school without using the process in this policy.

LEGAL REF.: 42 U.S.C. §12101 et seq., Americans with Disabilities Act of 1990, implemented by 28 C.F.R. Parts 35 and 36.  
20 ILCS 3130/, Green Buildings Act.  
105 ILCS 5/2-3.12, 5/10-20.49, 5/10-22.36, 5/10-20.63, and 5/17-2.11.  
105 ILCS 140/, Green Cleaning Schools Act.  
105 ILCS 230/, School Construction Law.  
410 ILCS 25/, Environmental Barriers Act.  
[410 ILCS 35/25, Equitable Restrooms Act.](#)  
820 ILCS 130/, Prevailing Wage Act.  
23 Ill.Admin.Code Part 151, School Construction Program; Part 180, Health/Life Safety Code for Public Schools; and Part 2800, Green Cleaning for Elementary and Secondary Schools.  
71 Ill.Admin.Code Part 400, Ill. Accessibility Code.

CROSS REF.: 2:150 (Committees), 2:170 (Procurement of Architectural, Engineering, and Land Surveying Services), 4:60 (Purchases and Contracts), 8:70 (Accommodating Individuals with Disabilities)

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<sup>6</sup> This section is optional and its contents are at the board's discretion.

<sup>7</sup> The board may want to include criteria for the committee, in which case the following is an option:

1. The committee will encourage input from the community, staff members, and students.
2. Consideration will be given to names of local communities, neighborhoods, streets, landmarks, historical considerations, and individuals who have made a contribution to the District, community, State, or nation.
3. The name will not duplicate or cause confusion with the names of existing facilities in the District.

## Operational Services

### Safety 1

#### Safety and Security

All District operations, including the education program, shall be conducted in a manner that will promote the safety and security of everyone on District property or at a District event.<sup>2</sup> The Superintendent or designee shall develop, implement, and maintain a comprehensive safety and security plan that includes, without limitation:

1. An emergency operations and crisis response plan(s) addressing prevention, preparation, response, and recovery for each school; <sup>3</sup>
2. Provisions for a coordinated effort with local law enforcement and fire officials, emergency medical services personnel, and the Board Attorney;
3. A school safety drill plan;
4. Instruction in safe bus riding practices;<sup>4</sup> and
5. A clear, rapid, factual, and coordinated system of internal and external communication.

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<sup>1</sup> State law requires a policy on several topics in this policy and otherwise controls this policy's content. Topics previously assigned to this code number were moved in May 2014 and placed in 4:100, *Insurance Management* and 4:175, *Convicted Child Sex Offender; Screening; Notifications*.

Grants may be available from the Ill. State Board of Education (ISBE) to support school security improvements, including professional development, safety-related upgrades to school buildings, equipment, and facilities. 105 ILCS 5/2-3.176, added by P.A. 101-413, eff. 1-1-20.

<sup>2</sup> This simple end statement should be discussed and altered accordingly before board adoption. Ask: what effect or impact will this statement have on the students and the community?

<sup>3</sup> The term *emergency operations and crisis response plan* is used because federal agencies refer to school *emergency operations plans* and the School Safety Drill Act (105 ILCS 128/) refers to *emergency and crisis response plans*.

See administrative procedure 4:170-AP1, *Comprehensive Safety and Security Plan*. This procedure follows the recommendations in the *Guide for Developing High-Quality School Emergency Operations Plans*, produced by a collaboration of federal agencies in June 2013 at: [www.rems.ed.gov/docs/REMS\\_K-12\\_Guide\\_508.pdf](http://www.rems.ed.gov/docs/REMS_K-12_Guide_508.pdf). The *Guide* informs schools what they *need* to do, not *what* to do. It recommends a process for developing, implementing, and continually refining a school emergency operations plan as well as a discussion of its form, function, and content.

The Ill. State Board of Education (ISBE) maintains a comprehensive website on school emergency and crisis response planning in compliance with the School Safety Drill Act and Joint Rules of the Office of the State Fire Marshal and ISBE (29 Ill.Admin.Code Part 1500), at [www.isbe.net/Pages/School-Emergency-and-Crisis-Response-Plan-Guide.aspx](http://www.isbe.net/Pages/School-Emergency-and-Crisis-Response-Plan-Guide.aspx). ISBE's website includes a *Sample School Emergency Operations Plan* which aligns with the federal *Guide for Developing High-Quality School Emergency Operations Plans*.

105 ILCS 128/45, added by P.A. 101-455, requires school districts to implement a threat assessment procedure by 12-6-19, and to establish a threat assessment team by 2-19-20. The threat assessment procedure may be part of a board policy on targeted school violence prevention that includes the creation of a threat assessment team. For more discussion, see policy 4:190, *Targeted School Violence Prevention Program*.

105 ILCS 5/10-20.69 (final citation pending), added by P.A. 101-548, allows school districts to install a door security locking means on a door of a school building to prevent unwanted entry through the door only if the door security locking means is used: (1) by a trained school district employee; (2) during an emergency that threatens the health and safety of students and employees or during an active shooter drill; and (3) when local law enforcement officials and the local fire department have been notified of its installation prior to its use. *Id.*

<sup>4</sup> Required by 105 ILCS 128/20(b) and 105 ILCS 5/10-20.14(c) for all students. See 4:110-AP3, *School Bus Safety Rules*.

In the event of an emergency that threatens the safety of any person or property, students and staff are encouraged to follow the best practices discussed for their building regarding the use of any available cellular telephones. <sup>5</sup>

### School Safety Drill Plan <sup>6</sup>

During every academic year, each school building that houses school children shall conduct, at a minimum, each of the following in accordance with the School Safety Drill Act (105 ILCS 128/):

1. Three school evacuation drills to address and prepare students and school personnel for fire incidents. One of these three drills shall require the participation of the local fire department or district.
2. One bus evacuation drill.
3. One severe weather and shelter-in-place drill to address and prepare students and school personnel for possible tornado incidents.
4. One law enforcement drill to address a school shooting incident and to evaluate the preparedness of school personnel and students. This drill shall occur no later than 90 days after the first day of school of each year, and shall require the participation of all school personnel and students present at school at the time of the drill, except for those exempted by administrators or school support personnel. <sup>7</sup>

### Annual Review

The Board or its designee will annually review each school building's emergency operations and crisis response plan(s), protocols, and procedures, as well as each building's compliance with the school safety drill plan. This annual review shall be in accordance with the School Safety Drill Act

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<sup>5</sup> 105 ILCS 5/10-20.28. Consider discussing with local law enforcement what its preference would be and encourage staff and students to follow the recommendation. A wave of 911 cell phone calls can jam phone lines. Student use of cell phones is addressed in 7:190, *Student Behavior*.

625 ILCS 5/12-610.1(e) prohibits wireless telephone use at any time while operating a motor vehicle on a roadway in a school speed zone except for: (1) highway construction or maintenance workers within their work zones; (2) any use for emergency purposes; (3) law enforcement officers or emergency responders performing their duties; (4) a person using a wireless telephone in voice-operated mode with or without use of a headset; (5) a person with technology that uses a single button to initiate or terminate a voice communication, e.g., *HandsFreeLink®*; and (6) a person using an electronic communication device solely to report an emergency and for continued communication with emergency personnel. 625 ILCS 5/12-813.1 limits cell phone use by school bus drivers; see policy 4:110, *Transportation*.

<sup>6</sup> Each of the listed drills is required by the School Safety Drill Act. Each drill's requirements are comprehensively covered in 4:170-AP1, *Comprehensive Safety and Security Plan*. For information about documenting minimum compliance with the School Safety Drill Act, see [www.isbe.net/Pages/School-Emergency-and-Crisis-Response-Plan-Guide.aspx](http://www.isbe.net/Pages/School-Emergency-and-Crisis-Response-Plan-Guide.aspx).

105 ILCS 5/2-3.12(f) authorizes the Ill. State Fire Marshal or a qualified fire official to whom the Ill. State Fire Marshal has delegated his or her authority to conduct an annual fire safety inspection of each school building, provided the inspection is coordinated with the regional superintendent. See also 105 ILCS 5/3-14.21(c) and 23 Ill.Admin.Code §180.300(b). To effectively implement this law and ensure the education of students in the district is not disturbed, school officials should discuss with the Ill. State Fire Marshal and regional superintendent whether written notice may be provided to the principal requesting to schedule a mutually agreed upon time.

<sup>7</sup> 105 ILCS 128/20(c), amended by P.A. 100-996, ~~eff. 1-1-19~~.

(105 ILCS 128/) and the Joint Rules of the Office of the State Fire Marshal and the Ill. State Board of Education (ISBE). 29 Ill.Admin.Code Part 1500. 8

### Automated External Defibrillator (AED) 9

The Superintendent or designee shall implement a written plan for responding to medical emergencies at the District's physical fitness facilities in accordance with the Fitness Facility Medical Emergency Preparedness Act and shall file a copy of the plan with the Ill. Dept. of Public Health (IDPH). The plan shall provide for at least one automated external defibrillator (AED) to be available at every physical fitness facility on the premises according to State law requirements.

The District shall have an AED on site as well as a trained AED user: (1) on staff during staffed business hours; and (2) available during activities or events sponsored and conducted or supervised by the District.<sup>10</sup> The Superintendent or designee shall ensure that every AED on the District's premises is properly tested and maintained in accordance with rules developed by the IDPH.<sup>11</sup> This policy does not create an obligation to use an AED.

### Carbon Monoxide Alarms 12

The Superintendent or designee shall implement a plan with the District's local fire officials to:

1. Determine which school buildings to equip with approved *carbon monoxide alarms* or *carbon monoxide detectors*,

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<sup>8</sup> The School Safety Drill Act requires each school board or its designee to conduct one annual meeting at which it reviews each building's emergency and crisis response plan, protocols, and procedures, including procedures regarding the school district's threat assessment team, and each building's compliance with the school safety drill plan. 105 ILCS 128/25, amended by P.A. 101-455, and 128/30; 29 Ill.Admin.Code Part 1500. If the board uses a designee, it should preferably be someone other than the District Safety Coordinator to assure an unbiased audit. The statute contains detailed requirements. The board or its designee must: (1) complete a one-page report certifying that the review took place, among other things; (2) send a copy of the report to each participating party; and (3) send a copy of the report to the appropriate Regional Superintendent. 105 ILCS 128/25(c), (d). ISBE's website contains a suggested annual review checklist and a report form to document compliance at: [www.isbe.net/Pages/School-Emergency-and-Crisis-Response-Plan-Guide.aspx](http://www.isbe.net/Pages/School-Emergency-and-Crisis-Response-Plan-Guide.aspx).

<sup>9</sup> Each indoor and outdoor physical fitness facility serving at least 100 individuals must "adopt and implement a written plan for responding to medical emergencies that occur at the facility during the time that the facility is open for use by its members or by the public." 210 ILCS 74/10(a). The facility must file the plan with the Ill. Dept. of Public Health (IDPH). Id. In addition, each indoor facility must have at least one AED on the premises, and each outdoor facility must house an AED in a building, if any, that is within 300 feet of the outdoor facility. 210 ILCS 74/15. See the statute and administrative rules for the other numerous mandates: 210 ILCS 74/, Physical Fitness Facility Medical Emergency Preparedness Act; 77 Ill.Admin.Code Part 527. Also see 4:170-AP6, *Plan for Responding to a Medical Emergency at a Physical Fitness Facility with an AED*.

<sup>10</sup> 77 Ill.Admin.Code §527.600(d), (f).

<sup>11</sup> 210 ILCS 74/15(c); 77 Ill.Admin.Code §527.700.

<sup>12</sup> 105 ILCS 5/10-20.57, ~~added by P.A. 99-470 and amended by P.A. 99-642~~. *Carbon monoxide detector* and *detector* mean a device having a sensor that responds to carbon monoxide gas and that is connected to an alarm control unit and approved in accordance with rules adopted by the Ill. State Fire Marshal. 105 ILCS 5/10-20.57(a). *Approved carbon monoxide alarm* or *alarm* means a carbon monoxide alarm that complies with all the requirements of the rules and regulations of the Ill. State Fire Marshal, bears the label of a nationally recognized testing laboratory, and complies with the most recent standards of the Underwriters Laboratories or the Canadian Standard Association. 430 ILCS 135/5.

**Consult both the board attorney and the local fire officials about whether a school building is exempt from this law.** Remove this subhead if the board attorney determines that every building across the entire school district is exempt. The law applies to school buildings that have or are close to any *sources of carbon monoxide*; however, it does not specifically define what that means. 430 ILCS 135/20 defines exemptions for residential units and may provide guidance on the exemption for schools. The law also fails to define *carbon monoxide emitting device*, which triggers the placement point in a school building for a carbon monoxide alarm or carbon monoxide detector.

2. Locate the required carbon monoxide alarms or carbon monoxide detectors within 20 feet of a carbon monoxide emitting device, and
3. Incorporate carbon monoxide alarm or detector activation procedures into each school building that requires a carbon monoxide alarm or detector. The Superintendent or designee shall ensure each school building annually reviews these procedures.

### Soccer Goal Safety 13

The Superintendent or designee shall implement the Movable Soccer Goal Safety Act in accordance with the guidance published by the IDPH. Implementation of the Act shall be directed toward improving the safety of movable soccer goals by requiring that they be properly anchored.

### Unsafe School Choice Option 14

The unsafe school choice option allows students to transfer to another District school or to a public charter school within the District. The unsafe school choice option is available to:

1. All students attending a persistently dangerous school, as defined by State law and identified by the ISBE.
2. Any student who is a victim of a violent criminal offense, as defined by 725 ILCS 120/3, that occurred on school grounds during regular school hours or during a school-sponsored event.

The Superintendent or designee shall develop procedures to implement the unsafe school choice option.

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**13** Include this section **only if** the school district owns and controls a movable soccer goal Movable Soccer Goal Safety Act, a/k/a *Zach's Law*, 430 ILCS 145/. The Act requires: (1) organizations that own and control a movable soccer goal to create a soccer goal safety and education policy that outlines how the organization will specifically address the safety issues associated with movable soccer goals; and (2) the IDPH to provide technical assistance materials. [430 ILCS 145/10, 20](http://dph.illinois.gov/topics-services/prevention-wellness/injury-violence-prevention/soccer-goal-safety). See <http://dph.illinois.gov/topics-services/prevention-wellness/injury-violence-prevention/soccer-goal-safety> [www.dph.illinois.gov/topics-services/prevention-wellness/injury-violence-prevention/soccer-goal-safety](http://www.dph.illinois.gov/topics-services/prevention-wellness/injury-violence-prevention/soccer-goal-safety).

**14** This topic must be covered in board policy. 105 ILCS 5/10-21.3a. See also 20 U.S.C. §7912. ISBE maintains a list of persistently dangerous schools. Districts having only one school may substitute the following for this paragraph:

The unsafe school choice option provided in State law permits students to transfer to another school within the District in certain situations. This transfer option is unavailable in this District because the District has only one school or attendance center. A student, who would otherwise have qualified for the choice option, or such a student's parent/guardian, may request special accommodations from the Superintendent or designee.

Districts with each grade in only one attendance center may substitute the following for this paragraph:

The unsafe school choice option provided in State law permits students to transfer to another school within the District in certain situations. This transfer option is unavailable in this District because each grade is in only one attendance center. A student, who would otherwise have qualified for the choice option, or such a student's parent/guardian, may request special accommodations from the Superintendent or designee.

## Lead Testing in Water 15

The Superintendent or designee shall implement testing for lead in each source of drinking water in school buildings in accordance with the Ill. Plumbing License Law and guidance published by the IDPH.<sup>16</sup> The Superintendent or designee shall notify parent(s)/guardian(s) about the sampling results from their children's respective school buildings. <sup>17</sup>

## Emergency Closing

The Superintendent is authorized to close school(s) in the event of hazardous weather or other emergency that threatens the safety of students, staff members, or school property. <sup>18</sup>

LEGAL REF.: 105 ILCS 5/10-20.2, 5/10-20.57, 5/18-12, and 5/18-12.5.  
105 ILCS 128/, School Safety Drill Act, implemented by 29 Ill.Admin.Code Part 1500.  
210 ILCS 74/, Physical Fitness Facility Medical Emergency Preparedness Act.  
225 ILCS 320/35.5, Ill. Plumbing License Law.

CROSS REF.: 4:110 (Transportation), 4:175 (Convicted Child Sex Offender; Screening; Notifications), 4:180 (Pandemic Preparedness), 5:30 (Hiring Process and Criteria), 8:30 (Visitors to and Conduct on School Property), 8:100 (Relations with Other Organizations and Agencies)

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<sup>15</sup> 225 ILCS 320/35.5, added by P.A. 99-922 and amended by P.A. 100-103. Requires that each source of potable water in school buildings constructed on or before 1-1-00, which may be occupied by more than 10 children in grades pre-K through 5, be tested for lead. Testing for buildings constructed prior to 1-1-87 must have been conducted by 12-31-17. 225 ILCS 320/35.5(c)(4). Testing for buildings constructed between 1-2-87 and 1-1-00 must have been conducted by 12-31-18. Id. By 6-30-19, the IDPH will was to determine whether it is necessary and appropriate to require testing for buildings constructed after 1-1-00; however, no determination was made as of the publication of PRESS Issue 102 (Oct. 2019). 225 ILCS 320/35.5(d).

Boards may, by resolution, use excess taxes levied for fire prevention, safety, energy conservation, and school security purposes for sampling lead in drinking water in schools and for repair and mitigation due to lead levels in the drinking water supply. 105 ILCS 5/17-2.11(j)(1), amended by P.A. 99-922.

<sup>16</sup> 225 ILCS 320/35.5(e) requires the IDPH to post on its website guidance on mitigation actions for lead in drinking water, and ongoing water management practices, in schools. On 5-9-17, the IDPH posted *Mitigation Strategies for Lead Found in School Drinking Water* at: [www.dph.illinois.gov/sites/default/files/publications/school-lead-mitigation-strategies-050917.pdf](http://www.dph.illinois.gov/sites/default/files/publications/school-lead-mitigation-strategies-050917.pdf). **Note:** Page 2 of *Mitigation Strategies* states "IDPH is requiring the mitigation strategies and requirements contained in this guidance document to be followed for all plumbing fixtures identified with any level of lead," however the statute does not authorize the IDPH to impose such additional requirements.

<sup>17</sup> If any samples taken in the school exceed five parts per billion, a district must provide individual notification of sampling results, via written or electronic communication, to parent(s)/guardian(s) of all enrolled students that must include: (1) the corresponding sampling location within the school building; and (2) the U.S. Environmental Protection Agency's website for information about lead in drinking water at: [www.epa.gov/ground-water-and-drinking-water/basic-information-about-lead-drinking-water](http://www.epa.gov/ground-water-and-drinking-water/basic-information-about-lead-drinking-water). 225 ILCS 320/35.5(c)(3). If any samples taken in the school are at or below five parts per billion, notification may be made in the same manner or by posting on the school's website. Id.

<sup>18</sup> When a school is closed or its starting time is delayed due to adverse weather conditions or a health or safety threat, the district may count a partial day of attendance as a full day for State aid purposes, provided: (1) at least one hour of instruction was provided or the normal start time was delayed; and (2) the superintendent provides the Regional Superintendent or the Suburban Cook County Intermediate Service Center, whichever is appropriate, with a written report in support of the partial day within 30 days. 105 ILCS 5/18-12, amended by P.A. 100-863.

105 ILCS 5/18-12.5 governs claiming State aid if a district closes one or more schools, but not all schools, during the public health emergency, as determined by ISBE in consultation with the IDPH.

## Operational Services

### Convicted Child Sex Offender; Screening; Notifications 1

#### Persons Prohibited on School Property without Prior Permission

State law prohibits a child sex offender from being present on school property or loitering within 500 feet of school property when persons under the age of 18 are present, unless the offender meets either of the following two exceptions: 2

1. The offender is a parent/guardian of a student attending the school and has notified the Building Principal of his or her presence at the school for the purpose of: (i) attending a conference with school personnel to discuss the progress of his or her child academically or socially, (ii) participating in child review conferences in which evaluation and placement decisions may be made with respect to his or her child regarding special education services, or (iii) attending conferences to discuss other student issues concerning his or her child such as retention and promotion; or
2. The offender received permission to be present from the School Board, Superintendent, or Superintendent's designee. If permission is granted, the Superintendent or Board President shall provide the details of the offender's upcoming visit to the Building Principal.

In all cases, the Superintendent or designee shall supervise a child sex offender whenever the offender is in a child's vicinity.<sup>3</sup> If a student is a sex offender, the Superintendent or designee shall develop guidelines for managing his or her presence in school. 4

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<sup>1</sup> The topic covered by this policy was previously a part of 4:170, *Safety*.

<sup>2</sup> ~~The Criminal Code, 720 ILCS 5/11-9.3,~~ contains these requirements concerning a child sex offender's presence on school property. An Illinois federal court denied a father's request to enjoin a school's policy that prohibited him, as a child sex offender, from attending his children's school activities in *Doe v. Paris Union School Dist.*, ~~No. 05-2249,~~ 2006 WL 44304 (C.D.Ill., 2006). -See also 8:30, *Visitors to and Conduct on School Property*.

<sup>3</sup> 720 ILCS 5/11-9.3(a). The statute assigns the child sex offender the "duty to remain under the direct supervision of a school official." In order to ensure this happens and to protect students, the sample policy requires the superintendent or designee to supervise a child sex offender whenever the offender is in a child's vicinity. See also 8:30, *Visitors to and Conduct on School Property*.

<sup>4</sup> Aside from rumor and notoriety, there are three ways that school officials may learn that an enrolled student is a sex offender or a violent offender against youth:

1. By being informed by the student or the student's parent/guardian.
2. Through the Illinois Dept. of State Police (ISP) Sex Offender Registry, [www.isp.state.il.us/sor](http://www.isp.state.il.us/sor). A juvenile sex offender is listed there after the juvenile becomes 17 years old and will be listed for the remaining registration period. (730 ILCS 150/2). The database is updated daily and allows searching by name, city, county, zip code, compliance status, or any combination thereof.
3. By receiving notification from a law enforcement agency that a juvenile sex offender or juvenile violent offender against youth is enrolled in a school. The law enforcement agency having jurisdiction to register the juvenile must provide a copy of the offender registration form to the building principal and guidance counselor designated by the principal; the school must keep the registration form separately from the student's school records. (730 ILCS 152/121(b)).

If a sex offender is enrolled in a school, guidelines for managing the sex offender's presence in school should be prepared. The components will depend on the situation but generally should include asking the parent/guardian of a sex offender below the age of 17 years for permission to share the information with certain staff for the protection of both the student and other students. In addition, the guidelines should include a supervision plan providing supervision for the student during all aspects of his or her school day. Finally, the guidelines must respect the privacy of juvenile records and comply with the Ill. School Student Records Act, (105 ILCS 10/). The board attorney should be consulted.

## Screening <sup>5</sup>

The Superintendent or designee shall perform fingerprint-based criminal history records information checks and/or screenings required by State law or Board policy for employees; student teachers; students doing field or clinical experience other than student teaching; contractors' employees who have direct, daily contact with one or more children; and resource persons and volunteers. He or she shall take appropriate action based on the result of any criminal background check and/or screen. <sup>6</sup>

## Notification to Parents/Guardians

The Superintendent shall develop procedures for the distribution and use of information from law enforcement officials under the Sex Offender Community Notification Law and the Murderer and Violent Offender Against Youth Community Notification Law.<sup>7</sup> The Superintendent or designee shall serve as the District contact person for purposes of these laws. The Superintendent and Building Principal shall manage a process for schools to notify the parents/guardians during school registration that information about sex offenders is available to the public as provided in the Sex Offender

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<sup>5</sup> The law is silent with regard to *screening* volunteers and individuals in the proximity of a school. Screening and *fingerprint-based criminal history records checks* are different. See procedure 4:175-AP1, *Criminal Offender Notification Laws; Screening*, for further distinctions.

The School Code requires school districts to perform a *fingerprint-based criminal history records check* through (a) the ~~Illinois State Police~~ (ISP) for an individual's Criminal History Records Information (CHRI) and (b) the Federal Bureau of Investigation's national crime information databases, (105 ILCS 5/10-21.9(a), (a-5) and (a-6), amended by P.A. 101-531).

Screening only involves checking an individual's name and address against publicly-available databases and information provided for local law enforcement like the: (1) Illinois Sex Offender Registry, [www.isp.state.il.us/sor/](http://www.isp.state.il.us/sor/), and (2) the Violent Offender Against Youth Registry maintained by the ~~ISP State Police~~, [www.isp.state.il.us/cmvo/](http://www.isp.state.il.us/cmvo/). Screening must be done for employment applicants and repeatedly at least once every five years that an individual remains employed by the district. 105 ILCS 5/10-21.9(a-5) and (a-6), amended by P.A. 101-531. See policy 5:30, *Hiring Process and Criteria*; procedure 5:30-AP2, *Investigations*; policy 6:250, *Community Resource Person and Volunteers*; and procedure 6:250-AP, *Securing and Screening Resource Persons and Volunteers*.

<sup>6</sup> If permitted by federal or State law, when a fingerprint-based criminal history records check returns a conviction of a crime set forth in 105 ILCS 5/21B-80 or when a screening finds a registration for an individual licensed by the Ill. State Board of Education (ISBE), the superintendent or regional superintendent must notify the ISBE Superintendent in writing within 15 business days. 105 ILCS 5/21.9(e), amended by P.A. 101-531. Contact the board attorney for guidance regarding disclosures permitted by federal or State law.

If an indicated report by the Ill. Dept. of Children and Family Services or by a child welfare agency of another jurisdiction is found, the board must consider the individual's status as a condition of student teaching or employment. 105 ILCS 5/10-21.9(c) and (g), amended by P.A. 101-531. The statute does bar an individual with an indicated finding from student teaching; however, that is the most logical interpretation.

<sup>7</sup> Sex Offender Community Notification Law, 730 ILCS 152/; ~~and~~ Murderer and Violent Offender Against Youth Community Notification Law, 730 ILCS 154/75-154/105. Law enforcement officials must notify school districts of the names, addresses, and offenses of registered offenders residing in their respective jurisdictions who have committed sex offenses and violent offenses against youth, (730 ILCS 152/120 and 154/95). These laws are silent with regard to what, if anything, districts do with the information. The Sex Offender Community Notification Law, however, provides immunity for "any person who provides, or fails to provide, information relevant to the procedures set forth in this Law." (730 ILCS 152/130).

Naming a contact person will facilitate communication and cooperation with local law enforcement agencies. Any school official may be used as the contact person, and boards may wish to have a contact person from each building. See administrative procedure 4:175-AP1, *Criminal Offender Notification Laws; Screening*, for implementing procedures.

Upon arrest after commencement of a prosecution for a sex offense against an individual known to be a school employee, the State's Attorney must provide the superintendent or school administrator of the employing school with a copy of the complaint, information, or indictment. 725 ILCS 5/111-1(e), added by P.A. 101-521.

Community Notification Law.-<sup>8</sup> This notification must occur during school registration and at other times as the Superintendent or Building Principal determines advisable.

LEGAL REF.: 20 ILCS 2635/, Uniform Conviction Information Act.  
720 ILCS 5/11-9.3.  
730 ILCS 152/, Sex Offender Community Notification Law.  
730 ILCS 154/75-105, Murderer and Violent Offender Against Youth Community Notification Law.

CROSS REF.: 5:30 (Hiring Process and Criteria), 5:260 (Student Teachers), 6:250 (Community Resource Persons and Volunteers), 8:30 (Visitors to and Conduct on School Property), 8:100 (Relations with Other Organizations and Agencies)

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<sup>8</sup> State law requires a principal or teacher to notify the parents/guardians during school registration or parent-teacher conferences that information about sex offenders is available to the public as provided in the Sex Offender Community Notification Law, ~~730 ILCS 152/~~. In an effort to keep this policy aligned with good governance practices, the responsibility is given to the superintendent and building principal to manage. While State law allows the notification to be made during registration or parent-teacher conferences, the sample policy makes a notification mandatory just during registration to be sure that all parents/guardians are informed.

## Operational Services

### Targeted School Violence Prevention Program 1

Threats and acts of targeted school violence harm the District's environment and school community, diminishing students' ability to learn and a school's ability to educate. Providing students and staff with access to a safe and secure District environment is an important Board goal. While it is not possible for the District to completely eliminate threats in its environment, a Targeted School Violence Prevention Program (Program) using the collective efforts of local school officials, staff, students, families, and the community helps the District reduce these risks to its environment.

The Superintendent or designee shall develop and implement the Program.<sup>2</sup> The Program oversees the maintenance of a District environment that is conducive to learning and working by identifying, assessing, classifying, responding to, and managing threats and acts of targeted school violence. The Program shall be part of the District's Comprehensive Safety and Security Plan, required by Board policy 4:170, *Safety*, and shall:

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~~<sup>1</sup> While this sample policy is optional, 105 ILCS 128/45, added by P.A. 101-455, requires school districts to implement a threat assessment procedure by 12-6-19 that may be part of a school board targeted school violence prevention policy. Thus, regardless of whether the board adopts a policy, an administrative procedure must exist to comply with the law. See the first sentence in f/n 2 below. It contains items from *Threat Assessment in Virginia Public Schools: Model Policies, Procedures, and Guidelines*, Second Edition (August 2016), Virginia Center for School and Campus Safety, Virginia Dept. of Criminal Justice Services, at: [www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/publications/law-enforcement/threat-assessment-model-policies-procedures-and-guidelinespdf.pdf](http://www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/publications/law-enforcement/threat-assessment-model-policies-procedures-and-guidelinespdf.pdf). *Threat Assessment in Virginia Public Schools* is based upon a synthesis of established research and recognized standards of practice regarding threat assessment and management in school and workplace settings, including *Threat Assessment in Schools: A Guide to Managing Threatening Situations and to Creating Safe School Climates*, a 2002 publication of the U.S. Secret Service and the U.S. Dept. of Education, at: [www.secretservice.gov/data/protection/ntac/ssi\\_guide.pdf](http://www.secretservice.gov/data/protection/ntac/ssi_guide.pdf). The July 2018 update of this document was renamed *Enhancing School Safety Using a Threat Assessment Model: An Operational Guide for Preventing Targeted School Violence*, published by the U.S. Secret Service, at: [www.dhs.gov/sites/default/files/publications/18\\_0711\\_USSS\\_NTAC-Enhancing-School-Safety-Guide.pdf](http://www.dhs.gov/sites/default/files/publications/18_0711_USSS_NTAC-Enhancing-School-Safety-Guide.pdf).~~

~~Boards are authorized to adopt a policy on targeted school violence prevention programs even though State and federal law provide little guidance. State law grants boards broad authority to formulate, adopt, and modify school board policies, at the board's sole discretion, subject only to mandatory collective bargaining agreements and State and federal law. 105 ILCS 5/10-20.5 and 115 ILCS 5/1 et seq. See policies 2:20, *Powers and Duties of the School Board*; *Indemnification*, and 2:240, *Board Policy Development*.~~

~~Adopting a policy that addresses targeted school violence prevention provides (a) a way for boards to monitor that it is being done, and (b) an opportunity for each board and the superintendent to examine all current policies, collective bargaining agreements, and administrative procedures on this subject. Before adoption of this policy, each board may want to have a conversation with the superintendent to determine whether how local conditions and resources and current practices will support the full implementation requirements of 105 ILCS 128/45, added by P.A. 101-455 this policy and its accompanying administrative procedures. Its goals and program will be most effective when they reflect local conditions and circumstances.~~

~~<sup>2</sup> To balance the requirement to implement a threat assessment procedure (105 ILCS 128/45, added by P.A. 101-455) with the practicalities of managing a district and to align with the best practices outlined in IASB's *Foundational Principles of Effective Governance* ([www.iasb.com/principles\\_popup.cfm](http://www.iasb.com/principles_popup.cfm) [www.iasb.com/pdf/found\\_prin.pdf](http://www.iasb.com/pdf/found_prin.pdf)), this sentence delegates the duty to implement a procedure to the superintendent. See 4:190-AP1, *Targeted School Violence Prevention Program*, for a sample implementation procedure. Ensuring school safety begins with establishing a comprehensive targeted school violence prevention program, which "includes forming a multidisciplinary threat assessment team, establishing central reporting mechanisms, identifying behaviors of concern, defining the threshold for law enforcement intervention, identifying risk management strategies, promoting safe school climates, and providing training to stakeholders." *Enhancing School Safety Using a Threat Assessment Model: An Operational Guide for Preventing Targeted School Violence*, published by the U.S. Secret Service, at: [www.dhs.gov/sites/default/files/publications/18\\_0711\\_USSS\\_NTAC-Enhancing-School-Safety-Guide.pdf](http://www.dhs.gov/sites/default/files/publications/18_0711_USSS_NTAC-Enhancing-School-Safety-Guide.pdf).~~

1. Establish a District-level School Violence Prevention Team to: (a) develop a District-level Targeted School Violence Prevention Plan, and (b) oversee the District's Building-level Threat Assessment Team(s). <sup>3</sup>
2. Establish Building-level Threat Assessment Team(s)<sup>4</sup> to assess and intervene with individuals whose behavior may pose a threat to safety. This team may serve one or more schools.
3. Comply with State and federal law and align with Board policies.

The Local Governmental and Governmental Employees Tort Immunity Act protects the District from liability. The Program does not: (1) replace the care of a physician licensed to practice medicine in all of its branches or a licensed medical practitioner or professional trained in violence prevention, assessments and counseling services, (2) extend beyond available resources within the District, (3) extend beyond the school day and/or school-sponsored events, or (4) guarantee or ensure the safety of students, District staff, or visitors. <sup>5</sup>

LEGAL REF.: 105 ILCS 5/10-20.14, 5/10-21.7, 5/10-27.1A, 5/10-27.1B, 5/24-24, and 5/27-23.7.  
 105 ILCS 128/, School Safety Drill Act.  
 745 ILCS 10/, Local Governmental and Governmental Employees Tort Immunity Act.  
 29 Ill.Admin.Code Part 1500.

CROSS REF.: 2:240 (Board Policy Development), 4:170 (Safety), 5:90 (Abused and Neglected Child Reporting), 5:100 (Staff Development Program), 5:230 (Maintaining Student Discipline), 6:65 (Student Social and Emotional Development), [6:270 \(Guidance and Counseling Program\)](#), 7:140 (Search and Seizure), ~~6:270 (Guidance and Counseling Program)~~, 7:150 (Agency and Police Interviews), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior), 7:250 (Student Support Services), 7:290 (Suicide and Depression Awareness and Prevention), 7:340 (Student Records), 8:30 (Visitors to and Conduct on School Property), 8:100 (Relations with Other Organizations and Agencies)

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<sup>3</sup> The establishment of threat assessment teams in K-12 public schools is Recommendation #1 of the *Recommendations of the Illinois Terrorism Task Force School Safety Working Group*, presented to the Office of the Governor on 4-5-18, at: [www.iasb.com/safety/](http://www.iasb.com/safety/). Illinois higher education institutions have required threat assessment teams since the passage of the Campus Security Enhancement Act of 2008 (110 ILCS 12/20(b)(2), eff. 1-1-09) in response to the shootings that took place at Virginia Polytechnic Institute and State University on 4-16-07 and Northern Illinois University on 2-14-08.

<sup>4</sup> [105 ILCS 128/45, added by P.A. 101-455, requires school districts to establish a threat assessment team by 2-19-20. If a school district is unable to establish a threat assessment team with school district staff and resources, it may use a regional behavioral threat assessment and intervention team. Id. See 4:190-AP2, Threat Assessment Team \(TAT\), and its accompanying exhibits for further information on threat assessment teams and how to connect with a regional behavioral threat assessment team.](#)

<sup>5</sup> **Consult the board attorney for guidance concerning liability in this area.** Except for cases of willful and wanton conduct, the Local Governmental and Governmental Employees Tort Immunity Act (TIA) likely protects districts from liability for failure to properly identify and/or respond to a student's behavior that results in injury or suicide. See 745 ILCS 10/3-108 and [Grant v. Board of Trustees of Valley View School Dist. No. 365-U](#), 286 Ill.App.3d 642 (3rd Dist. 1997). Every situation is fact specific, and the issues require careful evaluation. A disclaimer, such as the one presented here, may not be sufficient. A district may take several actions, after discussion with its board attorney, to minimize liability, such as adding limiting phrases and ensuring other policies are followed.

In addition to the TIA, school officials and districts may also be entitled to qualified immunity in civil rights lawsuits that seek to hold them liable for a suicide. For further discussion, see f/n 13 in policy 7:290, *Suicide and Depression Awareness and Prevention*.

## General Personnel

### Equal Employment Opportunity and Minority Recruitment 1

The School District shall provide equal employment opportunities<sup>2</sup> to all persons regardless of their race; color; creed; religion;<sup>3</sup> national origin; sex;<sup>4</sup> sexual orientation;<sup>5</sup> age;<sup>6</sup> ancestry; marital status;<sup>7</sup>

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<sup>1</sup> Federal and State law (see the policy's Legal References) require that all districts have a policy on equal employment opportunities and control this policy's content. **This is a complex, confusing, and highly litigated area of the law; consult the board attorney for advice on the application of these laws to specific fact situations.**

<sup>2</sup> *Equal employment opportunities* apply to virtually all terms and conditions of employment, e.g., discharge, hire, promotion, pay, demotion, and benefits (see the policy's Legal References). The Ill. Constitution protects the following categories from discrimination in employment: race, color, creed, national ancestry, sex, and handicap. Art. I, §§17, 18, and 19. The Ill. Human Rights Act (IHRA) protects the following categories from discrimination in employment, whether actual or perceived: race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, order of protection status, sexual orientation, pregnancy, unfavorable discharge from military service, and citizenship status. 775 ILCS 5/1-102 and 5/1-103, amended by P.A. 101-221, eff. 1-1-20. Beginning 7-1-20, the IHRA requires employers to annually disclose to the Ill. Dept. of Human Rights (IDHR) certain information about adverse judgments and administrative rulings where there was a finding of sexual harassment or unlawful discrimination under any federal, State, or local law, as well as data regarding settlement agreements, if requested by an IDHR investigator. 775 ILCS 5/2-108, added by P.A. 101-221, eff. 1-1-20 and scheduled to be repealed on 1-1-30.

The Equal Employment Opportunities Act (EEOA, a/k/a Title VII of the Civil Rights Act of 1964) prohibits discrimination because of an individual's race, color, religion, sex, or national origin. 42 U.S.C. §2000e et seq., amended by The Lilly Ledbetter Fair Pay Act of 2009 (LLFPA), Pub.L. 111-2.

Under the Workplace Transparency Act (WTA) (820 ILCS 96/, added by P.A. 101-221, eff. 1-1-20), employers may not, as a condition of employment or continued employment, prevent prospective or current employees from making truthful statements or disclosures about alleged unlawful employment practices, including discrimination. Id. at 96/1-25.

The LLFPA clarifies that a discriminatory compensation decision or other practice occurs each time an employee is paid or receives a last benefits check pursuant to the discriminatory compensation decision as opposed to only from the time when the discriminatory compensation decision or other practice occurred. The Act has no legislative history available to define what the phrase *or other practice* might mean beyond a discriminatory compensation decision.

The Ill. Equal Pay Act of 2003 (EPA) offers additional protection by prohibiting the payment of wages to one sex less than the opposite sex or to an African-American less than a non-African-American *for the same or substantially similar work*. 820 ILCS 112/, amended by P.A.s 100-1140 and 101-177. The Ill. Dept. of Labor (IDOL) enforces the EPA. The EPA also prohibits employers from requesting or requiring applicants to disclose wage or salary history as a condition of being considered for employment or as a condition of employment. Id. at 112/10(b-5), added by P.A. 101-177. If an applicant voluntarily offers such information without prompting, an employer still cannot use that information in making an offer or determining future pay. See 5:30-AP1, Interview Questions, for sample permissible inquiries on this topic. Employers may seek wage or salary history from an applicant's current or former employer if that information is a matter of public record under the Freedom of Information Act; however, districts that wish to undertake such searches should exercise caution; the fact a district seeks out publicly available wage information could still be used against it in a pay discrimination claim. Id. at 112/10(b-10), added by P.A. 101-177. Consult the board attorney for further guidance.

While not exhaustive, other laws protecting these and additional classifications are named in subsequent footnotes.

<sup>3</sup> 775 ILCS 5/2-102 of the IHRA, amended by P.A. 100-100, contains a new *religious discrimination* subsection. It expressly prohibits employers from requiring a person to violate a sincerely held religious belief to obtain or retain employment unless, after engaging in a bona fide effort, the employer demonstrates that it is unable to reasonably accommodate the employee's or prospective employee's sincerely held religious belief, practice, or observance without undue hardship on the conduct of the employer's business. Religious beliefs include, but are not limited to: the wearing of any attire, clothing, or facial hair in accordance with the requirements of his/her religion. 775 ILCS 5/2-102(E-5). Employers may, however, enact a dress code or grooming policy that restricts attire, clothing, or facial hair to maintain workplace safety or food sanitation. Id.

In addition to the IHRA and the federal EEOA (discussed in f/n 2), see 775 ILCS 35/, Religious Freedom Restoration Act.

<sup>4</sup> In addition to the IHRA and the federal EEOA (discussed in f/n 2), see Title IX of the Education Amendments of 1972. 20 U.S.C. §1681 et seq. The federal Equal Pay Act prohibits an employer from paying persons of one sex less than the wage paid to persons of the opposite sex for equal work. 29 U.S.C. §206(d). See f/n 2 above for more information on State equal pay protections, including on the basis of sex. The LLFPA defines *date of underpayment* as each time wages are underpaid. Employees have one year from the time they become aware of the underpayment to file a complaint with the IDOL. 820 ILCS 112/15(b).

<sup>5</sup> *Sexual orientation* means actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identity; it does not include a physical or sexual attraction to a minor by an adult. 775 ILCS 5/1-103(O-1).

<sup>6</sup> Age Discrimination in Employment Act (ADEA) (29 U.S.C. §621 et seq.), amended by LLFPA (see f/n 2). 29 C.F.R. Part 1625, amended the U.S. Equal Employment Opportunity Commission (EEOC) regulations under ADEA to reflect the U.S. Supreme Court's decision in General Dynamic Systems, Inc. v. Cline, 540 U.S. 581 (2004), holding the ADEA to permit employers to favor older workers because of age. Thus, favoring an older person over a younger person is not unlawful discrimination, even when the younger person is at least 40 years old.

arrest record;<sup>8</sup> military status; order of protection status;<sup>9</sup> unfavorable military discharge;<sup>10</sup> citizenship status provided the individual is authorized to work in the United States;<sup>11</sup> use of lawful products while not at work;<sup>12</sup> being a victim of domestic violence, ~~or sexual violence~~, or gender violence;<sup>13</sup> genetic information;<sup>14</sup> physical or mental handicap or disability, if otherwise able to perform the essential functions of the job with reasonable accommodation;<sup>15</sup> pregnancy, childbirth, or related medical conditions;<sup>16</sup> credit history, unless a satisfactory credit history is an established bona

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<sup>7</sup> 105 ILCS 5/10-22.4 and 775 ILCS 5/1-103(Q), amended by P.A. 101-221, eff. 1-1-20. The term *marital status* means an individual's legal status of being married, single, separated, divorced, or widowed. 775 ILCS 5/1-103(J). This statutory definition does not encompass the identity of one's spouse. Thus, school districts may adopt no-spouse policies. Boaden v. Dept. of Law Enforcement, 171 Ill.2d 230 (Ill. 1996).

<sup>8</sup> Districts may not make employment decisions on the basis of arrest history, but may use job-disqualifying criminal convictions. 775 ILCS 5/2-103. The Job Opportunities for Qualified Applicants Act prohibits an employer from asking about a criminal record until the employer determines that the applicant is qualified for the position; however, this does not apply when employers are required to exclude applicants with certain criminal convictions from employment. School employers should limit their requests for criminal convictions to *job-disqualifying* convictions. 820 ILCS 75/15. See also the EEOC's guidance, *Consideration of Arrest and Conviction Records in Employment Decisions*, at: [www.eeoc.gov/laws/guidance/arrest\\_conviction.cfm](http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm).

<sup>9</sup> 775 ILCS 5/1-103(Q), amended by P.A. 101-221, eff. 1-1-20. The term *order of protection status* means a person protected under an order of protection issued pursuant to the Ill. Domestic Violence Act of 1986 or an order of protection issued by a court of another state. 775 ILCS 5/1-103(K-5).

<sup>10</sup> *Military status* means a person's status on active duty or in status as a veteran in the U.S. Armed Forces, veteran of any reserve component of U.S. Armed Forces, or current member or veteran of the Ill. Army National Guard or Ill. Air National Guard. 775 ILCS 5/1-103(J-1). *Unfavorable military discharge* does not include those characterized as RE-4 or *dishonorable*. 775 ILCS 5/1-103(P). The Uniformed Services Employment and Reemployment Rights Act of 1994 prohibits employers from discriminating or retaliating against any person for reasons related to past, present, or future service in a *uniformed service*. 38 U.S.C. §4301 et seq.

<sup>11</sup> 775 ILCS 5/1-102(C). According to the Immigration Reform and Control Act of 1986, all employers must verify that employees are either U.S. citizens or authorized to work in the U.S. 8 U.S.C. §1324(a) et seq.

<sup>12</sup> The Right to Privacy in the Workplace Act prohibits discrimination based on use of lawful products, e.g., alcohol, cannabis, and tobacco, off premises during non-working hours. 820 ILCS 55/5, amended by P.A. 101-27.

<sup>13</sup> 820 ILCS 180/30, amended by P.A. 101-221, eff. 1-1-20. Victims' Economic Security and Safety Act. Gender violence means: (1) one or more acts of violence or aggression that are a criminal offense under State law committed, at least in part, on the basis of a person's actual or perceived sex or gender, (2) a physical intrusion or invasion of a sexual nature under coercive conditions that is a criminal offense under State law, or (3) a threat to commit one of these acts. 820 ILCS 180/10(12.5), added by P.A. 101-221, eff. 1-1-20. An employer is prohibited from discriminating against any individual, (e.g. an applicant for employment,) because he or she "is an employee whose employer is subject to Section 21 of the Workplace Violence Prevention Act." The Workplace Violence Prevention Act allows an employer to seek a *workplace protection restraining order* when there is a credible threat of violence at the workplace. 820 ILCS 275/. Section 21 requires the employer seeking a *workplace protection restraining order* to notify the employee who is a victim of unlawful violence. 820 ILCS 275/21.

<sup>14</sup> Illinois' Genetic Information Protection-Privacy Act (GIPA) (410 ILCS 513/25) and Title II of Genetic Information Nondiscrimination Act (GINA) (42 U.S.C. §2000ff et seq.). Both laws protect job applicants and current and former employees from discrimination based on their genetic information. Note that GIPA provides greater protections to Illinois employees than Title II of GINA. GIPA, amended by P.A. 100-396, prohibits employers from penalizing employees who do not disclose genetic information or do not choose to participate in a program requiring disclosure of the employee's genetic information. See f/n 12 in 2:260, *Uniform Grievance Procedure* for the definition of genetic information and a detailed description of both statutes, including of Title I of GINA affecting the use of genetic information in health insurance. In 2011, the EEOC published an informative guidance letter, *ADA & GINA: Incentives for Workplace Wellness Program* at: [www.eeoc.gov/eeoc/foia/letters/2011/ada\\_gina\\_incentives.html](http://www.eeoc.gov/eeoc/foia/letters/2011/ada_gina_incentives.html). But the EEOC vacated certain 2016 ADA and GINA wellness program regulations following an adverse court ruling. 83 Fed. Reg. 65296. Those rules provided guidance to employers on the extent to which they could use incentives (such as discounted health plan costs) to encourage employees to participate in wellness programs that asked for employee and family health information. Consult the board attorney for guidance regarding specific application of these laws ADA and GINA and how they integrate with other related laws, e.g., the Family Medical Leave Act, the Americans with Disabilities Act, and other State laws governing time off for sickness and workers' compensation.

<sup>15</sup> Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. §12101 et seq.), amended by the Americans with Disabilities Act Amendments Act of 2008 (ADAAA) (Pub. L. 110-325) and modified by the LLFPA; Rehabilitation Act of 1973 (29 U.S.C. §7091 et seq.).

<sup>16</sup> 775 ILCS 5/2-102(I). Employers must provide reasonable accommodations to employees with conditions related to pregnancy, childbirth, or related conditions. 775 ILCS 5/2-102(J). Employers are required to post a notice summarizing the right to be free from unlawful discrimination and the right to certain reasonable accommodations. 775 ILCS 5/2-102(K). The IDOL is required to prepare such a notice, retrievable from its website, which employers may use.

Federal law also prohibits employers from discriminating against employees and applicants on the basis of pregnancy, childbirth, or related medical conditions. 42 U.S.C. §2000e(k). State law also prohibits the State, which includes school districts, from interfering with or discriminating against an individual's fundamental right to continue a pregnancy or to have an abortion. 775 ILCS 55/, added by P.A. 101-13. Pregnant workers with pregnancy-related impairments may have disabilities for which they may be entitled to reasonable accommodation under the ADA. Guidance from the EEOC (7-14-14) is available at: [www.eeoc.gov/laws/guidance/pregnancy\\_qa.cfm](http://www.eeoc.gov/laws/guidance/pregnancy_qa.cfm).

vide occupational requirement of a particular position;<sup>17</sup> or other legally protected categories.<sup>18 19 20 21</sup> No one will be penalized solely for his or her status as a registered qualifying patient or a registered designated caregiver for purposes of the Compassionate Use of Medical Cannabis ~~Pilot~~ Program Act, 410 ILCS 130/. <sup>22</sup>

Persons who believe they have not received equal employment opportunities should report their claims to the Nondiscrimination Coordinator and/or a Complaint Manager for the Uniform Grievance Procedure. These individuals are listed below. No employee or applicant will be discriminated or retaliated against because he or she: (1) requested, attempted to request, used, or attempted to use a reasonable accommodation as allowed by the Illinois Human Rights Act, or (2) initiated a complaint, was a witness, supplied information, or otherwise participated in an investigation or proceeding involving an alleged violation of this policy or State or federal laws, rules or regulations, provided the employee or applicant did not make a knowingly false accusation nor provide knowingly false information. <sup>23</sup>

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<sup>17</sup> 820 ILCS 70/, Employee Credit Privacy Act. Unless a satisfactory credit history is an *established bona fide occupational requirement* of a particular position, an employer may not: (1) refuse to hire, discharge, or otherwise discriminate against an individual with respect to employment because of the individual's credit history or credit report; (2) inquire about an applicant's or employee's credit history; or (3) order or obtain an applicant's or employee's credit report from a consumer reporting agency. The Act identifies circumstances that permit a satisfactory credit history to be a job requirement, such as, the position's duties include custody of or unsupervised access to cash or marketable assets valued at \$2,500 or more.

<sup>18</sup> Insert the following optional sentence (775 ILCS 5/1-103(a) and 29 U.S.C. §631):

*Age*, as used in this policy, means the age of a person who is at least 40 years old.

<sup>19</sup> Insert the following optional provision (29 U.S.C. §705(10)(A)-(B), (20)(C)(v), (20)(D) and 42 U.S.C. §12114):

*Handicap and disability*, as used in this policy, excludes persons:

1. Currently using illegal drugs;
2. Having a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, are unable to perform the duties of the job; or
3. Whose current alcohol use prevents them from performing the job's duties or constitutes a direct threat to the property or safety of others.

Persons who have successfully completed or are participating in a drug rehabilitation program are considered *disabled*.

<sup>20</sup> Districts may not make residency in the district a condition of employment for teachers or educational support personnel. 105 ILCS 5/24-4.1, 5/10-23.5. This ban on residency requirements for teachers applies only to instructional personnel, and not, for example, to assistant principals. *Owen v. Kankakee Sch. Dist.*, 261 Ill.App.3d 298 (3rd Dist. 1994). Districts also may not ask an applicant, or the applicant's previous employer, whether the applicant ever received, or filed a claim for, benefits under the Workers' Compensation Act or Workers' Occupational Diseases Act. 820 ILCS 55/10(a). Districts are also prohibited from requiring, requesting, or coercing an employee or potential employee to provide a user name and password or any password or other related account information to gain or demand access to his or her personal online account. 820 ILCS 55/10(b), ~~amended by P.A. 99-610~~. While the law does not prohibit employers from viewing public information, consult the board attorney before engaging in this practice.

<sup>21</sup> School districts must accommodate mothers who choose to continue breastfeeding after returning to work. See 740 ILCS 137/, Right to Breastfeed Act; 820 ILCS 260/, amended by P.A. 100-1003, Nursing Mothers in the Workplace Act ([NMWA](#)); and 29 U.S.C. §207(r), Fair Labor Standards Act. At least one court has ruled an implied private right of action may exist under the NMWA. *Spriesch v. City of Chicago*, 2017 WL 4864913 (N.D.Ill. 2017). See sample language for a personnel handbook in 5:10-AP, *Workplace Accommodations for Nursing Mothers*.

<sup>22</sup> 410 ILCS 130/40, ~~amended by P.A. 101-363, eff. 1-1-20 and scheduled to be repealed on 7-1-20~~; 77 Ill.Admin.Code Part 946. To legally use medical cannabis, an individual must first become a *registered qualifying patient*. Their use of cannabis, (e.g. permissible locations,) is governed by the Compassionate Use of Medical Cannabis ~~Pilot~~ Program Act. 410 ILCS 130/, amended by P.A. ~~100-660 and 101-363, eff. 1-1-20~~. There are many situations in which no one, even a registered qualifying patient, may possess or use cannabis except as provided under *Ashley's Law* (105 ILCS 5/22-33, added by P.A. 100-660), including in a school bus or on the grounds of any preschool, or primary or secondary school. 410 ILCS 130/30(a)(2)(3), amended by P.A. 100-660. See policy 5:50, *Drug- and Alcohol-Free Workplace: E-Cigarette, Tobacco, and Cannabis Prohibition*, at [f/n 9](#) for further discussion.

<sup>23</sup> 775 ILCS 5/6-101. Discrimination on the basis of a request for or use of a reasonable accommodation is a civil rights violation under the IHRA. Id. Most discrimination laws prohibit retaliation against employees who oppose practices made unlawful by those laws, including, for example, the EEOA, Title IX, ADA, ADEA, Victims' Economic Security and Safety Act, the EPA, and the Ill. Whistleblower Act ([IWA](#)).

## Administrative Implementation

The Superintendent shall appoint a Nondiscrimination Coordinator for personnel who shall be responsible for coordinating the District's nondiscrimination efforts. The Nondiscrimination Coordinator may be the Superintendent or a Complaint Manager for the Uniform Grievance Procedure. The Superintendent shall insert into this policy the names, addresses, and telephone numbers of the District's current Nondiscrimination Coordinator and Complaint Managers. **24**

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

The ~~Ill. Whistleblower Act (IWA)~~IWA specifically prohibits employers from retaliating against employees for: (1) disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation (740 ILCS 174/15(b)); (2) disclosing information in a court, an administrative hearing, or before a legislative commission or committee, or in any other proceeding where the employee has reasonable cause to believe that the information reveals a violation of a State or federal law, rule or regulation (740 ILCS 174/15(a)); (3) refusing to participate in an activity that would result in a violation of a State or federal law, rule, or regulation, including, but not limited to, violations of the Freedom of Information Act (740 ILCS 174/20); and (4) disclosing or attempting to disclose public corruption or wrongdoing (740 ILCS 174/20.1). The definition of retaliation is expanded to include *other retaliation* and *threatening retaliation*. 740 ILCS 174/20.1, 20.2.

The Ill. False Claims Act defines *State* to include school districts. 740 ILCS 175/2(a). Thus, boards may seek a penalty from a person for making a false claim for money or property. 740 ILCS 175/4. For information regarding the IWA and the tort of retaliatory discharge. See Thomas v. Guardsmark, 487 F.3d 531 (7th Cir. 2007)(discussing the elements of retaliatory discharge and IWA); Sherman v. Kraft General Foods, Inc., 272 Ill.App.3d 833 (4th Dist. 1995)(finding employee who reported asbestos hazard had a cause of action for retaliatory discharge).

**24** Title IX regulations require districts to identify the name, address, and telephone number of the person who is responsible for coordinating the district's compliance efforts. The U.S. Dept. of Education's Office for Civil Rights prefers that school districts make Title IX information and coordinators visible to the community, and it has provided materials designed to remind schools of their obligation to designate a Title IX coordinator. These materials include: (a) a *Dear Colleague Letter on Title IX Coordinators*; (b) a *Letter to Title IX Coordinators* that provides them with more information about their role; and (c) a *Title IX Resource Guide* that includes an overview of Title IX's requirements with respect to several key issues. See [www2.ed.gov/policy/rights/guid/ocr/title-ix-coordinators.html](http://www2.ed.gov/policy/rights/guid/ocr/title-ix-coordinators.html).

While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored.

**Nondiscrimination Coordinator 25:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email

\_\_\_\_\_  
Telephone

**Complaint Managers:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email

\_\_\_\_\_  
Telephone

The Superintendent shall also use reasonable measures to inform staff members and applicants that the District is an equal opportunity employer, such as, by posting required notices and including this policy in the appropriate handbooks. 26

Minority Recruitment 27

The District will attempt to recruit and hire minority employees. The implementation of this policy may include advertising openings in minority publications, participating in minority job fairs, and recruiting at colleges and universities with significant minority enrollments. This policy, however, does not require or permit the District to give preferential treatment or special rights based on a protected status without evidence of past discrimination.

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<sup>25</sup> Sample policy 2:260, *Uniform Grievance Procedure*, states that a district’s Nondiscrimination Coordinator also serves as its Title IX Coordinator. Best practice is that throughout the district’s board policy manual, the same individual be named as Nondiscrimination Coordinator. In contrast, Complaint Managers identified in individual policies may vary depending upon local district needs.

<sup>26</sup> In addition to notifying employees of the Uniform Grievance Procedure, a district must notify them of the person(s) designated to coordinate the district’s compliance with Title IX and the Rehabilitation Act of 1973. 34 C.F.R. §§106.8(a), 104.8(a). The Nondiscrimination Coordinator may be the same individual for both this policy and policy 7:10, *Equal Educational Opportunities*, as well as a Complaint Manager for policy 2:260, *Uniform Grievance Procedure*. A comprehensive faculty handbook can provide required notices, along with other important information, to recipients. The handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and school board. Any *working conditions* contained in the handbook may be subject to mandatory collective bargaining.

<sup>27</sup> All districts must have a policy on minority recruitment. 105 ILCS 5/10-20.7a. Unlike minority recruitment efforts, affirmative action plans are subject to significant scrutiny because of the potential for reverse discrimination. The U.S. Constitution’s guarantee of equal protection prohibits school districts from using racial hiring quotas without evidence of past discrimination. See 29 C.F.R. §1608.1 *et seq.* (EEOC’s guidelines for affirmative action plans); *Wygant v. Jackson Bd. of Ed.*, 476 U.S. 267 (1986) (The goal of remedying societal discrimination does not justify race-based layoffs.); *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989) (Minority contractor quota struck; quotas must be narrowly tailored to remedy past discrimination and the city failed to identify the need for remedial action and whether race-neutral alternatives existed.).

The IHRA states that it shall not be construed as requiring any employer to give preferential treatment or special rights based on sexual orientation or to implement affirmative action policies or programs based on sexual orientation. 775 ILCS 5/1-101.1.

LEGAL REF.: 8 U.S.C. §1324a et seq., Immigration Reform and Control Act.  
 20 U.S.C. §1681 et seq., Title IX of the Education Amendments of 1972,  
 implemented by 34 C.F.R. Part 106.  
 29 U.S.C. §206(d), Equal Pay Act.  
 29 U.S.C. §621 et seq., Age Discrimination in Employment Act.  
 29 U.S.C. §7091 et seq., Rehabilitation Act of 1973.  
 38 U.S.C. §4301 et seq., Uniformed Services Employment and Reemployment  
 Rights Act (1994).  
 42 U.S.C. §1981 et seq., Civil Rights Act of 1991.  
 42 U.S.C. §2000e et seq., Title VII of the Civil Rights Act of 1964, implemented  
 by 29 C.F.R. Part 1601.  
 42 U.S.C. §2000ff et seq., Genetic Information Nondiscrimination Act of 2008.  
 42 U.S.C. §2000d et seq., Title VI of the Civil Rights Act of 1964.  
 42 U.S.C. §2000e(k), Pregnancy Discrimination Act.  
 42 U.S.C. §12111 et seq., Americans with Disabilities Act, Title I.  
 Ill. Constitution, Art. I, §§17, 18, and 19.  
 105 ILCS 5/10-20.7, 5/20.7a, 5/21.1, 5/22.4, 5/23.5, 5/22-19, 5/24-4, 5/24-4.1, and  
 5/24-7.  
 410 ILCS 130/40, Compassionate Use of Medical Cannabis ~~Pilot~~-Program Act.  
 410 ILCS 513/25, Genetic Information ~~Privacy~~Protection Act.  
 740 ILCS 174/, Ill. Whistleblower Act.  
 775 ILCS 5/1-103, 5/2-102, 103, and 5/6-101, Ill. Human Rights Act.  
 775 ILCS 35/5, Religious Freedom Restoration Act.  
 820 ILCS 55/10, Right to Privacy in the Workplace Act.  
 820 ILCS 70/, Employee Credit Privacy Act.  
 820 ILCS 75/, Job Opportunities for Qualified Applicants Act.  
 820 ILCS 112/, Ill. Equal Pay Act of 2003.  
 820 ILCS 180/30, Victims' Economic Security and Safety Act.  
 820 ILCS 260/, Nursing Mothers in the Workplace Act.

CROSS REF.: 2:260 (Uniform Grievance Procedure), 5:20 (Workplace Harassment Prohibited),  
 5:30 (Hiring Process and Criteria), 5:40 (Communicable and Chronic Infectious  
 Disease), 5:50 (Drug- and Alcohol-Free Workplace; E-Cigarette, Tobacco, and  
 Cannabis Prohibition), 5:70 (Religious Holidays), 5:180 (Temporary Illness or  
 Temporary Incapacity), 5:200 (Terms and Conditions of Employment and  
 Dismissal), 5:250 (Leaves of Absence), 5:270 (Employment, At-Will,  
 Compensation, and Assignment), 5:300 (Schedules and Employment Year),  
 5:330 (Sick Days, Vacation, Holidays, and Leaves), 7:10 (Equal Educational  
 Opportunities), 7:180 (Prevention of and Response to Bullying, Intimidation, and  
 Harassment), 8:70 (Accommodating Individuals with Disabilities)

## General Personnel

### Workplace Harassment Prohibited <sup>1</sup>

The School District expects the workplace environment to be productive, respectful, and free of unlawful discrimination, including harassment. District employees shall not engage in harassment or abusive conduct on the basis of an individual's [actual or perceived](#) race, [color](#), religion<sup>2</sup>, national origin, [ancestry](#), sex, sexual orientation, age, citizenship status, disability, [pregnancy](#), [marital status](#), [order of protection status](#), [military status](#), or [unfavorable discharge from military service](#), nor shall they engage in harassment or abusive conduct on the basis of an individual's other protected status

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<sup>1</sup> State or federal law controls this policy's content. Federal law requires districts to take action to prevent sexual harassment and to disseminate a policy regarding its prohibition of sex discrimination. 29 C.F.R. §1604.11(f); 34 C.F.R. §106.9. [State law requires districts to establish a policy to prohibit sexual harassment. 5 ILCS 430/70-5\(a\), amended by P.A.s 100-554 and 101-221. See f/n 3 below.](#) Harassment based on a protected status is a form of discrimination that violates many State and federal laws (see the policy's Legal References).

Workplace harassment policies have typically focused on *sexual* harassment since it receives the most attention. However, the broad prohibitions against discrimination in State and federal civil rights laws will cover harassing conduct that is motivated by animus against any protected status. See *Porter v. Erie Foods International, Inc.*, 576 F.3d 629 (7th Cir. 2009) (recognizing a cause of action for race harassment). For a list of protected statuses, see policy 5:10, *Equal Employment Opportunity and Minority Recruitment*. This policy prohibiting harassment has a separate section on sexual harassment because of the extensive statutory and case law regarding it.

[Under the Ill. Human Rights Act \(IHRA\), harassment is unlawful if it has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. 775 ILCS 5/2-101\(E-1\), added by P.A. 101-221, eff. 1-1-20. Working environment is not limited to a physical location to which an employee is assigned. Id. Harassment is unlawful on the basis of the specifically-listed categories in this policy whether that status is actual or perceived. Id.](#)

An employer is liable under Title VII of the Civil Rights Act of 1964 (Title VII) for an employee's harassment of a co-worker if the employer was negligent with respect to the offensive behavior by, for example, failing to take remedial action when it knew or should have known about the harassment. 42 U.S.C. §2000e *et seq.* [An employer is liable under the IHRA for harassment by its nonmanagerial and nonsupervisory employees if it becomes aware of the conduct and fails to take reasonable corrective measures. 775 ILCS 5/2-102\(A\), amended by P.A. 101-221, eff. 1-1-20.](#) However, when the perpetrator is the victim's supervisor, the employer will be vicariously liable for the supervisor's actions. Lack of knowledge of a supervisor's misconduct is no defense. *Burlington Industries v. Ellerth*, 524 U.S. 742 (1998); *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998). A *supervisor* is someone who has the authority to demote, discharge, or take other negative job action against the victim. *Vance v. Ball State University*, 133 S.Ct. 2434 (2013). Note that the ~~Ill. Human Rights Act (IHRA)~~, (775 ILCS 5/2-102(D)) imposes strict liability on the employer when an employee has been sexually harassed by supervisory personnel regardless of whether the harasser has any authority over the complainant. *Sangamon County Sheriff's Dept. v. Ill. Human Rights Com'n*, 233 Ill.2d 125 (Ill. 2009). [Additionally, under the IHRA, an employer is liable for the harassment of nonemployees by nonmanagerial and nonsupervisory employees if it becomes aware of the conduct and fails to take reasonable corrective measures. 775 ILCS 5/2-102\(A-10\) and \(D-5\), added by P.A. 101-221, eff. 1-1-20. Nonemployees are those who are directly performing services for an employer pursuant to a contract, such as contractors or consultants. Id.](#)

Not all harassing conduct is unlawful discrimination, even if it is disruptive and hurtful. If a board wants to include language in this policy prohibiting employees from engaging in intimidating or offensive conduct that is *not* a civil rights violation, it should consult the board attorney.

<sup>2</sup> Section 2-102 of the IHRA, amended by P.A. 100-100, contains a ~~new~~ *religious discrimination* subsection. It expressly prohibits employers from requiring a person to violate a sincerely held religious belief to obtain or retain employment unless, after engaging in a bona fide effort, the employer demonstrates that it is unable to reasonably accommodate the employee's or prospective employee's sincerely held religious belief, practice, or observance without undue hardship on the conduct of the employer's business. Religious beliefs include, but are not limited to: the wearing of any attire, clothing, or facial hair in accordance with the requirements of his/her religion. 775 ILCS 5/2-102(E-5). Employers may, however, enact a dress code or grooming policy that restricts attire, clothing, or facial hair to maintain workplace safety or food sanitation. *Id.*

identified in Board policy 5:10, *Equal Employment Opportunity and Minority Recruitment*. Harassment of students, including, but not limited to, sexual harassment, is prohibited by Board policy 7:20, *Harassment of Students Prohibited*.

The District will take remedial and corrective action to address unlawful workplace harassment, including sexual harassment.

### Sexual Harassment Prohibited <sup>3</sup>

The School District shall provide a workplace environment free of verbal, physical, or other conduct or communications constituting harassment on the basis of sex as defined and otherwise prohibited by State and federal law. [The District provides annual sexual harassment prevention training in accordance with State law.](#) <sup>4</sup>

District employees shall not make unwelcome sexual advances or request sexual favors or engage in any unwelcome conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.<sup>5</sup> Sexual harassment prohibited by this policy includes, but is not limited to, verbal,

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<sup>3</sup> The IHRA (775 ILCS 5/2-102(D)) provides that sexual harassment is a civil rights violation:

For any employer, employee, agent of any employer, employment agency or labor organization to engage in sexual harassment; provided, that an employer shall be responsible for sexual harassment of the employer's employees by non-employees or non-managerial and non-supervisory employees only if the employer becomes aware of the conduct and fails to take reasonable corrective measures.

The State Officials and Employees Ethics Act (SOEEA) (5 ILCS 430/70-5(a), amended by P.A.s 100-554 and 101-221) requires governmental entities (including school districts) to adopt an ordinance or resolution establishing a policy to prohibit sexual harassment. Unlike the powers granted by the Ill. General Assembly to municipalities to pass ordinances, school boards govern by rules referred to as *policies*. 105 ILCS 5/10-20.5. Further, school boards may only exercise powers given to them that are consistent with the School Code that may be requisite or proper for the maintenance, operation, and development of any school or schools under the jurisdiction of the board. 105 ILCS 5/10-20.

The policy must include, at a minimum: (1) a prohibition on sexual harassment; (2) details on how an individual can report an allegation of sexual harassment, including options for making a confidential report to a supervisor, ethics officer, Inspector General, or the Ill. Dept. of Human Rights (IDHR); (3) a prohibition on retaliation for reporting sexual harassment allegations, including availability of whistleblower protections under the SOEEA, the Whistleblower Act (740 ILCS 174/), and the IHRA (775 ILCS 5/); ~~and~~ (4) the consequences: (a) of a violation of the prohibition on sexual harassment and (b) for knowingly making a false report; and (5) a mechanism for reporting and independent review of allegations of sexual harassment made against an elected official of the governmental unit by another elected official of a governmental unit. <sup>5</sup> [ILCS 430/70-5\(a\), amended by P.A.s 100-554 and 101-221, Policy 2:105, Ethics and Gift Ban covers item \(5\) in this list.](#)

<sup>4</sup> [775 ILCS 5/2-109, added by P.A. 101-221, eff. 1-1-20. See 5:100, Staff Development Program, at f/n 4. Districts may use a free, online model program to be offered by the Ill. Dept. of Human Rights \(IDHR\), develop their own program, or utilize a combination of the two, as long as it includes the following, at a minimum: \(1\) an explanation of sexual harassment consistent with the IHRA, \(2\) examples of conduct that constitutes unlawful harassment, \(3\) a summary of relevant federal and State law concerning sexual harassment and remedies available to victims of sexual harassment, and \(4\) a summary of responsibilities of employers in the prevention, investigation, and corrective measures of sexual harassment. Id. at 5/2-109\(B\), added by P.A. 101-221, eff. 1-1-20. Employers that fail to comply with this training requirement may face financial penalties. Id. Training on other types of workplace harassment is not required by law, however it is best practice.](#)

<sup>5</sup> This definition is from State and federal law. 775 ILCS 5/2-101(E) and 29 C.F.R. §1604.11. [Working environment is not limited to a physical location to which an employee is assigned. 775 ILCS 5/2-101\(E\), amended by P.A. 101-221, eff. 1-1-20.](#) The harassing conduct must be severe or pervasive so as to alter the conditions of the employee's work environment by creating a hostile or abusive situation. [Williams v. Waste Management](#), 361 F.3d 1021 (7th Cir. 2004). The surrounding circumstances, expectations, and relationships will distinguish between teasing or rough-housing and conduct that a reasonable person would find severely hostile or abusive. In addition, while same-sex gender harassment claims are actionable, the victim must show that s/he suffered disadvantageous employment conditions to which members of the other sex were not exposed. [Oncale v. Sundowner Offshore Services](#), ~~535~~ 523 U.S. 75 (1998).

physical, or other conduct. The terms intimidating, hostile, or offensive include, but are not limited to, conduct that has the effect of humiliation, embarrassment, or discomfort. Sexual harassment will be evaluated in light of all the circumstances.

### Making a Complaint

Employees and nonemployees<sup>6</sup> (persons who are not otherwise employees and are directly performing services for the District pursuant to a contract with the District, including contractors and consultants) are encouraged to promptly report information regarding violations of this policy.<sup>7</sup> Employees Individuals may choose to report to a person of the individual employee's same gender. Every effort should be made to file such complaints as soon as possible, while facts are known and potential witnesses are available.

Aggrieved employeesindividuals, if they feel comfortable doing so, should directly inform the person engaging in the harassing conduct or communication that such conduct or communication is offensive and must stop.

### Whom to Contact with a Report or Complaint <sup>8</sup>

An employee should report claims of harassment, including making a confidential report, to any of the following: his/her immediate supervisor, the Building Principal, an administrator, the Nondiscrimination Coordinator, and/or a Complaint Manager. <sup>9</sup>

Employees may also report claims using Board policy 2:260, *Uniform Grievance Procedure*. If a claim is reported using Board policy 2:260, then the Complaint Manager shall process and review the complaint according to that policy, in addition to any response required by this policy—~~5:20, Workplace Harassment Prohibited~~.

The Superintendent shall insert into this policy the names, addresses, and telephone numbers of the District's current Nondiscrimination Coordinator and Complaint Managers.

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<sup>6</sup> See f/n 1 above, for discussion regarding nonemployees.

~~<sup>7</sup> School districts are not required to train employees regarding workplace harassment, including sexual harassment; however it is best practice. For districts that wish to provide such trainings, best practices suggest annual trainings work best, including on applicable board policies and procedures, what constitutes workplace harassment, complaint and enforcement mechanisms, and employees' legal rights.~~

<sup>8</sup> Title IX regulations require districts to identify the name, address, and telephone number of the person who is responsible for coordinating the district's compliance efforts. A policy should not be adopted with a person's name in it; rather, the identifying information can be added and amended as necessary.

<sup>9</sup> 5 ILCS 430/70-5(a), amended by P.A. 100-554, requires that a school board policy prohibiting sexual harassment include details for reporting an allegation of sexual harassment, including options for making a confidential report to a supervisor and an ethics officer. 5 ILCS 430/20-23 defines *ethics officers* as being designated by State agencies under the jurisdiction of the Executive Ethics Commission. School districts are not State agencies (5 ILCS 430/1-5) and do not have ethics officers; thus, this sample policy substitutes Complaint Manager for ethics officer. Note also that the IDHR has established a Sexual Harassment Hotline Call Center and website to help the public find resources and assistance for the filing of sexual harassment complaints. The hotline can be reached Monday through Friday with the exception of State holidays, between the hours of 8:30 a.m. and 5:00 p.m., at 1-877-236-7703. See [www2.illinois.gov/sites/sexualharassment/Pages/default.aspx](http://www2.illinois.gov/sites/sexualharassment/Pages/default.aspx). All communications received by the IDHR are exempt from disclosure under the Freedom of Information Act (FOIA).

**Nondiscrimination Coordinator:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email

\_\_\_\_\_  
Telephone

**Complaint Managers:**

_____ Name	_____ Name
_____ Address	_____ Address
_____ Email	_____ Email
_____ Telephone	_____ Telephone

Investigation Process

Supervisors, Building Principals, or administrators who receive a report or complaint of harassment must promptly forward the report or complaint to the Nondiscrimination Coordinator or a Complaint Manager. A supervisor or administrator who fails to promptly forward a report or complaint may be disciplined, up to and including discharge.

Reports and complaints of harassment will be confidential to the greatest extent practicable, subject to the District’s duty to investigate and maintain a workplace environment that is productive, respectful, and free of unlawful discrimination, including harassment. The District shall investigate alleged workplace harassment when [the Nondiscrimination Coordinator or](#) a Complaint Manager becomes aware of an allegation, regardless of whether a written report or complaint is filed.

Enforcement 10

A violation of this policy by an employee may result in discipline, up to and including discharge.<sup>11</sup> A violation of this policy by a third party will be addressed in accordance with the authority of the

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<sup>10</sup> See [Berry v. Delta Airlines](#), 260 F.3d 803, 811 (7th Cir. 2001) (“If an employer takes reasonable steps to discover and rectify the harassment of its employees ... it has discharged its legal duty.”)

In addition to violating other civil rights laws, a school district violates the *public accommodations* article in the IHRA if it fails to take corrective action to stop severe or pervasive harassment. 775 ILCS 5/5-102 and 5/5-102.2.

<sup>11</sup> 5 ILCS 430/70-5(a), amended by P.A. 100-554 (consequences of a violation of the prohibition on sexual harassment). When discharge is the penalty, examine 50 ILCS 205/3c, added by P.A. 100-1040. It requires a school district to post on its website and make available to news media specific information about severance agreements that it enters into because an employee or contractor was found to have engaged in sexual harassment or sexual discrimination, as defined by the IHRA or Title VII. [Id. Additionally, under the Workplace Transparency Act \(WTA\), employers may not require confidentiality clauses in settlement or termination agreements involving alleged unlawful employment practices under federal or State civil rights laws, except under specific conditions. 820 ILCS 96/1-30, added by P.A. 101-221, eff. 1-1-20.](#)

Board in the context of the relationship of the third party to the District, i.e., vendor, parent, invitee, etc. Any employee making a knowingly false accusation regarding harassment will likewise be subject to disciplinary action, up to and including discharge. **12**

### Retaliation Prohibited

An employee's employment, compensation, or work assignment shall not be adversely affected by complaining or providing information about harassment. Retaliation against employees for bringing bona fide complaints or providing information about harassment is prohibited (see Board policy 2:260, *Uniform Grievance Procedure*), and whistleblower protection may be available under the State Officials and Employees Ethics Act (5 ILCS 430/), the Whistleblower Act (740 ILCS 174/), and the Ill. Human Rights Act (775 ILCS 5/). **13**

An employee should report allegations of retaliation to his/her immediate supervisor, the Building Principal, an administrator, the Nondiscrimination Coordinator, and/or a Complaint Manager.

Employees who retaliate against others for reporting or complaining of violations of this policy or for participating in the reporting or complaint process will be subject to disciplinary action, up to and including discharge.

### Recourse to State and Federal Fair Employment Practice Agencies **14**

The District encourages all employees who have information regarding violations of this policy to report the information pursuant to this policy. The following government agencies are available to assist employees: the Ill. Dept. of Human Rights and the U.S. Equal Employment Opportunity Commission.

The Superintendent shall also use reasonable measures to inform staff members, ~~and~~ applicants, and nonemployees of this policy, which shall include posting on the District website and/or making this

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Prior to the passage of 50 ILCS 205/3c, added by P.A. 100-1040, and the WTA, members of the public could already access copies of severance agreements between school districts and their former employees under FOIA. The Ill. Atty. Gen. Public Access Counselor (PAC) directed a public body to release a settlement agreement that arose out of claims of sexual harassment. PAO 14-4. The PAC noted that the public body could not withhold the entire settlement agreement under 5 ILCS 140/7(1)(c), which exempts personal information that would constitute a clearly unwarranted invasion of privacy. Instead, it could redact personal information from the agreement, such as the complainants' names in order to protect their privacy. Id. However, data regarding settlement agreements involving allegations of sexual harassment or other unlawful discrimination that an employer must report to IDHR under 775 ILCS 5/2-108 is categorically exempt from FOIA. 5 ILCS 140/7.5(oo), added by P.A. 101-221, eff. 1-1-20.

See f/n 6 in policy 2:260, *Uniform Grievance Procedure*, for more discussion about reconciling 50 ILCS 205/3c, added by P.A. 100-1040, with another new law, the Government Severance Pay Act (GSPA) (5 ILCS 415/10(a)(1), added by P.A. 100-895, eff. 1-1-19), which prohibits school district employees with contract provisions for severance pay to receive any severance pay if they are fired for *misconduct* by the board.

**12** 5 ILCS 430/70-5(a), amended by P.A. 100-554 (consequences for knowingly making a false report of sexual harassment).

**13** Id. (prohibition on retaliation for reporting sexual harassment allegations, including availability of whistleblower protections under the SOEEA, the Whistleblower Act (740 ILCS 174/), and the IHRA (775 ILCS 5/)).

Crawford v. Metro. Gov't of Nashville & Davidson County, 555 U.S. 271 (2009) (holding the anti-retaliation provision in EEOA protects an employee who spoke out about harassment, not only on his or her own initiative, but also in answering questions during an employer's internal investigation).

**14** 5 ILCS 430/70-5(a), amended by P.A. 100-554, (how an individual can report an allegation of sexual harassment, including options for making a confidential report to the Inspector General or the IDHR). This sample policy does not reference the Inspector General because the Inspector General does not have jurisdiction over public school districts. 5 ILCS 430/1. School districts must also annually disclose to IDHR certain data about adverse judgment or administrative rulings made against them where there was a finding of sexual harassment or unlawful discrimination under federal, State, or local laws. 775 ILCS 5/2-108, added by P.A. 101-221, eff. 1-1-20.

[policy available in the District's administrative office, and reprinting—including](#) this policy in the appropriate handbooks. 15

LEGAL REF.: Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq., implemented by 29 C.F.R. §1604.11.  
Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 et seq., implemented by 34 C.F.R. Part 106.  
State Officials and Employees Ethics Act, 5 ILCS 430/70-5(a).  
Ill. Human Rights Act, 775 ILCS 5/2-101(E) and (E-1), 5/2-102(A), (A-10), (D-5), 5/2-102(E-5), 5/2-109, 5/5-102, and 5/5-102.2.  
56 Ill. Admin.Code Parts 2500, 2510, 5210, and 5220.  
Burlington Industries v. Ellerth, 524 U.S. 742 (1998).  
Crawford v. Metro. Gov't of Nashville & Davidson County, 555 U.S. 271 (2009).  
Faragher v. City of Boca Raton, 524 U.S. 775 (1998).  
Franklin v. Gwinnett Co. Public Schools, 503 U.S. 60 (1992).  
Harris v. Forklift Systems, 510 U.S. 17 (1993).  
Jackson v. Birmingham Bd. of Educ., 544 U.S. 167 (2005).  
Meritor Savings Bank v. Vinson, 477 U.S. 57 (1986).  
Oncale v. Sundowner Offshore Services, 523 U.S. 75 (1998).  
Porter v. Erie Foods International, Inc., 576 F.3d 629 (7th Cir. 2009).  
Sangamon County Sheriff's Dept. v. Ill. Human Rights Com'n, 233 Ill.2d 125 (Ill. 2009).  
Vance v. Ball State University, 133 S. Ct. 2434 (2013).

CROSS REF.: 2:260 (Uniform Grievance Procedure), 5:10 (Equal Employment Opportunity and Minority Recruitment), 7:20 (Harassment of Students Prohibited)

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15 A district must notify employees of the grievance procedure and the person(s) designated to coordinate the district's compliance with Title IX. 34 C.F.R. §106.8(a). The nondiscrimination coordinator can be the same individual for both this policy and policy 7:10, *Equal Educational Opportunities*, as well as the complaint manager in policy 2:260, *Uniform Grievance Procedure*. A comprehensive faculty handbook can provide required notices, along with other important information to recipients. The handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and board. Any *working conditions* contained in the handbook may be subject to mandatory collective bargaining.

[Informing nonemployees is not required by law. However, given the potential for employer liability under the IHRA for harassment of nonemployees, best practice is to publicize this policy to those individuals as well.](#)

## General Personnel

### Hiring Process and Criteria 1

The District hires the most qualified personnel consistent with budget and staffing requirements and in compliance with School Board policy on equal employment opportunity and minority recruitment.<sup>2</sup> The Superintendent is responsible for recruiting personnel and making hiring recommendations to the Board.<sup>3</sup> If the Superintendent’s recommendation is rejected, the Superintendent must submit another.<sup>4</sup> No individual will be employed who has been convicted of a criminal offense listed in [Section 105 ILCS 5/21B-80\(c\) of the School Code](#).<sup>5</sup>

All applicants must complete a District application in order to be considered for employment.<sup>6</sup>

### Job Descriptions

The Board maintains the Superintendent’s job description and directs, through policy, the Superintendent, in his or her charge of the District’s administration.<sup>7</sup>

**The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.**

<sup>1</sup> State or federal law controls this policy’s content. This policy contains an item on which impact bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

<sup>2</sup> See policy 5:10, *Equal Employment Opportunity and Minority Recruitment*. Districts may not classify a job as either a male or female job. 29 C.F.R. §1604.5, 34 C.F.R. §106.55.

<sup>3</sup> Boards must consider the superintendent’s recommendations concerning, among other things, “the selection, retention, and dismissal of employees,” 105 ILCS 5/10-16.7. The board may want to use this alternative sentence:

All personnel decisions are made by the Board, but only on the recommendation of the Superintendent.

Subject to an applicable collective bargaining agreement in effect on 6-13-11, a board that fills a “new or vacant teaching position” must select a candidate based on: (1) certifications, (2) qualifications, (3) merit and ability (including performance evaluation, if available), and (4) relevant experience. 105 ILCS 5/24-1.5. The statute does not define “new or vacant teaching positions.” The requirement does not apply to filling vacant positions under 105 ILCS 5/24-12 (reduction in force and recall). Consult the board attorney about these issues.

<sup>4</sup> An additional optional sentence follows:

The Superintendent may select personnel on a short-term basis for a specific project or emergency condition before the Board’s approval.

<sup>5</sup> 105 ILCS 5/10-21.9(c), [amended by P.A. 101-531](#); 105 ILCS 5/21B-80, [amended by P.A. 101-531](#), ~~amended by P.A. 99-667~~, allows individuals with criminal histories involving certain drug convictions to apply for or to reinstate their educator licenses seven years after their sentence for the criminal offense is completed. Consult the board attorney about whether the board wants to continue prohibiting employment for any individual who has a criminal history involving these exempted drug offenses.

[For more discussion regarding criminal history records checks and screenings required by 105 ILCS 5/10-21.9, amended by P.A. 101-531, see f/ns 5 and 6 in policy 4:175, \*Convicted Child Sex Offender: Screening; Notifications.\*](#)

<sup>6</sup> Any person who applies for employment as a teacher, principal, superintendent, or other certificated employee who willfully makes a false statement on his or her application for employment, material to his or her qualifications for employment, which he or she does not believe to be true, is guilty of a Class A misdemeanor. 105 ILCS 5/22-6.5. District employment applications must contain a statement to this effect. Id. Each employment application for these positions must state the following (Id.):

Failure to provide requested employment or employer history which is material to the applicant’s qualifications for employment or the provision of statements which the applicant does not believe to be true may be a Class A misdemeanor.

[Any employer that asks applicants to record video interviews and uses an artificial intelligence analysis of the applicant-submitted videos must comply with the Artificial Intelligence Video Interview Act, 820 ILCS 42/, added by P.A. 101-260, eff. 1-1-20.](#)

The Superintendent shall develop and maintain a current comprehensive job description for each position or job category; however, a provision in a collective bargaining agreement or individual contract will control in the event of a conflict. **8**

### Investigations

The Superintendent or designee shall ensure that a fingerprint-based criminal history records check and a check of the Statewide Sex Offender Database and Violent Offender Against Youth Database is performed on each applicant as required by State law.<sup>9</sup> When the applicant is a successful superintendent candidate who has been offered employment by the Board, the Board President shall ensure that these checks are completed.<sup>10</sup> The Superintendent or designee, or if the applicant is a successful superintendent candidate, then the Board President shall notify an applicant if the applicant is identified in either database.<sup>11</sup> The School Code requires the Board President to keep a conviction

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<sup>7</sup> 105 ILCS 5/10-16.7. The foundation for a productive employment relationship begins with a board's policy, a thoughtfully crafted employment contract and job description, and procedures for communications and ongoing assessment. See IASB's *Foundational Principles of Effective Governance*, **Principle 3. The board employs a superintendent**, at: [www.iasb.com/pdf/found\\_prin.pdf](http://www.iasb.com/pdf/found_prin.pdf).

See also 3:40-E, *Checklist for the Superintendent Employment Contract Negotiation Process*, for best practice discussions about establishing the board-superintendent employment relationship and contract.

<sup>8</sup> Job descriptions will become the basis for categorizing a teacher into one or more positions that the teacher is qualified to hold for reduction in force (RIF) dismissal and recall purposes. 105 ILCS 5/24-12(b). A board should consult with its attorney to review its current list of job descriptions and discuss the district's specific responsibilities.

A job description is evidence of a position's *essential functions*. 29 C.F.R. §1630.2(n). The Americans with Disabilities Act (ADA) protects individuals who have a disability and are qualified, with reasonable accommodation, to perform the *essential functions* of the job. 42 U.S.C. §12101 *et seq.*, amended by the ADA Amendments Act (ADAAA), Pub. L. 110-325. Determining which functions are essential may be critical to determining if an individual with a disability is qualified. An individual is qualified to perform a job even though he or she is unable, due to a disability, to perform tasks which are incidental to the job. Only when an individual is unable to perform the *essential functions* of a job may a district deny the individual employment opportunities. 29 C.F.R. §1630.2(m). For a definition of essential functions see *Id.* at 1630.2(n). Whether a particular function is essential is a factual determination.

**Important:** The ADAAA makes significant changes to the ADA's definition of disability that broadened the scope of coverage and overturned a series of U.S. Supreme Court decisions that made it difficult to prove that an impairment was a qualifying disability. There is information about the regulations and a link to them at: [www.eeoc.gov/laws/regulations/adaaa\\_fact\\_sheet.cfm](http://www.eeoc.gov/laws/regulations/adaaa_fact_sheet.cfm). Consult the board attorney regarding how these amendments impact the district's hiring processes.

<sup>9</sup> The policy's requirements on criminal records checks for applicants for employment are mandated by 105 ILCS 5/10-21.9, amended by P.A.s 101-72 and 101-531. See administrative procedure 5:30-AP2, *Investigations*, for the process and positions requiring criminal background investigation. The Statewide Sex Offender Database (a/k/a Sex Offender Registry) is available at: [www.isp.state.il.us/sor](http://www.isp.state.il.us/sor). The Statewide Murderer and Violent Offender Against Youth Database is available at: [www.isp.state.il.us/cmvo/](http://www.isp.state.il.us/cmvo/). For more discussion regarding criminal history records checks and screenings required by 105 ILCS 5/10-21.9, amended by P.A. 101-531, see f/n 5 in policy 4:175. Convicted Child Sex Offender: Screening: Notifications. See policy 4:60, *Purchases and Contracts*, for requirements concerning criminal background checks of employees of contractors who have *direct, daily contact* with students.

<sup>10</sup> *Id.* If a board wants to require additional background inquiries beyond the fingerprint-based criminal history records information check required by 105 ILCS 5/10-21.9, amended by P.A.s 101-72 and 101-531, including the federal *Rap Back Service* (20 ILCS 2630/3.3, added by P.A. 100-718) and/or checks through consumer reporting agencies regulated by the Fair Credit Reporting Act (15 U.S.C. § 1681 *et seq.*), consult the board attorney. For more detailed information, see the laws listed in sample exhibit 3:40-E, *Checklist for the Superintendent Employment Contract Negotiation Process*, under the checklist item entitled **Conditions of Employment**, in the **Other Background Check Laws** row.

<sup>11</sup> 105 ILCS 5/10-21.9(b), amended by P.A.s 101-72 and 101-531, and 105 ILCS 5/21B-10. The School Code requires the board president to keep a conviction record confidential. It is impossible to know whether a fingerprint-based criminal history records check and a check of the Statewide Sex Offender and Violent Offender Against Youth Databases on a successful superintendent candidate will come back with a conviction record.

record confidential and share it only with the Superintendent, Regional Superintendent, State Superintendent, State Educator Preparation and Licensure Board, any other person necessary to the hiring decision, or for purposes of clarifying the information, the Ill. Dept. of State Police and/or Statewide Sex Offender Database.<sup>12</sup> The Board reserves its right to authorize additional background inquiries beyond a fingerprint-based criminal history records check when it deems it appropriate to do so, in accordance with applicable laws.

Each newly hired employee must complete an [U.S. Citizenship and Immigration and Naturalization Services](#) Form as required by federal law. <sup>13</sup>

The District retains the right to discharge any employee whose criminal background investigation reveals a conviction for committing or attempting to commit any of the offenses outlined in [Section 105 ILCS 5/21B-80 of the School Code](#) or who falsifies, or omits facts from, his or her employment application or other employment documents. [If an indicated finding of abuse or neglect of a child has been issued by the Ill. Department of Children and Family Services or by a child welfare agency of another jurisdiction for any applicant for student teaching, applicant for employment, or any District employee, then the Board must consider that person's status as a condition of employment.](#) <sup>14</sup>

The Superintendent shall ensure that the District does not engage in any investigation or inquiry prohibited by law and complies with each of the following: <sup>15</sup>

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Therefore, in accordance with best practice (ensuring compliance and aligning with good governance principles), this policy does not assign a designee for the board president to complete this task. However, to balance the requirement to keep conviction records confidential with the practical implementation of ensuring a fingerprint-based criminal history records check and a check of the Statewide Sex Offender and Violent Offender Against Youth Databases are performed on each successful superintendent applicant, a board president may want to designate the duty to order these checks to the individuals otherwise listed in 105 ILCS 5/10-21.9(b), [amended by P.A.s 101-72 and 101-531](#). Those individuals include the board president, the superintendent or designee, regional superintendent (if the check was requested by the district), state superintendent of [school education](#), state Educator Preparation and Licensure Board, any other person necessary to the hiring decision, or for clarification purposes, the Ill. Dept. of State Police and/or Statewide Sex Offender Registry.

<sup>12</sup> *Id.* at 5/10-21.9(b), [amended by P.A.s 101-72 and 101-531](#). The School Code continues to define the board president's role in conducting criminal background investigations and receiving the results of these investigations, including the results for employees of district contractors. 105 ILCS 5/10-21.9. Many districts delegate this task in the hiring process to a human resources department.

Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center."

[For more discussion regarding responses to results obtained by criminal history records checks and screenings as required by 105 ILCS 5/10-21.9\(e\), amended by P.A. 101-531, see f/n 6 in policy 4:175, Convicted Child Sex Offender: Screening; Notifications.](#)

<sup>13</sup> Immigration Reform and Control Act, 8 U.S.C. §1324a *et seq.* Consult with the board attorney regarding the district's rights and responsibilities under all Illinois laws if the district uses any electronic employment verification system, including *E-Verify* and/or the Basic Pilot Program. 820 ILCS 55/12. This statute urges employers who voluntarily use *E-Verify* (formerly known as the Basic Pilot/Employment Eligibility Verification Program) to consult the Ill. Dept. of Labor's website for current information on the accuracy of *E-Verify* and to review and understand their legal responsibilities relating to the use of any electronic employment verification systems. See f/n 2 in 5:150-AP, *Personnel Records*, for a more detailed discussion of *E-Verify* issues.

<sup>14</sup> [105 ILCS 5/10-21.9\(c\) and \(g\), amended by P.A. 101-531. See f/n 6 in 4:175, Convicted Child Sex Offender: Screening; Notifications, for further discussion.](#)

<sup>15</sup> As an alternative to describing the prohibited investigations, a board may substitute this sentence:

The Superintendent shall ensure that the District does not engage in any investigation or inquiry prohibited by law, including without limitation, investigation into or inquiry concerning: (1) credit history or report unless a satisfactory credit history is an established bona fide occupational requirement of a particular position; (2) claim(s) made or benefit(s) received under Workers' Compensation Act; and (3) access to an employee's or applicant's social networking website, including a request for passwords to such sites.

1. The District uses an applicant's credit history or report from a consumer reporting agency only when a satisfactory credit history is an established bona fide occupational requirement of a particular position. **16**
2. The District does not screen applicants based on their current or prior wages or salary histories, including benefits or other compensation, by requiring that the wage or salary history satisfy minimum or maximum criteria. **17**
3. The District does not request or require a wage or salary history as a condition of being considered for employment, being interviewed, continuing to be considered for an offer of employment, an offer of employment, or an offer of compensation. **18**
4. The District does not request or require an applicant to disclose wage or salary history as a condition of employment. **19**
5. The District does not ask an applicant or applicant's current or previous employers about wage or salary history, including benefits or other compensation. **20**
- ~~3.6.~~ The District does not ask an applicant or applicant's previous employers about claim(s) made or benefit(s) received under the Workers' Compensation Act. **21**
- ~~4.7.~~ The District does not request of an applicant or employee access in any manner to his or her personal online account, such as social networking websites, including a request for passwords to such accounts. **22**

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The default policy provision and the alternative stated above – whichever is selected – may be made a prohibition rather than a duty of the superintendent; to do this, delete the stricken text as follows: “The ~~Superintendent shall ensure that the~~ District does not engage ...”

**16** Employee Credit Privacy Act, 820 ILCS 70/10. This Act allows inquiries into an applicant's credit history or credit report or ordering or obtaining an applicant's credit report from a consumer reporting agency when a satisfactory credit history is an *established bona fide occupational requirement* of a particular position. The Act identifies circumstances that permit a satisfactory credit history to be a job requirement, such as, the position's duties include custody of or unsupervised access to cash or marketable assets valued at \$2,500 or more.

**17** 820 ILCS 112/10(b-5), added by P.A. 101-177. If an employer violates this subsection, the employee may recover in a civil action any damages incurred, special damages up to \$10,000, injunctive relief, and costs and reasonable attorney's fees. 820 ILCS 112/30(a-5), added by P.A. 101-177.

**18** Id.

**19** Id.

**20** 820 ILCS 112/10(b-10), added by P.A. 101-177. **Note:** Attorneys caution that using the exceptions in 820 ILCS 112/10(b-10)(1) and (2), added by P.A. 101-177, may trigger litigation. Violating this subsection entitles an employee to recover in a civil action any damages incurred, special damages up to \$10,000, injunctive relief, and costs and reasonable attorney's fees. 820 ILCS 112/30(a-5), added by P.A. 101-177.

A school board that wishes to preserve these exceptions should consult its board attorney; then they may supplement number 5 by adding the following after “compensation”:

unless the applicant's wage or salary history is a matter of public record, or is contained in a document completed by the applicant's current or former employer and then made available to the public by the employer, or then submitted or posted by the employer to comply with State or federal law; or the applicant is a current employee applying for a position with the same current employer.

**21** Right to Privacy in the Workplace Act, 820 ILCS 55/10(a), ~~amended by P.A. 99-610.~~

**22** Id. at 55/10(b)(6)(B), ~~amended by P.A. 99-610~~ (commonly known as the *Facebook Password Law*). A *personal online account* is defined as an online account used primarily by a person for personal purposes. *Personal online account* does not include an account created, maintained, used, or accessed for the business purpose of a person's employer or prospective employer. Id. at 55/10(b)(5), ~~amended by P.A. 99-610.~~ Bracketed explanations follow the statutory language:

“Nothing in this subsection shall prohibit or restrict an employer from complying with a duty to screen employees or applicants prior to hiring...provided that the password, account information, or access sought by the employer only relates to an online account that:

(A) an employer supplies or pays; or

~~5-8.~~ The District provides equal employment opportunities to all persons. See policy 5:10, *Equal Employment Opportunity and Minority Recruitment*.

### Physical Examinations 23

Each new employee must furnish evidence of physical fitness to perform assigned duties and freedom from communicable disease. The physical fitness examination must be performed by a physician licensed in Illinois, or any other state, to practice medicine and surgery in any of its branches, ~~or a licensed advanced practice registered nurse who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice nurse to perform health examinations,~~ or a licensed physician assistant who has been delegated the authority by his or her supervising physician to perform health examinations. The employee must have the physical examination performed no more than 90 days before submitting evidence of it to the District.

Any employee may be required to have an additional examination by a physician who is licensed in Illinois to practice medicine and surgery in all its branches, ~~or a licensed advanced practice registered nurse who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice nurse to perform health examinations,~~ or a licensed physician assistant who has been delegated the authority by his or her supervising physician to perform health examinations, if the examination is job-related and consistent with business necessity.<sup>24</sup> The Board will pay the expenses of any such examination.

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(B) an employee creates or maintains on behalf of under the direction of an employer in connection with that employee's employment."

[Based on this explanation, it is implausible that an applicant would have an account, service, or profile for business purposes of a school employer.]

The statute specifically permits an employer to: (1) maintain workplace policies governing the use of the employer's electronic equipment, including policies regarding Internet use, social networking site use, and electronic mail use; and (2) monitor usage of the employer's (district's) electronic equipment and electronic mail. The statute also states that it does *not prohibit* an employer from obtaining information about an applicant or an employee that is in the public domain or that is otherwise obtained in compliance with the statute. Finally, the statute does not apply to all types of personal technology that employees may use to communicate with students or other individuals, such as text messages on a personal phone. Consult the board attorney about these issues.

<sup>23</sup> 105 ILCS 5/24-5, amended by P.A. 100-513. According to this statute, "[a] new or existing employee may be subject to additional health examinations, including tuberculosis screening, as required by rules adopted by the Ill. Dept. of Public Health or by order of a local public health official." The Ill. Dept. of Public Health does not require school employees to be screened for tuberculosis other than workers in child day care and preschool settings. 77 Ill.Admin.Code §696.140(a)(3).

The last sentence of the first paragraph exceeds State law requirements and may be deleted.

Note that while examination by a spiritual leader/practitioner is sufficient for purposes of leaves, the statute does not permit an examination by a spiritual leader/practitioner for initial employment exams. This difference may present a constitutional issue; contact the board attorney for an opinion if an applicant wants to use an examination by a spiritual leader/practitioner.

Federal law limits pre-employment medical inquiries to whether the applicant is able to perform job-related functions; required medical examinations of applicants is forbidden. American with Disabilities Act (ADA), 42 U.S.C. §12112(d)(2); see also f/n 8 for an explanation regarding the ADA. Districts may condition an employment offer on taking and passing medical inquiries or physical exams, provided that all entering employees in the same classification receive the same conditional offer.

<sup>24</sup> The State law (105 ILCS 5/24-5, amended by P.A. 100-513) allowing boards to require physicals of current employees "from time to time," is been superseded by the ADA (42 U.S.C. §12112(d)(4)). The ADA allows medical inquiries of current employees only when they are job-related and consistent with business necessity or part of a voluntary employee wellness program. Id. Districts may deny jobs to individuals with disabilities who pose a direct threat to the health or safety of others in the workplace, provided that a reasonable accommodation would not either eliminate the risk or reduce it to an acceptable level. —42 U.S.C. §12113; 29 C.F.R. Part 1630.2(r). See f/n 8 for an explanation regarding the ADA.

See the f/n ~~48~~<sup>23</sup> for a discussion of examinations by spiritual leaders/practitioners.

### Orientation Program

The District's staff will provide an orientation program for new employees to acquaint them with the District's policies and procedures, the school's rules and regulations, and the responsibilities of their position. Before beginning employment, each employee must sign the *Acknowledgement of Mandated Reporter Status* form as provided in policy 5:90, *Abused and Neglected Child Reporting*.

LEGAL REF.: 105 ILCS 5/10-16.7, 5/10-20.7, 5/10-21.4, 5/10-21.9, 5/21B-10, 5/21B-80, 5/10-22.34, 5/10-22.34b, 5/22-6.5, and 5/24-5.  
20 ILCS 2630/3.3, Criminal Identification Act.  
820 ILCS 55/, Right to Privacy in the Workplace Act.  
820 ILCS 70/, Employee Credit Privacy Act.  
Americans with Disabilities Act, 42 U.S.C. §12112, and 29 C.F.R. Part 1630.  
Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.*  
Immigration Reform and Control Act, 8 U.S.C. §1324a *et seq.*  
Duldulao v. St. Mary of Nazareth Hospital, 136 Ill. App. 3d 763 (1st Dist. 1985),  
*aff'd in part and remanded* 115 Ill.2d 482(Ill. 1987).  
Kaiser v. Dixon, 127 Ill. App. 3d 251 (2nd Dist. 1984).  
Molitor v. Chicago Title & Trust Co., 325 Ill. App. 124 (1st Dist. 1945).

CROSS REF.: 2:260 (Uniform Grievance Procedure), 3:50 (Administrative Personnel Other Than the Superintendent), 4:60 (Purchases and Contracts), 4:175 (Convicted Child Sex Offender; Screening; Notifications), 5:10 (Equal Employment Opportunity and Minority Recruitment), 5:40 (Communicable and Chronic Infectious Disease), 5:90 (Abused and Neglected Child Reporting), 5:125 (Personal Technology and Social Media; Usage and Conduct), 5:220 (Substitute Teachers), 5:280 (Educational Support Personnel - Duties and Qualifications)

**General Personnel**

**Drug- and Alcohol-Free Workplace; E-Cigarette, Tobacco, and Cannabis Prohibition 1**

All District workplaces are drug- and alcohol-free workplaces. 2

All employees are prohibited from engaging in any of the following activities while on District premises or while performing work or being on call<sup>3</sup> for the District: 4

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1 State or federal law controls this policy’s content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. The Right to Privacy in the Workplace Act (RPWA) allows employers to regulate employees’ use of lawful products that impair an employee’s ability to perform his or her assigned duties. 820 ILCS 55/5(b), amended by P.A. 101-27.

The federal Drug-Free Workplace Act applies only to the specific programs receiving federal funds, (41 U.S.C. §8101 et seq.) For ease of administration, this policy, however, makes its requirements applicable to all employees in order to avoid confusion during implementation and to avoid complications when obtaining and maintaining federal funds. The Cannabis Regulation and Tax Act (CRTA), 410 ILCS 705/, added by P.A. 101-27, legalized cannabis, but it remains a Schedule I (c)(17) controlled substance under federal law, meaning that it has no currently accepted medical use in addition to a high potential for abuse. 21 U.S.C.A. §812 (exempting hemp as defined at 7 U.S.C.A. §1639o). 41 U.S.C. §§8101, 8102 and 8103. While not law, the U.S. House of Representatives, in a voice vote, voted in favor of an amendment to H.R. 3055, which was introduced by Reps. Earl Blumenauer (D-OR), Tom McClintock (R-CA), and Eleanor Holmes Norton (D-D.C.), prohibiting the U.S. Dept. of Justice (DOJ) from interfering with a state’s decision to implement laws governing the legalization of cannabis (recreational and medicinal). This marked the first time that either branch of the U.S. Congress has voted to protect state recreational cannabis laws from federal enforcement actions. If the amendment becomes law, it would block the DOJ from using funds to intervene in state and territory cannabis legalization laws. This policy continues to prohibit employees from using cannabis as allowed by the CRTA. See f/n 9, below.

The federal Safe and Drug-Free Schools and Communities Act provides funds, upon application, for drug and violence prevention programs; it does not contain policy mandates. Illinois also has a Drug Free Workplace Act (30 ILCS 580/) that applies to districts with 25 or more employees working under a state contract or a grant of \$5,000 or more.

2 Replace this sentence with the district’s drug- and alcohol- free policy goal(s), if any.

With the passage of the CRTA, 410 ILCS 705/, added by P.A. 101-27, each board and superintendent may wish to engage in a risk management conversation about the district’s drug- and alcohol- free policy enforcement and discipline goals. Enforcement and discipline goals depend upon a board’s risk-level tolerance and community expectations. Risk level tolerance decisions will depend upon many factors, including, but not limited to: (1) the board attorney’s recommendations, (2) the district’s budget parameters, if any, for reasonable suspicion training on identification of symptoms of impairment and/or being under the influence, (3) drug testing, and (4) the community’s expectations. Answers to the following questions might structure this risk-management conversation:

1. Does the board want to implement a reasonable suspicion program (or any other type of just cause provisions in an applicable collective bargaining agreement) to identify employees suspected of being impaired and/or under the influence to enhance its ability to discipline?
2. Does the board want the superintendent to secure training for designated district employees to educate them to identify symptoms of impairment or being under the influence of the substances prohibited in this policy?
3. How does the board want to address employees in positions of leadership, e.g., the superintendent and/or building principal(s), who are perpetually on call due to the nature of their positions and responsibilities (see f/n 3, below)?
4. How will the district manage its duty to educate students about the dangers of drugs and alcohol against the reality that employees are allowed to use lawful products off-duty and off the district’s premises (820 ILCS 55/5(b), amended by P.A. 101-27)?
5. Will licensed educators be held to a higher standard than non-licensed employees due to their professional code of conduct expectations?
6. Will employees working directly with students be held to a higher standard than employees not working directly with students?

1. Unlawful manufacture, dispensing, distribution, possession, or use of an illegal or controlled substance. <sup>5</sup>
2. Distribution, consumption, use, possession, or being impaired by or under the influence of an alcoholic beverage; being present on District premises or while performing work for the District when alcohol consumption is detectible, regardless of when and/or where the use occurred. <sup>6</sup>
3. Distribution, consumption, possession, ~~or~~ use, or being impaired by or under the influence of ~~medical-cannabis~~; being present on District premises or while performing work for the District when impaired by or under the influence of cannabis, regardless of when and/or where the use occurred, unless distribution, possession, and/or use is by a school nurse or school administrator pursuant to *Ashley's Law*, 105 ILCS 5/22-33.7 The District considers employees impaired by or under the influence of cannabis when there is a good faith belief

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<sup>3</sup> An employee is *on call* when the employer schedules him or her with at least 24 hours' notice to be on standby or otherwise responsible for performing employment-related tasks either at the employer's location or another previously-designated location. 820 ILCS 55/5, amended by P.A. 101-27. Consult the board attorney regarding how the board wants to treat employees who may be considered on call, e.g., superintendents, principals, coaches, and/or maintenance workers, etc.

For boards that do not want this text, delete ~~or being on call~~.

<sup>4</sup> To align with best practices for identifying and subsequently initiating discipline of employees for violating this policy (especially with the passage of the CRTA) and any possible collective bargaining agreement provisions, the superintendent may want to convene the **Employee Substance Abuse Prevention Committee** (see 2:150-AP, *Superintendent Committees*).

<sup>5</sup> These actions are prohibited by both federal (41 U.S.C.A. §§8101, 8102 and 8103) and State Workplace Acts. See f/n <sup>126</sup>. These laws do not address *under the influence* but a board may add: “, or being impaired by or under the influence of any illegal substance or any detectible use of any illegal substance regardless of when or where the use occurred.” This option is limited to *illegal* substances to avoid prohibiting employees from using lawfully prescribed controlled substances. See f/n <sup>126</sup>. Contact the board attorney for advice concerning this provision and whenever the district wants to discipline or dismiss an employee using it. If a hearing is required before the district may discipline or discharge an employee under this provision, the district must put forth evidence that the employee violated it. A district would also have this burden if a grievance is filed under a *just cause* provision in a collective bargaining agreement. This policy's ~~fourth~~ third paragraph addresses prescribed medications other than cannabis.

<sup>6</sup> Optional; alcohol is not addressed in either the federal or State Drug-Free Workplace Acts. Contact the board attorney for advice concerning this provision and whenever the district wants to discipline or dismiss an employee using it. If a hearing is required before the district may discipline or discharge an employee under this provision, the district must put forth evidence that the employee violated it. A district would also have this burden if a grievance is filed under a *just cause* provision in a collective bargaining agreement. The Ill. Court of Appeals held that when the policy defines *under the influence* as any “mental, emotional, sensory or physical **impairment** due to the use of drugs or alcohol,” the school district must prove that the teacher showed signs of impairment even though she registered 0.056 blood-alcohol level on a Breathalyzer. *Kinsella v. Board of Education of the City of Chicago*, 27 N.E.3d 226 (Ill.App.1st, 2015).

<sup>7</sup> 410 ILCS 130/25(b) prohibits discipline or arrest of school nurses and/or administrators for acting in accordance with *Ashley's Law*, 105 ILCS 5/22-33, amended by P.A. 101-370, eff. 1-1-20. Employers may enforce drug-free workplace policies when they are applied in a nondiscriminatory manner. 410 ILCS 705/10-50(a), added by P.A. 101-27, includes disciplining employees – even those who are a *registered qualifying patient* – for violating a drug-free workplace policies (410 ILCS 130/50 and 705/10-35(a)(1), added by P.A. 101-27). Contact the board attorney for advice concerning the **Compassionate Use of Medical Cannabis Program Act (Medical Cannabis Program Act (MCPA))**.

that an employee manifests the specific articulable symptoms<sup>8</sup> listed in the Cannabis Regulation and Tax Act (CRTA). <sup>9</sup>

For purposes of this policy, a controlled substance means a substance that is:

1. Not legally obtainable,
2. Being used in a manner different than prescribed,
3. Legally obtainable, but has not been legally obtained, or
4. Referenced in federal or State controlled substance acts.

For purposes of this policy, *District premises*<sup>10</sup> means workplace as defined in the CRTA in addition to District and school buildings, grounds, and parking areas; vehicles used for school purposes; and any location used for a School Board meeting, school athletic event, or other school-sponsored or school-sanctioned events or activities. *School grounds* means the real property comprising any

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<sup>8</sup> Specific articulable symptoms listed in 410 ILCS 705/10-50(d), added by P.A. 101-27, include: the employee's speech, physical dexterity, agility, coordination, demeanor, irrational or unusual behavior, or negligence or carelessness in operating equipment or machinery; disregard for the safety of the employee or others, or involvement in any accident that results in serious damage to equipment or property; disruption of a production or manufacturing process; or carelessness that results in any injury to the employee or others. In contrast to the CRTA, the MCPA, while listing the same specific, articulable, symptoms, does not require an employer to have a *good faith belief* that a *registered qualifying patient* is under the influence of cannabis. 410 ILCS 130/50(f), and scheduled to be repealed on 7-1-20.

<sup>9</sup> 410 ILCS 705/10-35 and 10-50(a), added by P.A. 101-27 allows reasonable, nondiscriminatory, zero-tolerance policies. If the district seeks to discipline an employee on the basis that he or she is under the influence of or impaired by cannabis, it must afford the employee a reasonable opportunity to contest the basis of the determination. Id. at 10-50(d), added by P.A. 101-27. **Contact the board attorney for advice concerning this provision and whenever the district seeks disciplinary action or dismissal of an employee on the basis of the cannabis prohibitions in the policy.**

In addition to a zero-tolerance policy, the CRTA also allows civil, criminal, or other penalties for:

1. Engaging in tasks under the influence of cannabis when doing so would constitute negligence, professional malpractice, or professional misconduct (410 ILCS 705/10-35(a)(1));
2. Possessing cannabis on a school bus or on school grounds (Id. at 10-35(a)(2)(A)-(B) unless permitted under the MCPA);
3. Using cannabis on a school bus or on school grounds (Id. at 10-35(a)(3)(A)-(B) unless permitted under the MCPA);
4. [Using cannabis] in a public place [while impaired or under the influence of cannabis](Id. at 10-35(a)(3)(F));
5. Knowingly being [impaired by or under the influences of cannabis] in close physical proximity to anyone under 21 years of age who is not a registered medical cannabis patient under the MCPA (Id. at 10-35(a)(3)(G));
6. Smoking [and/or vaping (see f/n 18, below for a definition of vaping)] it in any place where smoking is prohibited under the Smoke Free Illinois Act (Id. at 10-35(a)(4));
7. Using [cannabis] as an on-duty law enforcement officer, corrections officer, probation officer, or firefighter (Id. at 10-35(a)(8)); or
- +8. [Using cannabis while [b]eing on duty as an individual holding a school bus permit or Commercial Driver's License (Id. at 10-35(a)(9)).

<sup>10</sup> 410 ILCS 705/10-35 and 10-50(a), added by P.A. 101-27, allows employers to prohibit cannabis in the *workplace*. Many attorneys agree it is a best practice for employers to define workplace in policies that prohibit cannabis. 410 ILCS 705/10-50(h), added by P.A. 101-27, defines *workplace* as the employer's premises, including any building, real property, and parking area under the control of the employer or area used by an employee while in performance of the employee's job duties, and vehicles, whether leased, rented, or owned – and may be further defined by the employer's written policy when it is consistent with this definition.

This policy's definition of workplace expands the above CRTA definition to areas that board policy and/or the School Code impose duties upon districts to keep students safe, including:

1. The *school property* definition from policy 8:30, *Visitors to and Conduct on School Property*;
2. The *school grounds* definition at 105 ILCS 5/10-27.1A(d); and
3. Places that school districts must prevent and respond to bullying, including vehicles used for school purposes. 105 ILCS 5/27-23.7(a).

school, any conveyance used to transport students to school or a school-related activity, and any public way within 1,000 feet of any school ground, designated school bus stops where students are waiting for the school bus, and school-sponsored or school-sanctioned events or activities. "Vehicles used for school purposes" means school buses or other school vehicles.

As a condition of employment, each employee shall: **11**

1. Abide by the terms of the Board policy respecting a drug- and alcohol-free workplace; and
2. Notify his or her supervisor of his or her conviction under any criminal drug statute for a violation occurring on the District premises or while performing work for the District, no later than five calendar days after such a conviction. **12**

Unless otherwise prohibited by this policy, prescription and over-the-counter medications are not prohibited when taken in standard dosages and/or according to prescriptions from the employee's licensed health care provider, provided that an employee's work performance is not impaired. **12**

To make employees aware of the dangers of drug and alcohol abuse, the Superintendent or designee shall perform each of the following: **13**

1. Provide each employee with a copy of this policy.
2. Post notice of this policy in a place where other information for employees is posted. **14**
3. Make available materials from local, State, and national anti-drug and alcohol-abuse organizations. **15**
4. Enlist the aid of community and State agencies with drug and alcohol informational and rehabilitation programs to provide information to District employees.
5. Establish a drug-free awareness program to inform employees about:
  - a. The dangers of drug abuse in the workplace,
  - b. Available drug and alcohol counseling, rehabilitation, re-entry, and any employee assistance programs, and
  - c. The penalties that the District may impose upon employees for violations of this policy.
6. Remind employees that policy 6:60, Curriculum Content, requires the District to educate students, depending upon their grade, about drug and substance abuse prevention and relationships between drugs, alcohol, and violence. **16**

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**11** Required by the State and federal Drug-Free Workplace Acts.

**12** This optional paragraph is not addressed in State or federal drug-free workplace acts. An employer should generally not ask an employee about his or her use of medication. See rules implementing the Americans with Disabilities Act, 29 C.F.R. §1630.14. Consult the board attorney if an employee is suspected of working while impaired or under the influence.

**13** Numbers one through five in this paragraph are Required by the State and federal Drug-Free Workplace Acts. (30 ILCS 580/3).

**14** As an alternative, replace the phrase "in a place where other information for employees is posted" with the district's local method, (e.g., staff intranet, Internet, etc.).

**15** Grants may be available from the Ill. State Board of Education for developing a drug-free awareness program. (105 ILCS 5/2-3.93). The drug-free awareness program requirement can be met by developing a brochure on drug abuse or by contacting local, State, or national anti-drug abuse organizations for materials. The materials should be distributed to employees along with a list of places employees may call for assistance.

**16** Optional. This statement serves as a display of good judgement and a reminder to employees that 105 ILCS 5/27-13.2 and 23.4 (provided it can be funded by private grants or the federal government) require districts to educate students about the dangers of substance abuse.

## E-Cigarette, Tobacco, and Cannabis Prohibition 17

All employees are covered by the conduct prohibitions contained in policy 8:30, *Visitors to and Conduct on School Property*. The prohibition on the use of e-cigarettes,18 tobacco, and cannabis products applies both (1) when an employee is on school property, and (2) while an employee is performing work for the District at a school event regardless of the event's location.

*Tobacco* shall have the meaning provided in 105 ILCS 5/section-10-20.5b of the School Code.

*Cannabis* shall have the meaning provided in the CRTA, 410 ILCS 705/1-10.

*E-Cigarette* is short for electronic cigarette and includes, but is not limited to, any electronic nicotine delivery system (ENDS), electronic cigar, electronic cigarillo, electronic pipe, electronic hookah, vape pen, or similar product or device, and any components or parts that can be used to build the product or device. 19

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**17** 105 ILCS 5/10-20.5b, ~~and The Smoke Free Illinois Act, 410 ILCS 82/, and the CRTA, 410 ILCS 705/10-35(a)(4)(smoking anyplace where smoking is prohibited under the Smoke Free Illinois Act).~~ Federal law prohibits smoking inside schools. (20 U.S.C. §6083+(a).

The prohibition in 8:30, *Visitors to and Conduct on School Property*, referred to here, applies “on school property or at a school event.” Here, “at a school event” is clarified with the phrase “while ... performing work for the District” in order to align with this policy’s other prohibitions.

**18** While 720 ILCS 675, amended by P.A. 101-2, excludes e-cigarettes from its definition of tobacco, it does not address vaporization. Prohibiting *e-cigarettes* aligns with the district’s obligation to maintain a safe, smoke-free environment and is logical extension of 105 ILCS 5/10-20.5b, The Smoke Free Illinois Act (410 ILCS 82/), and The Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act, 720 ILCS 675, amended by P.A. 101-2 (raising the legal age to buy tobacco and e-cigarette products to 21 years of age). In addition, the U.S. Food and Drug Administration now regulates e-cigarettes. 21 C.F.R. Parts 1100, 1140, and 1143, amended by 81 Fed.Reg. 28973.

E-Cigarettes may resemble cigarettes but contain a battery-operated heating element that turns a liquid into an aerosol (or vapor) that sometimes includes nicotine, flavorings, and other chemicals. The act of inhaling and exhaling the aerosol is known as *vaping*. See [www.centeronaddiction.org/e-cigarettes/recreational-vaping/what-vaping](http://www.centeronaddiction.org/e-cigarettes/recreational-vaping/what-vaping). For ease of administration, this policy treats *vaping*, whether tobacco products or not, and smoking tobacco the same due to the outbreaks of lung disease associated with the use of e-cigarettes and vaping. Some e-cigarettes do not look like tobacco products; they are designed to resemble other objects, such as USB flash drives, to be more easily concealed. Like smoking tobacco, vaporization products may include nicotine, which is derived from and is the addictive drug in tobacco, and other potentially harmful chemicals. See *Tobacco/Nicotine and E-Cigs* at: [www.drugabuse.gov/drugs-abuse/tobacconicotine-e-cigs](http://www.drugabuse.gov/drugs-abuse/tobacconicotine-e-cigs). Unlike smoking tobacco, vaping does not produce smoke, but rather the aerosol, often mistaken for water vapor and consisting of fine particles. Many of these particles contain varying amounts of toxic chemicals, which have been linked to cancer and respiratory and heart disease. An outbreak of lung disease has been associated with e-cigarette use and vaping. See articles at:

[www.cdc.gov/tobacco/basic\\_information/e-cigarettes/severe-lung-disease.html](http://www.cdc.gov/tobacco/basic_information/e-cigarettes/severe-lung-disease.html); and [www.cdc.gov/tobacco/basic\\_information/e-cigarettes/severe-lung-disease/health-departments/index.html](http://www.cdc.gov/tobacco/basic_information/e-cigarettes/severe-lung-disease/health-departments/index.html).

**19** Optional. If a district does not want to include the statutory example that includes the term *vape pen*, which provides notice that vaping products are also prohibited through the term e-cigarette, replace ~~includes but is not limited to, any electronic nicotine delivery system (ENDS), electronic cigar, electronic cigarillo, electronic pipe, electronic hookah, vape pen, or similar product or device, and any components or parts that can be used to build the product or device~~ with “shall have the meaning provided in the Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act, 720 ILCS 675/1(a-9).”

### District Action Upon Violation of Policy

An employee who violates this policy may be subject to disciplinary action, including termination. **20** In addition or ~~A~~alternatively, the ~~School~~Board may require an employee to successfully complete an appropriate drug- or alcohol-abuse rehabilitation program.

The Board shall take disciplinary action with respect to an employee convicted of a drug offense in the workplace within 30 days after receiving notice of the conviction. **21**

Should District employees be engaged in the performance of work under a federal contract or grant, or under a State contract or grant of \$5,000 or more, the Superintendent shall notify the appropriate State or federal agency from which the District receives contract or grant monies of the employee's conviction within 10 days after receiving notice of the conviction. **22**

### Disclaimer **23**

The Board reserves the right to interpret, revise or discontinue any provision of this policy pursuant to the **Suspension of Policies** subhead in policy 2:240, *Board Policy Development*.

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**20** An employee who currently uses *illegal* drugs is not protected under the Americans With Disabilities Act (ADA) when the district acts on the basis of such use. (42 U.S.C. §12114). ~~D~~Legal drug abusers and alcoholics may still be protected as *handicapped* under the Rehabilitation Act of 1973 (29 U.S.C. §706 et seq.) or the Illinois Human Rights Act (IHRA). (775 ILCS 5/1-101 et seq.; and 56 Ill.Admin.Code §2500.20). The Rehabilitation Act, however, excludes from protection “an alcohol or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment ... would constitute a direct threat to the property or the safety of others.” (29 U.S.C. §706 (7)(B)).

The ADA neither authorizes nor prohibits drug testing; it allows the results of such tests to be used as the basis for disciplinary action (42 U.S.C. §12114; 29 C.F.R. §1630.16 (c)). Drug tests may still violate other laws, e.g., Title VI and the Rehabilitation Act (42 U.S.C. §2000e et seq.; and 29 U.S.C. §706 et seq.). Drug tests may also be a subject of collective bargaining. See paragraph one of f/n 1, above. Consult the board attorney before implementing a drug testing program to enforce this policy.

**21** Required by both the federal and State Drug-Free Workplace Acts.

**22** Id.

**23** Optional best practice text.

LEGAL REF.: Americans With Disabilities Act, 42 U.S.C. §12114.  
~~Compassionate Use of Medical Cannabis Pilot Program, 410 ILCS 130/.~~  
Controlled Substances Act, 21 U.S.C. §812; 21 C.F.R. §1308.11-1308.15.  
Drug-Free Workplace Act of 1988, 41 U.S.C. §8101 et seq.  
Safe and Drug-Free School and Communities Act of 1994, 20 U.S.C. §7101 et seq.  
~~30 ILCS 580/.~~ Drug-Free Workplace Act, ~~30 ILCS 580/.~~  
105 ILCS 5/10-20.5b,  
410 ILCS 82/. Smoke Free Illinois Act.  
410 ILCS 130/. Compassionate Use of Medical Cannabis Program Act.  
410 ILCS 705/1-1 et seq., Cannabis Regulation and Tax Act.  
720 ILCS 675, Prevention of Tobacco Use by Persons under 21 Years of Age  
and Sale and Distribution of Tobacco Products Act.  
820 ILCS 55/. Right to Privacy in the Workplace Act.  
21 C.F.R. Parts 1100, 1140, and 1143.  
23 Ill.Admin.Code §22.20.

CROSS REF.: 5:10 (Equal Employment Opportunity and Minority Recruitment), 5:120  
(Employee Ethics: Conduct; and Conflict of Interest), 6:60 (Curriculum Content),  
8:30 (Visitors to and Conduct on School Property)

DRAFT

## General Personnel

### Abused and Neglected Child Reporting 1

Any District employee who suspects or receives knowledge that a student may be an abused or neglected child or, for a student aged 18 through 21, an abused or neglected individual with a disability<sup>2</sup>, shall: (1) immediately report or cause a report to be made to the Illinois Dept. of Children and Family Services (DCFS) on its Child Abuse Hotline 1-800-25-ABUSE (1-800-252-2873)(within Illinois); 1-217-524-2606 (outside of Illinois); or 1-800-358-5117 (TTY), and (2) follow directions given by DCFS concerning filing a written report within 48 hours with the nearest DCFS field office.<sup>3</sup> Any District employee who believes a student is in immediate danger of harm, shall first call

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<sup>1</sup> State or federal law controls this policy's content. The Abused and Neglected Child Reporting Act (ANCRA), (325 ILCS 5/) requires school education personnel to immediately report or cause a report to be made to DCFS when they have reasonable cause to believe a child known to them in their professional or official capacities may be abused or neglected; education personnel includes school personnel (including administrators and certified and non-certified school employees) and educational advocates assigned to a child in accordance with the School Code, 325 ILCS 5/4(a)(4), added by P.A. 101-564, eff. 1-1-20; ANCRA states that such personnel "may also notify the person in charge of [the] school[.]" 325 ILCS 5/4(e). If the report involves a *disabled adult student*, employees should expect DCFS to instruct them to call the Ill. Dept. of Human Services Office (DHS) office of the Inspector General's statewide 24 hour toll-free telephone number at 1-800-843-6154 (within Illinois); 1-866-324-5553 (TTY/Nextalk); or 711 (Illinois Relay). 325 ILCS 5/4.4a and 20 ILCS 1305/1-17(b). Reports involving a disabled adult student may be made directly to DHS; however, for simplicity, and to preserve a superintendent's duty to disclose certain reports involving an employee or former district employee (see discussion in f/n 1<sup>28</sup> below) and the immunity for such disclosures, the sample policy directs the initial phone call involving a disabled adult student to DCFS.

Abuse and neglect are defined in 325 ILCS 5/3 and, for disabled adult students in 20 ILCS 1305/1-17(b). Abuse may be generally understood as any physical or mental injury or sexual abuse inflicted on a child or disabled adult student other than by accidental means or creation of a risk of such injury or abuse by a person who is responsible for the child's or disabled adult student's welfare. Neglect may be generally understood as abandoning a child or disabled adult student or failing to provide the proper support, education, medical, or remedial care required by law by one who is responsible for the child's or disabled adult student's welfare.

Any person required by law to report abuse and neglect who willfully fails to report is guilty of a Class A misdemeanor. A teaching license may be suspended for willful or negligent failure to report suspected child abuse or neglect as required by law. 105 ILCS 5/21B-75, amended by P.A. 101-531, and 20 ILCS 1305/1-17(k)(1). 20 ILCS 1305/1-17(k)(1) allows mandated reporters for disabled adults four hours to report after the initial discovery of the incident, allegation, or suspicion of any one or more of the following: mental abuse, physical abuse, sexual abuse, neglect, or financial exploitation.

District employees who make a report in good faith receive immunity, except in cases of willful or wanton misconduct. See 325 ILCS 5/4 and 9. Further, for the purpose of any proceedings, civil or criminal, good faith of the person making the report is presumed. Id.

Every two years, each district within an Illinois county served by an accredited Children's Advocacy Center (CAC) must review its sexual abuse investigation policies and procedures to ensure consistency with 105 ILCS 5/22-85 (final citation pending), added by P.A. 101-531. 105 ILCS 5/10-20.69 (final citation pending), added by P.A. 101-531. See sample policy 7:20, Harassment of Students Prohibited.

<sup>2</sup> State child and disabled adult protection laws define the same class of individuals differently, but with the same goal: to protect a disabled adult student, not living in a DCFS licensed facility, who is still finishing school with an Individual Education Plan (IEP). The Dept. of Human Services Act (DHS Act) defines "adult student with a disability" as an adult student, age 18 through 21, inclusive (through the day before the student's 22nd birthday), with an IEP other than a resident of a facility licensed by DCFS. 20 ILCS 1305/1-17(b). This statutory definition is the basis for this sample policy's language. For purposes of the discussions in f/ns 1 and 1<sup>98</sup>, the term "adult student with a disability" is shortened to *disabled adult student*.

For elementary districts, delete the following phrase from the first sentence: "~~or, for a student aged 18 through 21, an abused or neglected individual with a disability, .~~"

<sup>3</sup> 325 ILCS 5/7, amended by P.A. 101-583, eff. 1-1-20. For a board that wants to include what a DCFS report should contain, an optional sentence follows:

The report shall include, if known:

being initiated into, affiliating with, holding office in, or maintaining membership in any group, organization, club, or athletic team whose members are or include other students. **8**

Abused and Neglected Child Reporting Act (ANCRA), School Code, and Erin's Law Training

The Superintendent or designee shall provide staff development opportunities for District employees in the detection, reporting, and prevention of child abuse and neglect. **9**

All District employees shall:

1. Before beginning employment, sign the *Acknowledgement of Mandated Reporter Status* form provided by DCFS. The Superintendent or designee shall ensure that the signed forms are retained.
2. Complete mandated reporter training as required by law within ~~one year~~three months of initial employment and at least every ~~five~~three years after that date. **10**

The Superintendent will encourage all District educators to complete continuing professional development that addresses the traits and identifiers that may be evident in students who are victims of child sexual abuse, including recognizing and reporting child sexual abuse and providing appropriate follow-up and care for abused students as they return to the classroom setting. **11 12**

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**8** 720 ILCS 5/12C-50.1(b) creates a duty for *school officials* to report hazing. The term *school official* includes all school employees and volunteer coaches. ~~Id.~~720 ILCS 5/12C-50.1(a). The duty to report hazing is triggered only when the district employee was fulfilling his or her responsibilities as a school official and observed hazing which results in bodily harm. ~~Id.~~720 ILCS 5/12C-50.1(b). A report must be made to *supervising educational authorities*, which is not defined in the Act. Id. Common sense, however, would require the individual witnessing hazing to report it to the building principal or superintendent. Failure to report hazing is a Class B misdemeanor. 720 ILCS 5/12C-50.1(c). Failure to report hazing that resulted in death or great bodily harm is a Class A misdemeanor. Id. 7:190-AP1, *Student Handbook - Hazing Prohibited*, uses the same definition of *hazing*; this definition is based on 720 ILCS 5/12C-50.

**9** While it is unclear whether this is a duty or power, 105 ILCS 5/10-23.12(a), amended by P.A.s 100-413 (~~eff. 1-1-18~~) and 100-468 (~~eff. 6-1-18~~), authorizes boards “[t]o provide staff development for local school site personnel who work with pupils in grades kindergarten through 8, in the detection, reporting and prevention of child abuse and neglect.”

The drill during such training should be: “If in question, report.”

**10** ANCRA) also requires staff members, within ~~one year~~three months of employment, to complete mandated reporter training from a provider or agency with expertise in recognizing and reporting child abuse. 325 ILCS 5/4(j), amended by P.A. 101-564, eff. 1-1-20. This training must be completed again at least every ~~five~~three years. Id. Theis initial ANCRA three-month training requirement applies to the first time staff engage in their professional or official capacity. Id. While the law allows an extension to six months, it is unclear when such an extension is permissible. Consult the board attorney for guidance. addresses only new employees to a district. It is silent about how to manage individuals who were employed by a district before 7-1-14. As a best practice, to ensure compliance with the requirement in 105 ILCS 5/22-85(c) (final citation pending), added by P.A. 101-531, that mandated reporters annually review ISBE materials regarding notification of DCFS (see f/n 15, below), and to ease the administrative burden to track employee training schedules, a district may consider requiring annual training for all employees.

To reduce liability and align with best practices, ANCRA training for existing district employees appears prudent; however, consult the board attorney about:

1. Whether mandating existing employees to participate in ANCRA training is an item on which collective bargaining may be required. Any policy that impacts upon wages hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.
2. How to comply with both the new ANCRA training requirements and whether compliance with them would also satisfy the School Code's more limited district-provided training requirement discussed in f/n **89** above.

**11** *Erin's Law Taskforce Final Report (Report)* at: [www.isbe.net/Documents/erins-law-final0512.pdf](http://www.isbe.net/Documents/erins-law-final0512.pdf). 105 ILCS 5/22-65 was repealed by P.A. 99-30 (eff. 7-10-15) upon submission of the Report.

**12** 105 ILCS 5/10-23.12(b), amended by P.A.s 100-413 (~~eff. 1-1-18~~) and 100-468 (~~eff. 6-1-18~~), permits DCFS to cooperate with school officials to distribute informational ANCRA materials in school buildings. The following optional sentence provides that information: “The Superintendent or designee will display DCFS-issued materials that list the DCFS toll-free telephone number and methods for making a report under ANCRA in a clearly visible location in each school building.”

### Alleged Incidents of Sexual Abuse: Investigations 13

An alleged incident of sexual abuse is an incident of sexual abuse of a child, as defined in 720 ILCS 5/11-9.1A, that is alleged to have been perpetrated by school personnel, including a school vendor or volunteer, that occurred: on school grounds during a school activity; or outside of school grounds or not during a school activity. 14

If a District employee reports an alleged incident of sexual abuse to DCFS<sup>15</sup> and DCFS accepts the report for investigation, DCFS will refer the matter to the local Children's Advocacy Center (CAC).<sup>16</sup> The Superintendent or designee will implement procedures to coordinate with the CAC.

DCFS and/or the appropriate law enforcement agency will inform the District when its investigation is complete or has been suspended, as well as the outcome of its investigation.<sup>17</sup> The existence of a DCFS and/or law enforcement investigation will not preclude the District from conducting its own parallel investigation into the alleged incident of sexual abuse in accordance with policy 7:20, *Harassment of Students Prohibited*.

### Special Superintendent Responsibilities

The Superintendent shall execute the requirements in Board policy 5:150, *Personnel Records*, whenever another school district requests a reference concerning an applicant who is or was a District employee and was the subject of a report made by a District employee to DCFS. 18

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<sup>13</sup> Delete this subhead if your school district is not within a county served by an accredited CAC. 105 ILCS 5/22-85 (final citation pending), added by P.A. 101-531, governs the investigation of an *alleged incident of sexual abuse* of any child within any Illinois counties served by a CAC. For a map of accredited CACs, and to identify a CAC that may serve your district, see [www.childrensadvocacycentersofillinois.org/about/map](http://www.childrensadvocacycentersofillinois.org/about/map). The law is silent about investigations in counties without CACs.

<sup>14</sup> Though 105 ILCS 5/22-85(b) (final citation pending), added by P.A. 101-531, defines *alleged incident of sexual abuse*, its definition is circular, using the term *sexual abuse* without defining what that means. To provide boards with clarity, the definition of *sexual abuse* used in the Ill. Criminal Code of 2012 is used.

<sup>15</sup> 105 ILCS 5/22-85(c) (final citation pending), added by P.A. 101-531, provides that if a mandated reporter within a school has knowledge of an alleged incident of sexual abuse, the reporter must call the DCFS hotline immediately after obtaining the minimal information necessary to make a report, including the names of the affected parties and the allegations. It further requires the Ill. State Board of Education (ISBE) to make available materials detailing the information necessary to enable notification to DCFS of an alleged incident of sexual abuse, and that all mandated reporters annually review ISBE's materials.

<sup>16</sup> 105 ILCS 5/22-85(d) (final citation pending), added by P.A. 101-531.

<sup>17</sup> 105 ILCS 5/22-85(j), (k) (final citation pending), added by P.A. 101-531.

<sup>18</sup> ANCRA requires a superintendent, upon being requested for a reference concerning an employee or former employee, to disclose to the requesting school district the fact that a district employee has made a report involving the conduct of the applicant or caused a report to be made to DCFS. 325 ILCS 5/4(d), amended by P.A. 101-564, eff. 1-1-20. When a report involves a disabled adult student, DCFS must instruct mandated reporters making these reports to call the DHS' Office of the Inspector General's statewide 24 hour toll-free telephone number: 1-800-368-1463 (325 ILCS 5/4.4a) to make a report under the DHS Act.

The DHS Act (20 ILCS 1305/1-17(l)) then requires a determination of whether a report involving a disabled adult student should be investigated under it or the Abuse of Adults with Disabilities Intervention Act (20 ILCS 2435), however that Act was repealed by P.A. 99-049 (eff. 7-1-13). The DHS Act does not outline a duty for the superintendent, upon being requested for a reference concerning an employee or former employee, to disclose to the requesting school district the fact that a district employee has made a report involving the conduct of the applicant or caused a report to be made to DHS involving an adult student with a disability.

Given the public policy behind the recent amendments to 325 ILCS 5/4, a reasonable interpretation of the law is that the superintendent's duty to disclose now involves DHS reports concerning adult students with disabilities. However, with no mechanism requiring DHS to report back to the superintendent a *non-substantiated report* (DHS version of a DCFS *unfounded* report), a superintendent's duty to disclose cannot end. Consult the board attorney about managing the duty to disclose reports that involve disabled adult students when DCFS redirects the reporter to DHS. For more information, see policy 5:150, *Personnel Records*.

The Superintendent shall notify the State Superintendent and the Regional Superintendent in writing when he or she has reasonable cause to believe that a license holder was dismissed or resigned from the District as a result of an act that made a child an abused or neglected child.<sup>19</sup> The Superintendent must make the report within 30 days of the dismissal or resignation and mail a copy of the notification to the license holder. <sup>20</sup>

#### Special School Board Member Responsibilities

Each individual Board member must, if an allegation is raised to the member during an open or closed Board meeting that a student is an abused child as defined in ~~the Act~~ANCRA, direct or cause the Board to direct the Superintendent or other equivalent school administrator to comply with ~~the Act~~ANCRA's requirements concerning the reporting of child abuse. <sup>21</sup>

If the Board determines that any District employee, other than an employee licensed under 105 ILCS 5/21B, has willfully or negligently failed to report an instance of suspected child abuse or neglect as required by ANCRA, the Board may dismiss that employee immediately. <sup>22</sup>

LEGAL REF.: 105 ILCS 5/10-21.9.  
20 ILCS 1305/1-1 et seq., Department of Human Services Act.  
325 ILCS 5/, Abused and Neglected Child Reporting Act.  
720 ILCS 5/12C-50.1, Criminal Code of 2012.

CROSS REF.: 2:20 (Powers and Duties of the School Board; Indemnification), 5:20 (Workplace Harassment Prohibited), 5:30 (Hiring Process and Criteria), 5:100 (Staff Development Program), 5:120 (Employee Ethics; Conduct; and Conflict of Interest), 5:150 (Personnel Records), 5:200 (Terms and Conditions of Employment and Dismissal), 5:290 (Employment Terminations and Suspensions), 6:120 (Education of Children with Disabilities), 6:250 (Community Resource Persons and Volunteers), 7:20 (Harassment of Students Prohibited), 7:150 (Agency and Police Interviews)

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<sup>19</sup> Alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Educational Service Center."

<sup>20</sup> 105 ILCS 5/10-21.9(e-5), amended by P.A. 101-531, requires these notifications and provides superintendents immunity from any liability, whether civil or criminal or that otherwise might result by complying with the statute.

<sup>21</sup> 325 ILCS 5/4(d), amended by P.A. 101-564, eff. 1-1-20. This statute makes board members mandatory child abuse reporters "to the extent required in accordance with other provisions of this section expressly concerning the duty of school board members to report suspected child abuse." Thus, a board member's duty is "to direct the superintendent or other equivalent school administrator to comply with the Act's requirements concerning the reporting of child abuse" whenever an "allegation is raised to a school board member during the course of an open or closed school board meeting that a child who is enrolled in the school district of which he or she is a board member is an abused child." Of course, any board member with reason to doubt that a report was or will be made should directly contact DCFS.

<sup>22</sup> 105 ILCS 5/10-23.12(c), added by P.A. 101-531. See f/n 6, above, and f/n 3 in policy 2:20, Powers and Duties of the School Board; Indemnification.

## General Personnel

### Staff Development Program 1

The Superintendent or designee shall implement a staff development program. The goal of such program shall be to update and improve the skills and knowledge of staff members in order to achieve and maintain a high level of job performance and satisfaction. Additionally, the development program for licensed staff members shall be designed to effectuate the District and School Improvement Plans so that student learning objectives meet or exceed goals established by the District and State.

The staff development program shall provide, at a minimum, at least once every two years, the in-service training of licensed school personnel and administrators on current best practices regarding the identification and treatment of attention deficit disorder and attention deficit hyperactivity disorder, the application of non-aversive behavioral interventions in the school environment, and the use of psychotropic or psychostimulant medication for school-age children. <sup>2</sup>

The staff development program shall provide, at a minimum, once every two years, the in-service training of all District staff on educator ethics, teacher-student conduct, and school employee-student conduct. <sup>3 4 5</sup>

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<sup>1</sup> State law requires the subject matter in paragraph 2 to be covered by policy. State or federal law controls this policy's content. A school board may set and enforce professional growth requirements. 105 ILCS 5/24-5. Failure to meet professional growth requirements is considered remediable. *Morris v. Ill. State Bd. of Educ.*, 198 Ill.App.3d 51 (3rd Dist. 1990).

105 ILCS 5/2-3.62, amended by P.A. 99-30 (repealing 105 ILCS 5.2-3.60), requires the Ill. State Board of Education (ISBE) to establish a regional network of educational service centers to coordinate and combine existing services in a manner that is practical and efficient for schools. Their purposes are to provide, among other things, continuing education, in-service training, and staff development services to all local school districts in Illinois.

<sup>2</sup> This paraphrases 105 ILCS 5/10-20.36(b). The topic covered in this paragraph must be in a board policy. *Id.* A school medical staff, an individualized educational program team, or a professional worker (as defined in Section 14-1.10) may recommend that a student be evaluated by an appropriate medical practitioner. School personnel may consult with the practitioner, with the consent of the student's parent/guardian.

<sup>3</sup> 105 ILCS 5/10-22.39(f) requires boards to conduct this in-service. While the language of this paragraph is not required to be in board policy, including it provides a way for boards to monitor that it is being done. Including this language provides an opportunity for each board and the superintendent to examine all current policies, collective bargaining agreements, and administrative procedures on this subject. Each board may then want to have a conversation with the superintendent and direct him or her to develop a curriculum for the in-service that instructs all district staff to maintain boundaries and act appropriately, professionally, and ethically with students. See also 5:120, *Employee Ethics; Conduct; and Conflict of Interest*, and f/n 11 in 4:110, *Transportation*. These expectations will be most effective when they reflect local conditions and circumstances. Employee conduct issues may be subjects of mandatory collective bargaining, therefore consulting the board attorney should be a part of this process. A district would commit an unfair labor practice by implementing new employee conduct rules without first offering to negotiate them with the applicable exclusive bargaining representative.

<sup>4</sup> Insert the following option if a board wants to list in-services and/or ~~required~~-trainings that ~~the School Code~~ State and federal law requires, but are not required to be specified in board policy. If the board does not choose this option, delete 325 ILCS 5/4 from the Legal References. The only non-School Code state law training requirements listed ~~is-are~~ from the Abused and Neglected Child Reporting Act, Ill. Human Rights Act, and the Seizure Smart School Act.

In addition, the staff development program shall include each of the following:

1. At least, once every two years, training of all District staff by a person with expertise on anaphylactic reactions and management.
2. At least every two years, an in-service to train school personnel, at a minimum, to understand, provide information and referrals, and address issues pertaining to youth who are parents, expectant parents, or victims of domestic or sexual violence.

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3. Training that, at a minimum, provides District staff with a basic knowledge of matters relating to acquired immunodeficiency syndrome (AIDS) and the availability of appropriate sources of counseling and referral.
4. Training for licensed school personnel and administrators who work with students in grades kindergarten through 12 to identify the warning signs of mental illness and suicidal behavior in youth along with appropriate intervention and referral techniques.
5. Abused and Neglected Child Reporting Act (ANCRA), School Code, and *Erin's Law* Training as follows:
  - a. Staff development for local school site personnel who work with students in grades kindergarten through 8, in the detection, reporting, and prevention of child abuse and neglect (see policy 5:90, *Abused and Neglected Child Reporting*).
  - b. Within ~~one year~~ three months of employment, each staff member must complete mandated reporter training from a provider or agency with expertise in recognizing and reporting child abuse. Mandated reporter training must be completed again at least every ~~five~~ three years (see policy 5:90, *Abused and Neglected Child Reporting*).
  - c. Informing educators about the recommendation in the *Erin's Law* Taskforce Report requesting them to attend continuing professional development programs that address the prevention and identification of child sexual abuse (see policy 5:90, *Abused and Neglected Child Reporting*).
6. Education for staff instructing students in grades 7 through 12, concerning teen dating violence as recommended by the District's Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students or Complaint Manager.
7. Ongoing professional development for teachers, administrators, school resource officers, and staff regarding the adverse consequences of school exclusion and justice-system involvement, effective classroom management strategies, culturally responsive discipline, the appropriate and available supportive services for the promotion of student attendance and engagement, and developmentally appropriate disciplinary methods that promote positive and healthy school climates.
8. Annual continuing education and/or training opportunities (*professional standards*) for school nutrition program directors, managers, and staff. Each school food authority's director shall document compliance with this requirement by the end of each school year and maintain documentation for a three year period.
9. All high school coaching personnel, including the head and assistant coaches, and athletic directors must obtain online concussion certification by completing online concussion awareness training in accordance with 105 ILCS 25/1.15. Coaching personnel and athletic directors hired on or after 8-19-14 must be certified before their position's start date.
10. The following individuals must complete concussion training as specified in the Youth Sports Concussion Safety Act: coaches and assistant coaches (whether volunteer or employee) of an interscholastic athletic activity; nurses, licensed and/or non-licensed healthcare professionals serving on the Concussion Oversight Team; athletic trainers; game officials of an interscholastic athletic activity; and physicians serving on the Concussion Oversight Team.
11. Every two years, school personnel who work with students must complete an in-person or online training program on the management of asthma, the prevention of asthma symptoms, and emergency response in the school setting.
12. Training for school personnel to develop cultural competency, including understanding and reducing implicit racial bias.
13. For school personnel who work with hazardous or toxic materials on a regular basis, training on the safe handling and use of such materials.
- ~~13-14.~~ For nurses, administrators, guidance counselors, teachers, persons employed by a local health department and assigned to a school, and persons who contract with the District to perform services in connection with a student's seizure action plan, training in the basics of seizure recognition, first aid, and appropriate emergency protocols.
- ~~14-15.~~ For all District staff, annual sexual harassment prevention training.

Alternative to paragraph number 2:

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2. At least every two years, an in-service to train school personnel who work with students on how to: (a) communicate with and listen to youth victims of domestic or sexual violence and expectant and parenting youth, (b) connect youth victims of domestic or sexual violence and expectant and parenting youth to appropriate in-school services and other agencies, programs and services as needed, and (c) implement the School District's policies, procedures, and protocols with regard to such youth, including confidentiality. The in-service shall be conducted by persons with expertise in domestic and sexual violence and the needs of expectant and parenting youth.

Citations for this option follow:

1. 105 ILCS 5/10-22.39(e) (refers to anaphylactic reactions/management).
2. 105 ILCS 5/10-22.39(d).
3. 105 ILCS 5/10-22.39(c).
4. 105 ILCS 5/10-22.39(b), amended by P.A.s 100-903 and 101-350, eff. 1-1-2019. The law allows districts to use the Ill. Mental Health First Aid training program to provide this training. If a licensed employee or an administrator obtains mental health first aid training outside of an in-service training program, he or she may present a certificate of successful completion of that training to the school district to satisfy the requirements of this law.
5. 105 ILCS 5/10-23.12, amended by P.A. 101-531; 325 ILCS 5/4(j), amended by P.A. 101-564, eff. 1-1-20; and *Erin's Law Taskforce Final Report*, authorized by 105 ILCS 5/22-65 and repealed by P.A. 99-30 because of submission of the Report at: [www.isbe.net/Documents/erins-law-final0512.pdf](http://www.isbe.net/Documents/erins-law-final0512.pdf) and see also [www.erinslawillinois.org/](http://www.erinslawillinois.org/) for more resources based upon the report. Training may be in-person or web-based and must include, at a minimum, information on the following topics: (1) indicators for recognizing child abuse and child neglect; (2) the process for reporting suspected child abuse and child neglect and the required documentation; (3) responding to a child in a trauma-informed manner; and (4) understanding the response of child protective services and the role of the reporter after a call has been made. 325 ILCS 5/4(j), amended by P.A. 101-564, eff. 1-1-20. Districts must provide training through either DCFS, an entity authorized to provide continuing education through the Dept. of Financial and Professional Regulation, the Ill. State Board of Education, the Ill. Law Enforcement Training Standards Board, the Ill. Dept. of State Police, or an organization approved by DCFS to provide mandated reporter training. Id. Child-serving organizations, which are not defined in ANCRA, are "encouraged to provide in-person annual trainings." Id.
6. 105 ILCS 110/3.10(b)(2).
7. 105 ILCS 5/10-22.6(c-5), amended by P.A.s 99-456 and 100-810, eff. 1-1-19. School board members are also included.
8. 7 C.F.R. Parts 210 and 235. Section 210.2 defines school nutrition program directors, managers and staff. 7 C.F.R. §§210.15(b)(8) (recordkeeping requirements) and 210.31(a), (c), (d), and (e) (professional standards requirements); 210.31(g)(requiring school food authority director to keep records), amended by Fed. Reg. Vol. 81, No. 146 at 50169 and finalized 7-29-16. Food service funds may be used for reasonable, allocable, and necessary training costs. 7 C.F.R. §210.31(f). The U.S. Dept. of Agriculture (USDA) has established implementation resources that contain training opportunities and resources covering the four core training areas: nutrition, operations, administration, and communications/marketing at: [www.fns.usda.gov/school-meals/professional-standards](http://www.fns.usda.gov/school-meals/professional-standards)~~professionalstandards.nal.usda.gov~~.
9. 105 ILCS 25/1.15.
10. 105 ILCS 5/22-80(h), ~~added by P.A. 99-245~~, amended by ~~P.A. 99-486~~ and P.A. 100-309.
11. 105 ILCS 5/22-30(j-15), ~~amended by P.A. 99-843~~. Consult the board attorney about whether:
  - a. All asthma action plans should require immediate 911 calls based upon *In re Estate of Stewart*, 406 Ill.Dec. 345 (2nd Dist. 2016); *In re Estate of Stewart*, 412 Ill.Dec. 914 (Ill. 2017) (school district's appeal denied). The court held that a teacher's failure to dial 911 immediately upon a student's asthma attack was *willful and wanton* conduct, subjecting the school district to liability under the Local Governmental and Governmental Employees Tort Immunity Act.
  - b. The duties and responsibilities of the district when it asks for, but does not receive an asthma action plan from a parent/guardian and the logistics of distributing any received plans to those employees who need to know based upon *Stewart*, above.
12. 105 ILCS 5/10-20.61, added by P.A. 100-14.
13. 105 ILCS 5/10-20.17a; 23 Ill.Admin.Code §1.330.
14. 105 ILCS 150/25, added by P.A. 101-50, eff. 7-1-20.
- ~~13-15.~~ 775 ILCS 5/2-109, added by P.A. 101-221, eff. 1-1-20.

The Superintendent shall develop protocols for administering youth suicide awareness and prevention education to staff consistent with Board policy 7:290, *Suicide and Depression Awareness and Prevention*. 6

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Putting this optional list into the policy will help the board monitor that the required in-service and training topics are being covered. While it is possible to *pick and choose*, this practice is likely to add more confusion to an already confusing responsibility. Unless noted, the School Code does not mandate the frequency with which the training must occur. Several other trainings that are mentioned in laws other than the School Code are addressed in other policies. Many of those policies are listed in the cross-references to this policy, e.g., training requirements under the Care of Students with Diabetes Act. 105 ILCS 145/.

<sup>5</sup> Different from the in-service training that school districts must provide to their staff, 105 ILCS 5/3-11, ~~amended by P.A. 99-616~~, contains requirements that the regional superintendents must include during teachers institutes. Instruction on prevalent student chronic health conditions, as well as educator ethics and teacher-student conduct training is also required. See also *f/n* 3 above discussing the board's requirement in Section 10-22.39. Beginning with the 2016-17 school year, teachers' institutes must also include instruction on the Americans with Disabilities Act of 1990 (ADA) ([42 U.S.C. §12101 et seq.](#)) as it pertains to the school environment at least every two years. Contact the Regional Superintendent or the appropriate Intermediate Service Center with questions about online training for this component of a teachers' institute. Discuss with the board attorney the best practices of documenting trainings and evaluations of trainings; many attorneys in the field prefer documentation of ADA trainings to assist in their defense of any potential ADA claims against the district.

For districts that have a practice of providing instruction in life-saving techniques and first-aid in their staff development programs, insert the following optional paragraph that restates 105 ILCS 5/3-11, 105 ILCS 110/3, and 77 Ill.Admin.Code §527.800:

An opportunity shall be provided for all staff members to acquire, develop, and maintain the knowledge and skills necessary to properly administer life-saving techniques and first aid, including the Heimlich maneuver, cardiopulmonary resuscitation, and the use of an automated external defibrillator, in accordance with a nationally recognized certifying organization. Physical fitness facilities' staff must be trained in cardiopulmonary resuscitation and use of an automated external defibrillator.

Persons performing CPR are generally exempt from civil liability if they are trained in CPR (745 ILCS 49/10); persons performing automated external defibrillation are generally exempt from civil liability if they were trained and acted according to the standards of the American Heart Association (745 ILCS 49/12).

The board may also want to address other staff development opportunities. While not required to be policy, 105 ILCS 5/27-23.10 requires a school board to collaborate with State and local law enforcement agencies on gang resistance education and training. It also states that ISBE may assist in the development of instructional materials and teacher training for gang resistance education and training, which may be helpful to include in the staff development program. Other mandated and recommended staff development opportunities that are not located in the School Code or ISBE rules are found in the Ill. Administrative Code or federal regulations. Many of them are cross referenced in this policy.

<sup>6</sup> Required by 105 ILCS 5/2-3.166(c)(2), ~~amended by P.A. 99-443~~.

- LEGAL REF.: Healthy, Hunger-Free Kids Act of 2010, 42 U.S.C. §1758b, Pub. L. 111-296.  
7 C.F.R. Parts 210 and 235.  
105 ILCS 5/2-3.62, 5/10-20.17a, 5/10-20.61, 5/10-22.6(c-5), 5/10-22.39, 5/10-23.12, 5/22-80(h), and 5/24-5.  
105 ILCS 25/1.15, Interscholastic Athletic Organization Act.  
[105 ILCS 150/25, Seizure Smart School Act.](#)  
105 ILCS 110/3, Critical Health Problems and Comprehensive Health Education Act.  
325 ILCS 5/4, Abused and Neglected Child Reporting Act.  
745 ILCS 49/, Good Samaritan Act.  
[775 ILCS 5/2-109, Ill. Human Rights Act.](#)  
23 Ill.Admin.Code §§ 22.20, 226.800, and Part 525.  
77 Ill.Admin.Code §527.800.
- CROSS REF.: 3:40 (Superintendent), 3:50 (Administrative Personnel Other Than the Superintendent), 4:160 (Environmental Quality of Buildings and Grounds), 5:20 (Workplace Harassment Prohibited), 5:90 (Abused and Neglected Child Reporting), 5:120 (Employee Ethics; Conduct; and Conflict of Interest), 5:250 (Leaves of Absence), 6:15 (School Accountability), 6:20 (School Year Calendar and Day), 6:50 (School Wellness), 6:160 (English Learners), 7:10 (Equal Educational Opportunities), 7:20 (Harassment of Students Prohibited), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:270 (Administering Medicines to Students), 7:285 (Food Allergy Management Program), 7:290 (Suicide and Depression Awareness and Prevention), 7:305 (Student Athlete Concussions and Head Injuries)
- ADMIN. PROC.: 4:160-AP (Environmental Quality of Buildings and Grounds), 4:170-AP6 (Plan for Responding to a Medical Emergency at an Indoor Physical Fitness Facility), 5:100-AP (Staff Development Program), 5:150-AP (Personnel Records), 6:120-AP4 (Care of Students with Diabetes), 7:250-AP1 (Measures to Control the Spread of Head Lice at School)

## General Personnel

### Employee Ethics; Conduct; and Conflict of Interest 1

#### Professional and Appropriate Conduct

All District employees are expected to maintain high standards in their school relationships, to demonstrate integrity and honesty, to be considerate and cooperative, and to maintain professional and appropriate relationships with students, parents, staff members, and others.<sup>2</sup> In addition, the *Code of Ethics for Illinois Educators*, adopted by the Illinois State Board of Education, is incorporated by reference into this policy.<sup>3</sup> Any employee who sexually harasses a student, willfully or negligently fails to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act (325 ILCS 5/),<sup>4</sup> or otherwise violates an employee conduct standard will be subject to discipline up to and including dismissal. <sup>5</sup>

#### Statement of Economic Interests

The following employees must file a *Statement of Economic Interests* as required by the Illinois Governmental Ethics Act: <sup>6</sup>

**The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.**

<sup>1</sup> The State Officials and Employees Ethics Act (5 ILCS 430/), requires a policy on a subject-matter covered in this sample policy; State and federal law controls its content. This policy contains items on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

<sup>2</sup> 105 ILCS 5/10-22.39 requires each board to conduct in-service training on educator ethics, teacher-student conduct, and school employee-student conduct for all personnel. These expectations will be most effective when the in-service curriculum reflects local conditions and circumstances. While the School Code only requires the in-service, the requirement presents an opportunity for each board and the superintendent to examine all current policies, collective bargaining agreements, and administrative procedures on this subject. Each board may then want to have a conversation with the superintendent and direct him or her to develop a curriculum for the in-service that instructs all district staff to maintain boundaries and act appropriately, professionally, and ethically with students. See discussion in third option of f/n 3, 5:100, *Staff Development Program*. After its discussion of these issues, the board may have further expectations and may choose to reflect those expectations here.

775 ILCS 5/2-109, added by P.A. 101-221, eff. 1-1-20, requires districts to provide annual workplace sexual harassment prevention training to all employees. See f/n 4 in policy 5:20, *Workplace Harassment Prohibited*, for further detail about the training requirements.

<sup>3</sup> 23 Ill.Admin.Code Part 22. Boards are not required to include ISBE's *Code of Ethics for Illinois Educators* in a board policy. Incorporating it by reference into a policy demonstrates a board's commitment to the *Code's* principles and may allow a board to enforce the *Code* independently from any action taken by the State Superintendent.

Use this optional sentence to establish a requirement that the board can monitor: "The Superintendent or designee shall identify appropriate employee conduct standards and provide them to staff members." Sample conduct standards are contained in administrative procedure 5:120-AP2, *Employee Conduct Standards*. Consult the board attorney for advice on whether the board must offer to negotiate employee conduct standards with the applicable exclusive bargaining representative before establishing them.

4 325 ILCS 5/4(a)(4), amended by P.A. 101-564, eff. 1-1-20; 105 ILCS 5/10-23.12(c) (all district employees), added by P.A. 101-531; 105 ILCS 5/21B-75(b) (teachers), amended by P.A. 101-531.

<sup>5</sup> This sentence is optional. The Ill. Human Rights Act makes it a civil rights violation to fail to take remedial action, or to fail to take appropriate disciplinary action, against any employee when the district knows that the employee committed or engaged in sexual harassment of a student. 775 ILCS 5/5A-102. Sexual harassment of a student is also prohibited by 7:20, *Harassment of Students Prohibited*, and of an employee by 5:20, *Workplace Harassment Prohibited*.

<sup>6</sup> 5 ILCS 420/4A-101. Any county clerk may use a mandatory system of Internet-based filing of economic interest statements; if done, the clerk must post the statements, without the addresses, of the filers, on a publicly accessible website. 5 ILCS 420/4A-108.

1. Superintendent;
2. Building Principal;
3. Head of any department;
4. Any employee who, as the District's agent, is responsible for negotiating one or more contracts including collective bargaining agreement(s), in the amount of \$1,000 or greater;
5. Hearing officer;
6. Any employee having supervisory authority for 20 or more employees; and
7. Any employee in a position that requires an administrative or a chief school business official endorsement.

### Ethics and Gift Ban

School Board policy 2:105, *Ethics and Gift Ban*, applies to all District employees.<sup>7</sup> Students shall not be used in any manner for promoting a political candidate or issue.

### Prohibited Interests; Conflict of Interest; and Limitation of Authority

In accordance with Section 22-5 of the School Code, "no school officer or teacher shall be interested in the sale, proceeds, or profits of any book, apparatus, or furniture used or to be used in any school with which such officer or teacher may be connected," except when the employee is the author or developer of instructional materials listed with the Illinois State Board of Education and adopted for use by the Board.<sup>8</sup> An employee having an interest in instructional materials must file an annual statement with the Board Secretary. <sup>9</sup>

For the purpose of acquiring profit or personal gain, no employee shall act as an agent of the District nor shall an employee act as an agent of any business in any transaction with the District. This includes participation in the selection, award or administration of a contract supported by a federal [award or State award governed by the Grant Accountability and Transparency Act \(GATA\) \(30 ILCS 708/\)](#) when the employee has a real or apparent conflict of interest.<sup>-10</sup> A conflict of interest arises

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<sup>7</sup> The State Officials and Employees Ethics Act prohibits State employees from engaging in certain political activities and accepting certain gifts. 5 ILCS 430/. The Act requires all school districts to adopt an *ordinance or resolution* "in a manner no less restrictive" than the Act's provisions. See policy 2:105, *Ethics and Gift Ban*.

Districts may not inhibit or prohibit employees from petitioning, making public speeches, campaigning for or against political candidates, speaking out on public policy questions, distributing political literature, making campaign contributions, and seeking public office. 50 ILCS 135/, Governmental Employees Political Rights Act. An employee may not use his/her position of employment to coerce or inhibit others in the free exercise of their political rights or engage in political activities at work. *Id.*

<sup>8</sup> This sentence quotes 105 ILCS 5/22-5 because the statute does not define important terms making it difficult to paraphrase. No appellate decision defines *school officer* or *apparatus*, or what is meant by *connected*. The statute was enacted in 1961 but earlier versions were in the School Code much longer. A violation of this prohibition is a Class A misdemeanor.

<sup>9</sup> *Id.*

<sup>10</sup> [2 C.F.R. §200.318\(c\)\(1\) prohibits employees, officers, or agents of a school district from participating in the selection, award, or administration of a contract supported by a federal award if they have a real or apparent conflict of interest. The uniform federal rules on procurement standards in 2 C.F.R. Part 200 also apply to eligible State grants through the Grant Accountability and Transparency Act \(GATA\)\(30 ILCS 708/.\) Authoritative sources and guidance regarding conflict of interest and financial disclosure are provided through the GATA Resource Library at \[www.grants.illinois.gov\]\(http://www.grants.illinois.gov\). See also the Ill. State Board of Education's \*Procurement and Purchasing Checklist\* at: \[www.isbe.net/Pages/Audit-and-Monitoring-Review-Requirements-and-Tools.aspx\]\(http://www.isbe.net/Pages/Audit-and-Monitoring-Review-Requirements-and-Tools.aspx\).](#)

when an employee or any of the following individuals has a financial or other interest in the entity selected for the contract:

1. Any person that has a close personal relationship with an employee that may compromise or impair the employee's fairness and impartiality, including a member of the employee's immediate family or household;
2. An employee's business partner; or
3. An entity that employs or is about to employ the employee or one of the individuals listed in one or two above, as defined by 2 C.F.R. §200.318(e)(1). <sup>11</sup>

Employees shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to agreements or contracts.<sup>12</sup> Situations in which the interest is not substantial or the gift is an unsolicited item of nominal value must comply with State law and Board policy 2:105, *Ethics and Gift Ban*. <sup>13</sup>

### Outside Employment

Employees shall not engage in any other employment or in any private business during regular working hours or at such other times as are necessary to fulfill appropriate assigned duties.

Incorporated  
by reference: 5:120-E (Code of Ethics for Illinois Educators)

LEGAL REF.: U.S. Constitution, First Amendment.  
2 C.F.R. §200.318(c)(1).  
5 ILCS 420/4A-101, Ill. Governmental Ethics Act and 430/  
5 ILCS 430/, State Officials and Employee Ethics Act.  
30 ILCS 708/, Grant Accountability and Transparency Act.  
50 ILCS 135/, Local Governmental Employees Political Rights Act.  
105 ILCS 5/10-22.39 and 5/22-5.  
325 ILCS 5/, Abused and Neglected Child Reporting Act.  
775 ILCS 5/5A-102, Ill. Human Rights Act.  
23 Ill.Admin.Code Part 22, Code of Ethics for Illinois Educators.  
Pickering v. Board of Township H.S. Dist. 205, 391 U.S. 563 (1968).  
Garcetti v. Ceballos, 547 U.S. 410 (2006).

CROSS REF.: 2:105 (Ethics and Gift Ban), 4:60 (Purchases and Contracts), 5:100 (Staff Development Program), 5:125 (Personal Technology and Social Media: Usage and Conduct)

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<sup>11</sup> ~~Id~~ 2 C.F.R. §200.318(e)(1).

<sup>12</sup> Id.

<sup>13</sup> Id. The rule provides flexibility for school districts to “set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value,” along with “disciplinary actions to be applied for violations.” Referring to sample policy 2:105, *Ethics and Gift Ban* for these standards provides clarity and consistency. Policy 2:105, *Ethics and Gift Ban*, refers to **Limitations on Receiving Gifts** in the Ethics Act at 5 ILCS 430/10-10 – 10-30, along with discussion of the specific penalties available under the Ethics Act at 5 ILCS 430/50-5 in its **Enforcement** subhead.

## General Personnel

### Personal Technology and Social Media; Usage and Conduct 1

#### Definitions

**Includes** - Means “includes without limitation” or “includes, but is not limited to.”

**Social media** - Media for social interaction, using highly accessible communication techniques through the use of web-based and mobile technologies to turn communication into interactive dialogue.<sup>2</sup> This includes, but is not limited to, services such as *Facebook*, *LinkedIn*, *Twitter*, *Instagram*, *Snapchat*, and *YouTube*.<sup>3</sup>

**Personal technology** - Any device that is not owned or leased by the District or otherwise authorized for District use and: (1) transmits sounds, images, text, messages, videos, or electronic information, (2) electronically records, plays, or stores information, or (3) accesses the Internet, or private communication or information networks.<sup>4</sup> This includes laptop computers (e.g., laptops, ultrabooks, and chromebooks), tablets (e.g., iPads®, Kindle®, Microsoft Surface®, and other Android® platform or Windows® devices), smartphones (e.g., iPhone®, BlackBerry®, Android® platform phones, and Windows Phone®), and other devices (e.g., iPod®).<sup>5</sup>

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>1</sup> This policy is optional. Consult the board attorney because personal technology and social media involve an unprecedented area of the law. Public employees’ First Amendment rights involve an unsettled area of the law. Personal technology and social media platforms change continually. Therefore, instead of prohibiting specific actions, this sample policy focuses on what will not change - maintaining appropriate behavior as outlined in 5:120, *Employee Ethics; and Conduct; and Conflict of Interest*, the Ill. Educators’ Code of Ethics at 23 Ill.Admin.Code §22.20, and 105 ILCS 5/21B-75, amended by P.A. 101-531 (allows suspensions or revocations of certificates for abuse or neglect of a child, willful or negligent failure to report suspected child abuse or neglect, immorality, and unprofessional conduct, among other things). *Immoral* has been defined by one court to mean “shameless conduct showing moral indifference to the opinions of the good and respectable members of the community.” (See *Ahmad v. Board of Education of City of Chicago*, 356 Ill.App.3d 155 (1st Dist. 2006) 847 N.E.2d 810, 819 (Ill.App.1, 2006).

Consult the board attorney when a board wants to prohibit more specific actions and/or specific speech, e.g., *friending* students on Facebook or similar social media, *tweeting* or otherwise communicating with students on Twitter or similar social media sites, and text messaging or emailing students. See also the discussion in f/ns 6 & 7 below.

This policy also contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. When a policy’s subject matter is superseded by a bargaining agreement, the board policy can state, “Please refer to the applicable collective bargaining agreement.”

<sup>2</sup> Several definitions of social media exist, and a board may wish to use another definition or create its own with the board attorney. This sample policy’s definition is very broad. It is adapted from a frequently cited Wikipedia definition at [en.wikipedia.org/wiki/Social\\_media](http://en.wikipedia.org/wiki/Social_media) [www.en.wikipedia.org/wiki/Social\\_media](http://www.en.wikipedia.org/wiki/Social_media). Merriam-Webster’s definition is at [www.merriam-webster.com/dictionary/social%20](http://www.merriam-webster.com/dictionary/social%20).

<sup>3</sup> Optional. A board may want to add other sites. As of ~~October 2010~~July 2019, the publication *eBizMBA Inc.* lists the top four social networking sites as Facebook, ~~Myspace~~YouTube, Twitter, and ~~LinkedIn~~Instagram, respectively.

<sup>4</sup> *Personal technology* is not yet defined. It is the title of a weekly column in *The Wall Street Journal*. The column was created and is authored by Walt Mossberg, who frequently directs readers to his review of new technologies on a website titled *All Things Digital* at to [allthingsd.com/author/walt/](http://allthingsd.com/author/walt/) [www.allthingsd.com/author/walt/](http://www.allthingsd.com/author/walt/). Many of the reviewed devices operate as described in this sample definition.

<sup>5</sup> Optional.

## Usage and Conduct <sup>6</sup>

All District employees who use personal technology and social media shall: <sup>7</sup>

1. Adhere to the high standards for appropriate school relationships required by policy 5:120, *Employee Ethics; Conduct; and Conflict of Interest*, at all times, regardless of the ever-changing social media and personal technology platforms available. This includes District employees posting images or private information about themselves or others in a manner readily accessible to students and other employees that is inappropriate as defined by policy 5:20, *Workplace Harassment Prohibited*; 5:100, *Staff Development Program*; 5:120, *Employee Ethics; Conduct; and Conflict of Interest*; 6:235, *Access to Electronic Networks*; 7:20, *Harassment of Students Prohibited*; and the Ill. Code of Educator Ethics, 23 Ill.Admin.Code §22.20.
2. Choose a District-provided or supported method whenever possible to communicate with students and their parents/guardians.
3. Not interfere with or disrupt the educational or working environment, or the delivery of education or educational support services.
4. Comply with policy 5:130, *Responsibilities Concerning Internal Information*. This means that personal technology and social media may not be used to share, publish, or transmit information about or images of students and/or District employees without proper approval. For District employees, proper approval may include implied consent under the circumstances. <sup>8</sup>
5. Refrain from using the District's logos without permission and follow Board policy 5:170, *Copyright*, and all District copyright compliance procedures. <sup>9</sup>

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<sup>6</sup> Whether to discipline an employee for his or her speech is always highly fact sensitive and should always occur after a consultation with the board attorney. ~~(See f/ns 1 and 7).~~ The discipline will require careful balancing of the district's obligations to protect its students with employees' rights. Further, a board may not discipline its employees for discussing the terms and conditions of their employment with co-workers and others or otherwise interfere with their employees' efforts to work to improve the terms and conditions of their workplace. ~~(29 U.S.C. §151 et seq.)~~

<sup>7</sup> The following list is optional and may contain items on which collective bargaining may be required. ~~(See f/n 1).~~ To ensure that the listed expectations match local conditions, boards may want to initiate a conversation with the superintendent about these expectations. Expectations will be most effective when they reflect local conditions and circumstances. This conversation provides an additional opportunity for the board and superintendent to examine all current policies, collective bargaining agreements, and administrative procedures applicable to this subject. ~~(See f/n 2 of policy 5:120, *Employee Ethics; Conduct; and Conflict of Interest*; for more discussion about how to initiate this conversation and f/n 3 of policy 5:100, *Staff Development Program*).~~ Employee conduct issues may be subjects of mandatory collective bargaining, therefore consulting the board attorney should be a part of this process. After discussing these issues, the board may have further expectations and may choose to reflect those expectations here.

<sup>8</sup> Inherent dangers exist when district employees use personal technology and social media without understanding how the information is used within the chosen platform and what choices are available within the platform to control it. Some examples of laws that require the safekeeping of district and school records include: the Federal Educational Rights and Privacy Act, 20 U.S.C. §1232g, and the Ill. School Student Records Act, 105 ILCS 10/ (both prohibit the unauthorized disclosure of student school records); 5 ILCS 140/7 (exempts personnel information and other items such as school security and response plans and maps from disclosure); 45 C.F.R. §164.502 (protects the employees' health information); and 820 ILCS 40/ (governs the release of an employee's disciplinary action). For district employees, implied consent may be sufficient in some circumstances, e.g., teachers taking pictures of each other at a birthday party in the teachers' lounge or at a social event off school grounds and later posting those pictures on Facebook.

<sup>9</sup> 17 U.S.C. §101 et seq.

6. Use personal technology and social media for personal purposes only during non-work times or hours. Any duty-free use must occur during times and places that the use will not interfere with job duties or otherwise be disruptive to the school environment or its operation. **10**
7. Assume all risks associated with the use of personal technology and social media at school or school-sponsored activities, including students' viewing of inappropriate Internet materials through the District employee's personal technology or social media. The Board expressly disclaims any responsibility for imposing content filters, blocking lists, or monitoring of its employees' personal technology and social media. **11**
8. Be subject to remedial and any other appropriate disciplinary action for violations of this policy ranging from prohibiting the employee from possessing or using any personal technology or social media at school to dismissal and/or indemnification of the District for any losses, costs, or damages, including reasonable attorney fees, incurred by the District relating to, or arising out of, any violation of this policy. **12**

The Superintendent shall: **13**

1. Inform District employees about this policy during the in-service on educator ethics, teacher-student conduct, and school employee-student conduct required by Board policy 5:120, *Employee Ethics; Conduct; and Conflict of Interest*.
2. Direct Building Principals to annually:
  - a. Provide their building staff with a copy of this policy.
  - b. Inform their building staff about the importance of maintaining high standards in their school relationships.
  - c. Remind their building staff that those who violate this policy will be subject to remedial and any other appropriate disciplinary action up to and including dismissal.

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

**10** 105 ILCS 5/24-9; Fair Labor Standards Act, 29 U.S.C. §201 *et seq.* See also f/ns 1 and 6 above.

**11** The Children's Internet Protection Act (CIPA); ~~(2047 U.S.C. §254(1)6304)~~; requires school districts to maintain a policy and provide Internet access that protects against access to websites containing material that is obscene, pornographic, or harmful to minors. See 6:235, *Access to Electronic Networks*. Because a district cannot subject its employees' usage of personal technology and social media to the same measures required under CIPA (i.e., content filters, blocking lists, or district monitoring of Internet website traffic for patterns of usage that could indicate inappropriate network usage), this statement seeks to balance the district's duty by shifting responsibility for inappropriate behavior to the individual employee.

**12** The Ill. Human Rights Act makes it a civil rights violation to fail to take remedial action, or to fail to take appropriate disciplinary action against any employee, when the district knows that the employee committed or engaged in sexual harassment of a student. ~~(775 ILCS 5/5A-102)~~. Sexual harassment of a student is also prohibited by 7:20, *Harassment of Student Prohibited*, and of an employee by 5:20, *Workplace Harassment Prohibited*.

**13** 105 ILCS 5/10-16.7. The school board directs, through policy, the superintendent in his or her charge of the district's administration. One logical method for a board to address the issue of district employees' use of personal technology and social media is to include its expectations during its in-service trainings required by 105 ILCS 5/10-22.39. Many experts in social media risk management advocate training employees about the expectations concerning social media usage. For boards that do not want to include this as a part of the in-service, delete the phrase "during the in-service on educator ethics, teacher-student conduct, and school employee-student conduct required by Board policy 5:120, *Employee Ethics; Conduct; and Conflict of Interest*."

Public employee First Amendment issues involve the balance between the importance of the speech and the district's interest in maintaining order and effective school operations. The First Amendment "does not entitle primary and secondary teachers, when conducting the education of captive audiences, to cover topics, or advocate viewpoints, that depart from the curriculum adopted by the school system." See *Mayer v. Monroe County Community School Corp.*, 474 F.3d 477 (7<sup>th</sup> Cir. 2007). Nor is the First Amendment likely to entitle a teacher to protection for purely personal speech that does not touch on a matter of public concern. See *Pickering v. High School Dist. 205*, 391 U.S. 563 (1968). However, when public employees speak as private citizens on their own time about matters of public concern, they may face only those speech restrictions that are necessary for their employers to operate efficiently and effectively. ~~(Garcetti v. Ceballos, 547 U.S. 410 (2006))~~.

3. Build awareness of this policy with students, parents, and the community.
4. Ensure that no one for the District, or on its behalf, requests of an employee or applicant access in any manner to his or her social networking website or requests passwords to such sites. **14**
5. Periodically review this policy and any procedures with District employee representatives and electronic network system administrator(s) and present proposed changes to the Board.

LEGAL REF.: 105 ILCS 5/21B-75 and 5/21B-80.  
 Ill. Human Rights Act, 775 ILCS 5/5A-102.  
 Code of Ethics for Ill. Educators, 23 Ill.Admin.Code §22.20.  
Garcetti v. Ceballos, 547 U.S. 410 (2006).  
Pickering v. High School Dist. 205, 391 U.S. 563 (1968).  
Mayer v. Monroe County Community School Corp., 474 F.3d 477 (7th Cir. 2007).

CROSS REF.: 5:20 (Workplace Harassment Prohibited), 5:30 (Hiring Process and Criteria),  
 5:100 (Staff Development Program), 5:120 (Employee Ethics; Conduct; and  
 Conflict of Interest), 5:130 (Responsibilities Concerning Internal Information),  
 5:150 (Personnel Records), 5:170 (Copyright), 5:200 (Terms and Conditions of  
 Employment and Dismissal), 6:235 (Access to Electronic Networks), 7:20  
 (Harassment of Students Prohibited), 7:340 (Student Records)

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

**14** Right to Privacy in the Workplace Act, 820 ILCS 55/10(b), ~~amended by P.A. 99-610, eff. 1-1-17~~ (also known as the *Facebook Password Law*). The exception for *professional accounts* is unlikely to be available to school districts; see the explanation in f/n 195 in policy 5:30, *Hiring Process and Criteria*. The statute specifically permits an employer to: (1) maintain workplace policies governing the use of the employer’s electronic equipment, including policies regarding Internet use, social networking site use, and electronic mail use; and (2) monitor usage of the employer’s electronic equipment and electronic mail.

The statute does not prohibit an employer from (1) obtaining information about an applicant or an employee that is in the public domain or that is otherwise obtained in compliance with the statute, and (2) requesting or requiring an applicant or employee to share specific content that is reported to the employer to: (a) ensure compliance with laws and regulatory requirements, (b) investigate certain allegations as outlined in the law, and (c) prohibit certain outlined behaviors in the law. Finally, the statute does not apply to other types of personal technology that employees may use to communicate with students or other individuals, such as personal email or text messages on a personal phone. However, employers may access online accounts that the employer pays for or that an employee creates or maintains on behalf of the employer in connection with the employee’s employment. Consult the board attorney about these issues.

## General Personnel

### Personnel Records <sup>1</sup>

The Superintendent or designee shall manage the maintenance of personnel records in accordance with State and federal law and School Board policy. Records, as determined by the Superintendent, are retained for all employment applicants, employees, and former employees given the need for the District to document employment-related decisions, evaluate program and staff effectiveness, and comply with government recordkeeping and reporting requirements. Personnel records shall be maintained in the District's administrative office, under the Superintendent's direct supervision.

Access to personnel records is available as follows:

1. An employee will be given access to his or her personnel records according to State law and guidelines developed by the Superintendent. <sup>2</sup>
2. An employee's supervisor or other management employee who has an employment or business-related reason to inspect the record is authorized to have access.
3. Anyone having the respective employee's written consent may have access.
4. Access will be granted to anyone authorized by State or federal law to have access.
5. All other requests for access to personnel information are governed by Board policy 2:250, *Access to District Public Records*. <sup>3</sup>

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>1</sup> State or federal law controls this policy's content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

This policy is consistent with the minimum requirements of State law. The local collective bargaining agreement may contain provisions that exceed these requirements. When a policy's subject matter is superseded by a bargaining agreement, the board policy can state, "Please refer to the applicable collective bargaining agreement."

<sup>2</sup> An employee has the right to view his or her personnel file contents, with a few exceptions. (Ill. Personnel Record Review Act (PRRA), 820 ILCS 40/). Thus, personnel files should contain only factual and accurate job-related information. In addition, the ~~Personnel Record Review Act~~ PRRA identifies records that may not be kept: a record of an employee's associations, political activities, publications, communications, or non-employment activities (820 ILCS 40/9, amended by P.A. 101-531) and records identifying an employee as the subject of an investigation by the Ill. Dept. of Children and Family Services (DCFS) if the investigation resulted in an unfounded report as specified in the Abused and Neglected Child Reporting Act (820 ILCS 40/13). See f/n 5.

<sup>3</sup> Unless a specific exemption is available, personnel file information is available to anyone making a FOIA request. <sup>4</sup> 5 ILCS 140/). Specific exemptions protect the following:

1. *Private information* meaning "unique identifiers, including a person's social security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person." <sup>5</sup> 5 ILCS 140/7(1)(b); 5 ILCS 140/2(c-5).
2. *Personal information* "the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." <sup>5</sup> 5 ILCS 140/7(1)(c).

The Superintendent or designee shall manage a process for responding to inquiries by a prospective employer concerning a current or former employee's job performance.<sup>4</sup> The Superintendent shall execute the requirements in the Abused and Neglected Child Reporting Act whenever another school district asks for a reference concerning an applicant who is or was a District employee and was the subject of a report made by a District employee to DCFS. <sup>5</sup>

When requested for information about an employee by an entity other than a prospective employer, the District will only confirm position and employment dates unless the employee has submitted a written request to the Superintendent or designee.

LEGAL REF.: 745 ILCS 46/10.  
820 ILCS 40/  
23 Ill.Admin.Code §1.660.

CROSS REF.: 2:250 (Access to District's Public Records), 7:340 (Student Records)

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

3. Information prohibited from being disclosed by the ~~Personnel Record Review Act/PRRA~~, 5 ILCS 140/7.5(q). The ~~Personnel Record Review Act/PRRA~~ prohibits the disclosure of a performance evaluation under FOIA, ~~(820 ILCS 40/11)~~. The treatment of a request for a disciplinary report, letter of reprimand, or other disciplinary action depends on the age and nature of the responsive record. If the responsive record is more than four years old and is not related to an incident or attempted incident of sexual abuse or severe physical abuse, the request ~~should~~ must be denied unless the disclosure is permitted by the Act. ~~(5 ILCS 140/7.5(q); 820 ILCS 40/8, amended by P.A. 101-531)~~. ~~If the responsive record is more than four years old and is related to an incident or an attempted incident of sexual abuse or severe physical abuse, the request cannot be denied, 820 ILCS 40/8, amended by P.A. 101-531.~~ If the responsive record is four years old or less (regardless of its nature), the district should provide the record and must notify the employee in written form or through email, if available. ~~(820 ILCS 40/7 and 40/8, amended by P.A. 101-531)~~.

The School Code prohibits the disclosure of school teacher, principal, and superintendent performance evaluations except as otherwise provided in the certified employee evaluation laws. ~~(105 ILCS 5/24A-7.1)~~.

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Pub.L. 104-191) created national standards to protect individuals' medical records and other personal health information. If a district is a covered entity (i.e., offers a self-insured group health plan or flexible spending account), it must establish clear procedures to protect the employee's health information. ~~(45 C.F.R. §164.502)~~. Such districts should consult their attorneys and insurance provider for assistance.

<sup>4</sup> The Employment Record Disclosure Act (745 ILCS 46/10) provides conditional immunity to employers responding to a reference request; it states: "Any employer or authorized employee or agent acting on behalf of an employer who, upon inquiry by a prospective employer, provides truthful written or verbal information, or information that it believes in good faith is truthful, about a current or former employee's job performance is presumed to be acting in good faith and is immune from civil liability for the disclosure and the consequences of the disclosure." This immunity statute does not, however, create an exemption to the requirements in the ~~Personnel Record Review Act/PRRA~~. The ~~Review Act/PRRA~~ requires an employer to give an employee written notice before divulging a "disciplinary report, letter of reprimand, or other disciplinary action to a third party." ~~(820 ILCS 40/7)~~. ~~-An employment application may contain a waiver of this notice. (Id.)~~

<sup>5</sup> 325 ILCS 5/4(d), amended by P.A. 101-564, eff. 1-1-20, requires a superintendent, upon being asked for a reference concerning an employee or former employee, to disclose to the requesting school district the fact that a district employee has made a report involving the conduct of the applicant or caused a report to be made to DCFS. For more information, see 5:150-AP, *Personnel Records*.

## Professional Personnel

### Teacher Qualifications <sup>1</sup>

A teacher, as the term is used in this policy, refers to a District employee who is required to be licensed under State law.<sup>2</sup> The following qualifications apply:

1. Each teacher must: <sup>3</sup>
  - a. Have a valid Illinois Professional Educator License issued by the State Superintendent of Education with the required endorsements as provided in the School Code.
  - b. Provide the District Office with a complete transcript of credits earned in institutions of higher education.
  - c. On or before September 1 of each year, unless otherwise provided in an applicable collective bargaining agreement, provide the District Office with a transcript of any credits earned since the date the last transcript was filed.
  - d. Notify the Superintendent of any change in the teacher's transcript.
2. All teachers working in a program supported with federal funds under Title I, Part A must meet applicable State certification and licensure requirements. <sup>4</sup>

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<sup>1</sup> State or federal law controls this policy's content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. This policy concerns an area in which the law is unsettled.

<sup>2</sup> 105 ILCS 5/21B *et seq.*, amended by P.A. 100-596; 23 Ill.Admin. Code §1.610 *et seq.*, §1.705 *et seq.*, ~~and~~ Part 25, amended at 42 Ill.Reg. 8830, and 105 ILCS 5/27-24.2, amended by P.A. 101-450 (contracted driver education teacher).

School boards may participate in the Illinois Teacher Corps; however as of 9-1-11 individuals may no longer be admitted to Illinois Teacher Corps programs. 105 ILCS 5/21-11.4, repealed on 6-30-13.

<sup>3</sup> Subparagraph 1a is required for all teachers by 105 ILCS 5/21B-15 (qualifications of educators). Four types of educator licenses are listed in 105 ILCS 5/21B-20, amended by P.A. 100-596: (1) Professional Educator License; (2) Educator License with Stipulations (including endorsements for alternative provisional educator, alternative provisional superintendent, career and technical educator, provisional career and technical educator, transitional bilingual educator, language, visiting international educator, paraprofessional educator, chief school business official, provisional in-state educator, school support personnel intern, and special education area); (3) Substitute Teaching License; and (4) until 6-30-23, Short-Term Substitute Teaching License. Districts may not require an individual who holds a valid Professional Educator License or Educator License with Stipulations to seek or hold a Substitute Teaching License to teach as a substitute teacher. 105 ILCS 5/21B-20(3), added by P.A. 100-596. See also 23 Ill.Admin.Code §1.610 *et seq.*, §1.705 *et seq.*, and Part 25, amended at 42 Ill.Reg. 8830 (per §25.100, teachers are no longer endorsed in any course subjects in which they earn grades lower than a "C" in college). The Ill. State Board of Education's (ISBE) *Educator Licensure Information System* (ELIS) is a web-based system that allows educators, administrators, and the public to access licensure information. See [www.isbe.net/Pages/Educator-Licensure-Information-System.aspx](http://www.isbe.net/Pages/Educator-Licensure-Information-System.aspx).

Subparagraph 1b and 1c are required of all teachers by 105 ILCS 5/24-23. Some boards add the word "official" to the phrase, "complete official transcript of credits."

Subparagraph 1d is optional but informs the superintendent when a teacher may be eligible to change lanes on the salary schedule.

<sup>4</sup> The *highly qualified* teacher requirement of the No Child Left Behind Act, formerly found in §6319 of the Elementary and Secondary Education Act (ESEA, 20 U.S.C. §6319), was repealed by the Every Student Succeeds Act (ESSA, Pub. L. 114-95, eff. 12-10-15). ESEA federal implementing regulation 34 C.F.R. §200.55 was updated on 7-7-17 (82 Fed. Reg. 31706), however State implementing regulations at 23 Ill. Admin.Code Part 25, Appendix D have not been updated yet. In *Every Student Succeeds Act (ESSA) Frequently Asked Questions* (8-12-16) ([www.isbe.net/Documents/ESSA-faq.pdf](http://www.isbe.net/Documents/ESSA-faq.pdf)), ISBE advised that districts did not need to comply with the *highly qualified* teacher requirement during the 2016-17 school year.

The Superintendent or designee shall:

1. Monitor compliance with State and federal law requirements that teachers be appropriately licensed; **5**
2. Through incentives for voluntary transfers, professional development, recruiting programs, or other effective strategies, ensure that minority students and students from low-income families are not taught at higher rates than other students by unqualified, out-of-field, or inexperienced teachers; and
3. Ensure parents/guardians of students in schools receiving Title I funds are notified of their right to request their students' classroom teachers' professional qualifications. **6**

LEGAL REF.: 20 U.S.C. §6312(e)(1)(A).  
105 ILCS 5/10-20.15, 5/21-11.4, 5/21B-15, 5/21B-20, 5/21B-25, and 5/24-23.  
23 Ill.Admin.Code §1.610 et seq., §1.705 et seq., and Part 25.

CROSS REF.: 6:170 (Title I Programs)

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ESEA, as amended by ESSA, requires that each state plan contain assurances that the state educational agency will ensure that all teachers and paraprofessionals meet state certification/licensure requirements. 20 U.S.C. §6311(g)(2)(J).

**5** See the ISBE webpage on educator licensure approval requirements at [www.isbe.net/Pages/educator-licensure-approvals.aspx](http://www.isbe.net/Pages/educator-licensure-approvals.aspx).

ESEA, as amended by ESSA, requires districts to provide parents timely notice that the parent's child has been assigned, or has been taught for four or more consecutive weeks by, a teacher who does not meet applicable State certification or licensure requirements at the grade level and subject area in which the teacher has been assigned. 20 U.S.C. §6312(e)(1)(B)(ii). For a sample notice, see 5:190-E2, *Notice to Parents When Their Child Is Assigned To or Has Been Taught for at Least Four Straight Weeks By a Teacher Who Does Not Meet Applicable State Certification/Licensure Requirements*.

**6** 20 U.S.C. §6312(e)(1)(A).

## Professional Personnel

### Terms and Conditions of Employment and Dismissal <sup>1</sup>

The School Board delegates authority and responsibility to the Superintendent to manage the terms and conditions for the employment of professional personnel. The Superintendent shall act reasonably and comply with State and federal law as well as any applicable collective bargaining agreement in effect. The Superintendent is responsible for making dismissal recommendations to the Board consistent with the Board's goal of having a highly qualified, high performing staff. <sup>2</sup>

### School Year

Teachers shall work according to the school calendar adopted by the Board, which shall have a minimum of 176 student attendance days and a minimum of 180 teacher work days, including teacher institute days.<sup>3</sup> Teachers are not required to work on legal school holidays unless the District has followed applicable State law that allows it to hold school or schedule teachers' institutes, parent-teacher conferences, or staff development on the third Monday in January (the Birthday of Dr. Martin Luther King, Jr.); February 12 (the Birthday of President Abraham Lincoln); the first Monday in March (known as Casimir Pulaski's birthday); the second Monday in October (Columbus Day); and November 11 (Veterans' Day). <sup>4</sup>

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<sup>1</sup> State or federal law controls this policy's content. This policy contains items on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. The local collective bargaining agreement may contain provisions that exceed these requirements. In such cases, the board policy should be amended to state, "Please refer to the applicable collective bargaining agreement."

Evaluation, tenure, and dismissals changed significantly from 2013 to 2016 as P.A.s 96-861, 97-8, and 98-513 were implemented. These public acts are referred to as *Education Reform* or *Education Reform Acts*.

<sup>2</sup> This paragraph is consistent with the IASB's *Foundational Principles of Effective Governance*. Boards have three options for using this paragraph: (1) use it as an introduction to the policy; (2) use it alone leaving the specific other topics for administrative implementation; or (3) do not use it.

<sup>3</sup> 105 ILCS 5/10-19, amended by P.A. 101-12. See 6:20, *School Year Calendar and Day*.

<sup>4</sup> 105 ILCS 5/24-2(b). See 5:330, *Sick Days, Vacation, Holidays, and Leaves*, for a holiday listing as well as a discussion of the case finding the State-mandated school holiday on Good Friday unconstitutional. 105 ILCS 5/24-2 prohibits districts from making a deduction "from the time or compensation of a school employee on account of any legal or special holiday."

## School Day

Teachers are required to work the school day adopted by the Board.<sup>5</sup> Teachers employed for at least four hours per day shall receive a duty-free lunch equivalent to the student lunch period, or 30 minutes, whichever is longer. <sup>6</sup>

The District accommodates employees who are nursing mothers according to provisions in State and federal law. <sup>7</sup>

## Salary

Teachers shall be paid according to the salaries fixed by the Board, but in no case less than the minimum salary provided by the School Code.<sup>8</sup> Teachers shall be paid at least monthly on a 10- or 12-month basis. <sup>9</sup>

## Assignments and Transfers

The Superintendent is authorized to make teaching, study hall, extra class duty, and extracurricular assignments.<sup>10</sup> In order of priority, assignments shall be made based on the District's needs and best interests, employee qualifications, and employee desires.

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<sup>5</sup> ~~A school day is required to consist of a minimum of five clock hours under the direct supervision of a teacher or non-teaching personnel or volunteer personnel that provides non-teaching or supervisory duties as specified in 105 ILCS 5/10-22.34(a) in order to qualify as a full day of attendance. 105 ILCS 5/10-19.05(a), added by P.A. 101-12. See [www.isbe.net/school-calendar](http://www.isbe.net/school-calendar) for ISBE's instructional day changes notice regarding this law. See 105 ILCS 5/10-19.05, added by P.A. 101-12, for additional exceptions to the attendance calculation. -The length of the school day is left to the board's discretion absent an individual or collective bargaining contract. Prior to the repeal of 105 ILCS 5/18 8.05(F) by P.A. 100-582, with several exceptions, the student attendance day was required to consist of at least five clock hours under the direct supervision of a teacher or non-teaching volunteer providing non-teaching or supervisory duties as specified in 105 ILCS 5/10-22.34(a), in order to qualify as a full day for calculating state aid entitlement. Despite the repeal of 105 ILCS 5/18 8.05(F), Ill. State Board of Education (ISBE) rules implementing it are still in effect at 23 Ill.Admin.Code §1.420(f). See f/n 5 in policy 6:20, *School Year Calendar and Day*, for more information about ISBE's response to this law's repeal.~~

<sup>6</sup> 105 ILCS 5/24-9.

<sup>7</sup> 740 ILCS 137/; 820 ILCS 260/, amended by P.A. 100-1003. Ill. law requires more of employers than federal law. Consult the board attorney to ensure the district is properly accommodating nursing mothers. See 5:10-AP, *Workplace Accommodations for Nursing Mothers*.

<sup>8</sup> 105 ILCS 5/10-20.7, 5/10-21.1, 5/24-1, and 5/24-8, amended by P.A. 101-443, eff. 6-1-20, beginning with the 2020-2021 school year. (minimum salary). Salaries are a mandatory subject of collective bargaining. 115 ILCS 5/10. Annually, by Oct. 1, each district must: (1) during an open school board meeting, report salary and benefits information for the superintendent, administrators, and teachers; (2) publish that information on the district's website, if any; and (3) provide this information to ISBE. 105 ILCS 5/10-20.47. According to a Public Access Counselor (PAC) *Informal Mediation* letter interpreting Sec. 7.3 of the Open Meetings Act (OMA) (5 ILCS 120/7.3), an IMRF employer must post on its website the names of employees having a total compensation package that exceeds \$75,000 per year. 2012 PAC 19808 (Informal Mediation by the Ill. Attorney General's Public Access Counselor (PAC); see PAC Annual Report for 2012 at [foia.illattorneygeneral.net/pdf/Public-Access-Counselor-Annual-Report-2012.pdf](http://foia.illattorneygeneral.net/pdf/Public-Access-Counselor-Annual-Report-2012.pdf) [www.foia.illattorneygeneral.net/pdf/Public-Access-Counselor-Annual-Report-2012.pdf](http://www.foia.illattorneygeneral.net/pdf/Public-Access-Counselor-Annual-Report-2012.pdf)).

<sup>9</sup> 105 ILCS 5/24-21.

<sup>10</sup> Districts are required to have a policy on the distribution of the listed assignments. 23 Ill.Admin.Code §1.420(d).

Absent an individual or collective bargaining agreement, the board has unilateral discretion to assign or retain a teacher to or in an extracurricular duty. *Betebenner v. Bd. of Educ.*, 336 Ill.App. 448 (4th Dist. 1949); *Dist. 300 Educ. Assoc. v. Bd. of Educ.*, 31 Ill.App.3d 550 (2nd Dist. 1975); *Lewis v. Bd. of Educ.*, 181 Ill.App. 3d 689 (5th Dist. 1989).

School Social Worker Services Outside of District Employment

School social workers may not provide services outside of their District employment to any student(s) attending school in the District. *School social worker* has the meaning stated in 105 ILCS 5/14-1.09a. **11**

Dismissal

The District will follow State law when dismissing a teacher. **12**

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**11** Optional. This subhead provides information to district employees and the community that 105 ILCS 5/14-1.09a, amended by P.A. 100-356, prohibits school social workers from moonlighting by providing services to students attending the districts in which they are employed. Delete “5/10-20.60, 5/14-1.09a,” from the Legal References if the board deletes this subhead.

**12** All dismissal laws in the chart below were amended by [P.A.s 96-861, 96-1423, 97-8 and/or 98-513 \(eff. 1-1-14\)](#) the [Education Reform Acts](#). Beginning with 2020-2021 school year, [105 ILCS 5/24A-5.5](#), added by P.A. 101-591, requires districts to develop and implement a local appeals process for unsatisfactory ratings issued to teachers under [105 ILCS 5/24A-5](#). Districts must: (1) develop the process in cooperation with the bargaining unit or teachers, if applicable, and (2) include an assessment of the original rating by a panel of qualified evaluators agreed to by the PERA joint committee (105 ILCS 5/24A-4(b)).

<b>Non-tenure Teacher Discharge</b>	105 ILCS 5/24-11
<b>Tenured and Non-tenure Teachers</b> Reduction in Force	105 ILCS 5/24-12(b) and (c)
<b>Tenured Teacher Discharge</b> Where Cause Remediable	105 ILCS 5/24-12(d) (prior reasonable warning required) 105 ILCS 5/24-12(d) (procedural mandates) 105 ILCS 5/10-22.4 (general authority)
<b>Tenured Teacher Discharge</b> Where Cause Irremediable	105 ILCS 5/24-12(d) (no prior warning required) 105 ILCS 5/24-12(d) (procedural mandates) 105 ILCS 5/10-22.4 (general authority)
<b>Tenured Teacher Discharge</b> Failure to complete remediation plan with a rating of <i>Proficient</i>	105 ILCS 5/24A-5(m) (participation in remediation plan after unsatisfactory evaluation) 105 ILCS 5/24-12(d)(1) (no prior warning required if cause(s) were subject of remediation plan) 105 ILCS 5/24-12(d) (procedural mandates) 105 ILCS 5/10-22.4 (general authority)
<b>Tenured Teacher Discharge - Optional Alternative Evaluative Dismissal Process for PERA Evaluation</b> Failure to complete remediation plan with a <i>Proficient</i> or better rating 105 ILCS 5/24A-2.5	105 ILCS 5/24-16.5(d) (provide written notice) 105 ILCS 5/24-16.5 (pre-remediation and remediation procedural mandates) 105 ILCS 5/24-16.5(e) and (f) (school board makes final decision with only PERA-trained board members participating in vote)
<b>Tenured Teacher Discharge</b> <i>Unsatisfactory</i> PERA evaluation within 36 months of completing a remediation plan 105 ILCS 5/24A-2.5	105 ILCS 5/24A-5(n) (forego remediation and proceed to dismissal) 105 ILCS 5/24-12(d) (procedural mandates) 105 ILCS 5/10-22.4 (general authority)
<b>Educational Support Personnel Employees</b> (non-certificated/licensed)	105 ILCS 5/10-23.5, <del>amended by P.A. 101-46 (not affected by P.A.s 96-861 and 97-8)</del>
<b>Probationary Teacher</b> (non-tenure teacher)	105 ILCS 5/24-11

Various components of a RIF (e.g., impact and decision to RIF) and an evaluation plan (e.g., development, implementation, and impact) may be subject to mandatory collective bargaining. [Central City Educ. Assoc. v. IELRB](#), 149 Ill.2d 496 (Ill. 1992).

Teacher RIF procedures were changed by 105 ILCS 5/24-12. See [PERA Overview for School Board Members](#), question 13, “What is the process for selecting teachers for a reduction in force/layoff (RIF)” at: [iasb.com/law/pera.cfm](http://iasb.com/law/pera.cfm) [www.iasb.com/law/PERAoverview.pdf](http://www.iasb.com/law/PERAoverview.pdf).

Evaluation

The District’s teacher evaluation system will be conducted under the plan developed pursuant to State law. **13**

On an annual basis, the Superintendent will provide the Board with a written report which outlines the results of the District’s teacher evaluation system.

LEGAL REF.: 105 ILCS 5/10-19, 5/10-19.05, 5/10-20.650 (~~P.A. 100-356, final citation pending~~), 5/14-1.09a, ~~5/18-8~~, 5/22.4, 5/24-16.5, 5/24-2, 5/24-8, 5/24-9, 5/24-11, 5/24-12, 5/24-21, 5/24A-1 through 24A-20.  
820 ILCS 260/1 et seq.  
23 Ill.Admin.Code Parts 50 (Evaluation of ~~Certified Employees~~ Educator Licensed Employees) and 51 (Dismissal of Tenured Teachers).  
Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532(1985).

CROSS REF.: 5:290 (Employment Termination and Suspensions), 6:20 (School Year Calendar and Day)

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According to a binding opinion from the Ill. Public Access Counselor, a board must identify an employee by name in a motion to dismiss him or her. PAO 13-16. As this may be a significant change in practice with possible other legal consequences, a board should consult with the board attorney on this issue before dismissing employee.

**13** Teacher evaluation plans are covered in *PERA Overview for School Board Members* at: [iasb.com/law/pera.cfm](http://iasb.com/law/pera.cfm) [www.iasb.com/law/PERAoverview.pdf](http://www.iasb.com/law/PERAoverview.pdf).

## Professional Personnel

### Substitute Teachers 1

The Superintendent may employ substitute teachers as necessary to replace teachers who are temporarily absent.

A substitute teacher must hold either a valid teaching or substitute license or short-term substitute license and may teach in the place of a licensed teacher who is under contract with the Board.<sup>2</sup> There is no limit on the number of days that a substitute teacher may teach in the District during the school year, except as follows: 3

1. A substitute teacher holding a substitute license may teach for any one licensed teacher under contract with the District only for a period not to exceed 90 paid school days in any one school term.
2. A teacher holding a Professional Educator License<sup>4</sup> or Educator License with Stipulations<sup>5</sup> may teach for any one licensed teacher under contract with the District only for a period not to exceed 120 paid school days.
3. A short-term substitute teacher holding a short-term substitute teaching license may teach for any one licensed teacher under contract with the District only for a period not to exceed five consecutive school days. 6

The Illinois Teachers' Retirement System (TRS) limits a substitute teacher who is a TRS annuitant to substitute teaching for a period not to exceed 120 paid days or 600 paid hours in each school year, but not more than 100 paid days in the same classroom. Beginning July 1, 2020, a substitute teacher who is a TRS annuitant may substitute teach for a period not to exceed 100 paid days or 500 paid hours in

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<sup>1</sup> State law controls this policy's content. Policy 5:30, *Hiring Process and Criteria*, contains the requirements for pre-employment investigations, e.g., a finger-print based criminal history records check. See also 5:30-AP2, *Administrative Procedure—Investigations*. Each board may require new substitute teacher employees to furnish evidence of physical fitness to perform duties assigned and must require new substitute teacher employees to furnish evidence of freedom from communicable disease. 105 ILCS 5/24-5(b-5), added by P.A. 100-855. Evidence may consist of a physical examination, which must be performed within 90 days before the time it is presented to the board, and the substitute teacher bears the cost of the physical examination. Id. A new or existing substitute teacher may also be subject to additional health examinations as required by the Ill. Dept. of Public Health or by order of a local public health official. Id.

<sup>2</sup> 23 Ill.Admin.Code §1.790(a)(2), added by 41 Ill.Reg. 6924, requires that any individual who serves as a substitute teacher for driver's education be endorsed for driver's education pursuant to 23 Ill.Admin.Code §25.100(k), amended at 42 Ill.Reg. 8884.

<sup>3</sup> Substitute teaching licenses are governed by 105 ILCS 5/21B-20(3), amended by P.A. 100-596; 23 Ill.Admin.Code §1.790, amended at 42 Ill.Reg. 11551; and 23 Ill.Admin.Code §25.520, amended at 42 Ill.Reg. 8930.

<sup>4</sup> Professional educator licenses are governed by 105 ILCS 5/21B-20(1) and 23 Ill.Admin.Code Part 25, amended at 42 Ill.Reg. 8830.

<sup>5</sup> Educator licenses with stipulations are governed by 105 ILCS 5/21B-20(2), amended by P.A. 100-596, and 23 Ill.Admin.Code Part 25, amended at 42 Ill.Reg. 8830. 105 ILCS 5/21B-20(2)(E), amended by P.A. 100-13, permits an individual who holds a valid career and technical educator endorsement on an Educator License with Stipulations but who does not hold a bachelor's degree to substitute teach in career and technical education classrooms. Similarly, 105 ILCS 5/21B-20(2)(F), amended by P.A. 100-13, permits an individual who holds a provisional or part-time provisional career and technical educator endorsement on an Educator License with Stipulations but who does not hold a bachelor's degree to substitute teach in career and technical education classrooms.

<sup>6</sup> 105 ILCS 5/21B-20(4), added by P.A. 100-596. Districts may not hire a short-term substitute teacher for teacher absences lasting six or more days. Id.

any school year, unless the subject area is one where the Regional Superintendent has certified that a personnel shortage exists. <sup>7</sup>

The School Board establishes a daily rate of pay for substitute teachers. Substitute teachers receive only monetary compensation for time worked and no other benefits. <sup>8</sup>

### Short-Term Substitute Teachers <sup>9</sup>

A short-term substitute teacher must hold a valid short-term substitute teaching license and have completed the District's short-term substitute teacher training program.<sup>10</sup> Short-term substitutes may teach no more than five consecutive school days for each licensed teacher who is under contract with the Board. <sup>11</sup>

### Emergency Situations <sup>12</sup>

A substitute teacher may teach when no licensed teacher is under contract with the Board if the District has an emergency situation as defined in State law. During an emergency situation, a substitute teacher is limited to 30 calendar days of employment per each vacant position. The Superintendent shall notify the appropriate Regional Office of Education within five business days after the employment of a substitute teacher in an emergency situation.

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<sup>7</sup> 40 ILCS 5/16-118, amended by P.A. 100-596 (specifying permissible paid days and hours for TRS annuitants), and 16-150.1, amended by P.A. ~~100-743~~<sup>101-49</sup> (TRS annuitants may return to teaching in a subject shortage area until 6-30-~~49~~<sup>21</sup>). Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center."

<sup>8</sup> If a board provides substitute teachers other benefits, it may consider listing them here.

<sup>9</sup> 105 ILCS 5/21B-20(4), added by P.A. 100-596, governs Short-Term Substitute Teaching Licenses, which may be issued from 7-1-18 until 6-30-23. Short-Term Substitute Teaching Licenses are not eligible for endorsements. Id. Applicants for a Short-Term Substitute Teaching License must hold an associate's degree or have completed at least 60 credit hours from a regionally accredited institution of higher education. Individuals who have had their Professional Educator License or Educator License with Stipulations suspended or revoked are not eligible to be short-term substitutes. Id. Short-term substitutes may not be hired for teacher absences lasting six or more days. Id. 105 ILCS 5/21B-20(4) repeals on 7-1-23.

<sup>10</sup> 105 ILCS 5/10-20.6~~87~~ ~~(final citation pending)~~, added by P.A. 100-596, requires boards to conduct this training. This requirement provides an opportunity for each board and the superintendent to examine all current policies, collective bargaining agreements, and administrative procedures on this subject. Each board may then want to have a conversation with the superintendent and direct him or her to develop a curriculum for a short-term substitute teacher training program that provides individuals who hold a Short-Term Substitute Teaching License with information on curriculum, classroom management techniques, school safety, and district and building operations. See also 5:220-AP, *Substitute Teachers*, and f/n 3 in 5:220-AP. These expectations will be most effective when they reflect local conditions and circumstances. Training and curriculum for a short-term substitute teacher training program may be subjects of mandatory collective bargaining, therefore consulting with the board attorney should be a part of this process. A district would commit an unfair labor practice by implementing new programs for staff without first offering to negotiate them with the applicable exclusive bargaining representative.

School boards may choose to also offer this training program to individuals who hold a Substitute Teaching License and/or substitute teachers holding a Professional Educator License. This provision repeals on 7-1-23.

<sup>11</sup> See f/n 6.

<sup>12</sup> 105 ILCS 5/21B-20(3). An *emergency situation* is defined as one where an unforeseen vacancy has occurred and (i) a teacher is unable to fulfill his or her contractual duties, or (ii) the district's teacher capacity needs exceed previous indications and the district is actively engaged in advertising to hire a fully licensed teacher for the vacant position.

Use this alternative for districts in suburban Cook County: replace "Regional Office of Education" with "appropriate Intermediate Service Center."

LEGAL REF.: 105 ILCS 5/10-20.6~~87 (P.A. 100-596, final citation pending)~~, 5/21B-20(2), 5/21B-20(3), and 5/21B-20(4).  
23 Ill.Admin.Code §1.790 (Substitute Teacher) and §25.520 (Substitute Teaching License).

CROSS REF.: 5:30 (Hiring Process and Criteria)

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## Professional Personnel

### Leaves of Absence <sup>1</sup>

Each of the provisions in this policy applies to all professional personnel to the extent that it does not conflict with an applicable collective bargaining agreement or individual employment contract or benefit plan; in the event of a conflict, such provision is severable and the applicable bargaining agreement or individual agreement will control.

### Sick and Bereavement Leave <sup>2</sup>

Each full-time professional staff member is granted 10 days sick leave each school year at full pay. Unused days are allowed to accumulate to 180 days. Sick leave is defined in State law as personal illness, quarantine at home, serious illness or death in the immediate family or household, or birth, adoption, or placement for adoption.

As a condition for paying sick leave after three days absence for personal illness or 30 days for birth<sup>3</sup> or as the Board or Superintendent deem necessary in other cases, the Board or Superintendent may

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<sup>1</sup> State or federal law controls this policy's content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

This policy is consistent with the minimum requirements of State law. The local collective bargaining agreement may contain provisions that exceed these requirements. The introductory paragraph recognizes that an applicable collective bargaining agreement or individual employment contract will supersede a conflicting provision of the policy. It also provides policy coverage for those professional personnel who are not included in a bargaining unit or have employment contracts with conflicting provisions. Alternatively, if the policy's subject matter is superseded by a bargaining agreement, the board policy may state, "Please refer to the applicable collective bargaining agreement."

Districts must coordinate leaves provided by State law and the local bargaining agreement with the leave granted by the Family and Medical Leave Act (FMLA) (29 U.S.C. §2612), amended by Sec. 565 of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111-84). The FMLA grants eligible employees 12 weeks unpaid leave each year for: (1) the birth and first-year care of a child; (2) the adoption or foster placement of a child; (3) the serious health condition of an employee's spouse, parent, or child; (4) the employee's own serious health condition; (5) the existence of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on *covered active duty*; and (6) to care for the employee's spouse, child, parent, or next of kin who is a covered servicemember with a serious injury or illness. Districts are permitted to count paid leave (granted by State law or board policy) taken for an FMLA purpose against an employee's FMLA entitlement. 29 C.F.R. §825.207. See policy 5:185, *Family and Medical Leave*.

A plethora of State laws grant leaves to employees of the State and municipalities but are not applicable to school districts, including the Employee Blood Donation Leave Act (820 ILCS 149/), Local Government Disaster Service Volunteer Act (50 ILCS 122/), Organ Donor Leave Act (5 ILCS 327/), and Civil Air Patrol Leave Act (820 ILCS 148/).

<sup>2</sup> The provisions in this section are required by 105 ILCS 5/24-6, amended by P.A. 100-513. Each specified number of days in this section is the statutory minimum. Before adopting this policy or applying its provisions, the district should examine any applicable bargaining agreements.

Consult the board attorney about the Employee Sick Leave Act, 820 ILCS 191/~~added by P.A. 99-841~~. It prohibits employers from limiting the use of sick time to an employee's own illnesses and allows employees to use employer-provided sick leave to care for an ill or injured *family member* or to attend a medical appointment with a family member. The law defines family members as a child, stepchild, spouse, domestic partner, sibling, parent, mother- or father-in-law, grandchild, grandparent, or stepparent. *Id.* at 191/10(b). Leave may be taken under the same terms for which the employee would be permitted to take leave for his or her own illness or injury.

require that the staff member provide a certificate from: (1) a physician licensed in Illinois to practice medicine and surgery in all its branches, (2) a chiropractic physician licensed under the Medical Practice Act, (3) an [licensed](#) advanced practice registered nurse ~~who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice registered nurse to perform health examinations~~, (4) a [licensed](#) physician assistant who has been delegated the authority to perform health examinations by his or her supervising physician, or (5) if the treatment is by prayer or spiritual means, a spiritual adviser or practitioner of the employee's faith. If the Board or Superintendent requires a certificate during a leave of less than three days for personal illness, the District shall pay the expenses incurred by the employee.

The use of paid sick leave for adoption or placement for adoption is limited to 30 days unless a longer leave is provided in an applicable collective bargaining agreement. The Superintendent may require that the employee provide evidence that the formal adoption process is underway. <sup>4</sup>

#### Child Bereavement Leave <sup>5</sup>

State law allows a maximum of 10 unpaid work days for eligible employees (Family and Medical Leave Act of 1993, 20 U.S.C. §2601 et seq.) to take child bereavement leave. The purpose, requirements, scheduling, and all other terms of the leave are governed by the Child Bereavement Leave Act. Child bereavement leave allows for: (1) attendance by the bereaved staff member at the funeral or alternative to a funeral of his or her child, (2) making arrangements necessitated by the death of the staff member's child, or (3) grieving the death of the staff member's child, without any adverse employment action.

The leave must be completed within 60 days after the date on which the employee received notice of the death of his or her child. However, in the event of the death of more than one child in a 12-month period, an employee is entitled to up to a total of six weeks of bereavement leave during the 12-month period, subject to certain restrictions under State and federal law. Other existing forms of leave may be substituted for the leave provided in the Child Bereavement Leave Act. This policy does not create any right for an employee to take child bereavement leave that is inconsistent with the Child Bereavement Leave Act.

#### Sabbatical Leave <sup>6</sup>

Sabbatical leave may be granted in accordance with the School Code.

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<sup>3</sup> [The School Code does not state a time limit for how sick leave must be taken, including for birth. Some employee and unions have taken the position that the 30 days of sick leave for birth can be used consecutively before and after an intervening summer break. However, an Illinois appellate court found that to interpret 105 ILCS 5/24-6 to allow sick leave for birth to be taken over such a long break was unreasonable and not a fair reading of the statute. Dynak v. Bd. of Education of Wood Dale Sch. Dist. 7, 2019 IL App \(2d\) 180551. Consult the board attorney regarding requests for sick leave when the timing involves an intervening school break.](#)

<sup>4</sup> 105 ILCS 5/24-6.

<sup>5</sup> Child Bereavement Leave Act, 820 ILCS 154/~~added by P.A. 99-703~~. These paragraphs discuss child bereavement leave. 820 ILCS 154/~~added by P.A. 99-703~~, defines an *eligible employee* under the same terms as an employee under FMLA (29 U.S.C. 2601 et seq.). See f/n 1 above.

The Act also provides that the leave must be completed within 60 days of the employee learning of the death of his or her *child*, as defined by 820 ILCS 154/~~added by P.A. 99-703~~. However, that 60 day limitation does not apply where more than one child dies in a 12-month period. There may be times where an employer may want to grant more than 10 unpaid work days, e.g., when a deceased child lived in a foreign country, etc. Consult the board attorney to resolve the complexities of determining whether an employee is an eligible employee under the FMLA that would trigger this Act.

<sup>6</sup> State law provides guidelines for sabbatical leaves but does not require boards to offer them. 105 ILCS 5/24-6.1.

### Personal Leave 7

Professional staff members are granted one personal leave day per year. A personal leave day is defined as a day to allow professional personnel time to conduct personal business (but not vacation, travel, or work stoppage), which is impossible to schedule at a time other than during a school day. Any unused personal leave day in a school year will be credited to the cumulative sick leave.

The use of a personal day is subject to the following conditions:

1. Except in cases of emergency or unavoidable situations, personal leave requests should be submitted to the Building Principal three days in advance of the requested date,
2. No personal leave days may be used immediately before or immediately after a holiday unless the Superintendent grants prior approval,
3. Personal leave may not be used in increments of less than one-half day,
4. Personal leave days are subject to a substitute's availability,
5. Personal leave days may not be used during the first and/or last five days of the school year,
6. Personal leave days may not be used on in-service and/or institute training days, and
7. Personal leave may not be used by more than 10% of the teaching staff in each building at the same time.

### Leave of Absence Without Pay 8

The Board may grant a leave of absence without pay to tenured professional staff members who have rendered satisfactory service and desire to return to employment in a similar capacity at a time determined by the Board.

Each leave of absence shall be of the shortest possible duration required to meet the leave's purpose consistent with a reasonable continuity of instruction for students.

### Leave to Serve as an Election Judge 9

Any staff member who was appointed to serve as an election judge under State law may, after giving at least 20-days' written notice to the District, be absent without pay for the purpose of serving as an election judge. The staff member is not required to use any form of paid leave to serve as an election judge. No more than 10% of the District's employees may be absent to serve as election judges on the same Election Day.

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<sup>7</sup> State law does not address personal leave. It is not uncommon for professional staff to be granted more than one day of personal leave a year.

<sup>8</sup> State law does not address leaves of absence without pay other than stating that a mutually agreed leave will not affect a teacher's contractual continued service. 105 ILCS 5/24-13.

<sup>9</sup> This paragraph restates 10 ILCS 5/13-2.5. The statute does not state whether the notice requirement is *calendar* days or *business* days. Support for it being *calendar* days is found in 10 ILCS 5/1-6; support for it being *business* days is found in 10 ILCS 5/1-3.

Rather than duplicate the statute's requirements in separate policies, policy 5:330, *Sick Days, Vacation, Holidays, and Leaves*, grants the leave to support personnel on the terms applicable to professional staff.

#### Child-Rearing Leave 10

The Board shall grant a professional staff member's request for a non-paid, child-rearing leave, not to exceed the balance of the school year plus one additional school year (but in no event shall such leave exceed three semesters), provided the request complies with this policy. Nothing in this section shall prohibit a professional staff member from using paid sick days as provided in this policy. <sup>11</sup>

A teacher ~~must~~ should request, if possible, a child-rearing leave by notifying the Superintendent in writing no later than 90 days before the requested leave's beginning date.<sup>12</sup> The request should include the proposed leave dates. The leave shall end before a new school year begins or before the first day of school after winter recess. <sup>13</sup>

Subject to the insurance carrier's approval, the teacher may maintain insurance benefits at his or her own expense during a child-rearing leave.

A professional staff member desiring to return before the leave's expiration will be assigned to an available vacancy for which the teacher is qualified, subject to scheduling efficiency and instruction continuity.

#### Leaves for Service in the Military 14

Leaves for service in the U.S. Armed Services or any of its reserve components and the National Guard, as well as re-employment rights, will be granted in accordance with State and federal law. A professional staff member hired to replace one in military service does not acquire tenure.

#### General Assembly Leave 15

Leaves for service in the General Assembly, as well as re-employment rights, will be granted in accordance with State and federal law. A professional staff member hired to replace one in the General Assembly does not acquire tenure.

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<sup>10</sup> The School Code does not address child-rearing. FMLA grants eligible employees a combined total of 12 weeks each year, with exceptions for teachers at the end of the school year, for, among other things, a child's: (1) birth and first-year care, and (2) adoption or foster placement (see policy 5:185, *Family and Medical Leave*). Districts not covered by the FMLA must treat a request for child-care leave to care for an adopted infant on terms comparable to those given biological mothers. *McWright v. Alexander*, 982 F.2d 222 (7th Cir. 1992).

<sup>11</sup> Districts offering a child-rearing or maternity leave must be very careful not to violate anti-discrimination laws. Districts can prohibit pregnant teachers from combining paid disability leave with an unpaid maternity leave, provided that non-pregnant teachers are likewise prohibited from combining a paid disability leave with an unpaid general leave of absence. *Maganuco v. Leyden Comm. High Sch. Dist.* 212, 939 F.2d 440 (7th Cir., 1991); *U.S. v. Consol. High Sch. Dist.* 230, 983 F.2d 790 (7th Cir. 1993); *E.E.O.C. v. Elgin Teachers' Ass'n.*, 780 F.Supp. 1195 (N.D.Ill. 1991). A sick leave bank exclusion of maternity benefits violates Title VII. *U.S. v. Consol. High Sch. Dist.* 230, *supra*.

<sup>12</sup> The length of the notice - here 90 days - is *not* covered by State or federal law. If an employee fails to provide this notice, the employee still has the right to request a family and medical leave which has a much shorter notice requirement (see policy 5:185, *Family and Medical Leave*), and could be followed by a child-rearing leave.

<sup>13</sup> For a high school, omit "the first day of school after winter recess" and insert "at the semester break." Alternatively, the board may want to be more flexible by stating:

Every effort shall be made to have the leave minimally interrupt instructional continuity by ending . . .

<sup>14</sup> Required by the School Code (105 ILCS 5/10-20.7b, 5/24-13, and 5/24-13.1); the Service Member Employment and Reemployment Rights Act (38 U.S.C. 4301, added by P.A. 100-1101, streamlining several job-related protection laws into one statute, mandating leave for *active service*, and requiring the public employer to make up the difference between military pay and regular compensation); and the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. §4301 *et seq.*).

<sup>15</sup> Required by 105 ILCS 5/24-13.

### Leave for Employment in Department of Defense 16

The Board may grant teachers a leave of absence to accept employment in a Dept. of Defense overseas school.

### School Visitation Leave

An eligible professional staff member is entitled to eight hours during any school year, no more than four hours of which may be taken on any given day, to attend school conferences, [behavioral meetings](#), or [classroom activities/academic meetings](#) related to the teacher's child, if the conference or [meeting/activity](#) cannot be scheduled during non-work hours.<sup>17</sup> Professional staff members must first use all accrued vacation leave, personal leave, compensatory leave, and any other leave that may be granted to the professional staff member, except sick, and disability leave. <sup>18</sup>

The Superintendent shall develop administrative procedures implementing this policy consistent with the School Visitation Rights Act. <sup>19</sup>

### Leaves for Victims of Domestic Violence, ~~or Sexual Violence~~, or Gender Violence 20

An unpaid leave from work is available to any staff member who: (1) is a victim of domestic [violence](#), ~~or sexual violence~~, or [gender violence](#), or (2) has a family or household member who is a victim of ~~domestic or sexual~~[such](#) violence whose interests are not adverse to the employee as it relates to the domestic [violence](#), ~~or sexual violence~~, or [gender violence](#). The unpaid leave allows the employee to seek medical help, legal assistance, counseling, safety planning, and other assistance without suffering adverse employment action.

The Victims' Economic Security and Safety Act governs the purpose, requirements, scheduling, and continuity of benefits, and all other terms of the leave. Accordingly, if the District employs at least 50 employees, an employee is entitled to a total of 12 work weeks of unpaid leave during any 12-month period.<sup>21</sup> Neither the law nor this policy creates a right for an employee to take unpaid leave that

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<sup>16</sup> State law provides guidelines for Dept. of Defense leaves but does not require boards to offer them. 105 ILCS 5/24-13.1.

<sup>17</sup> 820 ILCS 147/15, [amended by P.A. 101-486, eff. 8-1-20](#).

<sup>18</sup> *Id.* The school visitation leave entitlement applies to both professional and educational support personnel. Rather than duplicate its requirements in separate policies, policy 5:330, *Sick Days, Vacation, Holidays, and Leaves*, grants the leave on the same terms applicable to professional staff.

<sup>19</sup> 820 ILCS 147/. [Parents of children with serious health conditions may also be eligible to use FMLA leave for individualized education program \(IEP\) meetings. See U.S. Dept. of Labor Wage and Hour Division Opinion Letter, FMLA 2019-2-A \(8-8-19\), available at: www.dol.gov/whd/opinion/search/index.htm?FMLA.](#)

<sup>20</sup> Required by the Victims' Economic Security and Safety Act, (VESSA) (820 ILCS 180/, [amended by P.A. 101-221, eff. 1-1-20](#), and 56 Ill. Admin. Code §280). [Gender violence means: \(1\) one or more acts of violence or aggression that is a criminal offense under State law committed, at least in part, on the basis of a person's actual or perceived sex or gender, \(2\) a physical intrusion or invasion of a sexual nature under coercive conditions that is a criminal offense under State law, or \(3\) a threat to commit one of these acts.](#) 820 ILCS 180/10(12.5), added by P.A. 101-221, eff. 1-1-20. [Sexual violence is not specifically defined in VESSA.](#) While the law applies to all school districts (820 ILCS 180/10(10), ~~amended by P.A. 99-765~~), the number of employees determines the number of total workweeks of leave available during any 12-month period (820 ILCS 180/20(a)(2)), ~~amended by P.A. 99-765~~. The term *employee* includes part-time workers. The Ill. Dept. of Labor must furnish to all employers a notice summarizing the law's requirements (*Your Rights Under Illinois Employment Laws* at:

[www2.illinois.gov/idol/Documents/flsposter.pdf#search=Your%20Rights%20Under%20Illinois%20Employment%20Laws](http://www2.illinois.gov/idol/Documents/flsposter.pdf#search=Your%20Rights%20Under%20Illinois%20Employment%20Laws) [www.illinois.gov/idol/Employers/Documents/flsposter.pdf](http://www.illinois.gov/idol/Employers/Documents/flsposter.pdf)). All districts must post this notice in a conspicuous place where notices to employees are customarily posted.

<sup>21</sup> If the district employs fewer than 50 employees, it may substitute the following sentence: "Accordingly, if the District employs at least 15 but not more than 49 employees, an employee is entitled to a total of eight work weeks of unpaid leave during any 12-month period." 820 ILCS 180/20(a)(2).

exceeds the unpaid leave time allowed under, or is in addition to the unpaid leave time permitted by, the federal Family and Medical Leave Act of 1993 (29 U.S.C. §2601 et seq.). <sup>22</sup>

Leaves to Serve as an Officer or Trustee of a Specific Organization

Upon request, the Board will grant: (1) an unpaid leave of absence to an elected officer of a State or national teacher organization that represents teachers in collective bargaining negotiations,<sup>23</sup> (2) twenty days of paid leave of absence per year to a trustee of the Teachers' Retirement System in accordance with 105 ILCS 5/24-6.3,<sup>24</sup> and (3) a paid leave of absence for the local association president of a State teacher association that is an exclusive bargaining agent in the District, or his or her designee, to attend meetings, workshops, or seminars as described in 105 ILCS 5/24-6.2. <sup>25</sup>

LEGAL REF.: 10 ILCS 5/13-2.5  
~~20 ILCS 1805/30.1 et seq.~~  
105 ILCS 5/24-6, 5/24-6.1, 5/24-6.2, 5/24-6.3, 5/24-13, and 5/24-13.1.  
[330 ILCS 61/, Service Member Employment and Reemployment Rights Act.](#)  
820 ILCS 147/, School Visitation Rights Act.  
820 ILCS 154/, Child Bereavement Leave Act.  
820 ILCS 180/, Victims' Economic Security and Safety Act.

CROSS REF.: 5:180 (Temporary Illness or Temporary Incapacity), 5:185 (Family and Medical Leave), 5:330 (Sick Days, Vacation, Holidays, and Leaves)

Commented [DJ1]: Repealed by P.A. 100-1101.

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If the district employs at least one but not more than 14 employees, it may substitute the following sentence: "Accordingly, if the District employs at least one but not more than 14 employees, an employee is entitled to a total four (4) work weeks of leave during any 12-month period." 820 ILCS 180/20(a)(2)-~~amended by P.A. 99-765.~~

<sup>22</sup> VESSA states that an employee does not have a right to take unpaid leave that exceeds the unpaid leave time allowed under the FMLA. 820 ILCS 180/20(a)(2). Section 25 creates an ambiguity by stating, "[t]he employer may not require the employee to substitute available paid or unpaid leave for [leave available to victims of ~~domestic violence, or~~ sexual violence, ~~or gender violence~~]," 820 ILCS 180/25, [amended by P.A. 101-221, eff. 1-1-20](#). Contact the board attorney for advice resolving this ambiguity.

<sup>23</sup> Required by 105 ILCS 5/24-13.

<sup>24</sup> Required by 105 ILCS 5/24-6.3. See policy 5:330, *Sick Days, Vacation, Holidays, and Leaves*, for the leave for an elected trustee for the Ill. Municipal Retirement Fund.

<sup>25</sup> Required by 105 ILCS 5/24-6.2.

## Professional Personnel

### Student Teachers <sup>1</sup>

The Superintendent is authorized to accept students from university-approved teacher-training programs to do student teaching in the District. No individual who has been convicted of a criminal offense that would subject him or her to license suspension or revocation pursuant to Section 5/21B-80 of the School Code<sup>2</sup> or who has been found to be the perpetrator of sexual or physical abuse of a minor under 18 years of age pursuant to proceedings under Article II of the Juvenile Court Act of 1987 is permitted to student teach.

Before permitting an individual to student teach or begin a required internship in the District, the Superintendent or designee shall ensure that: <sup>3</sup>

1. The District performed a *105 ILCS 5/10-21.9(g) Check* as described below; and
2. The individual furnished evidence of physical fitness to perform assigned duties and freedom from communicable disease pursuant to 105 ILCS 5/24-5. <sup>4</sup>

A *105 ILCS 5/10-21.9(g) Check* shall include:

1. Fingerprint-based checks through (a) the Illinois State Police (ISP) for criminal history records information (CHRI) pursuant to the Uniform Conviction Information Act (20 ILCS 2635/1), and (b) the FBI national crime information databases pursuant to the Adam Walsh Child Protection and Safety Act (P.L. 109-248);
2. A check of the Illinois Sex Offender Registry (see the Sex Offender Community Notification Law (730 ILCS 152/101 et seq.); and

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This sample policy is consistent with the minimum requirements of State law. The local collective bargaining agreement may contain provisions which exceed these requirements. When a policy's subject matter is superseded by a bargaining agreement, the school board policy may state, "Please refer to the applicable collective bargaining agreement(s)."

<sup>2</sup> ~~P.A. 99-667 amended the School Code at 105 ILCS 5/21B-80, amended by P.A. 101-531, 105 ILCS 5/10-21.9, 5/21B-15, and 5/21B-80(b) to carve out an exception allowing individuals with convictions involving certain drug offenses to obtain educator licensure or reinstate a license suspension/revocation seven years after the end of an individual's sentence for these certain drug offenses. See 5:30-AP2, *Investigations*, for a list of these carved-out drug offenses.~~

<sup>3</sup> ~~105 ILCS 5/10-21.9(g), amended by P.A. 101-531 applies to individuals who will be student teachers or who are beginning a required internship. A student teacher or individual beginning a required internship must undergo a fingerprint-based State and national criminal history records information check and checks of the Statewide Sex Offender Database and Statewide Murderer and Violent Offender Against Youth Database prior to participating in any field experiences in the school.~~

For boards that want to include students participating in any field or clinical experience, amend the introductory phrase to state "Before permitting an individual to student teach, ~~or~~ begin a required internship, or participate in any field experience in the District, . . ." ~~For more discussion about students participating in any field or clinical experience, see f/n7 below. For information about screenings or fingerprint-based criminal history records information checks for students doing field or clinical experience other than student teaching, see number two in the subhead titled **Screening Individuals Who are Likely to Have Contact with Students at School or School Events** in 4:175-AP1, *Criminal Offender Notification Laws: Screening*.~~

<sup>4</sup> The requirements for *physical fitness and freedom from communicable disease* apply to student teachers as of 7-16-14, (105 ILCS 5/24-5).

3. A check of the Illinois Murderer and Violent Offender Against Youth Registry (Murderer and Violent Offender Against Youth Community Notification Law (730 ILCS 154/75-105).

The School Code requires each individual student teaching or beginning a required internship to provide the District with written authorization for, and pay the costs of, his or her 105 ILCS 5/10-21.9(g) check (including any applicable vendor's fees).<sup>5</sup> Upon receipt of this authorization and payment, the Superintendent or designee will submit the student teacher's name, sex, race, date of birth, social security number, fingerprint images, and other identifiers, as prescribed by the Department of State Police, to the Department of State Police.<sup>6</sup> The Superintendent or designee will provide each student teacher with a copy of his or her report.<sup>7</sup>

#### Assignment

The Superintendent or designee shall be responsible for coordinating placements of all student teachers within the District. Student teachers should be assigned to supervising teachers whose qualifications are acceptable to the District and the students' respective colleges or universities.

LEGAL REF.: Adam Walsh Child Protection and Safety Act, P.L. 109-248.  
Uniform Conviction Information Act, 20 ILCS 2635/1.  
105 ILCS 5/10-21.9, 5/10-22.34, and 5/24-5.

CROSS REF.: 4:175 (Convicted Child Sex Offender; Screening; Notifications), 5:190 (Teacher Qualifications)

Commented [MB1]: Text from f/n 7 that appears stricken was moved to f/n 3.

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>5</sup> 105 ILCS 5/10-21.9(g), amended by P.A. 101-531. See also 20 ILCS 2635/7(A)(1).

<sup>6</sup> ~~105 ILCS 5/10-21.9(g), amended by P.A. 101-531. As a condition of employment, each school board must consider the status of a person to student teach who has an indicated finding of abuse or neglect of a child by the Ill. Dept. of Children and Family Services under the Abused and Neglected Child Reporting Act or by a child welfare agency of another jurisdiction. See f/n 6 in 4:175, *Convicted Child Sex Offender; Screening; Notifications*, for further discussion.~~

<sup>7</sup> ~~Id. A student teacher or individual beginning a required internship must undergo a fingerprint-based State and national criminal history records check and checks of the Statewide Sex Offender Registry and Statewide Murderer and Violent Offender Against Youth Registry prior to participating in any field experiences in the school. For information about screenings or fingerprint-based criminal history records information checks for students doing field or clinical experience other than student teaching, see number two in the subhead titled **Screening Individuals Who are Likely to Have Contact with Students at School or School Events** in 4:175-AP1, *Criminal Offender Notification Laws; Screening*.~~

~~20 ILCS 2635/7(A)(2), requires the student teacher's written authorization and a district to provide a copy of the reports, and 105 ILCS 5/10-21.9 requires the student teacher to pay for the costs of the criminal history records check. LiveScan is the recommended equipment for criminal history records checks. The language in this policy does not distinguish whether the district uses an authorized LiveScan vendor or owns or leases its own LiveScan equipment. Delete "(including applicable vendor's fees)" if the district owns or leases its own LiveScan equipment.~~

For more guidance and information on navigating the records laws surrounding criminal history records checks, along with a LiveScan vendor directory, see ISBE's non-regulatory guidance document, *Criminal History Records Information (CHRI) Checks for Certified and Non-certified School Personnel*, available at: [www.isbe.net/Documents/guidance\\_chr.pdf](http://www.isbe.net/Documents/guidance_chr.pdf).

## Educational Support Personnel

### Drug and Alcohol Testing for School Bus and Commercial Vehicle Drivers 1

The District shall adhere to State and federal law and regulations requiring a drug and alcohol testing program for school bus and commercial vehicle drivers. The Superintendent or designee manages a program to implement State and federal law defining the circumstances and procedures for the testing.<sup>2</sup>

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>1</sup> State and federal law controls this policy's content. The federal Omnibus Transportation Testing Act of 1991 requires that all persons subject to commercial driver's license requirements be tested for alcohol, marijuana, cocaine, amphetamines, opiates (including heroin), and phencyclidine (PCP). Cannabis remains a Schedule I (c)(17) controlled substance under federal law (21 U.S.C. §812) meaning it has no currently accepted medical use in treatment. Federal drug testing requirements for commercial and school bus drivers, including random testing, are unaffected by the legalization of cannabis for medical and recreational use at the State level. See 5:285-AP, Drug and Alcohol Testing for School Bus and Commercial Vehicle Drivers and U.S. Dept. of Transportation's Recreational Marijuana Notice (12-3-12) ("We want to make it perfectly clear that the state initiatives will have no bearing on the Department of Transportation's regulated drug testing program. The Department of Transportation's Drug and Alcohol Testing Regulation – 49 CFR Part 40 – does not authorize the use of Schedule I drugs, including marijuana, for any reason.")(emphasis added) and Medical Marijuana Notice (4-29-19), available at: [www.transportation.gov/odapc/program-guidance](http://www.transportation.gov/odapc/program-guidance). State law continues to permit the imposition of civil and criminal penalties for being school bus permit drivers who use cannabis while on duty. 410 ILCS 705/10-35(a)(9).

625 ILCS 5/6-106.1c contains State law requirements for reasonable suspicion drug and alcohol testing of school bus driver permit holders. If an employer has reasonable suspicion to believe that a school bus driver permit holder is under the influence of alcohol, drugs, or intoxicating compounds, the employer must require the permit holder to undergo testing at a licensed testing facility before driving any vehicle for which a school bus driver permit is required. The employer's reasonable suspicion must be based on specific, contemporaneous observations of the appearance, behavior, speech, or body odors. (49 CFR §382.307). State law makes employers of school bus driver permit holders who do not hold commercial driver's licenses subject to federal law regarding reasonable suspicion testing. The employer must report to the Ill. Secretary of State if the permit holder refuses testing or if the testing reveals the presence of alcohol, drugs, or intoxicating compounds. A school bus permit holder whose test discloses any amount of alcohol or drugs, or who refuses testing, will have his or her school bus permit suspended for three years.

State law also allows for drug and alcohol testing for any driver on a public roadway; i.e., *implied consent*. 625 ILCS 5/11-501.1.

Drug testing by government entities constitutes a search of an individual, thereby invoking State and federal constitutional law. In determining whether post-employment testing of a school bus driver is permissible, a court will balance the privacy interests of the employee against the district's interest. International Brotherhood of Teamsters v. Department of Transportation, 932 F.2d 1292 (9th Cir. 1991). For districts that employ staff members in positions requiring a commercial driver's license, see the U.S. Dept. of Transportation - Office of the Secretary, Office of Drug and Alcohol Policy and Compliance's guidance and best practices document titled **What Employers Need to Know About DOT Drug and Alcohol Testing**, available at: [www.transportation.gov/odapc/employer\\_handbook](http://www.transportation.gov/odapc/employer_handbook).

<sup>2</sup> An optional provision for districts that contract-out their transportation services:

This policy shall not be implemented, and no administrative procedures will be needed, until it is reasonably foreseeable that the District will hire staff for a position(s) requiring a commercial driver's license.

LEGAL REF.: 625 ILCS 5/6-106.1 and 5/6-106.1c.  
49 U.S.C. §31306, Alcohol and Controlled Substances Testing (Omnibus Transportation Employee Testing Act of 1991, P.L. 102-143).  
49 C.F.R. Parts 40 (Procedures for Transportation Workplace Drug and Alcohol Testing Programs), 382 (Controlled Substance and Alcohol Use and Testing), and 395 (Hours of Service of Drivers).

CROSS REF.: 4:110 (Transportation), 5:30 (Hiring Process and Criteria), 5:280 (Duties and Qualifications)

DRAFT

## Educational Support Personnel

### Employment Termination and Suspensions 1

#### Resignation and Retirement

An employee is requested to provide two weeks' notice of a resignation.<sup>2</sup> A resignation notice cannot be revoked once given. An employee planning to retire should notify his or her supervisor at least two months before the retirement date.

#### Non-RIF Dismissal 3

The District may terminate an at-will employee at any time for any or no reason, but not for a reason prohibited by State or federal law.

Employees who are employed annually or have a contract, or who otherwise have a legitimate expectation of continued employment, may be dismissed: (1) at the end of the school year or at the end of their respective contract after being provided appropriate notice and after compliance with any

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<sup>1</sup> State or federal law controls this policy's content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. School officials should consult with their attorneys before adopting this policy or taking any action under it.

If a local collective bargaining agreement contains provisions that exceed these requirements, it will supersede this policy for those covered employees. In such cases, the board policy should be amended to state, "Please refer to the applicable collective bargaining agreement." For employees not covered, the policy should reflect the board's current practice.

Administrative procedures implementing this policy should include guidelines for exit interviews. These guidelines should include a list of items to discuss with the employee, e.g., the reasons for the termination; how the district could improve its policies, procedures, and working conditions; how to reduce employee turnover; and information about the employee's benefits, including continued health insurance coverage.

<sup>2</sup> Optional provision:

In most cases, resigning employees are permitted to work until their effective resignation date.

<sup>3</sup> If employed at-will, the employee may be dismissed at any time for a non-discriminatory reason unless the dismissal is for a reduction in force. See 5:270, *Employment At-Will, Compensation, and Assignment*. **Important:** whether a specific employee is actually employed at-will depends on the specific facts. Griggsville-Perry Community Unit Sch. Dist. v. Ill. Educ. Labor Relations Bd., 368 Ill. Dec. 494 (Ill. 2013) (upheld an arbitrator's finding that the requirement to provide a pre-discharge written notice was drawn from the essence of the agreement); Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532 (1985). See also Baird v. Warren Comm. Unit Sch. Dist., 389 F.3d 685 (7th Cir. 2004)(because board members denied a dismissed superintendent procedural due process rights, they were denied qualified immunity).

It is safest to presume that all non-licensed employees are employed for the school year because districts routinely assure next-year employment so that the employee will not qualify for summer unemployment. In addition, annual employment may be created through a collective bargaining agreement, past practice, an employees' handbook, personnel policy manual, an oral promise, or any type of specific annual allocation per year, e.g., vacation or sick day allotments. Thus, the sample policy addresses those employees "with an annual or longer contract or who otherwise have a legitimate expectation of continued employment." A dismissal at the end of the school year or end of a contract generally requires only minimal due process. A mid-year or mid-contract dismissal will require significantly greater due process.

Even if an employee is at-will, a district should consider giving a dismissal reason. The failure to give a reason may provoke an employee into challenging the dismissal, e.g., by alleging illegal discrimination or retaliation for exercising a protected right or whistleblowing.

Consult the board attorney to determine: (1) which employees are at-will, have annual employment, or have a different expectation for their length of employment, and (2) the level of due process to provide specific employees in the event of a dismissal.

applicable contractual provisions, or (2) mid-year or mid-contract provided appropriate due process procedures are provided.

The Superintendent is responsible for making dismissal recommendations to the School Board consistent with the Board's goal of having a highly qualified, high performing staff. This includes recommending a non-licensed employee for immediate dismissal for willful or negligent failure to report an instance of suspected child abuse or neglect as required by 325 ILCS 5/. 4

#### Reduction in Force and Recall 5

The Board may, as necessary or prudent, decide to decrease the number of educational support personnel or to discontinue some particular type of educational support service and, as a result of that action, dismiss or reduce the hours of one or more educational support employees. When making decisions concerning reduction in force and recall, the Board will follow Sections 10-22.34c (outsourcing non-instructional services) and 10-23.5 (procedures) of the School Code, to the extent they are applicable and not superseded by legislation or an applicable collective bargaining agreement.

#### Final Paycheck

A terminating employee's final paycheck will be adjusted for any unused, earned vacation credit.<sup>6</sup> Employees are paid for all earned vacation. Terminating employees will receive their final pay on the next regular payday following the date of termination, except that an employee dismissed due to a reduction in force shall receive his or her final paycheck on or before the next regular pay date following the last day of employment. <sup>7</sup>

#### Suspension

Except as provided below, the Superintendent is authorized to suspend an employee without pay as a disciplinary measure, during an investigation into allegations of misconduct or pending a dismissal hearing whenever, in the Superintendent's judgment, the employee's presence is detrimental to the District. A disciplinary suspension shall be with pay: (1) when the employee is exempt from the

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<sup>4</sup> 105 ILCS 5/10-23.12(c), added by P.A. 101-531; 105 ILCS 5/21B-75(b), amended by P.A. 101-531. For further discussion see f/n 3 in policy 2:20, *Powers and Duties of the School Board; Indemnification*.

<sup>5</sup> 105 ILCS 5/10-23.5, amended by P.A. 101-46, grants educational support personnel significant protection during a RIF. Among those protections, support personnel maintain any rights accrued during their prior service if they are laid off and recalled to a vacant position within the statutory recall period. Id.

Unless otherwise defined by a collective bargaining agreement, the board can define the position categories for a seniority list. *Cook v. Eldorado Community Unit Sch. Dist.*, 354 Ill.App. 3d 256 (5th Dist. 2004). While the statute gives boards the discretion to define *categories of positions*, boards may not define *categories* differently for lay-off/recall purposes than for other purposes.

105 ILCS 5/10-22.34c governs layoffs as a result of a third party non-instructional services contract. See *Community Unit Sch. Dist. No. 5 v. Ill. Educ. Labor Relations Bd.*, 382 Ill.Dec. 120 (4th Dist. 2014)(no unfair labor practice occurred when a school employer outsourced its transportation services and dismissed bus drivers as a result of bona fide and legitimate reasons, not anti-union animus, and the district had bargained in good faith with the union.

<sup>6</sup> A district may also adjust an employee's final paycheck for advanced vacation leave, *provided* that the employee agreed to deduct a specified amount of pay equaling the advanced vacation. 56 Ill.Admin.Code §300.760. If employees are required to execute such an agreement before taking unearned vacation leave, add the following phrase to this sentence: "or, if the employee agreed in writing, vacation time taken that was not earned."

<sup>7</sup> These final paycheck requirements are in 105 ILCS 5/10-23.5.

overtime provisions,<sup>8</sup> or (2) until an employee with an employment contract for a definite term is provided a notice and hearing according to the suspension policy for professional employees.<sup>9</sup> Upon receipt of a recommendation from the Ill. Dept. Children and Family Services (DCFS) that the District remove an employee from his or her position when he or she is the subject of a pending DCFS investigation that relates to his or her employment with the District, the Board or Superintendent or designee, in consultation with the Board Attorney, will determine whether to: <sup>10</sup>

1. Let the employee remain in his or her position pending the outcome of the investigation; or
2. Remove the employee as recommended, proceeding with:
  - a. A suspension with pay; or
  - b. A suspension without pay.

Any criminal conviction resulting from the investigation or allegations shall require the employee to repay to the District all compensation and the value of all benefits received by the employee during the suspension. The Superintendent will notify the employee of this requirement when the employee is suspended. <sup>11</sup>

LEGAL REF.: 5 ILCS 430 *et seq.*  
105 ILCS 5/10-22.34c and 5/10-23.5.  
325 ILCS 5/7.4(c-10).  
820 ILCS 105/4a.

CROSS REF.: [5:90 \(Abused and Neglected Child Reporting\)](#), [5:240 \(Professional Personnel—Suspension\)](#), [5:270 \(Educational Support Personnel—Employment At-Will, Compensation, and Assignment\)](#)

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<sup>8</sup> Employees who are exempt from overtime requirements become eligible for overtime if they are subject to disciplinary suspensions without pay. *Auer v. Robbins*, 519 U.S. 452 (1997). Although the U.S. Dept. of Labor modified this rule in 2004, the Illinois legislature rejected these rule changes. 820 ILCS 105/4a. Illinois employers must use the federal rules as they existed on March 30, 2003.

<sup>9</sup> A suspension of an employee having a protected property right in continued employment requires a notice and hearing. See f/n 3 for additional discussion.

<sup>10</sup> This sentence is optional. 325 ILCS 5/7.4(c-5), amended by P.A. 100-176, ~~eff. 1-1-18~~. Consult the board attorney about suspending an employee without pay pursuant to a *DCFS 325 ILCS 5/7.4(c-5)-recommendation*. This sample language balances the interests of student safety and employee due process when the district receives a recommendation to a remove an employee who is the subject of a DCFS investigation from employment.

**Note:** Liability may exist when a district receives a *325 ILCS 5/7.4(c-5)-recommendation* and does not remove the employee as a result. Consider *In re Estate of Stewart v. Oswego Comm. Unit. Sch. Dist. No. 308*, 406 Ill.Dec. 345 (2nd Dist. 2016)(finding district’s response to a student health emergency was willful and wanton as it had prior information regarding appropriate response protocols and denying tort immunity to district); *In re Estate of Stewart*, 412 Ill.Dec. 914 (Ill. 2017) (school district’s appeal denied).

<sup>11</sup> The repayment requirements in the first sentence of this paragraph are in 5 ILCS 430/5-60(b). The second sentence is optional.

## **Educational Support Personnel**

### **Sick Days, Vacation, Holidays, and Leaves** <sup>1</sup>

Each of the provisions in this policy applies to all educational support personnel to the extent that it does not conflict with an applicable collective bargaining agreement or individual employment contract or benefit plan; in the event of a conflict, such provision is severable and the applicable bargaining agreement or individual agreement will control.

#### **Sick and Bereavement Leave** <sup>2</sup>

Full or part-time educational support personnel who work at least 600 hours per year receive 10 paid sick leave days per year. Part-time employees will receive sick leave pay equivalent to their regular

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This policy is consistent with the minimum requirements of State law. The local collective bargaining agreement may contain provisions that exceed these requirements. The introductory paragraph recognizes that an applicable collective bargaining agreement or individual employment contract will supersede a conflicting provision of the policy. Alternatively, if the policy's subject matter is superseded by a bargaining agreement, the board policy may state, "Please refer to the applicable collective bargaining agreement."

Districts must coordinate leaves provided by State law and the local bargaining agreement with the leave granted by the Family and Medical Leave Act (FMLA) (29 U.S.C. §2612), amended by Sec. 565 of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111-84). The FMLA grants eligible employees 12 weeks unpaid leave each year for: (1) the birth and first-year care of a child; (2) the adoption or foster placement of a child; (3) the serious health condition of an employee's spouse, parent, or child; (4) the employee's own serious health condition; (5) the existence of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on (or has been notified of an impending call to) *covered active duty* in the Armed Forces; and (6) to care for the employee's spouse, child, parent, or next of kin who is a covered servicemember with a serious injury or illness. The definition of *covered servicemember* includes a veteran "who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness" if the veteran was a member of the Armed Forces "at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy." 29 U.S.C. §2611. Districts are permitted to count paid leave (granted by State law or board policy) taken for an FMLA purpose against an employee's FMLA entitlement. 29 C.F.R. §825.207. See policy 5:185, *Family and Medical Leave*.

A plethora of State laws grant leaves to employees of the State and municipalities, but are not applicable to school districts, including the Employee Blood Donation Leave Act (820 ILCS 149/), Local Government Disaster Service Volunteer Act (50 ILCS 122/), Organ Donor Leave Act (5 ILCS 327/), and Civil Air Patrol Leave Act (820 ILCS 148/).

<sup>2</sup> This section contains the minimum benefits provided by 105 ILCS 5/24-6. Each specified number of days in this section is the statutory minimum. The School Code does not address whether an employee's 10 paid sick leave days are available upon employment, accrued over months, or after working for a certain period of time, e.g., one year. Also be aware that the Employee Sick Leave Act (820 ILCS 191/~~added by P.A. 99-841~~) allows employees to use employer-provided sick leave to care for an ill or injured *family* member or to attend a medical appointment with a family member. The law defines family members as a child, stepchild, spouse, domestic partner, sibling, parent, mother- or father-in-law, grandchild, grandparent, or stepparent. *Id.* at 191/10(b). Leave may be taken under the same terms for which the employee would be permitted to take leave for his or her own illness or injury. Before adopting this policy or applying its provisions, the district should examine any applicable bargaining agreements. Strict accounting of unused sick days is important to avoid:

1. Employees accumulating sick time on a full-time basis when they are truly working part-time hours;
2. Inconsistent treatment; and
3. Inaccurate reporting to IMRF (credit is given for full day unused sick days upon retirement). 40 ILCS 5/7-139(a)(8).

workday. Unused sick leave shall accumulate to a maximum of 180 days, including the leave of the current year. <sup>3</sup>

Sick leave is defined in State law as personal illness, quarantine at home, serious illness or death in the immediate family or household, or birth, adoption, or placement for adoption. The Superintendent and/or designee shall monitor the use of sick leave.

As a condition for paying sick leave after three days absence for personal illness or 30 days for birth or as the Board or Superintendent deem necessary in other cases, the Board or Superintendent may require that the staff member provide a certificate from: (1) a physician licensed in Illinois to practice medicine and surgery in all its branches, (2) a chiropractic physician licensed under the Medical Practice Act, (3) a ~~licensed~~ advanced practice registered nurse ~~who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice registered nurse to perform health examinations~~, (4) a ~~licensed~~ physician assistant who has been delegated the authority to perform health examinations by his or her supervising physician, or (5) if the treatment is by prayer or spiritual means, a spiritual adviser or practitioner of the employee's faith. If the Board or Superintendent requires a certificate during a leave of less than three days for personal illness, the District shall pay the expenses incurred by the employee.

The use of paid sick leave for adoption or placement for adoption is limited to 30 days unless a longer leave is provided in an applicable collective bargaining agreement. The Superintendent may require that the employee provide evidence that the formal adoption process is underway. <sup>4</sup>

#### Vacation <sup>5</sup>

Twelve-month employees shall be eligible for paid vacation days according to the following schedule:

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<sup>3</sup> As this policy is consistent with the minimum requirements of State law, this provision on the maximum number of sick days that may be accumulated is based on the minimum number required as stated in 105 ILCS 5/24-6. The number may be increased to meet or exceed the number IMRF will recognize for retirement credit purposes. The following alternative does this: "Unused sick leave shall accumulate to the maximum number of days that IMRF will recognize for retirement credit purposes."

The following optional provisions apply to boards that want to address the IMRF's requirement that public bodies must have a written plan allowing eligible employees to convert their eligible accumulated sick leave to service credit upon their retirement. See 40 ILCS 5/7-139(a)(8). See also IMRF General Memorandum #555 at:

[www.imrf.org/en/publications-and-archive/general-memos/2007-general-memos/general-memo-555](http://www.imrf.org/en/publications-and-archive/general-memos/2007-general-memos/general-memo-555).

**Option 1:** No collective bargaining agreement applies and the board wants to publicize its written plan. Insert the following sentence: This policy is the District's written plan allowing eligible employees to convert eligible accumulated sick leave to service credit upon a District employee's retirement under the Ill. Municipal Retirement Fund.

**Option 2:** A local collective bargaining agreement contains the written plan and the board wants to publicize it. Insert the following sentence: Please refer to the applicable collective bargaining agreement(s) for the District's written plan allowing eligible employees to convert eligible accumulated sick leave to service credit upon an employee's retirement under the Ill. Municipal Retirement Fund.

**Option 3:** A district maintains two separate sick leave plans, one for employees under a collective bargaining agreement, and one for non-unionized employees. Insert the text for both Option 1 and Option 2.

**Note:** If Options 1, 2, or 3 are chosen, add 40 ILCS 5/7-139 to the Legal References. If the board does not have a written sick leave plan for purposes of IMRF sick leave to service credit conversion or does not wish to include it in the policy, do not include any of the options above or add the citation to the Legal References.

<sup>4</sup> 105 ILCS 5/24-6, amended by P.A. 100-513.

<sup>5</sup> State law does not require districts to give employees vacations.

<u>Length of Employment</u>		<u>Monthly Accumulation</u>	<u>Maximum Vacation Leave Earned Per Year</u>
<u>From:</u>	<u>To:</u>		
Beginning of year 2	End of year 5	0.83 Days	10 Days per year
Beginning of year 6	End of year 15	1.25 Days	15 Days per year
Beginning of year 16	End of year	1.67 Days	20 Days per year

Part-time employees who work at least half-time are entitled to vacation days on the same basis as full-time employees, but the pay will be based on the employee's average number of part-time hours per week during the last vacation accrual year. The Superintendent will determine the procedure for requesting vacation.

Vacation days earned in one fiscal year must be used by the end of the following fiscal year; they do not accumulate. Employees resigning or whose employment is terminated are entitled to the monetary equivalent of all earned vacation. <sup>6</sup>

#### Holidays <sup>7</sup>

Unless the District has a waiver or modification of the School Code pursuant to Section 2-3.25g or 24-2(b) allowing it to schedule school on a holiday listed below, District employees will not be required to work on:

New Year's Day	Labor Day
Martin Luther King Jr.'s Birthday	Columbus Day
Abraham Lincoln's Birthday	Veteran's Day
Casimir Pulaski's Birthday	Thanksgiving Day
Memorial Day	Christmas Day
Independence Day	

A holiday will not cause a deduction from an employee's time or compensation. The District may require educational support personnel to work on a school holiday during an emergency or for the continued operation and maintenance of facilities or property.

#### Personal Leave <sup>8</sup>

Full-time educational support personnel have one paid personal leave day per year. The use of a personal day is subject to the following conditions:

1. Except in cases of emergency or unavoidable situations, a personal leave request should be submitted to the Building Principal three days before the requested date.

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<sup>6</sup> Required by 820 ILCS 115/5 and 56 Ill.Admin.Code §300.520 (Earned Vacations).

<sup>7</sup> Holidays are listed in 105 ILCS 5/24-2. For information on the waiver process, see 2:20-E, *Waiver and Modification Request Resource Guide*. Holidays not specified in the statute may be added to the policy; however, boards adding additional holidays should monitor and review to ensure the list remains current.

A State-mandated school holiday on *Good Friday* is unconstitutional according to *Metzl v. Leininger*, 57 F.3d 618 (7th Cir. 1995). Closing school on religious holidays may be permissible for those districts able to demonstrate that remaining open would be a waste of educational resources because of widespread absenteeism. Also, districts may be able to close school on Good Friday by adopting a *spring holiday* rationale or ensuring that it falls within spring break. School districts should discuss their options, including the collective bargaining implications, with their board attorney.

<sup>8</sup> State law does not address personal leave. It is not uncommon for boards to grant educational support personnel the same number of personal leave days as are granted to professional staff.

2. No personal leave day may be used immediately before or immediately after a holiday, or during the first and/or last five days of the school year, unless the Superintendent grants prior approval.
3. Personal leave may not be used in increments of less than one-half day.
4. Personal leave is subject to any necessary replacement's availability.
5. Personal leave may not be used on an in-service training day and/or institute training days.
6. Personal leave may not be used when the employee's absence would create an undue hardship.

Leave to Serve as a Trustee of the Illinois Municipal Retirement Fund

Upon request, the Board will grant 20 days of paid leave of absence per year to a trustee of the Ill. Municipal Retirement Fund in accordance with 105 ILCS 5/24-6.3. <sup>9</sup>

Other Leaves

Educational support personnel receive the following leaves on the same terms and conditions granted professional personnel in Board policy 5:250, *Leaves of Absence*:

1. Leaves for Service in the Military and General Assembly. <sup>10</sup>
2. School Visitation Leave. <sup>11</sup>
3. Leaves for Victims of Domestic ~~or Sexual~~ Violence, Sexual Violence, or Gender Violence. <sup>12</sup>
4. Child Bereavement Leave. <sup>13</sup>
5. Leave to serve as an election judge. <sup>14</sup>

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<sup>9</sup> Required by 105 ILCS 5/24-6.3. A similar leave exists for an elected trustee for the Ill. Teachers' Retirement System. See 5:250, *Leaves of Absence*.

<sup>10</sup> Military leave is governed by the School Code (105 ILCS 5/10-20.7b, 5/24-13, and 13.1); the Service Member Employment and Reemployment Rights Act (330 ILCS 61/, added by P.A. 100-1101, streamlining several job-related protection laws into one statute, mandating leave for *active service* and requiring the public employer to make up the difference between military pay and regular compensation); and the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. §4301 *et seq.*).

Granting General Assembly leave to ESPs is optional.

<sup>11</sup> 820 ILCS 147/, amended by P.A. 101-486, eff. 8-1-20. See policy 5:250, *Leaves of Absence*, and 5:250-AP, *School Visitation Leave*.

<sup>12</sup> Required by Victims' Economic Security and Safety Act (820 ILCS 180/, amended by P.A. 101-221, eff. 1-1-2099-765) and 56 Ill.Admin.Code Part §280. Important information about this leave is discussed in f/n 20, 21, 49 and 220 of 5:250, *Leaves of Absence*.

<sup>13</sup> 820 ILCS 154/, added by P.A. 99-703. Important information about this leave is discussed in f/n 54 of 5:250, *Leaves of Absence*.

<sup>14</sup> 10 ILCS 5/13-2.5.

LEGAL REF.: [20 ILCS 1805/30.1 et seq.](#)  
105 ILCS 5/10-20.7b, 5/24-2, and 5/24-6.  
[330 ILCS 61/](#), [Service Member Employment and Reemployment Rights Act.](#)  
820 ILCS 147, School Visitation Rights Act.  
820 ILCS 154/, Child Bereavement Leave Act.  
820 ILCS 180/, Victims' Economic Security and Safety Act.  
School Dist. 151 v. ISBE, 154 Ill.App.3d 375 (1st Dist. 1987); Elder v. Sch. Dist. No.127 1/2, 60 Ill.App.2d 56 (1st Dist. 1965).

**Commented [DJ1]:** Repealed by P.A. 100-1101.

CROSS REF.: 5:180 (Temporary Illness or Temporary Incapacity), 5:185 (Family and Medical Leave), 5:250 (Leaves of Absence)

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## Instruction

### School Accountability 1

According to the Illinois General Assembly, the primary purpose of schooling is the transmission of knowledge and culture through which students learn in areas necessary to their continuing development and entry into the world of work.<sup>2</sup> To fulfill that purpose, the Ill. State Board of Education (ISBE) prepared *State Goals for Learning* with accompanying *Illinois Learning Standards*.<sup>3</sup>

The School Board gives priority in the allocation of resources, including funds, time, personnel, and facilities, to fulfilling this purpose.

### Quality Assurance

The Board continuously monitors student achievement and the quality of the District's work. The Superintendent shall supervise the following quality assurance components, in accordance with State law and ISBE rules, and continuously keep the Board informed:

1. Prepare each school's annual recognition application and quality assurance appraisal, whether internal or external, to assess each school's continuous school improvement. <sup>4</sup>
2. Continuously assess the District's and each school's overall performance in terms of both academic success and equity. This includes, without limitation, a thorough analysis of ISBE's balanced accountability measure and each school's *Multiple Measure Index* and corresponding *Annual Measurable Objective* provided by ISBE. <sup>5</sup>
3. If applicable, develop District and School Improvement Plans, present them for Board approval, and supervise their implementation. <sup>6</sup>

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<sup>1</sup> State or federal law controls this policy's content.

<sup>2</sup> 105 ILCS 5/27-1.

<sup>3</sup> 23 Ill.Admin.Code §1, Appendix D.

<sup>4</sup> 105 ILCS 5/2-3.25 - 2-3.25b, amended by P.A. 100-1046; 23 Ill.Admin.Code §§1.10(a) and 1.20.

<sup>5</sup> 105 ILCS 5/2-3.25a, amended by P.A.s 99-193, 99-657, and 100-1046; 5/2-3.64a-5, amended by P.A. 100-1046. First, 105 ILCS 5/2-3.25a, amended by P.A. 99-193, significantly revised the system of standards for school districts and schools; Next, 105 ILCS 5/2-3.25a, amended by P.A. 99-657, ~~then~~ delayed certain implementation dates by one school year; and Finally, 105 ILCS 5/2-3.25a, amended by P.A. 100-1046, further revised the system of standards for school districts and schools. ISBE must establish recognition standards for student performance and school improvement for all districts and their individual schools. ISBE must outline accountability measures in its State plan that it submits to the U.S. Dept. of Education under the Every Student Succeeds Act (ESSA) (Pub. L. 114-95). If ESSA ceases to require a state plan, then ISBE must develop a written plan in consultation with the Ill. Balanced Accountability Measure (IBAM) Committee. 105 ILCS 5/2-3.25a, amended by P.A.s 99-193, 99-657, and 100-1046.

<sup>6</sup> The requirements around district and school improvement plans are unknown until ISBE revises its rules at 23 Ill.Admin.Code Part 1, Subpart A: Recognition Requirements following P.A.s 99-193 and 100-1046. P.A. 99-193 deleted the requirements concerning improvement plans as well as the sanctions for failing to make adequate yearly progress contained in 105 ILCS 5/2-3.25d, but then P.A. 100-1046 repealed 105 ILCS 5/2-3.25d in its entirety. 105 ILCS 5/2-3.25f(a) continues to state that ISBE "shall provide technical assistance to assist with the development and implementation of School and District Improvement Plans" and that schools or districts "that fail to make reasonable efforts to implement an approved Improvement Plan may suffer loss of State funds by school district, attendance center, or program as the State Board of Education deems appropriate."

4. Prepare a school report card, present it at a regular Board meeting, and disseminate it as provided in State law. <sup>7</sup>
5. In accordance with 105 ILCS 5/2-3.153, annually administer a climate survey on the instructional environment within the school to, at minimum, students in grades 4 through 12 and teachers. <sup>8</sup>

LEGAL REF.: 105 ILCS 5/2-3.25, 5/2-3.25a, 5/2-3.25b, 5/2-3.25c, 5/2-3.25d-5, 5/2-3.25e-5, 5/2-3.25f, 5/2-3.25f-5, 5/2-3.63, 5/2-3.64a-5, 5/2-3.153, 5/10-21.3a, and 5/27-1.  
23 Ill.Admin.Code Part 1, Subpart A: Recognition Requirements.

CROSS REF.: 6:170 (Title I Programs), 6:340 (Student Testing and Assessment Program), 7:10 (Equal Educational Opportunities)

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<sup>7</sup> 105 ILCS 5/10-17a, amended by P.A.s ~~99-193~~, 100-807, ~~and 100-1121~~, and 101-68, eff. 1-1-20. Districts must present the report card at a regular board meeting, post it on the district's website, make it available to newspapers of general circulation in the district, notify parents/guardians of its availability on the district's website, provide it to parents/guardians on request, submit it to the regional superintendent or appropriate Intermediate Service Center, and otherwise disseminate it as required by State law. See 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*.

<sup>8</sup> Required by 105 ILCS 5/2-3.153, amended by P.A. 100-1046, and 23 Ill.Admin.Code §1.97. The State Superintendent must publicly report on the survey indicators of learning conditions resulting from the administration of the instrument at the individual school, district, and State levels. A district may use an alternate learning instrument approved by the State Superintendent at its own cost. These survey instruments are authorized by July 1 each year and posted at: [www.isbe.net/Pages/5Essentials-Survey.aspx](http://www.isbe.net/Pages/5Essentials-Survey.aspx). 23 Ill.Admin.Code §1.97(g)(1)-(2). To use an alternate survey instrument, the district must submit a form developed for this purpose and posted at [www.isbe.net/Pages/5Essentials-Survey.aspx](http://www.isbe.net/Pages/5Essentials-Survey.aspx) to the State Superintendent on or before a date established by the State Superintendent each year. Id.

Insert the following sentence for districts that administer an alternate survey of learning conditions at their own cost: "The District has elected to use an alternate climate survey of learning conditions instrument."

## Instruction

### School Year Calendar and Day 1

#### School Calendar

The School Board, upon the Superintendent's recommendation and subject to State regulations, annually establishes the dates for opening and closing classes, teacher institutes and in-services, the length and dates of vacations, and the days designated as legal school holidays.<sup>2</sup> The school calendar shall have a minimum of 185 days to ensure 176 days of actual student attendance.<sup>3</sup>

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<sup>1</sup> State or federal law controls this policy's content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

<sup>2</sup> State-mandated school holidays are found in 105 ILCS 5/24-2. See policy 5:330, *Sick Days, Vacation, Holidays, and Leaves*, for a holiday listing. The law allows a school board to hold school or schedule teachers' institutes, parent-teacher conferences, or staff development on five identified school holidays if: (1) the school board first holds a public hearing on the proposal; and (2) the person or persons honored by the holiday are recognized through instructional activities conducted on the school holiday or on the first school day preceding or following the school holiday. [Districts must redo the public hearing process in the event they change plans for use of holidays. See Ill. State Board of Education \(ISBE\) guidance at: www.isbe.net/Documents/district-holiday-plans13.pdf.](http://www.isbe.net/Documents/district-holiday-plans13.pdf) This is an item on which collective bargaining may be required, and a board that wishes to implement this law should consult its attorney.

A State mandated school holiday on "Good Friday" is unconstitutional according to *Metzl v. Leininger*, 57 F.3d 618 (7th Cir. 1995). Closing school on religious holidays may still be permissible for those districts able to demonstrate, e.g., through surveys, that remaining open would be a waste of educational resources due to widespread absenteeism. Also, districts may be able to close school on Good Friday by adopting a "spring holiday" rationale or ensuring that it falls within spring break. School districts should discuss all of these options, and collective bargaining implications with their board attorneys.

If the county board or board of election commissioners chooses a school to be a polling place, the school district must make the school available. 10 ILCS 5/11-4.1. For the Election Day, the law encourages a school district to either: (1) close the school; or (2) hold a teachers' institute on that day with the students not in attendance. Id.

<sup>3</sup> The school calendar must have a minimum 185 days to ensure 176 days of actual pupil attendance. 105 ILCS 5/10-19, [amended by P.A. 101-12](#), and 5/24-1; 23 Ill.Admin.Code §1.420. Schools must be closed during county institute. 105 ILCS 5/24-3. The school calendar may be a mandatory subject of collective bargaining. The calendar for the school term and any changes must be submitted to and approved by the regional superintendent before the calendar or changes may take effect. 105 ILCS 5/10-19.

[E-learning days allow a school district to provide instruction to students electronically while they are not physically present due to inclement weather and other unexpected events. 105 ILCS 5/10-20.56, added by P.A. 101-12, opens the use of e-learning days from three pilot districts to all districts that meet the requirements of the statute. Before a school district can implement an e-learning program and use e-learning days it must, along with other requirements \(1\) hold a public hearing on the initial proposal for the e-learning program, \(2\) obtain verification from the Regional Office of Education \(ROE\) or Intermediate Service Center \(ISC\) for the school district that the initial proposal meets the requirements specified in the law, and \(3\) by resolution adopt a research-based program for district-wide e-learning days. Before implementing an e-learning program, boards must collectively bargain the impact of the program on the wages, hours, terms and conditions of employment with employee representative\(s\). More information about e-learning, is available at: www.isbe.net/Pages/Electronic-Learning.aspxwww.isbe.net/Pages/Electronic Learning.aspx.](#)

## Commemorative Holidays

The teachers and students shall devote a portion of the school day on each commemorative holiday designated in the School Code to study and honor the commemorated person or occasion.<sup>4</sup> The Board may, from time to time, designate a regular school day as a commemorative holiday.

## School Day

The Board establishes the length of the school day with the recommendation of the Superintendent and subject to State law requirements.<sup>5</sup> The Superintendent or designee shall ensure that observances required by State law are followed during each day of school attendance. <sup>6</sup>

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<sup>4</sup> 105 ILCS 5/24-2(c) lists the following as commemorative holidays: Jan. 28 (Christa McAuliffe Day commemorating space exploration); Feb. 15 (Susan B. Anthony's birthday); Mar. 29 (Vietnam War Veterans' Day); Sept. 11 (Sept. 11th Day of Remembrance); the school day immediately preceding Veterans' Day (Korean War Veterans' Day); Oct. 1 (Recycling Day); Oct. 7 (Iraq and Afghanistan Veterans Remembrance Day); and Dec. 7 (Pearl Harbor Veterans' Day).

Other commemorative holidays include, but are not limited to: Arbor and Bird Day on the last Friday in April (105 ILCS 5/27-18); Leif Erickson Day on October 9 if a school day and otherwise on a school day nearest the date (105 ILCS 5/27-19); American Indian Day on the 4th Friday of September (105 ILCS 5/27-20); Ill. Law Week during the first full school week in May (105 ILCS 5/27-20.1); Just Say No Day on a school day in May designated by official proclamation of the Governor (105 ILCS 5/20.2); Ronald Reagan Day on Feb. 6 (5 ILCS 490/2); Barack Obama Day on August 4 (5 ILCS 490/3); Indigenous Peoples Day on the last Monday in September (5 ILCS 490/7); Lincoln's Birthday February 12 (5 ILCS 490/60); Martin Luther King, Jr. Birthday the third Monday in January (5 ILCS 490/65); Prairie Week the third full week in September (5 ILCS 490/75); Retired Teachers' Week the fourth week in May (5 ILCS 490/80); Veterans Day November 11 (5 ILCS 490/90); Preventing Lost Potential Day September 19 (5 ILCS 490/141); Day of Remembrance of the Victims of Slavery and the Transatlantic Slave Trade on March 25 (5 ILCS 490/155); the first full week of January as Emancipation Proclamation Week (5 ILCS 490/160); and Mother Mary Ann Bickerdyke Day on the second Wednesday in May (5 ILCS 490/175); and April is Arab American Heritage Month (5 ILCS 490/6, amended by P.A. 100-1150).

<sup>5</sup> ~~Prior to the repeal of 105 ILCS 5/18 8.05(F) by P.A. 100-582, a school day is~~ was required to consist of a minimum five clock hours under the direct supervision of a teacher or non-teaching personnel or volunteer personnel that providesing non-teaching or supervisory duties as specified in 105 ILCS 5/10-22.34(a), in order to qualify as a full day of attendance. 105 ILCS 5/10-19.05, added by P.A. 101-12. See [www.isbe.net/Documents/SB28Instructional-Day.pdf](http://www.isbe.net/Documents/SB28Instructional-Day.pdf) for ISBE's notice regarding this law. See 105 ILCS 5/10-19.05, added by P.A. 101-12, for additional exceptions to the attendance calculation. ~~Despite the repeal of 105 ILCS 5/18 8.05(F), Ill. State Board of Education (ISBE) rules implementing it are still in effect at 23 Ill.Admin.Code §1.420(F). Note: ISBE has indicated it will not be proposing legislation to address the content once addressed by 105 ILCS 5/18 8.05(F), and that what constitutes a school day is at the discretion of local school districts.~~

Contrast 105 ILCS 5/18-12, amended by P.A. 100-28. It allows a partial day of attendance to be counted as a full day due to an adverse weather condition, condition beyond the control of the school district that poses a health and safety threat, or use of school facilities by local or county authorities for holding a memorial or funeral service in remembrance of a community member (up to two school days per school year) provided one of following conditions is met: (1) the school district has provided at least one hour of instruction prior to the closure of the school district; (2) a school building has provided at least one hour of instruction prior to the closure of the school building; or (3) the normal start time of the school district is delayed. The law also outlines the process to claim attendance prior to providing any instruction when a school district must close a building or buildings, but not the entire district, after consultation with a local emergency response agency or due to a condition beyond the control of the district. Additionally, 105 ILCS 5/18-12.5 outlines the process for claiming attendance when a school district must close a building or buildings, but not the entire district, specifically because of a public health emergency. Attendance for such days may only be claimed if the school building(s) was scheduled to be in operation on those days.

Alternative education programs may provide fewer than five hours under certain circumstances. 105 ILCS 5/2-3.33a and 5/13B-50.

<sup>6</sup> 105 ILCS 5/27-3 requires the Pledge of Allegiance to be recited every day in elementary and secondary schools. Note that the Illinois statute does not require every student to recite the Pledge – that kind of mandatory participation would violate the U.S. Constitution. Schools may not coerce a student into saying the Pledge, nor may they punish students for refusing to participate in any aspect of the flag ritual, including standing, saluting the flag, and reciting the Pledge. West Virginia State Bd. of Educ. v. Barnette, 319 U.S. 624 (1943); Sherman v. Community Consolidated Sch. Dist. 21 of Wheeling Township, 980 F.2d 437 (7th Cir. 1992). Consider using permissive rather than mandatory language to introduce the recitation of the Pledge, such as, “You may now stand to recite the Pledge.” Schools may, of course, require that non-participants maintain order and decorum appropriate to the school environment.

LEGAL REF.: 105 ILCS 5/10-19, [5/10-19.05](#), 5/10-24.46, 5/18-12, 5/18-12.5, 5/24-2, 5/27-3, 5/27-18, 5/27-19, 5/27-20, 5/27-20.1, 5/27-20.2, and 20/1.  
10 ILCS 5/11-4.1.  
23 Ill.Admin.Code §1.420(f).  
Metzl v. Leininger, 850 F.Supp. 740 (N.D. Ill. 1994), *aff'd by* 57 F.3d 618 (7th Cir. 1995).

CROSS REF.: 2:20 (Powers and Duties of the School Board; Indemnification), 5:200 (Terms and Conditions of Employment and Dismissal), 5:330 (Sick Days, Vacation, Holidays, and Leaves), 6:60 (Curriculum Content), 6:70 (Teaching About Religions), 7:90 (Release During School Hours)

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The Silent Reflection and Student Prayer Act mandates a *brief period of silence* for all Illinois public school students at the opening of each school day. 105 ILCS 20/1. A student filed a federal lawsuit challenging the constitutionality of this law under the First Amendment, but the law was ultimately upheld by the Appeals Court. Sherman v. Koch, 623 F.3d 501 (7th Cir. 2010), *cert denied by* 565 U.S. 815 (2011). 105 ILCS 5/10-20~~4~~.46 requires a moment of silence to recognize veterans during any type of event held at a district school on Nov. 11. See f/n 2 above for more discussion.

## Instruction

### Curriculum Content 1

The curriculum shall contain instruction on subjects required by State statute or regulation as follows:

1. In kindergarten through grade 8, subjects include: (a) language arts, (b) reading, (c) other communication skills, (d) science, (e) mathematics,<sup>2</sup> (f) social studies, (g) art, (h) music,<sup>3</sup> and (i) drug and substance abuse prevention.<sup>4</sup> A reading opportunity of 60 minutes per day will be promoted for all students in kindergarten through grade 3 whose reading levels are one grade level or more lower than their current grade level.<sup>5</sup> Before the completion of grade 5, students will be offered at least one unit of cursive instruction.<sup>6</sup> Beginning with the 2020-

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<sup>1</sup> Districts must have a policy on physical education (23 Ill.Admin.Code §1.425, amended by 42 Ill. Reg. 11540) and what grade level(s) students will be offered cursive writing instruction (105 ILCS 5/27-20.7, added by P.A. 100-548). Policies on the remaining topics in this policy are optional. State or federal law controls this policy's content. 23 Ill.Admin.Code §1.420, amended at 42 Ill. Reg. 11527, recommends that activities, including student internships and observations of government in action, be a part of the instructional program where appropriate.

State law mandates certain courses of study but local school boards may set requirements exceeding State-law mandated courses of study. 105 ILCS 5/10-20.8 and 5/27-1 et seq.

<sup>2</sup> 105 ILCS 5/2-3.156 requires the Ill. State Board of Education (ISBE) to coordinate, adapt and develop middle and high school math curriculum models. There is no consistent definition for *middle school* or *high school* in either State or federal law. Districts are not required to use ISBE's models and may develop their own mathematics curricula.

The purpose of the math curriculum models will be to aid school districts and teachers in implementing the *Common Core Standards*. The ISBE has adopted new math and English language arts (ELA) standards for K-12 education referred to as the *New Ill. State Learning Standards Incorporating the Common Core*. The goal of incorporating the *Common Core Standards* into the *State Goals for Learning* is to better prepare Ill. students for success in college and the workforce in a competitive global economy. See [www.isbe.net/Documents/ccs-faq-0813.pdf](https://www.isbe.net/Documents/ccs-faq-0813.pdf) <https://www.isbe.net/Documents/ccs-faq-0813.pdf>.

The terms *Common Core Standards* and the *New Ill. State Learning Standards Incorporating the Common Core* are synonymous. Referencing the *Ill. Learning Standards* includes them both. That is because they are incorporated by reference into ISBE's rules and *State Goals for Learning*. A district that wants to include the term *Common Core Standards* in its policy may do so; however, districts should understand that referring to the *Common Core Standards* only will cover only math and ELA learning standards and goals and not any other subject areas that the *Ill. Learning Standards* cover. The best practice is to continue using *Ill. Learning Standards*, which includes the *Common Core Standards*.

<sup>3</sup> 23 Ill.Admin.Code §1.430.

<sup>4</sup> 105 ILCS 5/27-13.2. House Resolution 824 (98<sup>th</sup> General Assembly, 2014) urges all Illinois schools to educate youth about the dangers of using heroin and the rising numbers of accidental deaths from heroin overdoses through comprehensive drug education programs, including the *Drug Abuse Resistance Education* (DARE) program. No guidance on age appropriate instruction for heroin abuse is provided in the resolution.

<sup>5</sup> 105 ILCS 5/10-20.53.

<sup>6</sup> 105 ILCS 5/27-20.7, added by P.A. 100-548, requires districts to offer students a unit of cursive instruction before they complete grade 5. Other than before completing grade 5, the law is silent about what grade level(s) in which students must receive their unit of cursive instruction. This provides an opportunity for a board to have a conversation with the superintendent about local community expectations and direct him or her to determine the appropriate grade level(s) in which students will be offered a unit of cursive instruction.

Use the following alternative if the board wants to specify grade level(s) before the end of grade 5 in which cursive instruction will be offered:

A unit of cursive instruction will be offered in grade(s) \_\_\_\_\_.

2021 school year, in grades 6, 7, or 8, students must receive at least one semester of civics education in accordance with Illinois Learning Standards for social science. 7

2. In grades 9 through 12, subjects include:<sup>8</sup> (a) language arts, (b) writing intensive course, (c) science, (d) mathematics,<sup>9</sup> (e) social studies including U.S. history, American government and ~~and; for students entering the 9th grade in the fall of 2016 and each year after it, one semester of civics,~~<sup>10</sup> (f) foreign language,<sup>11</sup> (g) music, (h) art, (i) driver and safety education,<sup>12</sup> and (j) vocational education.

Students otherwise eligible to take a driver education course must receive a passing grade in at least eight courses during the previous two semesters before enrolling in the course. The Superintendent or designee may waive this requirement if he or she believes a waiver to be in the student's best interest.<sup>13</sup> The course shall include: (a) instruction necessary for the safe operation of motor vehicles, including motorcycles, to the extent that they can be taught in the classroom,<sup>14</sup> (b) classroom instruction on distracted driving as a major traffic safety issue,<sup>15</sup> (c) instruction on required safety and driving precautions that must be observed at emergency situations, highway construction and maintenance zones, and railroad crossings and their approaches,<sup>16</sup> and (d) instruction concerning law enforcement procedures for traffic stops, including a demonstration of the proper actions to be taken during a traffic stop and appropriate interactions with law enforcement.<sup>17</sup> Automobile safety instruction covering traffic regulations and highway safety must include instruction on the consequences of

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<sup>7</sup> 105 ILCS 5/27-3.10, added by P.A. 101-254, eff. 7-1-20. The statute specifically states that school districts may utilize private funding available for offering civics education.

<sup>8</sup> 105 ILCS 5/27-22; 23 Ill.Admin.Code §1.440.

<sup>9</sup> 105 ILCS 5/2-3.156. See f/n 2.

<sup>10</sup> 105 ILCS 5/27-22(e)(3), amended by P.A. 101-464, eff. 1-1-20, allows the substitution of an advanced placement computer science course for a year of mathematics. For specific requirements, see 6:300-E2, *State Law Graduation Requirements*, and 6:310, *High School Credit for Non-District Experiences; Course Substitutions; Re-entering Students*.

<sup>11</sup> 105 ILCS 5/27-22, amended by P.A. 99-434 and P.A. 99-486. The statute specifically states that school districts may utilize private funding available for offering civics education.

<sup>12</sup> The General Assembly encouraged school boards to implement American Sign Language courses into the school foreign language curriculum. 105 ILCS 5/10-20.52. Senate Joint Resolution 68 (96th General Assembly, 2010) encourages school districts to explore the introduction of Arabic as a foreign language in their curriculums.

<sup>13</sup> The ISBE rule on driver education personnel is found at 23 Ill.Admin.Code §252.40, amended at 42 Ill. Reg. 8957. School districts may contract with a commercial driver training school (CDTS) for driver education. 105 ILCS 5/27-24.2, amended by P.A. ~~100-465 and 101-450~~. To qualify to contract with a school district, a CDTS must: (a) hold a valid license issued by the Ill. Sec. of State; and (b) ~~provide instructors who hold a valid Ill. teaching certificate or license~~ provide teachers who meet the educator licensure and endorsement requirements under 105 ILCS 21B; and (c) follow the same evaluation and observation requirements that apply to non-tenured teachers under 105 ILCS 24a. Id. A district contracting with a CDTS must provide a list to ISBE of the CDTS instructors. Id. The list must include the name, personal ISBE identification number, birth date and driver's license number of each instructor who will teach driver education. Id. Although a formal waiver for outsourcing of driver's education is no longer required, districts must consider their applicable collective bargaining agreement(s), board policy, and the reduction in force (RIF) provisions of the School Code as they relate to outsourcing of instructional staff. Consult the board attorney for guidance.

<sup>14</sup> A school district may decide to allow a student to take a portion of the driver education course through a distance learning course. This is determined on a case-by-case basis and must be approved by the district's administration, the student's driver's education teacher, and the student's parent/guardian. 105 ILCS 5/27-24.2, amended by P.A. 101-183, eff. 1-1-20.

<sup>15</sup> 105 ILCS 5/27-24.2, amended by P.A. 100-465.

<sup>16</sup> Id.

<sup>17</sup> Id.

<sup>18</sup> Id.

<sup>19</sup> Id., amended by P.A. 99-720.

alcohol consumption and the operation of a motor vehicle.<sup>18</sup> The eligibility requirements contained in State law for the receipt of a certificate of completion from the Secretary of State shall be provided to students in writing at the time of their registration. <sup>19</sup>

3. In grades 7 through 12, as well as in interscholastic athletic programs, steroid abuse prevention must be taught. <sup>20</sup>
4. In kindergarten through grade 12, provided it can be funded by private grants or the federal government, violence prevention and conflict resolution must be stressed, including: (a) causes of conflict, (b) consequences of violent behavior, (c) non-violent resolution, and (d) relationships between drugs, alcohol, and violence. <sup>21</sup>
5. In grades kindergarten through 12, age-appropriate Internet safety must be taught, the scope of which shall be determined by the Superintendent or designee. The curriculum must incorporate policy 6:235, *Access to Electronic Networks*, and, at a minimum, include: (a) education about appropriate online behavior, (b) interacting with other individuals on social networking websites and in chat rooms, and (c) cyberbullying awareness and response. <sup>22</sup>
6. In all grades, character education must be taught including respect, responsibility, fairness, caring, trustworthiness, and citizenship in order to raise students' honesty, kindness, justice,

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<sup>18</sup> 105 ILCS 5/27-17.

<sup>19</sup> The Ill. Vehicle Code, 625 ILCS 5/6-408.5, contains these requirements; they are paraphrased below and may be added to the policy or otherwise disseminated.

Before a certificate of completion will be requested from the Secretary of State, a student must receive a passing grade in at least eight courses during the two semesters last ending before requesting the certificate. A certificate of completion will not be requested for any person less than 18 years of age who has dropped out of school unless the individual provides:

1. Written verification of his or her enrollment in a high school equivalency or alternative education program or a high school equivalency certificate (formerly GED certificate);
2. Written verification that before dropping out, the individual had received passing grades in at least eight courses during the two previous semesters last ending before requesting a certificate;
3. Written consent from the individual's parent/guardian and the Regional Superintendent; or
4. Written waiver from the Superintendent of the School District in which the individual resides or resided at the time he or she dropped out of school, or from the chief school administrator with respect to a dropout who attended a non-public high school. A waiver may be given if the Superintendent or chief administrator deems it to be in the individual's best interests.

<sup>20</sup> 105 ILCS 5/27-23.3.

<sup>21</sup> 105 ILCS 5/27-23.4.

<sup>22</sup> 47 C.F.R. § 54.520 and 105 ILCS 5/27-13.3 control this section. "Grades kindergarten through 12" is used because federal law requires school districts that receive E-rate funding to certify that they have an Internet safety education policy for all minors. 47 C.F.R. §54.520(c)(1)(i). This federal law defines *minors* as any individual who has not attained the age of 17 years. 47 C.F.R. §54.520(a)(4)(i).

105 ILCS 5/27-13.3 only requires a unit on Internet safety for students in grades 3 or above. It recommends seven topics for the unit on Internet safety and required ISBE to "make available resource materials for educating children regarding child online safety." It also invites schools to "adopt an age-appropriate curriculum for Internet safety instruction of students in grades kindergarten through 12."

For boards that do not receive E-rate funds and do not want to exceed the requirements of the School Code, replace this section with the following sentence:

In grades 3 or above, the curriculum contains a unit on Internet safety, the scope of which shall be determined by the Superintendent or designee.<sup>23</sup>

For boards that do not receive E-rate funds, but want to exceed the requirements of the 105 ILCS 5/27-13.3 to include grades K-2, replace this section with the following sentences:

In grades 3 or above, the curriculum contains a unit on Internet safety, the scope of which shall be determined by the Superintendent or designee. In kindergarten through grade 2, age-appropriate Internet safety must be taught.

discipline, respect for others, and moral courage.<sup>23</sup> Instruction in all grades will include examples of behaviors that violate policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*. <sup>24</sup>

Commented [DJ1]: Text from l/n 23 has been moved to l/n 24.

7. In all schools, citizenship values must be taught, including: (a) patriotism, (b) democratic principles of freedom, justice, and equality, (c) proper use and display of the American flag, (d) the Pledge of Allegiance, and (e) the voting process. <sup>25</sup>
8. In all grades, physical education must be taught including a developmentally planned and sequential curriculum that fosters the development of movement skills, enhances health-related fitness, increases students' knowledge, offers direct opportunities to learn how to work cooperatively in a group setting, and encourages healthy habits and attitudes for a healthy lifestyle. Unless otherwise exempted, all students are required to engage in a physical education course with such frequency as determined by the Board after recommendation from the Superintendent,<sup>26</sup> but at a minimum of three days per five-day week.<sup>27</sup> For exemptions and substitutions, see policies 6:310, *High School Credit for Non-District Experiences*;

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<sup>23</sup> 105 ILCS 5/27-12.

~~Because of the negative outcomes associated with bullying in schools, the Ill. General Assembly has also found "that [school districts] should educate students, parents, and [school district personnel] about what behaviors constitute prohibited bullying." 105 ILCS 5/27-23.7(a). A board may want to add the following option:~~

~~Instruction in all grades should include educating students about behaviors that violate Board policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.~~

~~The Ill. General Assembly invited boards to "make suitable provisions for instruction in gang resistance education and training in all grades and include such instruction in the courses of study regularly taught in those grades." See 105 ILCS 5/27-23.10(c). A board that shares this concern may add the following option: "In addition, in all grades gang resistance education and training must be taught."~~

<sup>24</sup> Because of the negative outcomes associated with bullying in schools, the Ill. General Assembly has found "that [school districts] should educate students, parents, and [school district personnel] about what behaviors constitute prohibited bullying." 105 ILCS 5/27-23.7(a). This language aligns with ~~sample~~ policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*, which requires bullying prevention instruction as part of a district's Bullying Prevention and Response Plan.

The Ill. General Assembly invited boards to "make suitable provisions for instruction in gang resistance education and training in all grades and include such instruction in the courses of study regularly taught in those grades." See 105 ILCS 5/27-23.10(c). A board that shares this concern may add the following option: "In addition, in all grades gang resistance education and training must be taught."

<sup>25</sup> 105 ILCS 5/27-3 requires the Pledge of Allegiance to be recited every day in elementary and secondary schools. See also *Palmer v. City of Chicago*, 466 F. Supp. 600 (N.D. Ill. 1979) (teacher would not teach and direct the Pledge of Allegiance to the flag of the United States for religious reasons and was terminated for not doing so because it was part of the curriculum). Requirements for displaying a U.S. flag at each school and in each classroom are found in 5 ILCS 465/3 and 465/3a.

Note that the Illinois statute does not require every student to recite the *Pledge* – that kind of mandatory participation would violate the U.S. Constitution. Schools may not coerce a student into saying the *Pledge*, nor may they punish students for refusing to participate in any aspect of the flag ritual, including standing, saluting the flag, and reciting the *Pledge*. West Virginia State Bd. of Educ. v. Barnett, 319 U.S. 624 (1943); *Sherman v. Community Consolidated Sch. Dist. 21 of Wheeling Township*, 980 F.2d 437 (7th Cir. 1992). Consider using permissive rather than mandatory language to introduce the recitation of the *Pledge*, such as, "You may now stand to recite the *Pledge*." Schools may, of course, require that non-participants maintain order and decorum appropriate to the school environment.

<sup>26</sup> The phrase "after recommendation by the Superintendent" is optional. If a superintendent does not bring this topic to the board for discussion, the board may not have a trigger to make the determination.

<sup>27</sup> 23 Ill.Admin.Code §1.425(b), amended at 42 Ill. Reg. 11540.

*Course Substitutions; Re-Entering Students* and 7:260, *Exemption from Physical Education*. **28**

9. In all schools, health education must be stressed, including: (a) proper nutrition, (b) physical fitness, (c) components necessary to develop a sound mind in a healthy body, (d) dangers and avoidance of abduction, and (e) age-appropriate sexual abuse and assault awareness and prevention education in all grades. The Superintendent shall implement a comprehensive health education program in accordance with State law. **29**
10. In all schools, career/vocational education must be taught, including: (a) the importance of work, (b) the development of basic skills to enter the world of work and/or continue formal education, (c) good work habits and values, (d) the relationship between learning and work, and (e) if possible, a student work program that provides the student with work experience as an extension of the regular classroom. A career awareness and exploration program must be available at all grade levels. **30**

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**28** 105 ILCS 5/27-5 requires school boards to provide for students' physical education and allows the P.E. course offered in grades 5 through 10 to include the health education courses required by State law. See also 23 Ill.Admin.Code §1.425, added at 40 Ill. Reg. 2990.

105 ILCS 5/27-6, amended by P.A. 100-465, describes when students may be excused from P.E. See also 23 Ill.Admin.Code §1.425(d), amended at 42 Ill. Reg. 11540.

105 ILCS 5/27-6, amended by P.A. 100-465, contains an exception to the minimum of three days per five-day week P.E. requirement for schools engaged in block scheduling; if this is applicable, substitute this sentence for the second-to-last sentence in this paragraph:

Unless otherwise exempted, all students are required to engage with such frequency as determined by the Board, but at a minimum of three days per five-day week, during the school day, except on block scheduled days, in a physical education course.

105 ILCS 5/27-6.5 describes physical fitness assessments required, beginning with the 2016-17 school year and every school year thereafter, for grades 3-12 in an effort to meet State Goal 20 of the Illinois Learning Standards for Physical Development and Health at: [www.isbe.net/Pages/Physical-Education-and-Health.aspx](http://www.isbe.net/Pages/Physical-Education-and-Health.aspx). See also 23 Ill.Admin.Code §1.425 (f) and (h), amended at 42 Ill. Reg. 11540; ISBE's *IL Fitness Assessments and Data Reporting Requirements Questions and Answers (Rev. 2-15-18)* at: [www.isbe.net/Documents/fitness-asmt-faq.pdf](http://www.isbe.net/Documents/fitness-asmt-faq.pdf).

105 ILCS 5/27-7 describes the goals and requirements for P.E. courses; these are re-stated in this sample policy.

**29** 105 ILCS 110/3, amended by P.A. 101-305, eff. 1-1-20, and 23 Ill.Admin.Code §1.420(n). Each school system shall provide a program in compliance with the Critical Health Problems and Comprehensive Health Education Act, 105 ILCS 110/. More detailed health education program content is described in administrative procedure 6:60-AP, *Comprehensive Health Education Program*. It includes the requirements for the development of a family life and sex education program (105 ILCS 5/27-9.1, amended by P.A.s 100-684- and 101-579, eff. 1-1-20, and 110/3), among other health education topics including *teen dating violence* (105 ILCS 110/3.10, see 7:185, *Teen Dating Violence Prohibited* for the required "teen dating violence policy") and cardiopulmonary resuscitation and automated external defibrillator use (105 ILCS 110/3).

Citations for letters (a) - (e) in this paragraph follow:

- (a) 105 ILCS 5/2-3.139 and 105 ILCS 5/27-7 (proper nutrition) and see also policy 6:50, *School Wellness*.
- (b) *Id.* (physical fitness) and see also policy 6:50, *School Wellness*.
- (c) *Id.* (sound mind and healthy body).
- (d) 105 ILCS 5/27-13.2 (dangers and avoidance of abduction). The Ill. Dept. of State Police and ISBE must develop instruction on child abduction prevention. 20 ILCS 2605/2605-480.
- (e) 105 ILCS 110/3 and 105 ILCS 5/10-23.13 a/k/a *Erin's Law* (child sexual abuse prevention). *Erin's Law* requires a policy addressing child sexual abuse prevention. A sentence in 6:60-AP, *Comprehensive Health Education Program* restates the basic recommendations for a child sexual abuse prevention program from page 16 of the *Erin's Law* Taskforce Final Report (Report) to Governor Quinn at: [www.isbe.net/Documents/erins-law-final0512.pdf](http://www.isbe.net/Documents/erins-law-final0512.pdf). The professional educator training component of *Erin's Law* is addressed in policy 5:100, *Staff Development Program*. The Report also encourages parental involvement because parents play a key role in protecting children from child sexual abuse.

**30** 23 Ill.Admin.Code §1.420(i). See 105 ILCS 435/\_ Vocational Education Act.

11. In grades 9 through 12, consumer education must be taught, including: (a) financial literacy, including consumer debt and installment purchasing (including credit scoring, managing credit debt, and completing a loan application); budgeting; savings and investing; banking (including balancing a checkbook, opening a deposit account, and the use of interest rates); understanding simple contracts; State and federal income taxes; personal insurance policies; the comparison of prices; higher education student loans; identity-theft security; and homeownership (including the basic process of obtaining a mortgage and the concepts of fixed and adjustable rate mortgages, subprime loans, and predatory lending); and (b) the roles of consumers interacting with agriculture, business, labor unions and government in formulating and achieving the goals of the mixed free enterprise system. <sup>31</sup>
12. In all schools, conservation of natural resources must be taught, including: (a) home ecology, (b) endangered species, (c) threats to the environment, and (d) the importance of the environment to life as we know it. <sup>32</sup>
13. In all schools, United States (U.S.) history must be taught, including: (a) the principles of representative government, (b) the Constitutions of the U.S. and Illinois, (c) the role of the U.S. in world affairs, (d) the role of labor unions, ~~and~~ (e) the role and contributions of ethnic groups, including but not limited to, the African Americans, Albanians, Asian Americans, Bohemians, Czechs, French, Germans, Hispanics (including the events related to the forceful removal and illegal deportation of Mexican-American U.S. citizens during the Great Depression), Hungarians, Irish, Italians, Lithuanians, Polish, Russians, Scots, and Slovaks in the history of this country and State, (f) a study of the roles and contributions of lesbian, gay, bisexual, and transgender (LGBT) people in the history of the U.S. and Illinois, and (g) Illinois history. <sup>33</sup>

In addition, all schools shall hold an educational program on the United States Constitution on Constitution Day, each September 17, commemorating the September 17, 1787 signing of the Constitution. However, when September 17 falls on a Saturday, Sunday, or holiday, Constitution Day shall be held during the preceding or following week. <sup>34</sup>

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

A school district may offer workplace preparation instruction in grades 9 through 12 that covers legal protections in the workplace, including protection against sexual harassment and racial and other forms of discrimination and protections for employees. 105 ILCS 5/27-23.13 (final citation pending), added by P.A. 101-347, eff. 1-1-20.

For high school and unit boards, insert "5/27-23.13 (final citation pending)," after 105 ILCS 5/27-23.11 in the Legal References, and the following text to the end of number 10 if the board wants to offer workplace preparation instruction:

In grades 9-12, workplace preparation instruction will be offered, covering legal protections in the workplace, including protection against sexual harassment and racial and other forms of discrimination and protections for employees.

<sup>31</sup> 105 ILCS 5/27-12.1, amended by P.A. 99-284; 23 Ill.Admin.Code §1.420(k). P.A. 99-284 added these new subjects to the required consumer education course: consumer debt, higher education student loans, and identity-theft security.

<sup>32</sup> 105 ILCS 5/27-13.1; 23 Ill.Admin.Code §1.420(l), amended at 42 Ill. Reg. 11535.

<sup>33</sup> 105 ILCS 5/27-21, amended by P.A. 101-227, eff. 7-1-20 (adding the roles and contributions of LGBT people in U.S. and Illinois), and P.A. 101-341, eff. 1-1-20 (beginning with the 2020-2021 school year, adding Illinois history); 23 Ill.Admin.Code §1.420(r). 105 ILCS 5/27-21 does not specify at what grade level districts must cover these topics as part of U.S. history instruction; however, no student may graduate from grade 8 unless the student has received instruction in U.S. history and demonstrated comprehensive knowledge of the subject matter.

<sup>34</sup> Section 111 of Division J of Pub. L. 108-447, the Consolidated Appropriations Act, 2005, 12-8-04; 118 Stat. 2809, 3344-45 (Section 111). Section 111(b) states: "[e]ach educational institution that receives Federal funds for a fiscal year shall hold an educational program on the U.S. Constitution on September 17 of such year for the student served by the educational institution."

14. In grade 7 and all high school courses concerning U.S. history or a combination of U.S. history and American government, students must view a Congressional Medal of Honor film made by the Congressional Medal of Honor Foundation, provided there is no cost for the film. <sup>35</sup>
15. In all schools, the curriculum includes instruction as determined by the Superintendent or designee on the Holocaust and crimes of genocide, including Nazi atrocities of 1933-1945, Armenian Genocide, the Famine-Genocide in Ukraine, and more recent atrocities in Cambodia, Bosnia, Rwanda, and Sudan. <sup>36</sup>
16. In all schools, the curriculum includes instruction as determined by the Superintendent or designee on the history, struggles, and contributions of women. <sup>37</sup>
17. In all schools, the curriculum includes instruction as determined by the Superintendent or designee on Black History, including the history of the African slave trade, slavery in America, and the vestiges of slavery in this country, as well as the struggles and contributions of African-Americans. <sup>38</sup>
18. In all schools offering a secondary agricultural education program, the curriculum includes courses as required by 105 ILCS 5/2-3.80. <sup>39</sup>
19. In all schools, instruction during courses as determined by the Superintendent or designee on disability history, awareness, and the disability rights movement. <sup>40</sup>
20. In kindergarten through grade 8, education must be available to students concerning effective methods of preventing and avoiding traffic injuries related to walking and bicycling. <sup>41</sup> <sup>42</sup>

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<sup>35</sup> 105 ILCS 5/27-3.5. The Congressional Medal of Honor film is available on ISBE's website for no cost at: [www.isbe.net/Pages/Medal-of-Honor.aspx](http://www.isbe.net/Pages/Medal-of-Honor.aspx).

<sup>36</sup> 105 ILCS 5/27-20.3. The statute requires the school board to determine the minimum amount of instructional time. The sample policy complies by delegating this responsibility to the superintendent or designee.

<sup>37</sup> 105 ILCS 5/27-20.5. The statute requires the school board to determine the minimum amount of instructional time. The sample policy complies by delegating this responsibility to the superintendent or designee. House Resolution 365 (98<sup>th</sup> General Assembly, 2013) and Senate Resolution 1073 (98<sup>th</sup> General Assembly, 2014) both urge all Illinois educators to share with students of an appropriate age the story of *comfort women* when discussing the history of Asia or World War II, or the issue of human trafficking.

<sup>38</sup> 105 ILCS 5/27-20.4. The statute requires the school board to determine the minimum amount of instructional time. The sample policy complies by delegating this responsibility to the superintendent or designee. A school may meet this curriculum requirement through an online program or course. *Id.* as amended by P.A. 100-634.

<sup>39</sup> 105 ILCS 5/2-3.80(e) or (f), as applicable.

<sup>40</sup> 105 ILCS 5/27-23.8. The statute requires the school board to determine the minimum amount of instructional time. The sample policy complies by delegating this responsibility to the superintendent or designee. The statute requires that the instruction be founded on the principle that all students, including students with disabilities, have the right to exercise self-determination. It urges districts to request individuals with disabilities to assist with the development and delivery of this instruction and allows instruction to be supplemented by knowledgeable guest speakers.

<sup>41</sup> 105 ILCS 5/27-23.11, added by P.A. 100-1056, requires districts that maintain any of the grades kindergarten through 8 to adopt a policy. The law is silent about how to educate students on this topic. See 6:60-AP, E2, *Resources for Biking and Walking Safety Education*, for additional information.

<sup>42</sup> A school district may offer a course on hunting safety as part of its curriculum during the school day. 105 ILCS 5/27-23.13 (final citation pending), added by P.A. 101-152. No grade levels are specified in the statute. Insert "5/27-23.13 (final citation pending)," after 105 ILCS 5/27-23.11 in the Legal References, and an optional number 21, if the board wants to offer a course on hunting safety as part of its curriculum:

In grade(s) [insert grade level(s)], a course on hunting safety will be offered during the school day.

LEGAL REF.: Pub. L. No. 108-447, Section 111 of Division J, Consolidated Appropriations Act of 2005.  
Pub. L. No. 110-385, Title II, 122 stat. 4096 (2008), Protecting Children in the 21st Century Act.  
47 C.F.R. §54.520  
5 ILCS 465/3 and 465/3a.  
20 ILCS 2605/2605-480.  
105 ILCS 5/2-3.80(e) and (f), 5/27-3, 5/27-3.5, 5/27-5, 5/27-6, 5/27-6.5, 5/27-7, 5/27-12, 5/27-12.1, 5/27-13.1, 5/27-13.2, 5/27-20.3, 5/27-20.4, 5/27-20.5, 5/27-20.7, 5/27-21, 5/27-22, 5/27-23.3, 5/27-23.4, 5/27-23.7, 5/27-23.8, 5/27-23.10, 5/27-23.11, 5/27-24.2, 435/, and 110/3.  
625 ILCS 5/6-408.5.  
23 Ill.Admin.Code §§1.420, 1.425, 1.430, and 1.440.

CROSS REF.: 6:20 (School Year Calendar and Day), 6:40 (Curriculum Development), 6:70 (Teaching About Religions), 6:235 (Access to Electronic Networks), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior), 7:260 (Exemption from Physical Education)

DRAFT

## Instruction

### Student Social and Emotional Development <sup>1</sup>

Social and emotional learning (SEL) is defined as the process through which students enhance their ability to integrate thinking, feeling, and behaving to achieve important life tasks. Students competent in SEL are able to recognize and manage their emotions, establish healthy relationships, set positive goals, meet personal and social needs, and make responsible and ethical decisions. <sup>2</sup>

The Superintendent shall incorporate SEL into the District's curriculum and other educational programs consistent with the District's mission and the goals and benchmarks of the Ill. Learning Standards.<sup>3</sup> The Ill. Learning Standards include three goals for students: <sup>4</sup>

1. Develop self-awareness and self-management skills to achieve school and life success.
2. Use social-awareness and interpersonal skills to establish and maintain positive relationships.
3. Demonstrate decision-making skills and responsible behaviors in personal, school, and community contexts.

The incorporation of SEL objectives into the District's curriculum and other educational programs may include but is not limited to: <sup>5</sup>

1. Classroom and school-wide programming to foster a safe, supportive learning environment where students feel respected and valued. This may include incorporating scientifically based, age-and-culturally appropriate classroom instruction, District-wide, and school-wide

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<sup>1</sup> State law requires this subject matter be covered by policy (405 ILCS 49/15(b)), and it required districts to submit it to the Ill. State Board of Education (ISBE) once by 8-31-04.

<sup>2</sup> This text paraphrases the definition in the Ill. Children's Mental Health Partnership's *Strategic Plan for Building a Comprehensive Children's Mental Health System* in Illinois, pg. 73, Appendix C, starting at pg. 69 at: [www.nashp.org/wp-content/uploads/sites/default/files/abcd/abcd.il.icmhpstrategic20050908.pdf](http://www.nashp.org/wp-content/uploads/sites/default/files/abcd/abcd.il.icmhpstrategic20050908.pdf)

<sup>3</sup> Required by the Children's Mental Health Act of 2003, 405 ILCS 49/. ISBE incorporated social and emotional development standards into the Ill. Learning Standards. For more information see: [www.isbe.net/pages/social-emotional-learning-standards.aspx](http://www.isbe.net/pages/social-emotional-learning-standards.aspx). School social workers may implement a continuum of social and emotional education programs and services in accordance with students' needs. 405 ILCS 49/15(b).

105 ILCS 5/2-3.147, added by P.A. 95-558 and repealed by P.A. 99-30, created the Ensuring Success in School Task Force. Supervised by ISBE, this task force developed policies, procedures, and protocols for school boards to adopt to address the education and related needs of students who are parents, expectant parents, or victims of domestic or sexual violence; the goal is to encourage these students to stay in school, stay safe while in school, and successfully complete their education. School boards and superintendents may want to create their own study group to prepare for implementing of the task force's policies, procedures, and protocols. A report of the task force's findings was made to the General Assembly and is available here:

[www.povertylaw.org/advocacy/women/pubs/essa-task-force-report](http://www.povertylaw.org/advocacy/women/pubs/essa-task-force-report)~~http://povertylaw.org/advocacy/women/pubs/essa-task-force-report~~

<sup>4</sup> The goals, along with their benchmarks, performance descriptors and indicators are available at the link in f/n 3, above.

<sup>5</sup> The objectives are a matter of local school board discretion. A board may replace the sample objectives with its own local objectives. This sample policy lists the ISBE's SEL goals found on ISBE's website cited in f/n 3, above.

strategies that teach SEL skills, promote optimal mental health, and prevent risk behaviors for all students. <sup>6</sup>

2. Staff development and training to promote students' SEL development. This may include providing all personnel with age-appropriate academic and SEL and how to promote it. <sup>7</sup>
3. Parent/Guardian and family involvement to promote students' SEL development. This may include providing parents/guardians and families with learning opportunities related to the importance of their children's optimal SEL development and ways to enhance it. <sup>8</sup>
4. Community partnerships to promote students' SEL development. This may include establishing partnerships with diverse community agencies and organizations to assure a coordinated approach to addressing children's mental health and SEL development.
5. Early identification and intervention to enhance students' school readiness, academic success, and use of good citizenship skills. This may include development of a system and procedures for periodic and universal screening, assessment, and early intervention for students who have significant risk factors for social, emotional, or mental health conditions that impact learning. <sup>9</sup>
6. Treatment to prevent or minimize mental health conditions in students. This may include building and strengthening referral and follow-up procedures for providing effective clinical services for students with social, emotional, and mental health conditions<sup>10</sup> that impact learning. This may include student and family support services, school-based behavioral health services, and school-community linked services and supports.
7. Assessment and accountability for teaching SEL skills to all students. This may include implementation of a process to assess and report baseline information and ongoing progress about school climate, students' social and emotional development, and academic performance. <sup>11</sup>

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<sup>6</sup> 20 ILCS 1705/76, added by P.A. 101-45, eff. 1-1-20, requires the Ill. Dept. of Public Health to create and maintain an online *Mental Health Database and Resource* page on its website with mental health resources to: (1) assist school social workers, school counselors, parents, teachers, and school support personnel with the goal of connecting them with mental health resources related to bullying and school shootings; and (2) encourage information sharing among educational administrators, school security personnel, and school resource officers. See the database at: [www.dhs.state.il.us](http://www.dhs.state.il.us).

<sup>7</sup> See SEL resources to support instruction of the Ill. Learning Standards at:

[www.ilclassroomsinaction.org/](http://www.ilclassroomsinaction.org/).

<sup>8</sup> The Ill. Children's Mental Health Partnership provides family resources at:

[www.icmhp.org/icmhp-help-guide/family-resources/online-resources-for-parents-and-caregivers/](http://www.icmhp.org/icmhp-help-guide/family-resources/online-resources-for-parents-and-caregivers/).

<sup>9</sup> The Ill. Children's Mental Health Partnership provides information about Early Childhood Mental Health Consultation at: [www.icmhp.org/icmhp-in-action/projects/early-childhood-mental-health-consultation-project-tier/](http://www.icmhp.org/icmhp-in-action/projects/early-childhood-mental-health-consultation-project-tier/).

<sup>10</sup> 305 ILCS 5/5-5.23(g), added by P.A. 101-461, eff. 1-1-20, created the *Family Support Program (FSP)* in the Dept. of Healthcare and Family Services. FSP is a restructure of the former Individual Care Grant program. Its purpose is to enable early treatment of youth, emerging adults, and transition-age adults with a serious mental illness or serious emotional disturbance. Eligibility criterion for FSP are established at 89 Ill. Adm. Code Part 139.

<sup>11</sup> For information on this objective, see ISBE's Comprehensive System of Learning Supports at:

[www.isbe.net/Pages/Learning-Supports.aspx](http://www.isbe.net/Pages/Learning-Supports.aspx).

Information about school climate is available from ISBE at: [www.isbe.net/Pages/School-Climate.aspx](http://www.isbe.net/Pages/School-Climate.aspx).

LEGAL REF.: Children’s Mental Health Act of 2003, 405 ILCS 49/.

CROSS REF.: 1:30 (School District Philosophy), 6:10 (Educational Philosophy and Objectives), 6:40 (Curriculum Development), 6:60 (Curriculum Content), 6:270 (Guidance and Counseling Program), 7:100 (Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:250 (Student Support Services)

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## Instruction

### Home and Hospital Instruction 1

A student who is absent from school, or whose physician, physician assistant, or advanced practice registered nurse anticipates that the student will be absent from school, because of a medical condition may be eligible for instruction in the student's home or hospital.<sup>2</sup> Eligibility shall be determined by State law and the Illinois State Board of Education rules governing (1) the continuum of placement options for students who have been identified for special education services or (2) the home and hospital instruction provisions for students who have not been identified for special education services.<sup>3</sup> Appropriate educational services from qualified staff will begin no later than five school days after receiving a [written statement from: \(1\) a physician licensed to practice medicine in all of its branches, \(2\) a licensed physician assistant, or \(3\) a licensed advanced practice registered nurse's written statement](#).<sup>4</sup> Instructional or related services for a student receiving special education services will be determined by the student's individualized education program.

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>1</sup> State or federal law controls this policy's content. The following State laws and ISBE rules govern homebound and hospital instruction: 105 ILCS 5/14-13.01 (reimbursement for home and hospital instruction along with factors to qualify for it); 105 ILCS 5/18-4.5 (reimbursement for home and hospital instruction); ~~105 ILCS 5/18-8.05, amended by P.A. 100-465 (for purposes of apportioning general state aid through the 2016-2017 school year, 105 ILCS 5/10-19.05(e), added by P.A. 100-12 (an instructional session of one clock hour may be counted as ½ day of attendance, however, a student must receive four or more instructional clock hours to count as a full day of attendance); 23 Ill.Admin.Code §226.300 (home/hospital service for a special education student); 23 Ill.Admin.Code §1.520; ISBE General State Aid Claim form.~~

See ISBE guidance, *Home/Hospital Instruction and Reimbursement Questions and Answers* available at: [www.isbe.net/Documents/Home-Hospital\\_QA.pdf](http://www.isbe.net/Documents/Home-Hospital_QA.pdf)~~https://www.isbe.net/Documents/Home-Hospital\_QA.pdfwww.isbe.net/Documents/home\_hospital\_qa.pdf.~~

<sup>2</sup> 105 ILCS 5/14-13.01, amended by P.A. 100-443, defines the standards for determining when a student is eligible to receive home or hospital instruction. A student qualifies when a physician, physician assistant, or advanced practice nurse *anticipates* a student's absence due to a medical condition. The law defines "ongoing intermittent basis" to mean a medical condition of such a nature and severity that it is anticipated that the student will be absent from school due to the medical condition for periods of at least two days at a time multiple times during the school year totaling at least 10 days or more of absences. 225 ILCS 65/5-20-10, amended by P.A. 100-513, revised the Nurse Practice Act to add *registered* to the definition of *advanced practice registered nurse*; accordingly, this policy reflects that change in terminology, even though Section 5/14-13.01 similarly has not been amended.

<sup>3</sup> 105 ILCS 5/14-13.01(a), amended by P.A. 100-443, requires that all students provide a written statement from a physician, physician assistant, or advanced practice registered nurse stating the existence of a medical condition, the impact on the child's ability to participate in education, and the anticipated duration or nature of the child's absence from school. However, ISBE rules at 23 Ill.Admin.Code §226.300 (students qualifying for special education services) and 23 Ill.Admin.Code §1.520 (students not qualifying for special education services) have not yet been amended to reflect that this written statement may come from a physician assistant or an advanced practice registered nurse; they still state that such a written statement must come from a physician. ISBE's *Medical Certification for Home/Hospital Instruction* form, form 34-58, reflects that the written statement may come from a "physician licensed to practice medicine in all its branches, APRN, or PA." Available at: [www.isbe.net/Documents/Medical-certification-home-hospital-instruction.pdf](http://www.isbe.net/Documents/Medical-certification-home-hospital-instruction.pdf)~~https://www.isbe.net/Documents/Medical-certification-home-hospital-instruction.pdfwww.isbe.net/Documents/34-58-home-hospital-inst.pdf.~~

A student with health needs may be protected by the Individuals with Disabilities Education Act (20 U.S.C. §1401(3) or Section 504 of the Rehabilitation Act (29 U.S.C. §794(a)).

<sup>4</sup> [105 ILCS 5/14-13.01\(a-5\), amended by P.A.s 100-443 and 100-863](#). There is no requirement that a student be absent from school for a minimum number of days before he or she qualifies for home or hospital instruction. 105 ILCS 5/14-13.01(a). The statute, amended by P.A. 100-443, allows schools to begin home or hospital instruction upon receipt of a written statement from a physician, physician assistant, or advanced practice registered nurse but requires it to begin no later than five school days after receipt of the written statement.

A student who is unable to attend school because of pregnancy will be provided home instruction, correspondence courses, or other courses of instruction (1) before the birth of the child when the student's physician, physician assistant, or advanced practice registered nurse indicates, in writing, that she is medically unable to attend regular classroom instruction, and (2) for up to three months after the child's birth or a miscarriage. <sup>5</sup>

Periodic conferences will be held between appropriate school personnel, parent(s)/guardian(s), and hospital staff to coordinate course work and facilitate a student's return to school.

LEGAL REF.: 105 ILCS [5/10-19.05\(e\)](#), 5/10-22.6a, 5/14-13.01, and 5/18-4.5.  
23 Ill.Admin.Code §§1.520, 1.610, and 226.300.

CROSS REF.: 6:120 (Education of Children with Disabilities), 7:10 (Equal Educational Opportunity), 7:280 (Communicable and Chronic Infectious Disease)

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Both 23 Ill.Admin.Code §§226.300(g) and 1.520(f) require home or hospital instructors to meet the requirements listed in 23 Ill.Admin.Code §1.610, i.e., proper licensure as required by Section 21B-15 of the School Code (105 ILCS 5/21B-15).

<sup>5</sup> 105 ILCS 5/10-22.6a, amended by P.A. 100-443. Number (2) does not require a written statement from a physician, physician assistant, or advanced practice registered nurse.

## Instruction

### Extended Instructional Programs <sup>1</sup>

The District may offer the following programs in accordance with State law and the District's educational philosophy:

1. Nursery schools for children between the ages of 2 and 6 years. <sup>2</sup>
2. Before-and after-school programs for students in grades K-6. <sup>3</sup>
3. Child care and training center for pre-school children and for students whose parents work. <sup>4</sup>
4. Model day care services program in cooperation with the State Board of Education. <sup>5</sup>
5. Tutorial program. <sup>6</sup>
6. Adult education program. <sup>7</sup>
7. Outdoor education program. <sup>8</sup>
8. Summer school, whether for credit or not. <sup>9</sup>
9. Independent study, whether for credit or not. <sup>10</sup>
10. Support services and instruction for students who are, or whose parents/guardians are, chemically dependent. <sup>11</sup>
11. Activities to address intergroup conflict. <sup>12</sup>
12. Volunteer service credit program. <sup>13</sup>

**The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.**

<sup>1</sup> State or federal law controls this policy's content. However, all programs listed in this policy are optional. The district may charge a fee for programs numbered 1-4, 6, 8, 9, and 14.

<sup>2</sup> 105 ILCS 5/10-23.2. [A school district may offer a course on hunting safety as part of its curriculum during the school day or as part of an after-school program. 105 ILCS 5/27-23.13 \(final citation pending\), added by P.A. 101-152. Unlike the before-and-after-school programs authorized by 105 ILCS 5/10-23.2, no grade levels are specified for the hunting safety course or the after-school program in which it may be offered. 105 ILCS 5/27-23.13 \(final citation pending\).](#)

<sup>3</sup> 105 ILCS 5/10-22.18b.

<sup>4</sup> 105 ILCS 5/10-22.18a.

<sup>5</sup> 105 ILCS 5/10-22.18c. Student parents cannot be charged a fee for such day care services, however school personnel who use the services may be charged a fee. Id.

<sup>6</sup> 105 ILCS 5/10-22.20c.

<sup>7</sup> 105 ILCS 5/10-22.20, [amended by P.A. 101-289](#). A school board may appoint a director of adult education. 105 ILCS 5/10-22.20b.

<sup>8</sup> 105 ILCS 5/10-22.29.

<sup>9</sup> 105 ILCS 5/10-22.33A and 5/10-22.33B. Each course offered for high school graduation must provide at least 60 hours of classroom instruction for the equivalent of one semester of high school course credit. 105 ILCS 5/27-22.1. 105 ILCS 5/10-22.33B authorizes districts to conduct a *high-quality* summer school program. Students at risk in language arts or mathematics may be required to attend such programs. Section 10-22.33A permits districts "to fix and collect a charge for attendance at such courses in an amount not to exceed the per capita cost of the operation" or to waive such charges if the family of a pupil is indigent or if the pupil is required to attend such courses.

<sup>10</sup> Independent study allows students to expand their knowledge in curricular areas not offered as part of the district's basic program.

<sup>11</sup> 105 ILCS 110/3. Such services and instruction may be offered as part of existing curricula during the school day or as part of an after school program. Id.

<sup>12</sup> 105 ILCS 5/27-23.6. The statutory objectives of such a program are to "improve intergroup relations on and beyond the school campus, defusing intergroup tensions, and promoting peaceful resolution of conflict." A board that adopts a policy to incorporate activities to address intergroup conflict shall make certain information available to the public and shall disseminate it as specified in the statute. 105 ILCS 5/27-23.6(c).

13. Vocational academy. **14**

14. Advanced vocational training and/or career education program. **15**

LEGAL REF.: 105 ILCS 5/10-22.18a, 5/10-22.18b, 5/10-22.18c, 5/10-22.20, 5/10-22.20a, 5/10-22.20b, 5/10-22.20c, 5/10-22.29, 5/10-22.33A, 5/10-22.33B, 5/10-23.2, 5/27-22.1, 5/27-22.3, 5/27-23.6, 110/3, and 433/2

CROSS REF.: 6:310 (High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students), 6:320 (High School Credit for Proficiency)

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

**13** 105 ILCS 5/27-22.3. For secondary school students only. Id.

**14** Vocational Academies Act. 105 ILCS 433/. The Act's purpose is to "integrate workplace competencies and career and technical education with core academic subjects." School districts are permitted to partner with community colleges, local employers, and community-based organizations to establish a vocational academy that functions as a 2-year school within a school for grades 10 through 12. Grant funds may be available from ISBE at: [www.isbe.net/Pages/Grants.aspx](http://www.isbe.net/Pages/Grants.aspx).

**15** 105 ILCS 5/10-22.20a, permits districts to enter joint agreements with community college districts and other school districts to provide career education or advanced vocational training to students in grade 11 and higher to prepare for a trade. The duration of such program may not exceed two years for any district pupil. Participating community colleges may bill participating districts, but payments may not exceed actual operating costs. Participating high schools may use State aid monies to pay the charges. Id.

## Instruction

### Instructional Materials 1

All District classrooms and learning centers should be equipped with an evenly-proportioned, wide assortment of instructional materials, including textbooks, workbooks, audio-visual materials, and electronic materials. These materials should provide quality learning experiences for students and: <sup>2</sup>

1. Enrich and support the curriculum;
2. Stimulate growth in knowledge, literary appreciation, aesthetic values, and ethical standards;
3. Provide background information to enable students to make informed judgments and promote critical reading and thinking;
4. Depict in an accurate and unbiased way the cultural diversity and pluralistic nature of American society; and
5. Contribute to a sense of the worth of all people regardless of sex, race, religion, nationality, ethnic origin, sexual orientation, disability, or any other differences that may exist.

The Superintendent or designee shall annually provide a list or description of textbooks and instructional materials used in the District to the School Board. Anyone may inspect any textbook or instructional material. <sup>3</sup>

Teachers are encouraged to use age-appropriate supplemental material only when it will enhance, or otherwise illustrate, the subjects being taught. No R-rated movie shall be shown to students unless prior approval is received from the Superintendent or designee, and no movie rated NC-17 (no one 17 and under admitted) shall be shown under any circumstances. These restrictions apply to television programs and other media with equivalent ratings. The Superintendent or designee shall give parents/guardians an opportunity to request that their child not participate in a class showing a movie, television program, or other media with an R or equivalent rating. <sup>4</sup>

### Instructional Materials Selection and Adoption

The Superintendent shall approve the selection of all textbooks and instructional materials according to the standards described in this policy.<sup>5</sup> The School Code governs the adoption and purchase of textbooks and instructional materials. <sup>6</sup>

**The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.**

<sup>1</sup> State or federal law controls some of this policy's content.

<sup>2</sup> A local board may customize these standards to be consistent with the board's mission, vision, and goals.

<sup>3</sup> This paragraph is optional; either or both sentences may be struck although the second sentence describes a right granted by statute. 105 ILCS 5/28-19.1. The requirement to provide the board with a list or description of texts and instructional material allows the board to monitor this policy's implementation. Moreover, as 105 ILCS 5/28-19.1 grants anyone the right to inspect texts and instructional materials, having an annual list of texts and instructional materials facilitates compliance with such a request. Because some instructional materials, e.g., Internet sites, are difficult to list, the sample policy permits a list or *description*. Federal law grants parents/guardians the right to inspect all instructional material that will be used for a survey, analysis, or evaluation. 20 U.S.C. §1232h. See 7:15, *Student and Family Privacy Rights*.

<sup>4</sup> This paragraph is optional. Its content is at the board's discretion. While allowing parents/guardians to opt their child out of viewing such material is not a legal requirement, it is a best practice.

<sup>5</sup> An alternative provision:

The Superintendent shall recommend to the Board for consideration and adoption all textbooks and instructional materials and shall include the following information: (1) title, publisher, copyright dates, number of copies desired, and cost; (2) any texts being replaced; and (3) rationale for recommendation.

LEGAL REF.: 105 ILCS 5/10-20.8 and 5/28-19.1.

CROSS REF.: 6:30 (Organization of Instruction), 6:40 (Curriculum Development), 6:80 (Teaching About Controversial Issues), 6:170 (Title I Programs), 6:260 (Complaints About Curriculum, Instructional Materials, and Programs), 7:10 (Equal Educational Opportunities), 7:15 (Student and Family Privacy Rights), 8:110 (Public Suggestions and Concerns)

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>6</sup> 105 ILCS 5/28, amended by P.A. 101-17. The term *textbook* includes electronic or digital textbooks used for educational purposes. 105 ILCS 5/28-20. The term *instructional materials* means both print and non-print materials, including electronic textbooks being used in the educational process. Id.

## Instruction

### Guidance and Counseling Program <sup>1</sup>

The School District provides a guidance and counseling program for students. <sup>2</sup> The Superintendent or designee shall direct the District's guidance and counseling program. School counseling services, as described by State law, may be performed by a qualified guidance specialist or any certificated staff member. <sup>3</sup>

*[For Elementary and Unit Districts]*

Each staff member is responsible for effectively guiding students under his/her supervision in order to provide early identification of intellectual, emotional, social, or physical needs, diagnosis of any learning disabilities, and development of educational potential. The District's counselors shall offer counseling to those students who require additional assistance.

*[For High School and Unit Districts]*

The guidance program will assist students to identify career options consistent with their abilities, interests, and personal values. Students shall be encouraged to seek the help of counselors to develop specific curriculum goals that conform to the student's career objectives. High school juniors and seniors will have the opportunity to receive career-oriented information. Representatives from colleges and universities, occupational training institutions and career-oriented recruiters, including the military, may be given access to the school campus in order to provide students and parents/guardians with information. <sup>4</sup>

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>1</sup> State or federal law controls this policy's content.

<sup>2</sup> School boards may employ counselors ~~(105 ILCS 5/10-22.24a)~~. 105 ILCS 5/10-22.24b, amended by P.A. [101-29099-276](#), provides a non-exhaustive list of 54 school counseling services, ~~including P.A. 99-276 amended the~~ counseling services for students in need of special education services or who have a federal Section 504 plan ~~and discussion of all post-secondary education options, including four-year colleges or universities, community colleges, and vocational schools.~~

A program to assist educationally disadvantaged children may include special guidance and counseling. ~~(105 ILCS 5/14B-2)~~. All districts must conduct a comprehensive needs assessment to determine the scope of pupil needs in the areas of guidance and counseling, psychological, social work, and health. ~~(23 Ill.Admin.Code §1.420(q))~~.

The Children's Mental Health Act of 2003 requires districts to develop protocols for responding to students with social, emotional, or mental health needs that impact learning. ~~(405 ILCS 49/3)~~. 105 ILCS 5/2-3.142 created the Ensuring Success in School Task Force. This task force developed policies, procedures, and protocols for school boards to adopt for the purpose of addressing the education and related needs of students who are parents, expectant parents, or victims of domestic or sexual violence to ensure their ability to stay in school, stay safe while in school, and successfully complete their education. School boards and superintendents may want to create their own study group to prepare for implementing the task force's policies, procedures, and protocols. See policy 7:250, *Student Support Services*, and administrative procedure 7:250-AP2, *Protocol for Responding to Students with Social, Emotional, or Mental Health Needs*.

<sup>3</sup> Optional. 105 ILCS 5/10-22.24b provides that any qualified professional, including other certificated personnel, may provide school counseling services. The following optional sentence recognizes the importance of interventions; however, it creates duties that are not present in law. This is a classic "who, gets what, for how much" issue.

The counseling program will assist students with interventions related to academic, social and/or personal issues.

Students shall be encouraged to seek academic, social, and /or personal assistance.

<sup>4</sup> A district must provide military recruiters access to students if it has provided such access to persons or groups who tell students about educational or occupational opportunities. ~~(105 ILCS 5/10-20.5a)~~. [The Ill. State Board of Education issued a Military Access Recruiter Reminder memo, available at: www.isbe.net/Documents/Military-Access-Reminder.pdf.](#)

LEGAL REF.: 105 ILCS 5/10-22.24a and 5/10-22.24b.  
23 Ill.Admin.Code §1.420(q).

CROSS REF.: 6:50 (School Wellness), 6:65 (Student Social and Emotional Development),  
6:110 (Programs for Students At Risk of Academic Failure and/or Dropping Out  
of School and Graduation Incentives Program), 6:120 (Education of Children  
with Disabilities), 6:130 (Program for the Gifted), 7:100 (Health, Eye, and Dental  
Examinations; Immunizations; and Exclusion of Students), 7:250 (Student  
Support Services), 7:290 (Suicide and Depression Awareness and Prevention)

ADMIN. PROC.: 7:340-AP1 (School Student Records), 7:340-AP1, E1 (Notice to  
Parents/Guardians and Students of Their Rights Concerning a Student's School  
Records), 7:340-AP1, E3 (Letter to Parents and Eligible Students Concerning  
Military Recruiters and Postsecondary Institutions Receiving Student Directory  
Information)

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

Federal law requires a secondary school to grant military recruiters and institutions of high learning, upon their request, access to secondary school students' names, addresses, and telephone numbers, unless the parents/guardians request that the information not be disclosed without prior written consent. (20 U.S.C. §7908). See also 7:340-AP1, *School Student Records*, and 7:340-AP1, E1, *Notice to Parents/Guardians and Students of Their Rights Concerning a Student's School Records*.

## Instruction

### Graduation Requirements 1

To graduate from high school, unless otherwise exempted, each student is responsible for:

1. Completing all District graduation requirements that are in addition to the State requirements. <sup>2</sup>
2. Completing all courses as provided in the School Code, 105 ILCS 5/27-22. <sup>3</sup>
3. Completing all minimum requirements for graduation as specified by Illinois State Board of Education rule, 23 Ill.Admin.Code §1.440.
4. Passing an examination on patriotism and principles of representative government, proper use of the flag, methods of voting, and the Pledge of Allegiance. <sup>4</sup>
5. Participating in State assessments that are required for graduation by the School Code, 105 ILCS 5/2-3.64a-5(c). <sup>5</sup>

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>1</sup> State or federal law controls this policy's content. Graduation requirements are often published in student handbooks. The Illinois Principals Association maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: [www.ilprincipals.org/resources/model-student-handbook](http://www.ilprincipals.org/resources/model-student-handbook).

In accordance with 105 ILCS 5/2-3.159, amended by P.A. 101-503, eff. 1-1-20, and 23 Ill.Admin.Code §1.442, a school district may establish a program to recognize high school graduates who attained a high level of proficiency in one or more languages in addition to English by designating on a student's diploma and transcript a State Seal of Biliteracy. See policy 6:320, *High School Credit for Proficiency*.

<sup>2</sup> Optional. 23 Ill.Admin.Code §1.440(f). A school board should ensure that all district graduation requirements that are in addition to the State requirements are aligned with the district educational objectives. See policy 6:10, *Educational Philosophy and Objectives*.

<sup>3</sup> The escalating graduation requirements in 105 ILCS 5/27-22 had timed-out and were deleted by P.A. 100-443, such that only the final list of required courses in Section 27-22(e), amended by P.A. 101-464, eff. 1-1-20, is applicable. 105 ILCS 5/27-22(e)(3) allows the substitution of an advanced placement computer science course for a year of mathematics, and it further states that a mathematics course that includes geometry content may be offered as an integrated, applied, interdisciplinary, or career and technical education course that prepares a student for a career readiness path. 105 ILCS 5/27-22(e)(5), amended by P.A. 99-434 and P.A. 99-485 requires students entering the 9th grade in the 2016-2017 school year and each year thereafter to complete one semester of civics. For specific requirements, see 6:300-E2, *State Law Graduation Requirements*, and 6:310, *High School Credit for Non-District Experiences; Course Substitutions; Re-entering Students*.

<sup>4</sup> Required by 105 ILCS 5/27-3.

<sup>5</sup> 105 ILCS 5/2-3.64a-5(c), amended by P.A.s 100-7 and 100-1046, states that "[s]tudents who ~~are do not take the State's final accountability assessment or its approved alternate assessment~~ assessed for college and career ready determinations may not receive a regular high school diploma unless the student is exempted." ~~ISBE selected the Partnership for Assessment of Readiness for College and Careers (PARCC) assessments at: [www.isbe.net/Pages/PARCC-Place.aspx](http://www.isbe.net/Pages/PARCC-Place.aspx). Some students, particularly out of state student transferees, may have problems fulfilling the diploma requirement depending on when the applicable PARCC is administered. Contact the board attorney for assistance. In House Joint Resolution 54 (2015), members of the Ill. House and Senate encouraged school districts to not use results of the PARCC test for the 2014-2015 through the 2017-2018 school years "as a determining factor for making decisions about a student's educational opportunities, the evaluation of educators, and the allocation of resources based on educational achievement on this assessment."~~

105 ILCS 5/2-3.64a-5(c), amended by P.A. s 100-7 and 100-1046, requires that the assessment administered by ISBE for the purpose of student application to or admissions consideration by institutions of higher education be administered on a school day during regular student attendance hours.

105 ILCS 5/2-3.64a-5(e), amended by P.A. s 100-222 and 100-1046, no longer requires that the scores attained by a student on an assessment that includes a college and career readiness determination be entered on the student's transcript. The student's final accountability assessment scores, however, must be placed in the student's permanent record. See also 23 Ill.Admin.Code §375.10.

6. Beginning with the 2020-2021 school year, filing one of the following: (1) a Free Application for Federal Student Aid (FAFSA) with the U.S. Dept. of Education, (2) an application for State financial aid, or (3) an Ill. State Board of Education (ISBE) waiver form indicating that the student understands what these aid opportunities are and has chosen not to file an application. If the student is not at least 18 years of age or legally emancipated, the student's parent/guardian must file one of these documents on the student's behalf.

A student is exempt from this requirement if: (1) the student is unable to file a financial aid application or an ISBE waiver due to extenuating circumstances, (2) the Building Principal attests the District made a good faith effort to assist the student or the student's parent/guardian with filing a financial aid application or an ISBE waiver form, and (3) the student has met all other graduation requirements. 6

The Superintendent or designee is responsible for: 7

1. Maintaining a description of all course offerings that comply with the above graduation requirements.
2. Notifying students and their parents/guardians of graduation requirements.
3. Developing the criteria for #4 above.
4. Complying with State law requirements for students who transfer during their senior year because their parent(s)/guardian(s) are on active military duty. This includes making reasonable adjustments to ensure graduation if possible, or efforts to ensure that the original (transferor) school district issues the student a diploma.
5. Taking all other actions needed or necessary to implement this policy.

#### Early Graduation 8

The Superintendent or designee shall implement procedures for students to graduate early, provided they finish seven semesters of high school and meet all graduation requirements.

#### Certificate of Completion 9

A student with a disability who has an Individualized Education Program prescribing special education, transition planning, transition services, or related services beyond the student's four years of high school, qualifies for a certificate of completion after the student has completed four years of high school. The student is encouraged to participate in the graduation ceremony of his or her high school graduation class. The Superintendent or designee shall provide timely written notice of this requirement to children with disabilities and their parents/guardians.

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6 105 ILCS 5/22-85 (final citation pending), added by P.A. 101-180, eff. 6-1-20. See 6:300-E3, Form for Exemption from Financial Aid Application Completion.

**7** Items #1 and #2 are required by 23 Ill.Admin.Code §1.440(d) and (e), respectively. Item #3 must be addressed because the law leaves many implementation issues unanswered. A comprehensive Student Handbook can provide notice of the district's graduation requirements, conduct rules, and other important information. Item #4 includes discussion of the adjustments required by the Educational Opportunity for Military Children Act, 105 ILCS 70/35(d).

**8** This is optional. State law and rules are silent regarding early graduation. As an alternative, a board may delete the phrase "~~finish 7 semesters of high school and.~~"

**9** Required by 105 ILCS 5/14-16.

Veterans of World War II, the Korean Conflict, or the Vietnam Conflict Service Member Diploma **10**

~~Upon application, The District will award a diploma to a service member who was killed in action while performing active military duty with the U.S. Armed Forces or an honorably discharged veteran of World War II, the Korean Conflict, or the Vietnam Conflict will be awarded a diploma,~~ provided that he or she (1) resided within an area currently within the District at the time he or she left high school, (2) left high school before graduating in order to serve in the U.S. Armed Forces, and (3) has not received a high school diploma.

LEGAL REF.: 105 ILCS 5/2-3.64a-5, 5/22-27, 5/27-3, 5/27-22, and 5/27-22.10.  
105 ILCS 70/, Educational Opportunity for Military Children Act.  
23 Ill.Admin.Code §1.440.

CROSS REF.: 6:30 (Organization of Instruction), 6:310 (High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students), 6:315 (High School Credit for Students in Grade 7 or 8), 6:320 (High School Credit for Proficiency), 7:50 (School Admissions and Student Transfers To and From Non-District Schools)

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

**10** Optional. 105 ILCS 5/22-27, amended by P.A. 101-131, does not designate a time requirement for when the service member killed in action or veteran “resided within an area currently within the district.” Thus, a reasonable interpretation may be adopted locally. The sample policy designates “at the time he or she left high school” as the pertinent time for residence. See 6:300-E1, *Application for a Diploma for a Service Member Killed in Action or for Veterans of WWII, the Korean Conflict, or the Vietnam Conflict*.

## Instruction

### High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students <sup>1</sup>

#### Credit for Non-District Experiences <sup>2</sup>

A student may receive high school credit for successfully completing any of the listed courses or experiences even when it is not offered in or sponsored by the District:

1. Distance learning course, including a correspondence, virtual, or online course
2. Courses in an accredited foreign exchange program
3. Summer school or community college courses <sup>3</sup>
4. College or high school courses offering dual credit at both the college and high school level <sup>4</sup>

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>1</sup> State law requires that several of the programs in this policy be covered in policy. State law controls this policy's content. Note that 23 Ill.Admin.Code §1.420(b) requires "[e]very school district [to] have an organized plan for recording pupil progress and/or awarding credit, including credit for courses completed by correspondence, on line, or from other external sources, that can be disseminated to other schools within the State." Section 1.460 requires "[e]ach local board of education with a high school [to] adopt a policy which defines the board's position with reference to the awarding of high school credit on the basis of local examinations to pupils who have achieved the necessary proficiencies through independent study, either with or without private tutoring, or for work taken in or from another institution." 23 Ill.Admin.Code §1.460.

Sample policy 6:185, *Remote Educational Program*, provides for educational programs **delivered by the district** in a location outside of the school.

Sample policy 6:315, *High School Credit for Students in Grade 7 or 8*, allows students enrolled in grade 7 or 8 to enroll in a course required for high school graduation. 105 ILCS 5/27-22.10(a), ~~amended by P.A. 99-189~~; 23 Ill.Admin.Code §1.440(c)(3).

<sup>2</sup> Each board may choose for which, if any, of the listed non-district experiences the district will grant high school credit. If a district does not grant credit for any of the listed activities, substitute the following alternative for all text in the entire section: "The District does not grant graduation credit for learning experiences that an enrolled student does not complete through the District."

<sup>3</sup> 105 ILCS 5/27-22.1 provides that no fewer than 60 hours of classroom instruction in summer school is required for one semester of high school course credit. Districts may accept courses completed in a community college (CC) toward graduation. 23 Ill.Admin.Code §1.440(f). Superintendents, pursuant to 105 ILCS 5/10-21.4, must annually report to ISBE the number of students enrolled in accredited courses at any CC along with the name(s) and number(s) of the course(s) each student is taking.

<sup>4</sup> The Dual Credit Quality Act (110 ILCS 27/) defines dual credit as a college course taken by a high school student for credit at both the college and high school level. 110 ILCS 27/5 and 105 ILCS 5/10-20.62(a), amended by P.A. 100-792, eff. 1-1-19. An instructor who teaches a dual credit course does not need the certification required by Article 21 of the School Code but must meet the standards set forth in 110 ILCS 27/20(1), (2), or (3), amended by P.A. 100-1049, ~~eff. 1-1-19~~. Dual credit programs require: (a) a specific partnership agreement between the district and a CC, as long as the district is in the CC's jurisdiction (110 ILCS 27/16, added by P.A. 100-1049, ~~eff. 1-1-19~~), or (b) cooperation between the school district and the institution providing the dual credit courses (see the Higher Education Student Assistance Act at 110 ILCS 947/10 for a definition of *institution*). If the district and CC cannot agree within 180 days of a district's initial request to enter into a partnership agreement, the two parties must use the model partnership agreement located at 110 ILCS 27/19, added by P.A. 100-1049, ~~eff. 1-1-19~~.

5. Foreign language courses taken in an ethnic school program approved by the Illinois State Board of Education <sup>5</sup>
6. Work-related training at manufacturing facilities or agencies in a Tech Prep Program <sup>6</sup>
7. Credit earned in a Vocational Academy <sup>7</sup>

The student must seek approval from the Superintendent or designee to receive graduation credit for any non-District course or experience. The Superintendent or designee shall determine the amount of credit and whether a proficiency examination is required before the credit is awarded. As approval is not guaranteed, students should seek conditional approval of the experience before participating in a non-District course or experience. The student assumes responsibility for any fee, tuition, supply, or other expense. The student seeking credit is responsible for (1) providing documents or transcripts that demonstrate successful completion of the experience, and (2) taking a proficiency examination, if requested. The Superintendent or designee shall determine which, if any, non-District courses or experiences, will count toward a student's grade point average, class rank, and eligibility for athletic and extracurricular activities. This section does not govern the transfer of credits for students transferring into the District.

#### Substitutions for Required Courses

**Vocational or technical education; registered apprenticeship program.**<sup>8</sup> A student in grades 9-12 may satisfy one or more high school courses (including physical education) or graduation

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After 1-1-19, out-of-state dual credit contracts are prohibited until a district first offers the CC in the district in which the district is located the opportunity to provide a dual credit course. 110 ILCS 27/17, added by P.A. 100-1049, ~~eff. 1-1-19~~. In addition, a district seeking to enter into an agreement with an out-of-state institution must provide notice to the Ill. State Board of Higher Education (BHE) of its intent to which the BHE will have 30 days to provide the district with a list of in-state institutions that can provide the district an equivalent dual credit opportunity. *Id.* Agreements between a district and an out-of-state institution that were in effect before 1-1-19 will not be affected. *Id.* A high school evaluation of a dual credit program must also incorporate the analysis of data from the Ill. State Board of Education's (ISBE) statewide longitudinal data system (see the P-20 Longitudinal Education Data System Act, 105 ILCS 13/, for more information).

105 ILCS 5/10-20.62, added by P.A. 100-133 and renumbered by P.A. 100-792, ~~eff. 1-1-19~~, requires school boards to require the district's high schools, if any, to inform all 11th and 12th grade students of dual enrollment and dual credit opportunities at public CCs for qualified students. Qualified students may enroll in an unlimited amount of dual credit courses and earn an unlimited amount of academic credits from them if the course(s) are taught by an Ill. instructor, as provided by 110 ILCS 27/. *Id.* at (b), amended by P.A. 100-792, ~~eff. 1-1-19~~. In addition, all dual credit coursework completed by a high school student must be transferred to all public institutions in Illinois on the same basis as coursework completed by a public CC student who previously earned a high school diploma in the manner set forth under the Ill. Articulation Initiative Act. *Id.* at 27/19, added by P.A. 100-1049, ~~eff. 1-1-19~~.

[www.sites.ed.gov/idea/idea-files/qa-increasing-postsecondary-opportunities-success-for-students-youth-with-disabilities-sept-17-2019/#Letter](http://www.sites.ed.gov/idea/idea-files/qa-increasing-postsecondary-opportunities-success-for-students-youth-with-disabilities-sept-17-2019/#Letter)[www.sites.ed.gov/idea/files/increasing-postsecondary-opportunities-and-success-09-17-2019.pdf](http://www.sites.ed.gov/idea/files/increasing-postsecondary-opportunities-and-success-09-17-2019.pdf) for information on providing transition services to high school students who have individualized education programs (IEPs), are receiving services under the IDEA, and take courses offered by a community college or other postsecondary education institution program prior to high school graduation.

<sup>5</sup> 105 ILCS 5/2-3.44 and 5/10-22.43a. An ethnic school is a part-time, private school that teaches the foreign language of a particular ethnic group as well as the culture, geography, history, and other aspects of a particular ethnic group. 105 ILCS 5/2-3.44; 23 Ill.Admin.Code §1.465(b). For requirements, see 23 Ill.Admin.Code §1.465.

<sup>6</sup> The State Superintendent and Board of Higher Education were encouraged by 105 ILCS 5/2-3.115 to establish a program of academic credit for Tech Prep work based learning for secondary school students with an interest in pursuing such career training, which could be instituted by school districts. See also 23 Ill.Admin.Code §1.445.

<sup>7</sup> Vocational Academies Act, 105 ILCS 433/. The Act's purpose is to "integrate workplace competencies and career and technical education with core academic subjects." School districts are permitted to partner with CCs, local employers, and community-based organizations to establish a vocational academy that functions as a two-year school within a school for grades 10 through 12. Grant funds may be available from ISBE when the vocational academy meets statutory requirements.

requirements by successfully completing related vocational or technical education courses or a registered apprenticeship program if:

1. The Building Principal approves the substitution and the vocational or technical education course is completely described in curriculum material along with its relationship to the required course; and
2. The student's parent/guardian requests and approves the substitution in writing on forms provided by the District.

**Advanced placement computer science.**<sup>9</sup> The advanced placement computer science course is equivalent to a high school mathematics course. A student in grades 9-12 may substitute the advanced placement computer science course for one year of mathematics, in accordance with Section 27-22 of the School Code. The transcript of a student who completes the advanced placement computer science course will state that it qualifies as a mathematics-based, quantitative course.

**Substitutions for physical education.** A student in grades 9-12, unless otherwise stated, may submit a written request to the Building Principal to be excused from physical education courses for the reasons stated below.<sup>10</sup> The Superintendent or designee shall maintain records showing that the criteria set forth in this policy were applied to the student's individual circumstances, as appropriate.<sup>11</sup>

1. Ongoing participation in a marching band program for credit; <sup>12</sup>
2. Enrollment in Reserve Officer's Training Corps (ROTC) program sponsored by the District; <sup>13</sup>
3. Ongoing participation in an *interscholastic* or *extracurricular athletic program*; <sup>14</sup>

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<sup>8</sup> Allowing this substitution is optional, but, if offered, must be included in board policy. 105 ILCS 5/27-22.05, amended by P.A. 100-992. The *related* requirement is met if the course contains at least 50% of the content of the required course. Id. 23 Ill.Admin.Code §1.445 requires that the vocational or technical education course be completely described in the policy along with its relationship to the required course. The sample policy satisfies these requirements by referring to the courses as described in curricular material.

ISBE requires that the parent/guardian of a student under the age of 18 request the course substitution "on forms that the school district makes available" and that the request must be maintained in the student's temporary record. 23 Ill.Admin.Code §1.445. See 6:310-E, *Class Substitution Request*.

105 ILCS 5/2-3.1735, added by P.A. 100-992, renumbered by P.A. 101-81, establishes a *registered apprenticeship program*. A registered apprenticeship program is an industry-based occupational training program of study with standards reviewed and approved by the U.S. Dept. of Labor that meets characteristics set forth in State law. ISBE was directed to develop rules to implement this law during the 2018-2019 school year to allow students who are 16 years of age or older to participate in registered apprenticeship programs.

<sup>9</sup> Optional, but allowed by 105 ILCS 5/27-22(e)(3)(~~f~~5), amended by P.A. 101-464, eff. 1-1-20 and 5/27-22(f-5).

<sup>10</sup> Optional, but allowed by 105 ILCS 5/27-6(b), amended by P.A. 100-465; 23 Ill.Admin.Code §1.425(e), amended at 42 Ill. Reg. 11542-43. A board that wants to allow any of these P.E. exemptions must include the ones it selects in a policy that excuses students on an individual basis.

<sup>11</sup> 23 Ill.Admin.Code §1.425(e), amended at 42 Ill. Reg. 11542-43.

<sup>12</sup> 23 Ill.Admin.Code §1.425(e)(4)(A), added at 42 Ill.Reg. 11543. This policy excuses students from P.E. only during the marching band season because the statute allows the exemption "for ongoing participation in such marching band program." Thus, if the marching band season is over, the student's *ongoing participation* has ceased and the student no longer qualifies for the P.E. exemption. Common sense, however, would allow the exemption to continue until the end of the current grading period.

<sup>13</sup> 23 Ill.Admin.Code §1.425(e)(4)(B), added at 42 Ill.Reg. 11543.

4. Enrollment in academic classes that are required for admission to an institution of higher learning (student must be in the 11th or 12th grade);<sup>15</sup> or
5. Enrollment in academic classes that are required for graduation from high school, provided that failure to take such classes will result in the student being unable to graduate (student must be in the 11th or 12th grade). <sup>16</sup>

A student who is eligible for special education may be excused from physical education courses pursuant to 7:260, *Exemption from Physical Education*.

**Volunteer service credit.**<sup>17</sup> A student participating in the District’s Volunteer Service Credit Program, if any, may earn credit toward graduation for the performance of community service. The amount of credit given for program participation shall not exceed that given for completion of one semester of language arts, math, science, or social studies.

### Re-Entering Students <sup>18</sup>

Individuals younger than 21 years of age may re-enter high school to acquire a high school diploma or an equivalency certificate, subject to the limitations in Board policy 7:50, *School Admissions and Student Transfers To and From Non-District Schools*. Re-entering students may obtain credit through the successful completion of the following (not all of these may be available at any one time):

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<sup>14</sup> 23 Ill.Admin.Code §1.425(e)(2) and (e)(3)(A), added at 42 Ill.Reg. 11542-43. Prior to P.A. 100-465, the statute only allowed students in grades 11 and 12 to be excused from P.E. “for ongoing participation in an interscholastic athletic program.” 105 ILCS 5/27-6(b)(1). 105 ILCS 5/27-6(b), amended by P.A. 100-465, now states “on a case-by-case basis, excuse pupils in grades 7 through 12 who participate in an interscholastic or extracurricular athletic program.” While the statute no longer requires such participation to be *ongoing*, 23 Ill.Admin.Code §1.425(e)(~~32~~), added at 42 Ill.Reg. 11542, requires *ongoing participation*. Thus, if the athletic program is over, the student’s *ongoing participation* has ceased and the student no longer qualifies for the P.E. exemption. Common sense, however, would allow the exemption to continue only until the end of the grading period during which the athletic program is active. 23 Ill. Admin. Code §1.425(e)(2) limits interscholastic and extracurricular athletic programs to those that are sponsored by the school district as defined in school board policy. Boards do not have the “authority to honor parental excuses based upon students’ participation in athletic training, activities or competitions conducted outside the auspices of the school district.” Id. at §1.425(e)(6).

State statutes do not define *interscholastic athletic program* or *extracurricular athletic program*; however, 105 ILCS 5/22-80 defines *interscholastic athletic activity* as “any organized school-sponsored or school-sanctioned activity for students, generally outside of school instructional hours, under the direction of a coach, athletic director, or band leader, including, but not limited to, baseball, basketball, cheerleading, cross country track, fencing, field hockey, football, golf, gymnastics, ice hockey, lacrosse, marching band, rugby, soccer, skating, softball, swimming and diving, tennis, track (indoor and outdoor), ultimate Frisbee, volleyball, water polo, and wrestling.” 23 Ill.Admin.Code §1.425(e)(2), added at 42 Ill. Reg. 11542, defines *interscholastic* and *extracurricular athletic programs* as “those programs that are sponsored by the school district as defined by school district policy.” Boards have no authority to honor parental excuses based upon students’ participation in athletic training, activities or competition conducted outside the auspices of the school district. 23 Ill.Admin.Code §1.425(e)(6), added at Ill. Reg. 11543.

For boards that want to explain the meaning of *interscholastic or extracurricular athletic program*, insert the following option at the end of #3:

(organized school-sponsored or school-sanctioned activities for students that are not part of the curriculum, not graded, not for credit, generally take place outside of school instructional hours, and under the direction of a coach, athletic director, or band leader)

For unit districts, ensure the definition matches the definition in policy 7:260, *Exemption from Physical Education*.

<sup>15</sup> 23 Ill.Admin.Code §1.425(e)(3)(B), added at 42 Ill. Reg. 11542.

<sup>16</sup> 23 Ill.Admin.Code §1.425(e)(3)(C), added at 42 Ill.Reg. 11543.

<sup>17</sup> Optional. The credit given for one semester may not exceed that stated in this policy. 105 ILCS 5/27-22.3. The program may include participation in the organization of a high school or community blood drive or other blood donor recruitment campaign. Id. ISBE must provide assistance to districts opting to offer the program. 105 ILCS 5/2-3.108.

<sup>18</sup> Required by 23 Ill.Admin.Code §1.470(a). While the sample policy does not provide for it, a school board may permit adults 21 years of age or older to re-enter high school. 23 Ill.Admin.Code §1.470(b). Items #4 & #5 are optional, but must be included in a policy if credit will be granted for them. 105 ILCS 5/27-6, 27-22.05.

1. District courses
2. Non-District experiences described in this policy
3. Classes in a program established under Section 10-22.20 of the School Code, in accordance with the standards established by the Illinois Community College Board
4. Proficiency testing, correspondence courses, life experiences, and other nonformal educational endeavors
5. Military service, provided the individual making the request has a recommendation from the American Council on Education

The provisions in the section **Credit for Non-District Experiences**, above, apply to the receipt of credit for any non-District course.

LEGAL REF.: 105 ILCS 5/2-3.44, 5/2-3.108, 5/2-3.115, 5/2-3.142, 5/10-22.43a, 5/27-6, 5/27-22.3, and 5/27-22.05.  
110 ILCS 27/, Dual Credit Quality Act.  
23 Ill.Admin.Code §§1.425(e), 1.440(f), and 1.470(c).

CROSS REF.: 6:180 (Extended Instructional Programs), 6:300 (Graduation Requirements), 6:315 (High School Credit for Students in Grade 7 or 8), 6:320 (High School Credit for Proficiency), 7:50 (School Admissions and Student Transfers To and From Non-District Schools), 7:260 (Exemption from Physical Education)

## Instruction

### High School Credit for Proficiency

#### Proficiency Credits 1

Subject to the limitations in this policy and State law, the Superintendent or designee is authorized to establish and approve a program for granting credit for proficiency with the goal of allowing a student who would not benefit from a course because the student is proficient in the subject area to receive credit without having to take the course. -A student who demonstrates competency under this program will receive course credit for the applicable course and be excused from any requirement to take the course as a graduation prerequisite. No letter grade will be given for purposes of the student's cumulative grade point average. The Superintendent or designee shall notify students of the availability of and requirements for receiving proficiency credit.

Proficiency credit will be offered in the following subject areas: 2

*Foreign language* - A student is eligible to receive one year of foreign language credit if the student has graduated from an accredited elementary school and can demonstrate proficiency, according to this District's academic criteria, in a language other than English.-3 A student who demonstrates proficiency in American Sign Language is deemed proficient in a foreign language and will receive one year of foreign language credit.-4 A student who studied a foreign language in an approved ethnic school program is eligible to receive appropriate credit according to the level of proficiency reached; the student may be required to take a proficiency examination. 5

*Other proficiency testing* - The program for granting credit for proficiency may allow, as the Superintendent deems appropriate, course credit to be awarded on the basis of a local examination to a student who has achieved the necessary proficiency through independent study or work taken in or through another institution.-6 Proficiency testing may also be used to determine eligible credit for other subjects whenever students enter from non-graded schools, non-recognized or non-accredited schools, or were in a home-schooling program.

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**1** An ISBE rule requires districts with a high school to have a policy on earning credit through proficiency exams. (23 Ill.Admin.Code §1.460). State law controls this policy's content. Students must *successfully complete* the courses listed in 105 ILCS 5/27-22 in order to receive a high school diploma. See 6:300-E2, *State Law Graduation Requirements*. 105 ILCS 5/27-12.1 no longer allows districts to grant consumer education proficiency credit.

In accordance with 105 ILCS 5/2-3.159, amended by P.A. 101-503, eff. 1-1-20, and 23 Ill.Admin.Code §1.442, a school district may establish a program to recognize high school graduates who attain a high level of proficiency in one or more languages in addition to English by designating on a student's diploma and transcript a State Seal of Bilingualism.

**2** This paragraph should be revised to reflect the actual practice concerning granting proficiency credits. A board may delete all text concerning foreign language proficiency credit and keep only the text in the second indented paragraph without using a subheading.

**3** Optional, but permitted by 105 ILCS 5/10-22.43.

**4** See f/n 2. Required only if the district offers proficiency credit for foreign language. (Id.)

**5** See f/n 2. Optional, but permitted by 105 ILCS 5/10-22.43a.

**6** Optional.

LEGAL REF.: 105 ILCS 5/10-22.43, 5/10-22.43a, 5/27-22, and 5/27-24.3.  
23 Ill.Admin.Code §1.460.

CROSS REF.: 6:300 (Graduation Requirements), 6:310 (High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students), 6:315 (High School Credit for Students in Grade 7 or 8)

DRAFT

## Students

### Harassment of Students Prohibited 1

#### Bullying, Intimidation, and Harassment Prohibited

No person, including a District employee or agent, or student, shall harass, intimidate, or bully a student on the basis of actual or perceived: race; color; national origin; military status; unfavorable discharge status from military service; sex; sexual orientation; gender identity; gender-related identity or expression; ancestry; age; religion; physical or mental disability; order of protection status; status of being homeless; actual or potential marital or parental status, including pregnancy; association with a person or group with one or more of the aforementioned actual or perceived characteristics; or any other distinguishing characteristic. The District will not tolerate harassing, intimidating conduct, or bullying whether verbal, physical, sexual, or visual, that affects the tangible benefits of education, that unreasonably interferes with a student's educational performance, or that creates an intimidating, hostile, or offensive educational environment. Examples of prohibited conduct include name-calling, using derogatory slurs, stalking, sexual violence, causing psychological harm, threatening or causing physical harm, threatened or actual destruction of property, or wearing or possessing items depicting or implying hatred or prejudice of one of the characteristics stated above. <sup>2</sup>

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<sup>1</sup> State or federal law requires this subject matter be covered by policy, ~~and~~ controls this policy's content, and 105 ILCS 5/10-20.69 (final citation pending), added by P.A. 101-531, requires that every two years, each district within an Illinois county served by an accredited Children's Advocacy Center review all its existing sexual abuse investigation policies and procedures to ensure consistency with 105 ILCS 5/22-85 (final citation pending), added by P.A. 101-531. Each district must also have a policy on bullying. 105 ILCS 5/27-23.7, amended by P.A. 100-137; see 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.

This policy's list of protected classifications is identical to the list in 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*. The protected classifications are found in 105 ILCS 5/27-23.7(a); 775 ILCS 5/1-103, amended by P.A. 101-221, eff. 1-1-20; and 23 Ill.Admin.Code §1.240.

The list of protected classifications in sample policy 7:10, *Equal Educational Opportunities*, is different – it does not contain the classifications that are exclusively identified in the bullying statute. 105 ILCS 5/27-23.7.

The Ill. Human Rights Act (IHRA) and an ISBE rule prohibit schools from discriminating against students on the basis of *sexual orientation* and *gender identity*. 775 ILCS 5/5-101(11); 23 Ill.Admin.Code §1.240. *Sexual orientation* is defined as the “actual or perceived heterosexuality, homosexuality, bisexuality, or gender related identity, whether or not traditionally associated with the person's designated sex at birth.” 775 ILCS 5/1-103(O-1). *Gender identity* is included in the definition of sexual orientation in the Act. The Act permits schools to maintain single-sex facilities that are distinctly private in nature, e.g., restrooms and locker rooms. 775 ILCS 5/5-103. 775 ILCS 5/1-102(A), added *order of protection status* to its list of protected categories. The IHRA's jurisdiction is specifically limited to: (1) failing to enroll an individual, (2) denying access to facilities, goods, or services, or (3) failing to take corrective action to stop severe or pervasive harassment of an individual. 775 ILCS 5/5-102.2.

<sup>2</sup> This list of examples of prohibited conduct is optional. While hate speech is not specifically mentioned in this paragraph, any hate speech used to harass or intimidate is banned. Hate speech without accompanying misconduct may be prohibited in response to actual incidences when hate speech interfered with the educational environment. West v. Derby Unified Sch. Dist., 206 F.3d 1358 (10th Cir. 2000).

## Sexual Harassment Prohibited

Sexual harassment of students is prohibited.<sup>3</sup> Any person, including a district employee or agent, or student, engages in sexual harassment whenever he or she makes sexual advances, requests sexual favors, and/or engages in other verbal or physical conduct, including sexual violence, of a sexual or sex-based nature, imposed on the basis of sex, that:

1. Denies or limits the provision of educational aid, benefits, services, or treatment; or that makes such conduct a condition of a student's academic status; or
2. Has the purpose or effect of:
  - a. Substantially interfering with a student's educational environment;
  - b. Creating an intimidating, hostile, or offensive educational environment;
  - c. Depriving a student of educational aid, benefits, services, or treatment; or
  - d. Making submission to or rejection of such conduct the basis for academic decisions affecting a student.

The terms *intimidating*, *hostile*, and *offensive* include conduct that has the effect of humiliation, embarrassment, or discomfort. Examples of sexual harassment include touching, crude jokes or pictures, discussions of sexual experiences, teasing related to sexual characteristics, and spreading rumors related to a person's alleged sexual activities. The term *sexual violence* includes a number of different acts. Examples of sexual violence include, but are not limited to, rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.

## Making a Complaint: Enforcement

Students are encouraged to report claims or incidences of bullying, harassment, sexual harassment, or any other prohibited conduct to the Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, a Complaint Manager, or any staff member with whom the student is comfortable speaking.<sup>4</sup> A student may choose to report to a person of the student's same

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<sup>3</sup> Title IX of the Education Amendments of 1972 (Title IX) prohibits discrimination on the basis of sex in any educational program or activity receiving federal financial assistance. 20 U.S.C. §1681. For purposes of Title IX, sexual harassment of students includes acts of sexual violence. Consult the board attorney to ensure the non-discrimination coordinator and complaint managers are trained to appropriately respond to allegations of discrimination based upon sexual violence under Title IX's sexual harassment umbrella. ~~Several~~ Guidance documents highlight appropriate responses to sexual violence under Title IX. See f/n 74 in policy 2:260, *Uniform Grievance Procedure* for a listing and links to these documents.

The sample policy's definition of *sexual harassment* does not distinguish between *welcome* and *unwelcome* behaviors - each is prohibited if it has a result described in sub-paragraph 1 or 2. See Mary M. v. North Lawrence Community Sch. Corp., 131 F.3d 1220 (7th Cir. 1997) (An eighth grade student did not need to show that a school employee's sexual advances were *unwelcome* in order to prove sexual harassment.).

School districts are liable for damage awards for an employee's sexual harassment of a student in limited situations. Liability occurs only when a district official who, at a minimum, has authority to institute corrective action, has actual notice of and is deliberately indifferent to the employee's misconduct. Gebser v. Lago Vista Independent Sch. Dist., 524 U.S. 274 (1998). Schools are liable in student-to-student sexual harassment cases when school agents are deliberately indifferent to sexual harassment, of which they have actual knowledge that is so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school. Davis v. Monroe County Bd. of Educ., 526 U.S. 629 (1999). The Ill. Dept. of Human Rights now has jurisdiction over allegations that a school failed to take corrective action to stop severe or pervasive harassment of an individual based upon a protected category. 775 ILCS 5/5-102.2.

<sup>4</sup> Using "or any staff member with whom the student is comfortable speaking" is consistent with 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*. By including "any staff member" in this list, this policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

~~sex. Complaints will be kept confidential to the extent possible given the need to investigate. Students who make good faith complaints will not be disciplined.~~

An allegation that a student was a victim of any prohibited conduct perpetrated by school personnel, including a school vendor or volunteer, shall be processed and reviewed according to policy 5:90, *Abused and Neglected Child Reporting*, in addition to any response required by this policy. another student shall be referred to the Building Principal, Assistant Building Principal, or Dean of Students for appropriate action.

The Superintendent shall insert into this policy the names, addresses, and telephone numbers of the District's current Nondiscrimination Coordinator and Complaint Managers.<sup>5</sup> At least one of these individuals will be female, and at least one will be male.

**Nondiscrimination Coordinator: 6**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email

\_\_\_\_\_  
Telephone

**Complaint Managers:**

_____ Name	_____ Name
_____ Address	_____ Address
_____ Email	_____ Email
_____ Telephone	_____ Telephone

The Superintendent shall use reasonable measures to inform staff members and students of this policy ~~, such as, by including it in the appropriate handbooks.;~~

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<sup>5</sup> Title IX regulations require districts to identify the person, address, and telephone number of the individual responsible for coordinating the district's compliance efforts. The U.S. Dept. of Education's Office for Civil Rights prefers that school districts make Title IX information and coordinators visible to the community, and it has provided materials designed to remind schools of their obligation to designate a Title IX coordinator. These materials include: (a) a *Dear Colleague Letter on Title IX Coordinators*; (b) a *Letter to Title IX Coordinators* that provides them with more information about their role; and (c) a *Title IX Resource Guide* that includes an overview of Title IX's requirements with respect to several key issues. See [www2.ed.gov/policy/rights/guid/ocr/title-ix-coordinators.html](http://www2.ed.gov/policy/rights/guid/ocr/title-ix-coordinators.html).

While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored.

Each district must communicate its bullying policy to students and their parents/guardians. 105 ILCS 5/27-23.7, amended by P.A. 100-137; see 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.

<sup>6</sup> Sample policy 2:260, *Uniform Grievance Procedure*, states that a district's Nondiscrimination Coordinator also serves as its Title IX Coordinator. Best practice is that throughout the district's board policy manual, the same individual be named as Nondiscrimination Coordinator. In contrast, Complaint Managers identified in individual policies may vary depending upon local district needs.

1. For students, age-appropriate information about the contents of this policy in the District's student handbook(s), on the District's website, and, if applicable, in any other areas where policies, rules, and standards of conduct are otherwise posted in each school. <sup>7</sup>
2. For staff members, this policy in the appropriate employee handbook(s), if applicable, and/or in any other areas where policies, rules, and standards of conduct are otherwise made available to staff.

### Investigation Process

Supervisors, Building Principals, or administrators who receive a report or complaint of harassment must promptly forward the report or complaint to the Nondiscrimination Coordinator or a Complaint Manager. A supervisor or administrator who fails to promptly comply may be disciplined, up to and including discharge.

Reports and complaints of harassment will be confidential to the greatest extent practicable, subject to the District's duty to investigate and maintain an educational environment that is productive, respectful, and free of unlawful discrimination, including harassment.

The District shall investigate alleged harassment of students when the Nondiscrimination Coordinator or a Complaint Manager becomes aware of an allegation, regardless of whether a written report or complaint is filed.

### Alleged Incidents of Sexual Abuse <sup>8</sup>

An alleged incident of sexual abuse is an incident of sexual abuse of a child, as defined in 720 ILCS 5/11-9.1A(b), that is alleged to have been perpetrated by school personnel, including a school vendor or volunteer, that occurred: on school grounds during a school activity; or outside of school grounds or not during a school activity. <sup>9</sup>

Any complaint alleging an incident of sexual abuse shall be processed and reviewed according to policy 5:90, *Abused and Neglected Child Reporting*, in addition to any response required by this policy.

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<sup>7</sup> In addition to notifying students of the Uniform Grievance Procedure, a district must notify them of the person(s) designated to coordinate the district's compliance with Title IX. 34 C.F.R. Part 106.8(a). 105 ILCS 5/10-20.69 (final citation pending), added by P.A. 101-418, eff. 1-1-20, requires districts to maintain and implement an age-appropriate policy on sexual harassment that is included in the school district's student handbook, as well as on a district's website and, if applicable, other areas where such information is posted in each school. The law does not expressly state that the age-appropriate policy is for students; however, that is the most logical interpretation. In practice, most districts maintain a student handbook for each building. Because the law only requires one policy, this policy manages the age-appropriate requirement by directing age-appropriate explanations of the policy be included in the building-level student handbook(s). A comprehensive student handbook can provide required notices, along with other important information to recipients. The Student handbooks can be developed by the building principals, but should be reviewed and approved by the superintendent and school board.

The Illinois Principals Association maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: [www.ilprincipals.org/resources/model-student-handbook](http://www.ilprincipals.org/resources/model-student-handbook).

<sup>8</sup> Delete this subhead if your school district is within a county not served by an accredited Children's Advocacy Center (CAC). 105 ILCS 5/22-85 (final citation pending), added by P.A. 101-531, governs the investigation of an alleged incident of sexual abuse of any child within any Illinois counties served by a CAC. For a map of accredited CACs, and to identify a CAC that may serve your district, see [www.childrensadvocacycentersofillinois.org/about/map](http://www.childrensadvocacycentersofillinois.org/about/map).

<sup>9</sup> 105 ILCS 5/22-85(b) (final citation pending), added by P.A. 101-531. For further discussion see f/n 14 in policy 5:90, *Abused and Neglected Child Reporting*.

## Enforcement

Any District employee who is determined, after an investigation, to have engaged in conduct prohibited by this policy will be subject to disciplinary action up to and including discharge. Any District student who is determined, after an investigation, to have engaged in conduct prohibited by this policy will be subject to disciplinary action, including but not limited to, suspension and expulsion consistent with the behavior policy. Any person making a knowingly false accusation regarding prohibited conduct will likewise be subject to disciplinary action up to and including discharge, with regard to employees, or suspension and expulsion, with regard to students.

LEGAL REF.: 20 U.S.C. §1681 et seq., Title IX of the Educational Amendments of 1972.  
34 C.F.R. Part 106.  
105 ILCS 5/10-20.12, 10-22.5, 5/27-1, and 5/27-23.7.  
775 ILCS 5/1-101 et seq., Illinois Human Rights Act.  
23 Ill.Admin.Code §1.240 and Part 200.  
Davis v. Monroe County Bd. of Educ., 526 U.S. 629 (1999).  
Franklin v. Gwinnett Co. Public Schs., 503 U.S. 60 (1992).  
Gebser v. Lago Vista Independent Sch. Dist., 524 U.S. 274 (1998).  
West v. Derby Unified Sch. Dist. No. 260, 206 F.3d 1358 (10th Cir. 2000).

CROSS REF.: 2:260 (Uniform Grievance Procedure), 5:20 (Workplace Harassment Prohibited), [5:90 \(Abused and Neglected Child Reporting\)](#), 7:10 (Equal Educational Opportunities), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior), 7:240 (Conduct Code for Participants in Extracurricular Activities)

## Students

### Agency and Police Interviews 1

The Superintendent shall develop procedures to manage requests by agency officials or police officers to interview students at school. Procedures will:~~(1)~~

1. ~~R~~Recognize individual student rights and privacy,
2. Recognize the potential impact an interview may have on an individual student.~~(2)~~~~m~~
3. Minimize potential disruption.~~(3)~~~~f~~
4. Foster a cooperative relationship with public agencies and law enforcement, and~~(4)~~~~e~~
5. Comply with State law, including, but not limited to, ensuring that before a law enforcement officer, school resource officer, or other school security person detains and questions on school grounds a student under 18 years of age who is suspected of committing a criminal act, the Superintendent or designee will: 2
  - a. Notify or attempt to notify the student's parent/guardian and document the time and manner in writing;
  - ~~a~~~~b~~. Make reasonable efforts to ensure the student's parent/guardian is present during questioning or, if they are not present, ensure that school employees (including, but not

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<sup>1</sup> State or federal law controls this policy's content. The listed standards for procedures, other than compliance with State law, are at the local school board's discretion and may be omitted altogether. The Illinois TRUST Act, 5 ILCS 805/, added by P. A. 100-463, prohibits law enforcement agencies and officials from enforcing federal civil immigration laws. Under Section 15(b), law enforcement cannot stop, arrest, search, detain, or continue to detain a person solely based on an individual's citizenship or immigration status.

An excellent resource is the *Guidelines for Interviews of Students*, published by the Ill. Council of School Attorneys (ICSA) at: [www.iasb.com/law/ICSAGuidelinesforInterviewsofStudents.pdf](http://www.iasb.com/law/ICSAGuidelinesforInterviewsofStudents.pdf). The publication, *Policing in Schools, Developing a Governance Document for School Resource Officers in K-12 Schools*, was developed by the American Civil Liberties Union, and is available at: [www.aclu.org/racial-justice/policing-schools-developing-governance-document-school-resource-officers-k-12-schools](http://www.aclu.org/racial-justice/policing-schools-developing-governance-document-school-resource-officers-k-12-schools). It, like the ICSA *Guidelines*, highlights the need for collaboration between law enforcement and school officials. It recommends that school officials provide law enforcement agencies with information about the school's mission to ensure a safe school environment while respecting student rights. To accomplish this, the white paper recommends that school officials create a *model governance document*, e.g., 7:150-AP, *Agency and Police Interviews*, and provide it to the law enforcement authorities with whom they work.

Another helpful resource is *School Resource Officers, School Law Enforcement Units, and the Family Educational Rights and Privacy Act (FERPA)*, published by PTAC (2019), at: [www.studentprivacy.ed.gov/resources/school-resource-officers-school-law-enforcement-units-and-ferpa](http://www.studentprivacy.ed.gov/resources/school-resource-officers-school-law-enforcement-units-and-ferpa). 105 ILCS 5/10-20.64, added by P.A. 100-204, prohibits *student booking stations* from being established or maintained on school grounds. A *student booking station* is "a building, office, room, or any indefinitely established space or site, mobile or fixed, which operates concurrently as: (1) predominantly or regularly a place of operation for a municipal police department, county sheriff department, or other law enforcement agency, or under the primary control thereof, and (2) a site at which students are detained in connection with criminal charges or allegations against those students, taken into custody, or engaged with law enforcement personnel in any process that creates a law enforcement record of that contact with law enforcement personnel or processes." 105 ILCS 5/10-20.64(d).

<sup>2</sup> 105 ILCS 5/22-85 (final citation pending), added by P.A. 101-478, eff. 1-1-20. The statute does not specifically assign these duties to a school official, but instead states that "a law enforcement officer, school resource officer, or other school security personnel" must ensure these conditions are met before detaining and questioning a student on school grounds. For ease of implementation, this policy assigns these duties to a school official as they routinely contact parents/guardians and can arrange for the presence of school personnel during an interview. See the ICSA *Guidelines* for further discussion of school officials' responsibilities when law enforcement authorities interview students at school.

limited to, a school social worker, psychologist, nurse, guidance counselor, or any other mental health professional) are present during the questioning; and

b.c. If practicable, make reasonable efforts to ensure a trained law enforcement officer to promote safe interactions and communications with the student is present during questioning. <sup>3</sup>

LEGAL REF.: [105 ILCS 5/10-20.64, 5/22-85 \(final citation pending\)](#)  
55 ILCS 80/, Children's Advocacy Center Act.  
325 ILCS 5/, Abused and Neglected Child Reporting Act.  
720 ILCS 5/31-1 et seq., Interference with Public Officers Act.  
725 ILCS 120/, Rights of Crime Victims and Witnesses Act.

CROSS REF.: [5:90 \(Abused and Neglected Child Reporting\)](#), 7:130 (Student Rights and Responsibilities), 7:140 (Search and Seizure), 7:190 (Student Behavior)

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<sup>3</sup> [105 ILCS 5/22-85\(b\)\(4\) \(final citation pending\)](#), added by P.A. 101-478, eff. 1-1-20. A trained law enforcement officer is someone who: (1) received training in youth investigations approved or is certified by his/her law enforcement agency as a school resource officer per 50 ILCS 705/10.22, or (2) is a juvenile police officer per 705 ILCS 405/1-3(17).

## Students

### Prevention of and Response to Bullying, Intimidation, and Harassment 1

Bullying, intimidation, and harassment diminish a student's ability to learn and a school's ability to educate. Preventing students from engaging in these disruptive behaviors and providing all students equal access to a safe, non-hostile learning environment are important District goals.

Bullying on the basis of actual or perceived race, color, national origin, military status, unfavorable discharge status from the military service, sex, sexual orientation, gender identity, gender-related identity or expression, ancestry, age, religion, physical or mental disability, order of protection status, status of being homeless, or actual or potential marital or parental status, including pregnancy, association with a person or group with one or more of the aforementioned actual or perceived characteristics, or any other distinguishing characteristic **is prohibited** in each of the following situations: <sup>2</sup>

1. During any school-sponsored education program or activity.
2. While in school, on school property, on school buses or other school vehicles, at designated school bus stops waiting for the school bus, or at school-sponsored or school-sanctioned events or activities.
3. Through the transmission of information from a school computer, a school computer network, or other similar electronic school equipment.
4. Through the transmission of information from a computer that is accessed at a nonschool-related location, activity, function, or program or from the use of technology or an electronic device that is not owned, leased, or used by the School District or school if the bullying causes a substantial disruption to the educational process or orderly operation of a school. This paragraph (item #4) applies only when a school administrator or teacher receives a report that bullying through this means has occurred; it does not require staff members to monitor any nonschool-related activity, function, or program.

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<sup>1</sup> All districts must have a policy on bullying. 105 ILCS 5/27-23.7, amended by P.A. 100-137. Every two years, each district must review and re-evaluate this policy, make necessary and appropriate revisions, and file the updated policy with ISBE. This sample policy's first paragraph allows a school board to consider its goals for preventing bullying and remedying its consequences; it may be amended.

In addition to a bullying prevention policy, all districts must have a policy on student behavior. 105 ILCS 5/10-20.14; 23 Ill.Admin.Code §1.280. Boards must, in consultation with their parent-teacher advisory committees and other community-based organizations, address aggressive behavior, including bullying, in their student behavior policy. See 7:190, *Student Behavior*; 7:190-E1, *Aggressive Behavior Reporting Letter and Form*.

This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. See f/n 7, below.

<sup>2</sup> This paragraph and its subparts 1-4 are from the bullying prevention statute. 105 ILCS 5/27-23.7(a); see also 775 ILCS 5/1-103 and 23 Ill.Admin.Code §1.240. The protected statuses are mandated by the bullying prevention statute; the list of protected statuses is identical to the list in 7:20, *Harassment of Students Prohibited*.

Definitions from Section 27-23.7 of the School Code (105 ILCS 5/27-23.7) <sup>3</sup>

*Bullying* includes *cyberbullying* and means any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward a student or students that has or can be reasonably predicted to have the effect of one or more of the following:

1. Placing the student or students in reasonable fear of harm to the student's or students' person or property;
2. Causing a substantially detrimental effect on the student's or students' physical or mental health;
3. Substantially interfering with the student's or students' academic performance; or
4. Substantially interfering with the student's or students' ability to participate in or benefit from the services, activities, or privileges provided by a school.

*Cyberbullying* means bullying through the use of technology or any electronic communication, including without limitation any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic system, photo-electronic system, or photo-optical system, including without limitation electronic mail, Internet communications, instant messages, or facsimile communications. *Cyberbullying* includes the creation of a webpage or weblog in which the creator assumes the identity of another person or the knowing impersonation of another person as the author of posted content or messages if the creation or impersonation creates any of the effects enumerated in the definition of *bullying*. *Cyberbullying* also includes the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons if the distribution or posting creates any of the effects enumerated in the definition of *bullying*.

*Restorative measures* means a continuum of school-based alternatives to exclusionary discipline, such as suspensions and expulsions, that: (i) are adapted to the particular needs of the school and community, (ii) contribute to maintaining school safety, (iii) protect the integrity of a positive and productive learning climate, (iv) teach students the personal and interpersonal skills they will need to be successful in school and society, (v) serve to build and restore relationships among students, families, schools, and communities, and (vi) reduce the likelihood of future disruption by balancing accountability with an understanding of students' behavioral health needs in order to keep students in school.

*School personnel* means persons employed by, on contract with, or who volunteer in a school district, including without limitation school and school district administrators, teachers, school guidance counselors, school social workers, school counselors, school psychologists, school nurses, cafeteria workers, custodians, bus drivers, school resource officers, and security guards.

Bullying Prevention and Response Plan

The Superintendent or designee shall develop and maintain a bullying prevention and response plan that advances the District's goal of providing all students with a safe learning environment free of bullying and harassment. This plan must be consistent with the requirements listed below; each numbered requirement, 1-12, corresponds with the same number in the list of required policy components in 105 ILCS 5/27-23.7(b) 1-12. <sup>4</sup>

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<sup>3</sup> All definitions are directly from 105 ILCS 5/27-23.7, amended by P.A. 100-137.

<sup>4</sup> As each numbered requirement, 1-12, corresponds with the same number in 5/27-23.7(b)1-12, there are no reference citations in footnotes. All non-statutory requirements, plus alternatives and optional provisions, are described in footnotes.

1. The District uses the definition of *bullying* as provided in this policy. <sup>5</sup>
2. Bullying is contrary to State law and the policy of this District. However, nothing in the District’s bullying prevention and response plan is intended to infringe upon any right to exercise free expression or the free exercise of religion or religiously based views protected under the First Amendment to the U.S. Constitution or under Section 3 of Article I of the Illinois Constitution.
3. Students are encouraged to immediately report bullying. A report may be made orally or in writing to the Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, a Complaint Manager, or any staff member with whom the student is comfortable speaking.<sup>6</sup> Anyone, including staff members and parents/guardians, who has information about actual or threatened bullying is encouraged to report it to the District named officials or any staff member. The District named officials and all staff members are available for help with a bully or to make a report about bullying.<sup>7</sup> Anonymous reports are also accepted.

**Nondiscrimination Coordinator: <sup>8</sup>**

\_\_\_\_\_

Name

\_\_\_\_\_

Address

\_\_\_\_\_

Email

\_\_\_\_\_

Telephone

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<sup>5</sup> A board may augment the School Code requirement by using this alternative:

Using the definition of *bullying* as provided in this policy, the Superintendent or designee shall emphasize to the school community that: (a) the District prohibits bullying, and (b) all students should conduct themselves with a proper regard for the rights and welfare of other students. This may include a process for commending or acknowledging students for demonstrating appropriate behavior.

<sup>6</sup> The statute requires that the policy contain the email address and telephone number for the staff person(s) responsible for receiving bullying reports. Using the district Nondiscrimination Coordinator and Complaint Managers is consistent with 2:260, *Uniform Grievance Procedure*. While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored. A telephone number for making anonymous reports may also be added.

<sup>7</sup> 105 ILCS 5/27-23.7(d), amended by P.A. 100-137, requires that “[s]chool personnel available for help with a bully or to make a report about bullying” be made known to parents/guardians, students, and school personnel.

<sup>8</sup> Sample policy 2:260, *Uniform Grievance Procedure*, states that a district’s Nondiscrimination Coordinator also serves as its Title IX Coordinator. Best practice is that throughout the district’s board policy manual, the same individual be named as Nondiscrimination Coordinator. In contrast, Complaint Managers identified in individual policies may vary depending upon local district needs.

**Complaint Managers:**

Name	Name
Address	Address
Email	Email
Telephone	Telephone

4. Consistent with federal and State laws and rules governing student privacy rights, the Superintendent or designee shall promptly inform the parent(s)/guardian(s) of every student involved in an alleged incident of bullying and discuss, as appropriate, the availability of social work services, counseling, school psychological services, other interventions, and restorative measures. <sup>9</sup>
5. The Superintendent or designee shall promptly investigate and address reports of bullying, by, among other things:
  - a. Making all reasonable efforts to complete the investigation within 10 school days after the date the report of a bullying incident was received and taking into consideration additional relevant information received during the course of the investigation about the reported bullying incident.
  - b. Involving appropriate school support personnel and other staff persons with knowledge, experience, and training on bullying prevention, as deemed appropriate, in the investigation process.
  - c. Notifying the Building Principal or school administrator or designee of the reported incident of bullying as soon as possible after the report is received.
  - d. Consistent with federal and State laws and rules governing student privacy rights, providing parents/guardians of the students who are parties to the investigation information about the investigation and an opportunity to meet with the Building Principal or school administrator or his or her designee to discuss the investigation, the findings of the investigation, and the actions taken to address the reported incident of bullying.

The Superintendent or designee shall investigate whether a reported incident of bullying is within the permissible scope of the District’s jurisdiction and shall require that the District provide the victim with information regarding services that are available within the District and community, such as counseling, support services, and other programs. <sup>10</sup>

6. The Superintendent or designee shall use interventions to address bullying, that may include, but are not limited to, school social work services, restorative measures, social-emotional skill building, counseling, school psychological services, and community-based services. <sup>11</sup>

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<sup>9</sup> 105 ILCS 5/10-20.14 contains a similar requirement. See 7:190-E1, *Aggressive Behavior Reporting Letter and Form*.

<sup>10</sup> This sentence contains requirements found in 105 ILCS 5/27-23.7(d).

<sup>11</sup> A grant may be available from the Ill. State Board of Education for the promotion of a safe and healthy learning environment. 105 ILCS 5/2-3.176, added by P.A. 101-438. A list of grant funding opportunities is available at: [www.isbe.net/Pages/Grants.aspx](http://www.isbe.net/Pages/Grants.aspx).

7. A reprisal or retaliation against any person who reports an act of bullying **is prohibited**. A student's act of reprisal or retaliation will be treated as *bullying* for purposes of determining any consequences or other appropriate remedial actions.
8. A student will not be punished for reporting bullying or supplying information, even if the District's investigation concludes that no bullying occurred. However, knowingly making a false accusation or providing knowingly false information will be treated as *bullying* for purposes of determining any consequences or other appropriate remedial actions.
9. The District's bullying prevention and response plan must be based on the engagement of a range of school stakeholders, including students and parents/guardians.
10. The Superintendent or designee shall post this policy on the District's website, if any, and include it in the student handbook, and, where applicable, post it where other policies, rules, and standards of conduct are currently posted. The policy must be distributed annually to parents/guardians, students, and school personnel (including new employees when hired), and must also be provided periodically throughout the school year to students and faculty. **12**
11. The Superintendent or designee shall assist the Board with its evaluation and assessment of this policy's outcomes and effectiveness. This process shall include, without limitation:
  - a. The frequency of victimization;
  - b. Student, staff, and family observations of safety at a school;
  - c. Identification of areas of a school where bullying occurs;
  - d. The types of bullying utilized; and
  - e. Bystander intervention or participation.

The evaluation process may use relevant data and information that the District already collects for other purposes. The Superintendent or designee must post the information developed as a result of the policy evaluation on the District's website, or if a website is not available, the information must be provided to school administrators, Board members, school personnel, parents/guardians, and students.

12. The Superintendent or designee shall fully implement the Board policies, including without limitation, the following: **13**

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**12** 105 ILCS 5/27-23.7(b)(10), amended by P.A. 100-137.

**13** The statute requires that the bullying policy *be consistent with* other board policies. The list of policies may be deleted and the following alternative used: "12. The District's bullying prevention plan must be consistent with other Board policies." If a policy list is included, be sure the referenced policies were adopted locally and amend the list accordingly.

The bullying statute does not identify staff member duties regarding the prevention of or response to student bullying. The following optional provision addresses staff member responsibilities and may be added as a new paragraph 13:

13. The Superintendent or designee shall fully inform staff members of the District's goal to prevent students from engaging in bullying and the measures being used to accomplish it. This includes each of the following:
  - a. Communicating the District's expectation and State law requirement that teachers and other certificated or licensed employees maintain discipline.
  - b. Establishing the expectation that staff members: (1) intervene immediately to stop a bullying incident that they witness or immediately contact building security and/or law enforcement if the incident involves a weapon or other illegal activity, (2) report bullying, whether they witness it or not, to an administrator, and (3) inform the administration of locations on school grounds where additional supervision or monitoring may be needed to prevent bullying.
  - c. Where appropriate in the staff development program, providing strategies to staff members to effectively prevent bullying and intervene when it occurs.
  - d. Establishing a process for staff members to fulfill their obligation to report alleged acts of bullying.

- a. 2:260, *Uniform Grievance Procedure*. A student may use this policy to complain about bullying.
- b. 6:60, *Curriculum Content*. Bullying prevention and character instruction is provided in all grades in accordance with State law.
- c. 6:65, *Student Social and Emotional Development*. Student social and emotional development is incorporated into the District's educational program as required by State law.
- d. 6:235, *Access to Electronic Networks*. This policy states that the use of the District's electronic networks is limited to: (1) support of education and/or research, or (2) a legitimate business use.
- e. 7:20, *Harassment of Students Prohibited*. This policy prohibits *any* person from harassing, intimidating, or bullying a student based on an identified actual or perceived characteristic (the list of characteristics in 7:20 is the same as the list in this policy).
- f. 7:185, *Teen Dating Violence Prohibited*. This policy prohibits teen dating violence on school property, at school sponsored activities, and in vehicles used for school-provided transportation.
- g. 7:190, *Student Behavior*. This policy prohibits, and provides consequences for, hazing, bullying, or other aggressive behaviors, or urging other students to engage in such conduct.
- h. 7:310, *Restrictions on Publications; Elementary Schools*, and 7:315, *Restrictions on Publications; High Schools*. ~~These~~<sup>is</sup> ~~policies~~<sup>y</sup> prohibits students from and provides consequences for: (1) accessing and/or distributing at school any written, printed, or electronic material, including material from the Internet, that will cause substantial disruption of the proper and orderly operation and discipline of the school or school activities, and (2) creating and/or distributing written, printed, or electronic material, including photographic material and blogs, that causes substantial disruption to school operations or interferes with the rights of other students or staff members. <sup>14</sup>

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>14</sup> For elementary districts, delete: ~~and 7:315, *Restrictions on Publications; High Schools*~~ and delete the Cross Reference to ~~7:315, *Restrictions on Publications; High Schools*~~. For high school districts, delete ~~7:310, *Restrictions on Publications; Elementary Schools*~~, and delete the Cross Reference to ~~7:310, *Restrictions on Publications; Elementary Schools*~~. In both cases, revise the beginning of the sentence to read: "This~~ese~~<sup>y</sup> policie~~s~~<sup>y</sup> prohibits students from and provides."

LEGAL REF.: 405 ILCS 49/, Children’s Mental Health Act.  
105 ILCS 5/10-20.14, 5/24-24, and 5/27-23.7.  
23 Ill.Admin.Code §1.240 and §1.280.

CROSS REF.: 2:240 (Board Policy Development), 2:260 (Uniform Grievance Procedure), 4:170 (Safety), 5:230 (Maintaining Student Discipline), 6:60 (Curriculum Content), 6:65 (Student Social and Emotional Development), 6:235 (Access to Electronic Networks), 7:20 (Harassment of Students Prohibited), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior), 7:220 (Bus Conduct), 7:230 (Misconduct by Students with Disabilities), 7:240 (Conduct Code for Participants in Extracurricular Activities), 7:285 (Food Allergy Management Program), 7:310 (Restrictions on Publications; Elementary Schools), [7:315 \(Restrictions on Publications; High Schools\)](#)

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## Students

### Student Behavior 1

The goals and objectives of this policy are to provide effective discipline practices that: (1) ensure the safety and dignity of students and staff; (2) maintain a positive, weapons-free, and drug-free learning environment; (3) keep school property and the property of others secure; (4) address the causes of a student's misbehavior and provide opportunities for all individuals involved in an incident to participate in its resolution; and (5) teach students positive behavioral skills to become independent, self-disciplined citizens in the school community and society. <sup>2</sup>

### When and Where Conduct Rules Apply 3

A student is subject to disciplinary action for engaging in prohibited student conduct, as described in the section with that name below, whenever the student's conduct is reasonably related to school or school activities, including, but not limited to:

1. On, or within sight of, school grounds before, during, or after school hours or at any time;
2. Off school grounds at a school-sponsored activity or event, or any activity or event that bears a reasonable relationship to school;
3. Traveling to or from school or a school activity, function, or event; or

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<sup>1</sup> All districts must have a policy on student discipline, including school searches and bullying prevention (105 ILCS 5/10-20.14, [amended by P.A. 99-456](#)); re-engagement of students returning from an exclusionary discipline or an alternative school (105 ILCS 5/10-22.6(b-25)); and corporal punishment (105 ILCS 5/24-24). See also 23 Ill.Admin.Code §1.280. See the Cross References for policies on searches and bullying. Each district must furnish a copy of the discipline policy to parents/guardians within 15 days after the beginning of the school year, or within 15 days after starting classes for a student who transfers into the district. [105 ILCS 5/10-20.14\(a\)](#). The school board must require that each school inform its pupils of the discipline policy's contents. [Id.](#)

School boards, along with the parent-teacher advisory committee, must annually review their pupil discipline policies, those policies' implementation, and any other factors related to the safety of their schools, students, and staff. [Id.](#) [105 ILCS 5/10-20.14\(a\)](#), [amended by P.A. 99-456](#). For more information about the parent-teacher advisory committee, see 2:150, *Committees*. The parent-teacher advisory committee, in cooperation with local law enforcement agencies, must develop, with the school board, a reciprocal reporting system. 105 ILCS 5/10-20.14(b). See 7:190-AP3, *Guidelines for Reciprocal Reporting of Criminal Offenses Committed by Students*. School districts are encouraged to create memoranda of understanding that define law enforcement's role in schools. See 7:190-E3, *Memorandum of Understanding*.

Given the unique concerns facing school officials, school disciplinary codes are not required to be drafted as narrowly or with the same precision as criminal statutes. [Bethel Sch. Dist. v. Fraser](#), 478 U.S. 675 (1986).

<sup>2</sup> The goals and objectives in this policy give the board a focus for monitoring it. This list can be deleted, replaced, or modified by the board. Data on student discipline is available at: [www.isbe.net/Pages/Expulsions-Suspensions-and-Truants-by-District.aspx](http://www.isbe.net/Pages/Expulsions-Suspensions-and-Truants-by-District.aspx).

<sup>3</sup> Board policy should provide a jurisdictional statement telling students and staff the circumstances under which the district will take disciplinary action. Jurisdictional rules in board policy should generally be as broad as possible to give staff members authority to respond to unforeseen situations. Taking jurisdiction over off-campus misconduct generally survives the test of reasonableness when the misconduct has a direct nexus to the school. A countervailing interest concerns liability for off-campus student injuries, i.e., the greater the jurisdiction a district is willing to impose, the greater the scope of liability it may be assuming. Ultimately, a decision whether to discipline for off-campus misconduct requires a factual inquiry to determine the degree of nexus and impact on the school. Many decisions address disciplining a student for off-campus misconduct; for example, see: [J.S. v. Blue Mountain Sch. Dist.](#), *combined with Layshock v. Hermitage Sch. Dist.*, 650 F.3d 205 (3d Cir. 2011), *cert. denied* 565 U.S. 1116 (2012) (absent evidence that parodies of school personnel caused, or could cause, substantial disruption, school districts may not punish out-of-school expressive conduct, even if it is lewd, indecent, or offensive speech).

Note that the law is different regarding participants in athletics and extracurricular activities. See policy 7:240, *Conduct Code for Participants in Extracurricular Activities*.

A judge may transfer a student to another school for committing stalking or non-consensual sexual contact against another student, or for aiding and abetting such an act; the parents/guardians are responsible for transportation and other costs associated with the transfer. Stalking No Contact Order Act and the Civil No Contact Order Act, 740 ILCS 21/80 and 22/213. A school district is seldom notified when a transfer order is requested. When notified, school officials should immediately seek the board attorney's advice concerning available options.

4. Anywhere, if the conduct interferes with, disrupts, or adversely affects the school environment, school operations, or an educational function, including, but not limited to, conduct that may reasonably be considered to: (a) be a threat or an attempted intimidation of a staff member; or (b) endanger the health or safety of students, staff, or school property. <sup>4</sup>

### Prohibited Student Conduct <sup>5</sup>

The school administration is authorized to discipline students for gross disobedience or misconduct, including but not limited to:

1. Using, possessing, distributing, purchasing, or selling tobacco or nicotine materials, including without limitation, electronic cigarettes. <sup>6</sup>
2. Using, possessing, distributing, purchasing, or selling alcoholic beverages. <sup>7</sup> Students who are under the influence of an alcoholic beverage are not permitted to attend school or school functions and are treated as though they had alcohol in their possession.
3. Using, possessing, distributing, purchasing, selling, or offering for sale:
  - a. Any illegal drug or controlled substance, or cannabis (including marijuana, hashish, and medical cannabis unless the student is authorized to be administered a medical cannabis infused product under *Ashley's Law*). <sup>8</sup>
  - b. Any anabolic steroid unless it is being administered in accordance with a physician's or licensed practitioner's prescription. <sup>9</sup>
  - c. Any performance-enhancing substance on the Illinois High School Association's most current banned substance list unless administered in accordance with a physician's or licensed practitioner's prescription. <sup>10</sup>
  - d. Any prescription drug when not prescribed for the student by a physician or licensed practitioner, or when used in a manner inconsistent with the prescription or prescribing physician's or licensed practitioner's instructions. The use or possession of medical cannabis, even by a student for whom medical cannabis has been prescribed, is prohibited

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<sup>4</sup> The factual context will determine the appropriateness of taking jurisdiction. Contact the board attorney before disciplining a student for off-campus conduct. See *Doe v. Superintendent of Schs. of Stoughton*, 767 N.E.2d 1054 (Mass. 2002)(suspension for off-campus commission of a felony was upheld).

<sup>5</sup> Consult the board attorney for advice on deleting or modifying any of the items in this section on prohibited student conduct.

<sup>6</sup> 105 ILCS 5/10-20.5b prohibits use of tobacco on school property. Federal law prohibits smoking within schools by anyone. Pro-Children Act of 1994, 20 U.S.C. §6081 *et seq.* Districts that fail to comply risk a civil penalty of up to \$1,000 per violation per day. 20 U.S.C. §6083(f)(1). See 8:30, *Visitors to and Conduct on School Property*, for more information.

~~State and federal law have not yet addressed. The U.S. Food and Drug Administration now regulates electronic cigarettes. 21 C.F.R. Parts 1100, 1140, and 1143, amended by 81 Fed.Reg. 28973. An electronic or e-cigarette resembles a regular cigarette. It and contains a battery-operated heating element that turns a liquid into a mist for inhaling. The liquid may contain nicotine. E-cigarettes are sometimes referred to as e-cigs, vapes, e-hookahs, vape pens, and electronic nicotine delivery systems (ENDS), and they are generally involved in vaping. Vaping is the act of inhaling and exhaling the aerosol, often referred to as vapor that is produced by an e-cigarette or similar device. An e-cigarette resembles a cigarette and contains a battery-operated heating element that turns a liquid into a mist for inhaling. Some e-cigarettes do not look like tobacco products and are shaped like other objects, such as USB flash drives, and are more easily concealed.~~

~~Information and resources, albeit limited, are posted on the U.S. Food and Drug Administration website available at:~~

~~[www.isbe.net/Pages/School-Health-Issues.aspx](http://www.isbe.net/Pages/School-Health-Issues.aspx)~~

~~[www.fda.gov/tobaccoproducts/default.htm](http://www.fda.gov/tobaccoproducts/default.htm)~~

~~[www.cdc.gov/tobacco/basic\\_information/e-cigarettes/index.htm](http://www.cdc.gov/tobacco/basic_information/e-cigarettes/index.htm)~~

~~[www.dph.illinois.gov/topics-services/prevention-wellness/tobacco/e-cigarettes-and-vapes](http://www.dph.illinois.gov/topics-services/prevention-wellness/tobacco/e-cigarettes-and-vapes)~~

~~[www.drugabuse.gov/drugs-abuse/tobacconicotine-vaping](http://www.drugabuse.gov/drugs-abuse/tobacconicotine-vaping)~~

<sup>7</sup> Alcoholic beverages are defined in 235 ILCS 5/1-3.01 to 3.05.

<sup>8</sup> *Controlled substance* is defined in 720 ILCS 570/102(f); *cannabis* is defined in 720 ILCS 550/3(a) and in 410 ILCS 705/1-10, added by P.A. 101-27. Either spelling, *marihuana* or *marijuana*, is correct; however, *marijuana* is more common. See f/n 11 for a discussion of medical cannabis and *Ashley's Law*.

<sup>9</sup> *Anabolic steroid* is defined in 720 ILCS 570/102(c-1).

<sup>10</sup> See policies 7:240, *Conduct Code for Participants in Extracurricular Activities*, and 7:300, *Extracurricular Athletics*.

unless the student is authorized to be administered a medical cannabis infused product under *Ashley's Law*. **11**

- e. Any inhalant, regardless of whether it contains an illegal drug or controlled substance: (a) that a student believes is, or represents to be capable of, causing intoxication, hallucination, excitement, or dulling of the brain or nervous system; or (b) about which the student engaged in behavior that would lead a reasonable person to believe that the student intended the inhalant to cause intoxication, hallucination, excitement, or dulling of the brain or nervous system. The prohibition in this section does not apply to a student's use of asthma or other legally prescribed inhalant medications.
- f. Any substance inhaled, injected, smoked, consumed, or otherwise ingested or absorbed with the intention of causing a physiological or psychological change in the body, including without limitation, pure caffeine in tablet or powdered form. **12**
- g. *Look-alike* or counterfeit drugs, including a substance that is not prohibited by this policy, but one: (a) that a student believes to be, or represents to be, an illegal drug, controlled substance, or other substance that is prohibited by this policy; or (b) about which a student engaged in behavior that would lead a reasonable person to believe that the student expressly or impliedly represented to be an illegal drug, controlled substance, or other substance that is prohibited by this policy. **13**
- h. Drug paraphernalia, including devices that are or can be used to: (a) ingest, inhale, or inject cannabis or controlled substances into the body; and (b) grow, process, store, or conceal cannabis or controlled substances. **14**

Students who are under the influence of any prohibited substance are not permitted to attend school or school functions and are treated as though they had the prohibited substance, as applicable, in their possession.

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**11** To legally use medical cannabis, an individual must first become a *registered qualifying patient*. The use of cannabis by a *registered qualifying patient* is permitted only in accordance with the Compassionate Use of Medical Cannabis ~~Pilot~~ Program. 410 ILCS 130/, amended by P.A.s 100-660 and 101-363, ~~scheduled to be repealed on 7-1-20~~. There are many situations in which no one, even a *registered qualifying patient*, may possess or use cannabis. This includes in a school bus or on the grounds of any preschool, or primary or secondary school unless the student meets the requirements of 105 ILCS 5/22-33, a/k/a *Ashley's Law*. 410 ILCS 130/30(a)(2) and (3), amended by P.A.s 100-660 and 101-363, ~~scheduled to be repealed on 7-1-20~~. *Ashley's Law* provides that school districts "shall authorize a parent or guardian or any other individual registered with the ~~Ill.~~ Department of Public Health as a designated caregiver of a student who is a registered qualifying patient to administer a medical cannabis infused product to the student on the premises of the child's school or on the child's school bus if both the student (as a registered qualifying patient) and the parent or guardian or other individual (as a registered designated caregiver) have been issued registry identification cards under the Compassionate Use of Medical Cannabis ~~Pilot~~ Program Act." 105 ILCS 5/22-33(b), added by P.A. 100-660 and amended by P.A. 101-363. Once the product is administered, the designated caregiver must remove the product from the school premises/bus. ~~Id.~~ 105 ILCS 5/22-33(b-5), added by 101-370, eff. 1-1-20, allows a properly trained school nurse or administrator to administer medical cannabis infused products to a student while at school, a school-sponsored activity, or before/after normal school activities, including while the student is in before-school or after-school care on school-operated property or while being transported on a school bus. The product may not be administered in a manner that would (in the school or district's opinion) create a disruption or expose other students to the product, and schools are not required to authorize use of the product if the school or district would lose federal funding as a result. 105 ILCS 5/22-33(c), added by P.A. 100-660~~id.~~ For more discussion, see f/n 254 in 7:270, *Administering Medicines to Students*. Contact the board attorney for advice concerning medical cannabis, including whether a federal or State law requires the district to accommodate a student who is a *registered qualifying patient*. See Americans with Disabilities Act of 1990, 42 U.S.C. §12101 et seq.; Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C. §1400 et seq.; Rehabilitation Act of 1973, Section 504, 29 U.S.C. §794; 105 ILCS 5/14-1.01 et seq., 5/14-7.02, and 5/14-7.02b; and 23 Ill. Admin. Code Part 226.

**12** The Powdered Caffeine Control and Education Act states: "No person may sell, offer for sale, give away, or provide free samples of powdered pure caffeine to any person under age 18 located within the State or to any person under age 18 making the purchase from within the State." A limited exception to this prohibition exists for "the sale of any powdered pure caffeine product that receives explicit approval as safe and effective for its intended use under the federal Food, Drug, and Cosmetic Act or is lawfully marketed under an over-the-counter monograph issued by the United States Food and Drug Administration." 410 ILCS 647/20, ~~added by P.A. 99-50~~.

**13** ~~Look-alike and eCounterfeit~~ and look-alike substances are defined in 720 ILCS 570/102(g) and (y). This provision is broader because it would apply, for example, if a student represents a powdered vitamin to be pure caffeine – pure caffeine is prohibited on campus even though it is a legal substance. Look-alike drugs should be defined; an unpublished Ill. appellate decision in 2000 found a policy prohibiting possession of *look-alikes* had vagueness problems.

**14** *Drug paraphernalia* is defined in 720 ILCS 600/2(d). Contact the board attorney for advice concerning a student who is a *registered qualifying patient*, as explained in f/n 11.

4. Using, possessing, controlling, or transferring a *weapon* as that term is defined in the **Weapons** section of this policy, or violating the **Weapons** section of this policy. **15**
5. Using or possessing an electronic paging device. Using a cellular telephone, video recording device, personal digital assistant (PDA), or other electronic device in any manner that disrupts the educational environment or violates the rights of others, including using the device to take photographs in locker rooms or bathrooms, cheat, or otherwise violate student conduct rules. Prohibited conduct specifically includes, without limitation, creating, sending, sharing, viewing, receiving, or possessing an indecent visual depiction of oneself or another person through the use of a computer, electronic communication device, or cellular phone. Unless otherwise banned under this policy or by the Building Principal, all electronic devices must be kept powered-off and out-of-sight during the regular school day unless: (a) the supervising teacher grants permission; (b) use of the device is provided in a student's individualized education program (IEP); (c) it is used during the student's lunch period, or (d) it is needed in an emergency that threatens the safety of students, staff, or other individuals. **16**
6. Using or possessing a laser pointer unless under a staff member's direct supervision and in the context of instruction.
7. Disobeying rules of student conduct or directives from staff members or school officials. Examples of disobeying staff directives include refusing a District staff member's request to stop, present school identification, or submit to a search.
8. Engaging in academic dishonesty, including cheating, intentionally plagiarizing, wrongfully giving or receiving help during an academic examination, altering report cards, and wrongfully obtaining test copies or scores.
9. Engaging in hazing or any kind of bullying or aggressive behavior that does physical or psychological harm to a staff person or another student, or urging other students to engage in such conduct. Prohibited conduct specifically includes, without limitation, any use of violence, intimidation, force, noise, coercion, threats, stalking, harassment, sexual harassment, public humiliation, theft or destruction of property, retaliation, hazing, bullying, bullying using a school computer or a school computer network, or other comparable conduct. **17**

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**15** This language is broader than the **Weapons** section of this policy. The **Weapons** section contains the statutorily required punishment for "a student who is determined to have brought" a weapon to school along with the statutory definition of *weapon*. 105 ILCS 5/10-22.6(d). The language in item #4 is broader because it prohibits "using, possessing, controlling, or transferring" a weapon in addition to violating the **Weapons** section. See the footnotes in the **Weapons** section for a discussion of the Firearm Concealed Carry Act's provisions.

**16** 105 ILCS 5/10-21.10 prohibits student possession of electronic paging devices, but State law leaves to local boards the discretion whether to prohibit student possession of cellular phones. 105 ILCS 5/10-20.28. The misuse of camera phones can seriously invade a student's privacy. A board wanting a sweeping prohibition may use the following alternative for item #5:

Using or possessing a cellular telephone, electronic signaling device, two-way radio, video recording device, and/or other telecommunication device, unless authorized and approved by the Building Principal.

Operating transmitters designed to jam or block wireless communications violates the federal Communications Act of 1934. 47 U.S.C. §§301, 302a, and 333. Fines are as high as \$10,000 for each violation and/or imprisonment, and the device may also be seized. 47 U.S.C. §§501-510.

Making a video recording or live video transmission of another person without their consent in a restroom, locker room, or changing room is a Class 4 felony. 720 ILCS 5/26-4. A minor who distributes or disseminates an indecent visual depiction of another minor through the use of a computer or electronic communication device may be subject to adjudication as a minor in need of supervision. 705 ILCS 405/3-40.

**17** All districts must have a policy on bullying. 105 ILCS 5/27-23.7(d). Policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*, contains the statutory definition of *bullying*. Districts must also have an age-appropriate policy on sexual harassment. 105 ILCS 5/10-20.69 (final citation pending), added by P.A. 101-418, eff. 1-1-20. See policy 7:20, *Harassment of Students Prohibited*, and its f/n 7 for further detail.

10. Engaging in any sexual activity, including without limitation, offensive touching, sexual harassment, indecent exposure (including mooning), and sexual assault. This does not include the non-disruptive: (a) expression of gender or sexual orientation or preference, or (b) display of affection during non-instructional time.
11. Teen dating violence, as described in Board policy 7:185, *Teen Dating Violence Prohibited*. **18**
12. Causing or attempting to cause damage to, or stealing or attempting to steal, school property or another person's personal property. **19**
13. Entering school property or a school facility without proper authorization.
14. In the absence of a reasonable belief that an emergency exists, calling emergency responders (such as calling 911); signaling or setting off alarms or signals indicating the presence of an emergency; or indicating the presence of a bomb or explosive device on school grounds, school bus, or at any school activity.
15. Being absent without a recognized excuse; State law and School Board policy regarding truancy control will be used with chronic and habitual truants. **20**
16. Being involved with any public school fraternity, sorority, or secret society, by: (a) being a member; (b) promising to join; (c) pledging to become a member; or (d) soliciting any other person to join, promise to join, or be pledged to become a member. **21**
17. Being involved in gangs or gang-related activities, including displaying gang symbols or paraphernalia. **22**
18. Violating any criminal law, including but not limited to, assault, battery, arson, theft, gambling, eavesdropping, vandalism, and hazing.

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105 ILCS 5/10-20.14 requires boards, in consultation with their parent-teacher advisory committees and other community-based organizations, to include provisions in their student discipline policy to address aggressive behavior, including bullying. These provisions must include procedures for notifying a student's parents/guardians about his/her aggressive behavior and early intervention procedures based upon available community-based and district resources. See 7:190-E1, *Aggressive Behavior Reporting Letter and Form*.

Suspending students for hazing was upheld in *Gendelman v. Glenbrook North High Sch. and Northfield Township Sch. Dist.* 225, 2003 WL 21209880 (N.D.Ill. 2003). This decision may have been legislatively overturned by P.A. 99-456, amending 105 ILCS 5/10-20.14.

The failure of a school official (including any administrator, teacher, counselor, support staff, or coach) to report hazing is a Class B misdemeanor. 720 ILCS 5/12C-50.1.

A person commits a felony hate crime when, by reason of the actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin of another person/individual or group of individuals, regardless of the existence of any other motivating factor or factors, he or she commits assault, ~~or~~ battery, aggravated assault, intimidation, stalking, cyberstalking, misdemeanor theft, criminal trespass to residence, misdemeanor criminal damage to property, criminal trespass to vehicle, criminal trespass to real property, mob action, disorderly conduct, transmission of obscene message, harassment by telephone, or harassment through electronic communications as these crimes are defined in the Criminal Code. 720 ILCS 5/12-7.1, amended by P.A.s 100-197 and 100-260. The penalty is heightened when the offense is committed in a school or administrative facility.

720 ILCS 5/26-1(a)(3.5) and (b) makes transmitting a threat of violence, death, or bodily harm directed against persons at a school, school function, or school event, whether or not school is in session, or causing such a threat to be transmitted, a Class 4 felony.

**18** All school boards must have a policy on prohibited teen dating violence. 105 ILCS 110/3.10. Verify that the board adopted the policy listed and amend its title in this policy, if necessary.

**19** 720 ILCS 5/26-1(a)(3.5) and (b) makes threatening to destroy a school building or school property, whether or not school is in session, or causing such a threat to be transmitted, a Class 4 felony.

**20** 105 ILCS 5/26-2a, amended by P.A.s 100-918 and 100-810, ~~eff. 1-1-19~~; 5/26-9; and 5/26-12, amended by P.A.s 100-810 and 101-81, ~~eff. 1-1-19~~. See policy 6:110, *Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program*, and 7:70, *Attendance and Truancy*.

**21** State law requires schools to suspend or expel any student who engages in this activity. 105 ILCS 5/31-3.

**22** See *Kelly v. Bd. of Educ. of McHenry Community High Sch. Dist. 156*, 2007 WL 114300 (N.D.Ill. 2007)(upheld student's expulsion for drawing gang symbols while at school; testimony that the danger posed by gang signs and the presence of gangs at school supported the board's insistence on strict enforcement of board policy prohibiting gang related behavior and made expulsion a proper remedy).

740 ILCS 147/15 et seq. allows a school district to bring a civil suit against a gang, gang officers, or gang members for losses it suffers due to their criminal activity.

19. Making an explicit threat on an Internet website against a school employee, a student, or any school-related personnel if the Internet website through which the threat was made is a site that was accessible within the school at the time the threat was made or was available to third parties who worked or studied within the school grounds at the time the threat was made, and the threat could be reasonably interpreted as threatening to the safety and security of the threatened individual because of his or her duties or employment status or status as a student inside the school. **23**
20. Operating an unmanned aircraft system (UAS) or drone for any purpose on school grounds or at any school event unless granted permission by the Superintendent or designee. **24**
21. Engaging in any activity, on or off campus, that interferes with, disrupts, or adversely affects the school environment, school operations, or an educational function, including but not limited to, conduct that may reasonably be considered to: (a) be a threat or an attempted intimidation of a staff member; or (b) endanger the health or safety of students, staff, or school property. **25**

For purposes of this policy, the term *possession* includes having control, custody, or care, currently or in the past, of an object or substance, including situations in which the item is: (a) on the student's person; (b) contained in another item belonging to, or under the control of, the student, such as in the student's clothing, backpack, or automobile; (c) in a school's student locker, desk, or other school property; or (d) at any location on school property or at a school-sponsored event. **26**

Efforts, including the use of positive interventions and supports, shall be made to deter students, while at school or a school-related event, from engaging in aggressive behavior that may reasonably produce physical or psychological harm to someone else. The Superintendent or designee shall ensure that the parent/guardian of a student who engages in aggressive behavior is notified of the incident.<sup>27</sup> The failure to provide such notification does not limit the Board's authority to impose discipline, including suspension or expulsion, for such behavior.

No disciplinary action shall be taken against any student that is based totally or in part on the refusal of the student's parent/guardian to administer or consent to the administration of psychotropic or psychostimulant medication to the student. **28**

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**23** This statement of misconduct restates 105 ILCS 5/10-22.6(d-5), [amended by P.A. 101-810](#). The following alternative provides a shorter statement but will require the administrator to check the statute before imposing discipline based on it:

Making an explicit threat on an Internet website against a school, employee, or any school-related personnel under circumstances described in [Section 105 ILCS 5/10-22.6\(d-5\) of the School Code](#).

**24** For more information regarding unmanned aircraft systems, see [www.faa.gov/uas/](http://www.faa.gov/uas/).

**25** A catchall provision, e.g., this one, gives staff members authority to respond to unforeseen situations.

If the board adopts a mandatory uniform policy (see 7:165, *School Uniforms*), add the following item to the list as number [4722](#):  
 “Failing to comply with the mandatory uniform policy, but only after repeated attempts to secure compliance, such as conferences with parents/guardians, have been unsuccessful.”

**26** *Possession* should be defined to avoid vagueness problems.

**27** See f/n 17.

**28** Mandated by 105 ILCS 5/10-20.36.

## Disciplinary Measures 29

School officials shall limit the number and duration of expulsions and out-of-school suspensions to the greatest extent practicable, and, where practicable and reasonable, shall consider forms of non-exclusionary discipline before using out-of-school suspensions or expulsions.<sup>30</sup> School personnel shall not advise or encourage students to drop out voluntarily due to behavioral or academic difficulties.<sup>31</sup> Potential disciplinary measures include, without limitation, any of the following: <sup>32</sup>

1. Notifying parent(s)/guardian(s).
2. Disciplinary conference.
3. Withholding of privileges.
4. Temporary removal from the classroom.
5. Return of property or restitution for lost, stolen, or damaged property. <sup>33</sup>
6. In-school suspension. The Building Principal or designee shall ensure that the student is properly supervised. <sup>34</sup>
7. After-school study or Saturday study<sup>35</sup> provided the student's parent/guardian has been notified. If transportation arrangements cannot be agreed upon, an alternative disciplinary measure must be used. The student must be supervised by the detaining teacher or the Building Principal or designee.

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**29 IMPORTANT:** The practice of suspending or expelling a student based on the number of accumulated disciplinary infractions ~~may~~ ~~be~~ ~~is~~ illegal under 105 ILCS 5/10-22.6. This includes a system of assigning points to specific infractions and then tallying the points a student receives over a period of time to determine a disciplinary exclusion from school.

Before P.A. 99-456 amended 105 ILCS 5/10-22.6, courts used the following factors to determine if a board abused its discretion when it expelled a student: (1) the egregiousness of the student's conduct; (2) the record of the student's past conduct; (3) the likelihood that such conduct will affect the delivery of educational services to other students; (4) the severity of the punishment; and (5) the intent of the child. Robinson v. Oak Park, 213 Ill.App.3d (1st Dist. 1991); Wilson ex rel. Geiger v. Hinsdale Elementary Dist., 349 Ill.App.3d 243 (2nd Dist. 2004). Whether courts will continue to use these factors is yet to be determined. The enactment of P.A. 99-456 calls into question the validity of relying on past misconduct in suspension or expulsion decisions.

Aside from procedural due process protection, students have a constitutional substantive due process right. This right protects them from an abuse of government power which "shocks the conscience." While the scope of substantive due process is very limited, it is available to students who believe they were subject to arbitrary and excessive discipline. Generally, however, school officials need not fear being found guilty of a substantive due process violation. Federal courts are loath to second-guess school officials. See Tun v. Whitticker, 398 F.3d 899 (7th Cir. 2005)(expulsion did not amount to a substantive due process violation because it fell short of the required *shocks the conscience* standard).

**30** 105 ILCS 5/10-22.6(b-5). ~~In addition, According to~~ subsection c-5 ~~states~~, "[s]chool districts must make reasonable efforts to provide ongoing professional development to teachers, administrators, school board members, school resource officers, and staff on the adverse consequences of school exclusion and justice-system involvement, effective classroom management strategies, culturally responsive discipline, the appropriate and available supportive services for the promotion of student attendance and engagement, and developmentally appropriate disciplinary methods that promote positive and healthy school climates." 105 ILCS 5/10-22.6(c-5), amended by P.A. 100-810, ~~eff. 1-1-19~~.

**31** 105 ILCS 5/10-22.6(h).

**32** Most school attorneys advise against using a grade reduction as a disciplinary measure. A decision upholding such a policy is Knight v. Bd. of Educ., 38 Ill.App.3d 603 (4th Dist. 1976). A decision striking one is Smith v. Sch. City of Hobart, 811 F.Supp. 391 (N.D.Ind. 1993)(grade reduction policy requiring 9-week grades to be reduced 4% for each day of a suspension was found unconstitutional).

**33** While restitution is permitted, issuing a fine or fee as a disciplinary consequence is not permitted. 105 ILCS 5/10-22.6(i). Possible parental liability for damages under the Parental Responsibility Law (740 ILCS 115/5) is discussed in a footnote in sample policy 7:170, *Vandalism*.

**34** An in-school suspension program may focus on promoting non-violent conflict resolution and positive interaction with other students and school personnel, and districts may employ a school social worker or a licensed mental health professional to oversee in-school suspension programs. 105 ILCS 5/10-22.6(l), added by P.A. 100-1035. Providing programming during in-school suspensions is not required, however providing such programming will help distinguish them from exclusionary suspensions. See f/n 3 in policy 5:230, *Maintaining Student Discipline*, for further discussion of in-school suspension programs.

**35** Teachers may not be required to teach on Saturdays. 105 ILCS 5/24-2.

8. Community service with local public and nonprofit agencies that enhances community efforts to meet human, educational, environmental, or public safety needs.<sup>36</sup> The District will not provide transportation. School administration shall use this option only as an alternative to another disciplinary measure, giving the student and/or parent/guardian the choice.
9. Seizure of contraband; confiscation and temporary retention of personal property that was used to violate this policy or school disciplinary rules. <sup>37</sup>
10. Suspension of bus riding privileges in accordance with Board policy 7:220, *Bus Conduct*. <sup>38</sup>
11. Out-of-school suspension from school and all school activities in accordance with Board policy 7:200, *Suspension Procedures*.<sup>39</sup> A student who has been suspended may also be restricted from being on school grounds and at school activities. <sup>40</sup>
12. Expulsion from school and all school activities for a definite time period not to exceed 2 calendar years in accordance with Board policy 7:210, *Expulsion Procedures*.<sup>41</sup> A student who has been expelled may also be restricted from being on school grounds and at school activities. <sup>42</sup>
13. Transfer to an alternative program if the student is expelled or otherwise qualifies for the transfer under State law. The transfer shall be in the manner provided in Article 13A or 13B of the School Code. <sup>43</sup>
14. Notifying juvenile authorities or other law enforcement whenever the conduct involves criminal activity, including but not limited to, illegal drugs (controlled substances), *look-alikes*, alcohol, or weapons or in other circumstances as authorized by the reciprocal reporting agreement between the District and local law enforcement agencies. <sup>44</sup>

The above list of disciplinary measures is a range of options that will not always be applicable in every case. In some circumstances, it may not be possible to avoid suspending or expelling a student

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<sup>36</sup> See *Herndon v. Chapel Hill-Carrboro City Bd.*, 89 F.3d 174 (4th Cir. 1996)(upheld policy requiring students to complete community service in order to graduate).

<sup>37</sup> Consult the board attorney for advice concerning confiscated devices. There is no binding Ill. court decision regarding school personnel seizing and retaining a student's property. The Supreme Court of Arkansas held that a teacher and principal did not violate a student's state or federal rights when they confiscated and retained a student's cell phone for two weeks for violating school rules on cell phones. *Koch v. Adams*, 361 S.W.3d 817 (Ark. 2010).

<sup>38</sup> 105 ILCS 5/10-22.6(b) and (b-30), amended by P.A. 99-456.

<sup>39</sup> A suspension may be imposed in only limited situations that vary according to the suspension's length. 105 ILCS 5/10-22.6(b-15). This is explained in sample board policy 7:200, *Suspension Procedures*, and its footnotes

<sup>40</sup> This sentence is optional. A board may make this mandatory by replacing "may also be" with "shall also be."

<sup>41</sup> An expulsion may be imposed in only limited situations. 105 ILCS 5/10-22.6(b-20). This is explained in sample board policy 7:210, *Expulsion Procedures*, and its footnotes.

105 ILCS 5/10-22.6(d) permits expulsion for a definite period of time not to exceed two calendar years. School officials must document whether other interventions were attempted or whether it was determined that there were no other appropriate and available interventions.

<sup>42</sup> This sentence is optional. A board may make this mandatory by replacing "may also be" with "shall also be."

<sup>43</sup> 105 ILCS 5/10-22.6(a) and (b). Subsection 10-22.6(b) uses the phrase "is suspended in excess of 20 school days" even though a 20-consecutive day suspension should be treated as an expulsion. *Goss v. Lopez*, 419 U.S. 565 (1975). An alternative program is probably available to a student who is suspended for 11 to 20 consecutive days because that student is technically expelled and, as such, qualifies under subsection (a) of Section 10-22.6. Contact the board attorney if the district wants to interpret the statute as referring to *cumulative* school days so that it can transfer a student to an alternative program upon his or her suspension in excess of 20 *cumulative* school days.

Contact the board attorney regarding the necessary due process procedures before imposing a disciplinary transfer to an alternative school. The court in *Leak v. Rich Twp. High Sch. Dist. 227* (41 N.E. 3d 504397 Ill.Dec. 90 (1st Dist. 2015)), held that placement in an alternative school is tantamount to an expulsion. Thus, according to dicta in this decision, districts must follow expulsion procedures before a student is transferred to an alternative school. Schools may still reach agreements with parents/guardians to transfer students to such schools without completing the expulsion procedures.

The alternative program may not deny the transfer on the basis of the suspension or expulsion, except in cases in which the transfer is deemed to cause a threat to the safety of students or staff in the alternative program.

<sup>44</sup> 105 ILCS 5/22-85 (final citation pending), added by P.A. 101-478, eff. 1-1-20. See policy 7:150, *Agency and Policy Interviews*.

because behavioral interventions, other than a suspension and expulsion, will not be appropriate and available, and the only reasonable and practical way to resolve the threat and/or address the disruption is a suspension or expulsion. **45**

Corporal punishment is prohibited. *Corporal punishment* is defined as slapping, paddling, or prolonged maintenance of students in physically painful positions, or intentional infliction of bodily harm. Corporal punishment does not include reasonable force as needed to maintain safety for students, staff, or other persons, or for the purpose of self-defense or defense of property. **46 47**

## Weapons 48

A student who is determined to have brought one of the following objects to school, any school-sponsored activity or event, or any activity or event that bears a reasonable relationship to school shall be expelled for a period of at least one calendar year but not more than two calendar years:

1. A *firearm*, meaning any gun, rifle, shotgun, or weapon as defined by Section 921 of Title 18 of the United States Code (18 U.S.C. § 921), firearm as defined in Section 1.1 of the Firearm

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**45 Note:** Districts that receive early childhood block grant funding (authorized by 105 ILCS 5/1C-2 of the School Code) are prohibited from expelling children from their early childhood programs. 105 ILCS 5/2-3.71(a)(7) and 105 ILCS 5/10-22.6(k), amended by P.A. 100-105. A district may, however, transition a child to a new program if: (1) it has documented evidence that all available interventions and supports recommended by a qualified professional have been exhausted; (2) the program determines that transitioning a child is necessary for the well-being of the child or his or her peers and staff; and (3) the current and pending programs create a transition plan for the child with parent or legal guardian permission. 105 ILCS 5/2-3.71(a)(7)(C). A district may temporarily remove a child from attendance in the group setting in the case of a serious safety threat to a child or others, or in the case of possession of a weapon as described in 105 ILCS 5/10-22.6(d), but it must then begin the process of documenting interventions and supports as outlined in the law. 105 ILCS 5/2-3.71(a)(7)(E). As of **PRESS Issue 99102 (Oct. 2019)**, the Ill. State Board of Education (ISBE) has not **yet** adopted rules to implement these new requirements. Compliance with this law does not relieve a district of its obligations to also comply with the Individuals with Disabilities Education Improvement Act of 2004 when disciplining students with disabilities. For further information, see sample policy 7:230, *Misconduct by Students with Disabilities*. For districts that receive early childhood block grant funding, add the following:

Students enrolled in the District's State-funded preschool program(s) may be temporarily removed or transitioned to a new program in accordance with federal and State law. State law prohibits the expulsion of students from the program(s). If this language is inserted, add 105 ILCS 5/2-3.71(a)(7) to the Legal References for this policy.

**46** This paragraph paraphrases 105 ILCS 5/24-24.

**47** Staff members may **not** use isolated time out or physical restraint unless their use is authorized by policy and administrative procedure. 105 ILCS 5/2-3.130, 5/10-20.33, and 5/24-24; 23 Ill.Admin.Code §§1.280(c), **amended at 41 Ill.Reg. 6932**, and 1.285. See 7:190-AP4, *Use of Isolated Time Out and Physical Restraint*. **The sample policy prohibits the use of isolated time out and physical restraint by not specifically permitting their use.** State statute and ISBE rules contain complex restrictions on the use of isolated time out and physical restraints. 105 ILCS 5/2-3.130, 5/10-20.33, and 5/24-24; 23 Ill.Admin.Code §1.280(c), **amended at 41 Ill.Reg. 6932**, and 1.285. According to the ISBE rule, isolated time out and physical restraints are prohibited unless a board authorizes their use in a policy containing the numerous components identified in the rule. **A board that wants to authorize the use of isolated time out and physical restraints should insert the paragraph below.** To comply with ISBE's rule, a board must also incorporate by reference the procedure developed by the superintendent, i.e., 7:190-AP4, *Use of Isolated Time Out and Physical Restraint*. By doing this, the procedure becomes part of the policy.

School staff members shall not use isolated time out and physical restraints other than as permitted in **Section 105 ILCS 5/10-20.33 of the School Code**, State Board of Education rules, and procedures developed by the Superintendent. Neither isolated time out nor physical restraints shall be used to discipline or punish a student.

**If the above option is used**, add the following before the Legal References on the final page: "Incorporated by Reference: 7:190-AP4, *Use of Isolated Time Out and Physical Restraint*."

**48** This section paraphrases 105 ILCS 5/10-22.6(d) and contains the statutorily required punishment for bringing a weapon to school along with the statutory definition of *weapon*. When preparing for a due process hearing, a principal needs to use the applicable State and federal law definitions of *firearm* – not just the School Code.

While subsection 105 ILCS 5/10-22.6(b-10), **added by P.A. 99-456**, explicitly forbids zero tolerance policies, it provides an exception for those zero tolerance policies established by State or federal law, which includes weapons in school. Section 10-22.6(d) provides that a student who brings a weapon to school, as defined in the section, "shall be expelled for a period not less than one year," unless modified by the superintendent or board. The federal Gun-Free Schools Act (20 U.S.C. §7961 *et seq.*) provides for at least a one year expulsion for students who bring firearms to school. As directed by 20 U.S.C. §7961(b)(1), 105 ILCS 5/10-22.6(d), the superintendent and the board may modify that consequence; however, the superintendent/board may decline to exercise that discretion and instead impose the maximum penalty authorized by law. Analyzing the student's circumstances on a case-by-case basis may avoid a judicial finding that an expulsion is too severe. See *Washington v. Smith*, 248 Ill.App.3d 534 (1st Dist. 1993).

Item #4 in the **Prohibited Student Conduct** section is broader because it prohibits "using, possessing, controlling, or transferring" a weapon in addition to violating the **Weapons** section.

Owners Identification Card Act (430ILCS65/), or firearm as defined in Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1).

2. A knife, brass knuckles, or other knuckle weapon regardless of its composition, a billy club, or any other object if used or attempted to be used to cause bodily harm, including *look-alikes* of any *firearm* as defined above.

The expulsion requirement under either paragraph one or two above may be modified by the Superintendent, and the Superintendent's determination may be modified by the Board on a case-by-case basis. The Superintendent or designee may grant an exception to this policy, upon the prior request of an adult supervisor, for students in theatre, cooking, ROTC, martial arts, and similar programs, whether or not school-sponsored, provided the item is not equipped, nor intended, to do bodily harm. **49**

This policy's prohibitions concerning weapons apply regardless of whether: (1) a student is licensed to carry a concealed firearm, or (2) the Board permits visitors, who are licensed to carry a concealed firearm, to store a firearm in a locked vehicle in a school parking area. **50**

#### Re-Engagement of Returning Students **51**

The Superintendent or designee shall maintain a process to facilitate the re-engagement of students who are returning from an out-of-school suspension, expulsion, or an alternative school setting. The goal of re-engagement shall be to support the student's ability to be successful in school following a period of exclusionary discipline and shall include the opportunity for students who have been suspended to complete or make up work for equivalent academic credit. **52**

#### Required Notices

A school staff member shall immediately notify the office of the Building Principal in the event that he or she: (1) observes any person in possession of a firearm on or around school grounds; however, such action may be delayed if immediate notice would endanger students under his or her supervision, (2) observes or has reason to suspect that any person on school grounds is or was involved in a drug-related incident, or (3) observes a battery committed against any staff member.**53** Upon receiving such a report, the Building Principal or designee shall immediately notify the local law enforcement agency, Ill. Dept. of State Police (ISP), and any involved student's parent/guardian.**54** *School grounds* includes modes of transportation to school activities and any public way within 1000 feet of the school, as well as school property itself.

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**49** Optional.

**50** The Firearm Concealed Carry Act permits a properly licensed individual to carry a concealed firearm within a vehicle into a school parking area and store it a locked vehicle out of plain view. 430 ILCS 66/65(b). The Federal Gun-Free Schools Act has a similar provision. 20 U.S.C. §7961(g). The School Code, however, contains no similar exception to the ban on firearms at schools. Contact the board attorney before permitting students to store their firearms in their vehicle's trunk while parked at school.

**51** Required by 105 ILCS 5/10-22.6(b-25). See 7:190-AP8, *Student Re-Engagement Guidelines*.

**52** A goal for re-engagement is optional. Schools must permit students who were suspended to make-up work for equivalent academic credit. 105 ILCS 5/10-22.6(b-30).

**53** 105 ILCS 5/10-27.1A, 5/10-27.1B, and 5/10-21.7. *School grounds* includes the real property comprising any school, any conveyance used to transport students to school or a school-related activity, and any public way within 1,000 feet of any school ground. To satisfy the reporting requirement, ISBE created the School Incident Reporting System (SIRS), a web-based application on IWAS for schools to report incidents electronically. Reporting on SIRS does not satisfy the requirement to report incidents to local law enforcement authorities.

**54** *Id.* State law imposes this duty to report firearm possession only on school officials; this duty may be also imposed on volunteers and community members. Only staff members, however, are vulnerable to committing a petty offense for their failure to report, and only staff members are protected from civil or criminal liability that might arise as a result of making a report (although the liability potential for anyone making a report is remote).

The building principal must notify the student's parents/guardians only when the alleged offense is firearm possession. The policy expands this notification duty; a board disinclined to do this should substitute the following sentence:

### Delegation of Authority

Each teacher, and any other school personnel when students are under his or her charge, is authorized to impose any disciplinary measure, other than suspension, expulsion, corporal punishment, or in-school suspension, that is appropriate and in accordance with the policies and rules on student discipline. Teachers, other certificated [licensed] educational employees, and other persons providing a related service for or with respect to a student, may use reasonable force as needed to maintain safety for other students, school personnel, or other persons, or for the purpose of self-defense or defense of property. Teachers may temporarily remove students from a classroom for disruptive behavior. <sup>55</sup>

The Superintendent, Building Principal, Assistant Building Principal, or Dean of Students is authorized to impose the same disciplinary measures as teachers and may suspend students guilty of gross disobedience or misconduct from school (including all school functions) and from riding the school bus, up to ten consecutive school days, provided the appropriate procedures are followed.<sup>56</sup> The Board may suspend a student from riding the bus in excess of ten school days for safety reasons. <sup>57</sup>

### Student Handbook

The Superintendent, with input from the parent-teacher advisory committee,<sup>58</sup> shall prepare disciplinary rules implementing the District's disciplinary policies. These disciplinary rules shall be presented annually to the Board for its review and approval.

A student handbook, including the District disciplinary policies and rules, shall be distributed to the students' parents/guardians within 15 days of the beginning of the school year or a student's enrollment.

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Upon receiving such a report, the Building Principal or designee shall immediately notify the applicable local law enforcement agency, Ill. Dept. of State Police (ISP), and, if a student is reportedly in possession of a firearm, also the student's parents/guardians.

<sup>55</sup> 105 ILCS 5/24-24 and 23 Ill.Admin.Code §1.280, [amended at 41 Ill.Reg. 6932](#), require: (1) teachers and other certificated [licensed] employees (except for individuals employed as paraprofessionals) to maintain discipline, and (2) the district to have a policy on discipline that provides that:

[A] teacher, other certificated employee, and any other person, whether or not a certificated employee, providing a related service for or with respect to a student may use reasonable force as needed to maintain safety for the other students, school personnel or persons or for the purpose of self defense or the defense of property, shall provide that a teacher may remove a student from the classroom for disruptive behavior, and shall include provisions which provide due process to students. The policy shall not include slapping, paddling or prolonged maintenance of students in physically painful positions nor shall it include the intentional infliction of bodily harm. 105 ILCS 5/24-24.

<sup>56</sup> Required by 105 ILCS 5/10-22.6(b).

<sup>57</sup> *Id.*

<sup>58</sup> The board must establish and maintain a parent-teacher advisory committee to develop guidelines on student discipline. See 2:150, *Committees*. This policy's dissemination requirements are from 105 ILCS 5/10-20.14.

A comprehensive student handbook can provide notice of the school's conduct rules, extracurricular and athletic participation requirements, and other important information. The handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and board. The Illinois Principals Association maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: [www.ilprincipals.org/resources/model-student-handbook](http://www.ilprincipals.org/resources/model-student-handbook).

LEGAL REF.: 20 U.S.C. §6081, Pro-Children Act of 1994.  
20 U.S.C. §7961 *et seq.*, Gun Free Schools Act.  
105 ILCS 5/10-20.5b, 5/10-20.14, 5/10-20.28, 5/10-20.36, 5/10-21.7, 5/10-21.10,  
5/10-22.6, 5/10-27.1A, 5/10-27.1B, 5/22-33, 5/24-24, 5/26-12, 5/27-23.7, 5/31-  
3, and 110/3.10.  
410 ILCS 130/, Compassionate Use of Medical Cannabis Pilot Program.  
410 ILCS 647/, Powdered Caffeine Control and Education Act.  
430 ILCS 66/, Firearm Concealed Carry Act.  
23 Ill.Admin.Code §1.280.

CROSS REF.: 2:150 (Committees), 2:240 (Board Policy Development), 5:230 (Maintaining Student Discipline), 6:110 (Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program), 7:70 (Attendance and Truancy), 7:130 (Student Rights and Responsibilities), 7:140 (Search and Seizure), 7:150 (Agency and Police Interviews), 7:160 (Student Appearance), 7:170 (Vandalism), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:200 (Suspension Procedures), 7:210 (Expulsion Procedures), 7:220 (Bus Conduct), 7:230 (Misconduct by Students with Disabilities), 7:240 (Conduct Code for Participants in Extracurricular Activities), 7:270 (Administering Medicines to Students), 7:310 (Restrictions on Publications; Elementary Schools), 8:30 (Visitors to and Conduct on School Property)

## Students

### Suspension Procedures 1

#### In-School Suspension 2

The Superintendent or designee is authorized to maintain an in-school suspension program. The program shall include, at a minimum, each of the following:

1. Before assigning a student to in-school suspension, the charges will be explained and the student will be given an opportunity to respond to the charges.
2. Students are supervised by licensed school personnel.
3. Students are given the opportunity to complete classroom work during the in-school suspension for equivalent academic credit.

#### Out-of-School Suspension

The Superintendent or designee shall implement suspension procedures that provide, at a minimum, for each of the following: 3

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<sup>1</sup> State law requires districts to have a policy on student discipline. 105 ILCS 5/10-20.14; 23 Ill.Admin.Code §1.280. State or federal law controls this policy's content. ~~For information about administering student discipline, see~~ In 2014 the U.S. Dept. of Education (DOE)<sup>s</sup> and the U.S. Dept. of Justice (DOJ)<sup>s</sup> 2014 jointly released a school discipline package, *Guiding Principles: A Resource Guide for Improving School Climate and Discipline*, at: [www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf](http://www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf) ~~www2.ed.gov/policy/gen/guid/school-discipline/faq.pdf~~. However, *Guiding Principles* was among six student discipline guidance documents rescinded by a joint DOE and DOJ *Dear Colleague* letter dated 12-21-18, at: [www2.ed.gov/about/offices/list/ocr/letters/colleague-201812.pdf](http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201812.pdf).

Boards may authorize *by policy* the superintendent, building principal, assistant building principal, or dean of students to suspend students guilty of gross disobedience or misconduct from school, including all school functions. 105 ILCS 5/10-22.6(b). See 7:190, *Student Behavior*, for such an authorization.

<sup>2</sup> An in-school suspension program may focus on promoting non-violent conflict resolution and positive interaction with other students and school personnel, and districts may employ a school social worker or a licensed mental health professional to oversee in-school suspension programs. 105 ILCS 5/10-22.6(l), added by P.A. 100-1035. Providing programming during in-school suspensions is not required; however providing educational programs during in-school suspensions will help distinguish them from exclusionary suspensions. See f/n 3 in policy 5:230, *Maintaining Student Discipline*, for further discussion of in-school suspension programs. Contact the board attorney for advice concerning amending this section.

<sup>20</sup> ILCS 1705/76, added by P.A. 101-45, requires the Ill. Dept. of Public Health to create and maintain an online database and resource page on its website that contains mental health resources specifically geared toward school social workers, school counselors, parents, teachers, and school support personnel. See the database at: [www.dhs.state.il.us](http://www.dhs.state.il.us).

<sup>3</sup> Suspension procedures are required by State law. 105 ILCS 5/10-22.6. The right to attend school is a property right protected by the due process clause of the U.S. Constitution. *Goss v. Lopez*, 419 U.S. 565 (1975). Imposing a short deprivation of this property right by suspending a student for 10 or fewer days requires only minimal due process. The student must be generally informed of the reasons for the possible suspension, and be permitted to tell his/her version of the story. Making a decision to suspend before the hearing violates the basic due process requirement that the hearing be meaningful. *Sieck v. Oak Park-River Forest High School*, 807 F.Supp. 73 (N.D. Ill. 1992).

105 ILCS 5/10-22.6(b) allows a student who is suspended in excess of 20 school days to be immediately transferred to an alternative program in the manner provided in Article 13A or 13B of the School Code. A student cannot be denied transfer because of the suspension, except in cases in which such transfer is deemed to cause a threat to the safety of students or staff in the alternative program.

1. A conference during which the charges will be explained and the student will be given an opportunity to respond to the charges before he or she may be suspended.
2. A pre-suspension conference is not required, and the student can be immediately suspended when the student's presence poses a continuing danger to persons or property or an ongoing threat of disruption to the educational process. In such cases, the notice and conference shall follow as soon as practicable.
3. An attempted phone call to the student's parent(s)/guardian(s).
4. A written notice of the suspension to the parent(s)/guardian(s) and the student, which shall:
  - a. Provide notice to the parent(s)/guardian(s) of their child's right to a review of the suspension;
  - b. Include information about an opportunity to make up work missed during the suspension for equivalent academic credit; <sup>4</sup>
  - c. Detail the specific act of gross disobedience or misconduct resulting in the decision to suspend;
  - d. Provide rationale or an explanation of how the chosen number of suspension days will address the threat or disruption posed by the student or his or her act of gross disobedience or misconduct; and
  - e. Depending upon the length of the out-of-school suspension, include the following applicable information:
    - i. For a suspension of 3 school days or less, an explanation that the student's continuing presence in school would either pose: <sup>6</sup>
      - a) A threat to school safety, or
      - b) A disruption to other students' learning opportunities.
    - ii. For a suspension of 4 or more school days, an explanation: <sup>7</sup>

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Consult the board attorney for assistance if a suspension will exceed 10 consecutive school days. Subsection 10-22.6(b) uses the phrase "is suspended in excess of 20 school days" even though a 20-consecutive day suspension should be treated as an expulsion. *Goss v. Lopez*, 419 U.S. 565 (1975). For further discussion, see f/n 43 in policy 7:190, *Student Behavior*.

<sup>4</sup> 105 ILCS 5/10-22.6, ~~amended by P.A. 99-456~~.

**Consult the board attorney** (1) about the specific documentation required in this portion of the notice, and (2) to ensure that 7:200-E1, *Short Term Out-of-School Suspension (1-3 Days) Reporting Form* and 7:200-E2, *Long Term Out-of-School Suspension (4-10 Days) Reporting Form* reflect the exact practices that the district will use to implement this requirement.

<sup>5</sup> Required by 105 ILCS 5/10-22.6(b-30).

<sup>6</sup> 105 ILCS 5/10-22.6(b-15), ~~amended by P.A. 99-456~~, explains that "threat to school safety or a disruption to other students' learning opportunities" shall be determined by the school board or its designee on a case-by-case basis. **Consult the board attorney for specific advice regarding the application of these statutory terms in this context (see f/n 8, below).**

<sup>7</sup> 105 ILCS 5/10-22.6(b-20), ~~amended by P.A. 99-456~~. School officials are granted the sole authority to determine on a case-by-case basis: (1) whether "appropriate and available behavioral and disciplinary interventions have been exhausted;" and (2) whether "the student's continuing presence in school would either (i) pose a threat to the safety of other students, staff, or members of the school community, or (ii) substantially disrupt, impede, or interfere with the operation of the school." Consult the board attorney to request specific training for school officials to apply these statutory terms in this context.

- a) That other appropriate and available behavioral and disciplinary interventions have been exhausted,
  - b) As to whether school officials attempted other interventions or determined that no other interventions were available for the student,<sup>8</sup> and
  - c) That the student’s continuing presence in school would either:
    - i) Pose a threat to the safety of other students, staff, or members of the school community, or
    - ii) Substantially disrupt, impede, or interfere with the operation of the school.
- iii. For a suspension of 5 or more school days, the information listed in section 4.e.ii., above, along with documentation by the Superintendent or designee determining what, if any, appropriate and available support services will be provided to the student during the length of his or her suspension.<sup>9</sup>
5. A summary of the notice, including the reason for the suspension and the suspension length, must be given to the Board by the Superintendent or designee.
  6. Upon request of the parent(s)/guardian(s), a review of the suspension shall be conducted by the Board or a hearing officer appointed by the Board.<sup>10</sup> At the review, the student’s parent(s)/guardian(s) may appear and discuss the suspension with the Board or its hearing officer and may be represented by counsel.<sup>11</sup> Whenever there is evidence that mental illness may be the cause for the suspension, the Superintendent or designee shall invite a representative from the Department of Human Services to consult with the Board.<sup>12</sup> After presentation of the evidence or receipt of the hearing officer’s report, the Board shall take such action as it finds appropriate. If the suspension is upheld, the Board’s written suspension decision shall specifically detail items (a) and (e) in number 4, above. <sup>12</sup>

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<sup>8</sup> While school officials have discretion to determine the length of suspensions, they must resolve threats, address disruptions, and minimize the length of student exclusions to the greatest extent practicable. 105 ILCS 5/10-22.6(b-20); amended by P.A. 99-456. **Consult the board attorney about the practical implementation of documenting other appropriate and available interventions for the student.**

Last, the law also requires school districts to make reasonable efforts to provide ongoing professional development to teachers, administrators, school board members, school resource officers, and staff on the adverse consequences of school exclusion and justice-system involvement, effective classroom management strategies, culturally responsive discipline, the appropriate and available supportive services for the promotion of student attendance and engagement, and developmentally appropriate disciplinary methods that promote positive and healthy school climates. 105 ILCS 5/10-22.6(c-5), amended by P.A. 99-456 and 100-810, eff. 1-1-19.

<sup>9</sup> 105 ILCS 5/10-22.6(b-25); amended by P.A. 99-456.

<sup>10</sup> A board may hear student disciplinary cases in a meeting closed to the public. 5 ILCS 120/2(c)(9).

<sup>11</sup> 105 ILCS 5/10-22.6(c).

<sup>12</sup> 105 ILCS 5/10-22.6(b); amended by P.A. 99-456.

LEGAL REF.: 105 ILCS 5/10-22.6.  
Goss v. Lopez, 95 S.Ct. 729 (1975).  
Sieck v. Oak Park River-Forest High School, 807 F.Supp. 73 (N.D. Ill., E.D.,  
1992).

CROSS REF.: 5:100 (Staff Development Program), 7:130 (Student Rights and Responsibilities),  
7:190 (Student Behavior), 7:220 (Bus Conduct)

DRAFT

## Students

### Administering Medicines to Students <sup>1</sup>

Students should not take medication during school hours or during school-related activities unless it is necessary for a student's health and well-being. When a student's licensed health care provider and parent/guardian believe that it is necessary for the student to take a medication during school hours or school-related activities, the parent/guardian must request that the school dispense the medication to the child and otherwise follow the District's procedures on dispensing medication.

No School District employee shall administer to any student, or supervise a student's self-administration of, any prescription or non-prescription medication until a completed and signed *School Medication Authorization Form* (*SMA Form*) is submitted by the student's parent/guardian.

No student shall possess or consume any prescription or non-prescription medication on school grounds or at a school-related function other than as provided for in this policy and its implementing procedures.

Nothing in this policy shall prohibit any school employee from providing emergency assistance to students, including administering medication.

The Building Principal shall include this policy in the Student Handbook and shall provide a copy to the parent(s)/guardian(s) of students. <sup>2</sup>

### Self-Administration of Medication

A student may possess and self-administer an epinephrine injector, e.g., EpiPen®, and/or asthma medication prescribed for use at the student's discretion, provided the student's parent/guardian has completed and signed an School Medication Authorization SMA Form.<sup>3</sup> The Superintendent or designee will ensure an Emergency Action Plan is developed for each self-administering student. <sup>4</sup>

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<sup>1</sup> All districts must have a policy for administering medication. 105 ILCS 5/10-20.14b. State law prohibits school boards from requiring that teachers and other non-administrative school employees administer medication to students; exceptions are certificated school nurses and non-certificated registered professional nurses. 105 ILCS 5/10-22.21b, amended by P.A. 101-205, eff. 1-1-20.

<sup>2</sup> Each district must inform students, e.g., through homeroom discussion or loudspeaker announcement, about, and distribute to their parents/guardians, the district's policy, guidelines, and forms on administering medicines within 15 days after the beginning of each school year, or within 15 days after starting classes for a student who transfers into the district. 105 ILCS 5/10-20.14b. A comprehensive Student Handbook can provide notice to parents and students of the school's rules, extracurricular and athletic participation requirements, and other important information. The Handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and board. The Illinois Principals Association maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: [www.ilprincipals.org/resources/model-student-handbook](http://www.ilprincipals.org/resources/model-student-handbook).

<sup>3</sup> 105 ILCS 5/22-30, amended by P.A.s 100-726 and 100-799, requires school districts to allow students to *self-administer* their prescribed asthma medication and an epinephrine injector as described. *Self-carry* means a student's ability to carry his or her prescribed asthma medication or epinephrine injector. *Self-administer* and *self-administration* mean that a student may use these two medications at his or her discretion: (1) while in school; (2) while at a school sponsored activity; (3) while under the supervision of school personnel; or (4) before or after normal school activities, such as while in before-school or after-school care on school-operated property.

<sup>4</sup> 105 ILCS 5/10-22.21b(d), added by P.A. 101-205, eff. 1-1-20. The plan must address actions to be taken if the student is unable to self-administer medication and the situations in which the school must call 911. Id. For plan guidance, see 7:270-API, *Dispensing Medication*.

A student may self-administer medication required under a *qualifying plan*, provided the student's parent/guardian has completed and signed an *SMA Form*.<sup>5</sup> A *qualifying plan* means: (1) an asthma action plan, (2) an Individual Health Care Action Plan, (3) an Ill. Food Allergy Emergency Action Plan and Treatment Authorization Form, (4) a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973, or (5) a plan pursuant to the federal Individuals with Disabilities Education Act.

The ~~School~~-District shall incur no liability, except for willful and wanton conduct, as a result of any injury arising from a student's self-administration of medication, including asthma medication or epinephrine injectors, or medication required under a qualifying plan ~~or the storage of any medication by school personnel~~.<sup>6</sup> A student's parent/guardian must indemnify and hold harmless the ~~School~~ District and its employees and agents, against any claims, except a claim based on willful and wanton conduct, arising out of a student's self-administration of an epinephrine injector, and/or asthma medication, and/or a medication required under a qualifying plan, ~~or the storage of any medication by school personnel~~.<sup>7</sup>

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>5</sup> 105 ILCS 5/10-22.21b, amended by P.A. 101-205, eff. 1-1-20. A student with an asthma action plan, an Individual Health Care Action Plan, an Illinois Food Allergy Emergency Action Plan and Treatment Authorization Form, a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973, or a plan pursuant to the federal Individuals with Disabilities Education Act may self-administer medication if the student's parent/guardian provides the school with: (1) written permission for the student's self-administration of medication, (2) written authorization from the student's physician, physician assistant, or advanced practice registered nurse for the student to self-administer the medication, and (3) the prescription label containing the name of the medication, the prescribed dosage, and the time(s) or circumstances under which the medication is to be administered. Id. at 5/10-22.21(c), added by P.A. 101-205, eff. 1-1-20. This does not allow a student to self-carry unless otherwise permitted. Contact the board attorney for further guidance.

<sup>6</sup> 105 ILCS 5/22-30 (asthma medication and epinephrine injectors) and 105 ILCS 5/10-22.21b, amended by P.A. 101-205, eff. 1-1-20 (medications required by a plan listed in 105 ILCS 5/10-22.21b(c), added by P.A. 101-205, eff. 1-1-20). 105 ILCS 5/22-30(c) requires this information to be in a notification to parents/guardians. 105 ILCS 5/10-22.21b, amended by P.A. 101-205, eff. 1-1-20, does not specifically require this information to be in a notification to parents/guardians. However, 105 ILCS 5/10-22.21b requires parents/guardians to sign a statement that includes the district's protections from liability under 105 ILCS 5/10-22.21b; the signed acknowledgment (see f/n 7) is the notice. This policy includes the liability protection information under 105 ILCS 5/10-22.21b to also inform the community.

The storage of medication is not addressed in the applicable statutes and may not be covered as part of the district's protections from liability and hold harmless provisions. Contact the board attorney and the board's liability insurance carrier for further discussion about the district's liability and coverage in this area.

<sup>7</sup> 105 ILCS 5/22-30(c) and 105 ILCS 5/10-22.21b, amended by P.A. 101-205, eff. 1-1-20. Both statutes requires parents/guardians to sign a statement: (1) acknowledging the statement from f/n <sup>5</sup>4 above; and (2) that they must indemnify and hold harmless the school district and its employees and agents against any claims, except a claim based on willful and wanton conduct, arising out of the self-administration of medication by the student ~~or the storage of the medication by school personnel~~. There are several methods to obtain a parent/guardian's signature for this purpose, e.g., receipt of handbook signature, or see 7:270-E1, *School Medication Authorization Form—Asthma Inhalers and/or Epinephrine Injectors*. Discuss with the board attorney the method that works best for the district.

School District Supply of Undesignated Asthma Medication <sup>8</sup>

The Superintendent or designee shall implement ~~Section 105 ILCS 5/22-30(f) of the School Code~~ and maintain a supply of undesignated asthma medication in the name of the District and provide or administer them as necessary according to State law. *Undesignated asthma medication* means an asthma medication prescribed in the name of the District or one of its schools. A school nurse or trained personnel, as defined in State law, <sup>9</sup> may administer an undesignated asthma medication to a person when they, in good faith, believe a person is having *respiratory distress*. Respiratory distress may be characterized as *mild-to-moderate* or *severe*.<sup>10</sup> Each building administrator and/or his or her corresponding school nurse shall maintain the names of trained personnel who have received a statement of certification pursuant to State law. <sup>11</sup>

No -

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<sup>8</sup> Optional. A school board must ensure that it does not adopt this section into the policy unless it is prepared to implement 105 ILCS 5/22-30, amended by P.A. 100-726, ~~eff. 1-1-19~~. The law permits a district to maintain a supply of undesignated asthma medication in any secure location that is accessible before, during, and after school where a person is most at risk, including, but not limited to a classroom or the nurse's office, and use them when necessary. The P.A. 100-726, ~~eff. 1-1-19~~, amendment requiring accessibility before, during, and after school does not address the logistical issues that classrooms are typically locked before and after school. Consult the board attorney about the implementation issues with this new phrase in the law.

Consult the board attorney about the consequences of informing the community that the district will obtain a prescription for a supply of undesignated asthma medication, implement a plan for its use, and then not doing it, as doing so may be fraught with legal liabilities. Also fraught with legal liabilities is when the district provides them, but does not have them accessible before, during, and after school where an asthmatic person is most at risk as required by 105 ILCS 5/22-30, amended by P.A. 100-726, ~~eff. 1-1-19~~. See *In re Estate of Stewart*, 406 Ill. Dec. 345 (2nd Dist. 2016) (denying tort immunity to district, finding its response to a student's asthma attack was *willful and wanton* (which district disputed as a possible heart attack)) and *In re Estate of Stewart*, 412 Ill. Dec. 914 (Ill. 2017) (school district's appeal denied).

The superintendent is given broad authority to implement this section; however, several preliminary steps should occur with the assistance of the board attorney. They include, but are not limited to: (1) investigating the feasibility of obtaining a prescription for a supply of undesignated asthma medication in the name of the district or one of its schools, and (2) outlining the advantages and disadvantages of implementing this plan based upon each district's individual resources and circumstances, and student population's needs.

<sup>9</sup> 105 ILCS 5/22-30(a), amended by P.A. 100-726, ~~eff. 1-1-19~~, defines *trained personnel* as any school employee or volunteer personnel authorized in Sections 10-22.34, 10-22.34a, and 10-22.34b of the School Code who has completed training required by 105 ILCS 5/22-30(g), amended by P.A. 100-726, ~~eff. 1-1-19~~ to recognize and respond to anaphylaxis, an opioid overdose, or respiratory distress. 105 ILCS 5/22-30(a), amended by P.A. 100-726, ~~eff. 1-1-19~~.

The Ill. State Board of Education (ISBE) must develop the training curriculum for trained personnel, and it may be conducted online or in person. ~~Id.~~ at (h) and 23 Ill. Admin. Code § 1.540(e)(3). 105 ILCS 5/22-30(h-5), amended by P.A. 5-09-180, 5/22-30(h), amended by 99-711, and 5/22-30(h-10), amended by P.A. 100-726, ~~eff. 1-1-19~~ and 23 Ill. Admin. Code § 1.540(e)-4) list the training curriculum requirements to recognize and respond to an opioid overdose, an allergic reaction, including anaphylaxis, and respiratory distress, respectively.

<sup>10</sup> ~~Id.~~ at 105 ILCS 5/22-30(a). *Respiratory distress* means the perceived or actual presence of wheezing, coughing, shortness of breath, chest tightness, breathing difficulty, or any other symptoms consistent with asthma. ~~Id.~~

<sup>11</sup> ~~Id.~~ at (g), and 23 Ill. Admin. Code § 1.540(e)(7) and (8).

#### School District Supply of Undesignated Epinephrine Injectors 12

The Superintendent or designee shall implement ~~Section 105 ILCS 5/22-30(f) of the School Code~~ and maintain a supply of undesignated epinephrine injectors in the name of the District and provide or administer them as necessary according to State law. *Undesignated epinephrine injector* means an epinephrine injector prescribed in the name of the District or one of its schools. A school nurse or trained personnel, as defined in State law,<sup>13</sup> may administer an undesignated epinephrine injector to a person when they, in good faith, believe a person is having an anaphylactic reaction. Each building administrator and/or his or her corresponding school nurse shall maintain the names of trained personnel who have received a statement of certification pursuant to State law. <sup>14</sup>

#### School District Supply of Undesignated Opioid Antagonists 15

The Superintendent or designee shall implement ~~Section 105 ILCS 5/22-30(f) of the School Code~~ and maintain a supply of undesignated opioid antagonists in the name of the District and provide or administer them as necessary according to State law. *Opioid antagonist* means a drug that binds to opioid receptors and blocks or inhibits the effect of opioids acting on those receptors, including, but

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~~12~~ Optional. A school board must ensure that it does not adopt this section into the policy unless it is prepared to implement 105 ILCS 5/22-30 ~~amended by P.A. 99-744~~. The law permits a district to maintain a supply of undesignated epinephrine injectors in any secure location that is accessible before, during, and after school where an allergic person is most at risk, including, but not limited to, classrooms and lunchrooms, and use them when necessary. ~~The P.A. 99-744 amendment requiring 105 ILCS 5/22-30 requires~~ accessibility before, during, and after school does not address the logistical issues that classrooms are typically locked before and after school. Consult the board attorney about the implementation issues with this new phrase in the law.

Consult the board attorney about the consequences of informing the community that the district will obtain a prescription for a supply of undesignated epinephrine injectors, and implement a plan for their use, and then not doing it, as doing so may be fraught with legal liabilities. Also fraught with legal liabilities is if the district provides them, but does not have them accessible before, during, and after school where an allergic person is most at risk as required by ~~P.A. 99-744~~ 105 ILCS 5/22-30. See *In re Estate of Stewart*, 406 Ill. Dec. 345 (2nd Dist. 2016) (denying tort immunity to district, finding its response to a student's asthma attack was *willful and wanton* (which district disputed as a possible heart attack)); *In re Estate of Stewart*, 412 Ill. Dec. 914 (Ill. 2017) (school district's appeal denied).

The superintendent is given broad authority to implement this section, however, several preliminary steps should occur with the assistance of the board attorney. They include, but are not limited to: (1) investigating the feasibility of obtaining a prescription for a supply of undesignated epinephrine injectors in the name of the district or one of its schools, and (2) outlining the advantages and disadvantages of implementing this plan based upon each district's individual resources and circumstances, and student population's needs.

<sup>13</sup> See the discussion regarding *trained personnel*, in fn. 87, above.

<sup>14</sup> See fn. 109, above.

~~15~~ Optional. If the board chooses to implement an undesignated opioid antagonist program, and the district employs law enforcement, consult the board attorney about whether this subhead becomes required. See Substance Use Disorder Act, 20 ILCS 301/, amended by P.A.s 100-201 and 100-759 ~~en 11-19~~.

For boards that choose to implement an undesignated opioid antagonists program, consult the board attorney regarding the Safe and Drug-Free School and Communities Act of 1994 (20 U.S.C. §7101(b)). It prohibits funds provided under it to be used for medical services or drug treatment or rehabilitation, except for integrated student supports, specialized instructional support services, or referral to treatment for impacted students, which may include students who are victims of, or witnesses to crime or who illegally use drugs.

A school board must ensure that it does not adopt this section into the policy unless it is prepared to implement 105 ILCS 5/22-30 ~~(h.5)~~ ~~amended by P.A. 99-480~~. The law permits a district to maintain a supply of undesignated opioid antagonists in any secure location where a person is at risk of an opioid overdose and use them when necessary. The consequences of informing the community that the district will obtain a prescription for a supply of opioid antagonists and implement a plan for their use, and then not doing it may be fraught with legal liabilities.

The superintendent is given broad authority to implement this section, however, several preliminary steps should occur with the assistance of the board attorney. They include, but are not limited to: (1) investigating the feasibility of obtaining a prescription for a supply of opioid antagonists in the name of the district or one of its schools, and (2) outlining the advantages and disadvantages of implementing this plan based upon each district's individual resources and circumstances, and student population's needs.

not limited to, naloxone hydrochloride or any other similarly acting drug approved by the U.S. Food and Drug Administration. *Undesignated opioid antagonist* is not defined by the School Code; for purposes of this policy it means an opioid antagonist prescribed in the name of the District or one of its schools. A school nurse or trained personnel,<sup>16</sup> as defined in State law, may administer an undesignated opioid antagonist to a person when they, in good faith, believe a person is having an opioid overdose. Each building administrator and/or his or her corresponding school nurse shall maintain the names of trained personnel who have received a statement of certification pursuant to State law.<sup>17</sup> See the website for the Ill. Dept. of Human Services for information about opioid prevention, abuse, public awareness, and a toll-free number to provide information and referral services for persons with questions concerning substance abuse treatment. <sup>18</sup>

#### School District Supply of Undesignated Glucagon <sup>19</sup>

The Superintendent or designee shall implement 105 ILCS 145/27 and maintain a supply of undesignated glucagon in the name of the District in accordance with manufacturer's instructions.

When a student's prescribed glucagon is not available or has expired, a school nurse or delegated care aide may administer undesignated glucagon only if he or she is authorized to do so by a student's diabetes care plan.

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<sup>16</sup> See the discussion regarding *trained personnel* in f/n 7, above.

<sup>17</sup> See f/n 109, above.

<sup>18</sup> Optional sentence if the board chooses to implement an undesignated opioid antagonist program as discussed in f/n 914, above. 20 ILCS 301/20-30, added by P.A. 100-494, mandates the Ill. Dept. of Human Services to create a website with these resources. The purpose of this sentence is to provide the community with information about a public health crisis affecting students.

<sup>19</sup> Optional. 105 ILCS 145/27, added by P.A. 101-428, permits a district to maintain a supply of undesignated glucagon in any secure location that is immediately accessible to a school nurse or delegated care aide. A school board must ensure that it does not adopt this section into the policy unless it is prepared to implement it.

Consult the board attorney about the consequences of informing the community that the district will obtain a prescription for a supply of undesignated glucagon, and implement a plan for their use, and then not doing it, as doing so may be fraught with legal liabilities.

The superintendent is given broad authority to implement this section; however, several preliminary steps should occur with the assistance of the board attorney. They include, but are not limited to: (1) investigating the feasibility of obtaining a prescription for a supply of undesignated glucagon in the name of the district or one of its schools, and (2) outlining the advantages and disadvantages of implementing this plan based upon each district's individual resources and circumstances, and student population's needs.

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Designated Caregiver Administration of Medical Cannabis 20

The Compassionate Use of Medical Cannabis ~~Pilot~~ Program Act<sup>21</sup> allows a medical cannabis infused product to be administered to a student by one or more of the following individuals:

1. a ~~A~~ parent/guardian of a student who is a minor ~~to~~ who registers with the Ill. Dept. of Public Health (IDPH) as a *designated caregiver* to administer medical cannabis to their child. A designated caregiver may also be another individual other than the student's parent/guardian. Any designated caregiver must be at least 21 years old<sup>22</sup> and is allowed to administer a *medical cannabis infused product* to a child who is a student on the premises of his or her school or on his or her school bus if:
  - a. Both the student and the designated caregiver possess valid registry identification cards issued by IDPH;
  - a-b. Copies of the registry identification cards are provided to the District; <sup>23</sup> ~~and~~
  - c. That student's parent/guardian completed, signed, and submitted a *School Medication Authorization Form - Medical Cannabis*; <sup>and</sup> ~~and~~ <sup>24</sup>

ok →

~~The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.~~

~~<sup>20</sup> 105 ILCS 5/22-33(g), added by P.A. 100-660 (*Ashley's Law*), requires school boards to adopt a policy and implement it by:~~

- ~~1. Authorizing a parent/guardian and/or a designated caregiver of a student who is a registered qualifying patient to administer allows students to be given a medical cannabis infused products to that student at school or on the school bus (105 ILCS 5/22-33(b)).~~
- ~~2. Allowing and a school nurse or administrator to administer a medical cannabis infused product to a student who is a registered qualifying patient while at school, a school-sponsored activity, or before/after normal school activities, including while the student is in before-school or after-school care, on school-operated property or while being transported on a school bus (105 ILCS 5/22-33(b)-5, added by 101-370, eff. 1-1-20).~~
- ~~3. Authorizing a student who is a registered qualifying patient to self-administer a medical cannabis infused product if the self-administration takes place under the direct supervision of a school nurse or school administrator (Id.).~~

~~requires school boards to adopt a policy to implement the law. **Important: Implementation of this policy may cause a district to lose federal funding!** If a district would lose federal funding as a result of the board adopting this policy, the board may not authorize the use of a medical cannabis infused product under Ashley's Law and not adopt this subsection, 105 ILCS 5/22-33(f). See fn 25, below, and paragraph two of fn 122 in policy 5.50, *Drug- and Alcohol-Free Workplace, E-Cigarette, Tobacco, and Cannabis Prohibition*, for more information about Congress interfering with a state's decision to implement laws governing the legalization of ~~below and~~ cannabis, and consult the board attorney about the issue of federal funding.~~

~~If the board will not adopt a policy addressing the administration of medical cannabis, delete: (1) this subhead, (2) the last sentence from the section entitled *Void Policy Disclaimer*, and (3) the following statutes from the Legal References:~~

~~"and 5/22-33";  
410 ILCS 130/; *Compassionate Use of Medical Cannabis Pilot Program Act*, and scheduled to be repealed on July 1, 2020;~~

~~720 ILCS 550/; *Cannabis Control Act*;~~

~~Last, move the "and" in the Legal References forward: 105 ILCS 5/48-20-14b, 5/40-22-21b, and 5/22-30.~~

~~<sup>21</sup> 410 ILCS 130/, amended by P.A. 101-363 and scheduled to be repealed on ~~July 1,~~ 2020.~~

~~<sup>22</sup> *Id.* at 130/10(i), added by P.A. 100-660, and 130/57(a) and (b), amended by P.A. 101-363 and scheduled to be repealed on 7-1-20. A student under the age of 18 may have up to three designated caregivers as long as at least one is a biological parent or a legal guardian, *Id.* at 130/57(a). A student 18 years of age or older may appoint up to three designated caregivers who meet the requirements of the *Compassionate Use of Medical Cannabis Program Act*, *Id.* at 130/57(b).~~

~~<sup>23</sup> The laws are silent about copies of the cards being provided to the district. Requiring copies of the registry cards is a best practice. Consult the board attorney about any records laws implicated in requiring and maintaining copies of these registry cards.~~

~~<sup>24</sup> A completed and signed school medication authorization form is not required by *Ashley's Law* but is a best practice and consistent with this sample policy's language for other medications. See sample exhibit 7.270-E2, *School Medication Authorization Form - Medical Cannabis*.~~

d. After administering the product to the student, the designated caregiver immediately<sup>25</sup> removes it from school premises or the school bus.

2. A properly trained school nurse or administrator, who shall be allowed to administer the *medical cannabis infused product* to the student on the premises of the child's school, at a school-sponsored activity, or before/after normal school activities, including while the student is in before-school or after-school care on school-operated property or while being transported on a school bus. <sup>26</sup>

2-3. The student him or herself when the self-administration takes place under the direct supervision of a school nurse or administrator. <sup>27</sup>

*Medical cannabis infused product* (product) includes oils, ointments, foods, and other products that contain usable cannabis but are not smoked or vaped.<sup>28</sup> Smoking and/or vaping medical cannabis is prohibited. <sup>29</sup>

~~After administering the product to the student, the designated caregiver shall immediately<sup>30</sup> remove it from school premises or the school bus.~~ The product may not be administered in a manner that, in the opinion of the District or school, would create a disruption to the educational environment or cause

**Commented [MB1]:** Moved to Item No 1(d), above, on page 6  
The text stricken from fn 30 is moved to fn 25.

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~~<sup>25</sup> The word *immediately* is not in *Ashley's law*. It is added to ensure legal compliance with federal laws that could affect federal funding. For example, consider administrators who may be in the situation where a designated caregiver provides his or her child the product and then wants to volunteer in the school or greet another child in the school while carrying the product in the building which may violate the Cannabis Control Act (720 ILCS 550/5.2). Consult the board attorney about the best term to use here, if any, as nothing in the law addresses these common scenarios that school administrators will encounter.~~

~~<sup>26</sup> 105 ILCS 5/22-33(b-5), added by P.A. 101-370, eff. 1-1-20. A school nurse or administrator must annually complete a training curriculum to be developed by ISBE in consultation with the Ill. Dept. of Public Health prior to administering a medical cannabis infused product to a student in accordance with this section. 105 ILCS 5/22-33(f-5), added by P.A. 101-370, eff. 1-1-20.~~

~~<sup>27</sup> Id. Any product administered by a school nurse or administrator, or self-administered under the supervision of a school nurse or administrator, must be stored with the school nurse at all times in a manner consistent with storage of other student medication at the school and may be accessible only by the school nurse or a school administrator. 105 ILCS 5/22-33(b-10), added by P.A. 101-370, eff. 1-1-20.~~

~~<sup>28</sup> 410 ILCS 130/10(g). Consult the board attorney regarding the controversial issue of students using at, or bringing to school, cannabis-infused products without THC that are derived from *industrial hemp* (hemp oil or cannabidiol (CBD) oil, the naturally occurring cannabinoid constituent of cannabis). Industrial hemp is defined in the Industrial Hemp Act (IHA) as the plant *Cannabis sativa L.* and any part of that plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis that has been cultivated under a license or is otherwise lawfully present in Illinois and includes any intermediate or finished product made or derived from industrial hemp. 505 ILCS 89/, added by P.A. 100-1091. Industrial hemp is also colloquially known as *agricultural hemp*.~~

~~Products from industrial hemp are widely available. As a consequence, school employees may encounter the argument from a student and his or her parent/guardian that the use of hemp or CBD oil products derived from industrial hemp (containing no THC) is not a violation of Illinois law because 720 ILCS 550/3(a), amended by P.A. 100-1091, states "cannabis does not include industrial hemp as defined and authorized under the IHA (505 ILCS 89/, added by P.A. 100-1091)."~~

~~<sup>29</sup> Optional sentence. 410 ILCS 130/10(g)–amended by P.A. 100-660, and scheduled to be repealed on July 1, 2020, prohibits medical cannabis from being smoked. District administrators may find providing this information to the community helpful to enforcement of this policy.~~

~~<sup>30</sup> The word *immediately* is not in *Ashley's law*. It is added to ensure legal compliance with federal laws that could affect federal funding. For example, consider administrators who may be in the situation where a designated caregiver provides his or her child the product and then wants to volunteer in the school or greet another child in the school while carrying the product in the building which may violate the Cannabis Control Act (720 ILCS 550/5.2). Consult the board attorney about the best term to use here, if any, as nothing in the law addresses these common scenarios that school administrators will encounter.~~

exposure of the product to other students. A school employee shall not be required to administer the product. <sup>31</sup>

Discipline of a student for being administered a product by a designated caregiver, or by a school nurse or administrator, or who self-administers a product under the direct supervision of a school nurse or administrator<sup>32</sup> pursuant to this policy is prohibited. The District may not deny a student attendance at a school solely because he or she requires administration of the product during school hours.

Void Policy <sup>33</sup>

The ~~School District Supply of Undesignated Asthma Medication~~ section of the policy is void whenever the Superintendent or designee is, for whatever reason, unable to: (1) obtain for the District a prescription for ~~undesignated~~ asthma medication from a physician or advanced practice nurse licensed to practice medicine in all its branches, or (2) fill the District's prescription for ~~undesignated~~ school asthma medication. <sup>34</sup>

*Steps*

The ~~School District Supply of Undesignated Epinephrine Injectors~~ section of the policy is void whenever the Superintendent or designee is, for whatever reason, unable to: (1) obtain for the District a prescription for ~~undesignated~~ epinephrine injectors from a physician or advanced practice nurse licensed to practice medicine in all its branches, or (2) fill the District's prescription for ~~undesignated~~ school epinephrine injectors. <sup>35</sup>

The ~~School District Supply of Undesignated Opioid Antagonists~~ section of the policy is void whenever the Superintendent or designee is, for whatever reason, unable to: (1) obtain for the District a prescription for opioid antagonists from a health care professional<sup>36</sup> who has been delegated prescriptive authority for opioid antagonists in accordance with Section 5-23 of the Substance Use Disorder Act, or (2) fill the District's prescription for ~~undesignated~~ school opioid antagonists. <sup>37</sup>

~~The School District Supply of Undesignated Glucagon~~ section of the policy is void whenever the Superintendent or designee is, for whatever reason, unable to: (1) obtain for the District a prescription for glucagon from a qualifying prescriber,<sup>38</sup> or (2) fill the District's prescription for ~~undesignated~~ school glucagon. <sup>39</sup>

The footnotes are not intended to be part of the adopted policy, they should be removed before the policy is adopted.

<sup>31</sup> 105 ILCS 5/22-33(e), added by P.A. 14-0-660. Consult the board attorney for guidance regarding whether a school nurse or administrator can be required to administer the product.

<sup>32</sup> 105 ILCS 5/22-33(d), amended by P.A. 101-370, eff. 1-1-20.

<sup>33</sup> Remove this section if the board does not adopt the undesignated asthma medication, the undesignated epinephrine injector, the undesignated opioid antagonist, the undesignated glucagon, or the administration of medical cannabis sections of the policy. If the board adopts one or some but not all, delete the appropriate paragraph(s) or sentence in this section.

<sup>34</sup> Discuss with the board attorney whether the board should remove this sentence when the district reaches full implementation of this section.

<sup>35</sup> See fn <sup>278</sup>, above.

<sup>36</sup> Health care professional means a physician licensed to practice medicine in all its branches, a licensed physician assistant with prescriptive authority, a licensed advanced practice registered nurse with prescriptive authority, or an advanced practice registered nurse who practices in a hospital or ambulatory surgical treatment center and possesses appropriate clinical privileges in accordance with the Nurse Practice Act. 20 ILCS 301/5-23(d)(4), amended by P.A.s 99-173, 99-480, 100-201, 100-513, and 100-759, eff. 1-1-19.

<sup>37</sup> See fn <sup>2715</sup> above.

<sup>38</sup> 105 ILCS 145/27, added by P.A. 101-428, provides that a physician, a physician assistant who has prescriptive authority under the Physician Assistant Practice Act of 1987 (225 ILCS 95/7.5), or an advanced practice registered nurse who has prescriptive authority under the Nurse Practice Act (225 ILCS 65-40) may prescribe undesignated glucagon in the name of the district to be maintained for use when necessary.

<sup>39</sup> See fn 19 above.

The **Administration of Medical Cannabis** section of the policy is void and the District reserves the right not to implement it if the District or school is in danger of losing federal funding. **40**

#### Administration of Undesignated Medication **41**

Upon any administration of an undesignated ~~medication permitted by State law~~~~asthma medication, epinephrine injector, or an opioid antagonist~~, the Superintendent or designee(s) must ensure all notifications required by State law and administrative procedures occur.

#### Undesignated Medication Disclaimers

Upon implementation of this policy, the protections from liability and hold harmless provisions ~~as explained in Section 22-30(c) of the School Code applicable under State law~~ apply. **42**

No one, including without limitation, parent(s)/guardian(s) of students, should rely on the District for the availability of undesignated ~~asthma medication, an undesignated epinephrine injector, and/or an undesignated opioid antagonist~~ medication. This policy does not guarantee the availability of undesignated medications. Students and their parent(s)/guardian(s) should consult their own physician regarding these medication(s).

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**40** 105 ILCS 5/22-33(f).

**41** 105 ILCS 5/22-30, amended by P.A.s ~~99-480 and 100-799, eff. 1-1-19, and 105 ILCS 145/27, added by P.A. 101-428~~, details specific required notifications, which are listed in 7:270-AP2, *Checklist for District Supply of Undesignated Asthma Medications, Epinephrine Injectors, and/or Opioid Antagonists*.

**42** 105 ILCS 5/22-30(c). ~~The school, and its employees and agents, incur no liability, except for willful and wanton conduct, as a result of an injury to a student arising from the administration of asthma medication, epinephrine injectors, or an opioid antagonists (Id.), a student's self-administration of medication (105 ILCS 5/10-22.21b, added by P.A. 101-205, eff. 1-1-20), or administration of undesignated glucagon (insofar as it would be considered part of the care of a student with diabetes, see 105 ILCS 145/45).~~

~~105 ILCS 5/22-30(c) requires the district to inform parents/guardians in writing of the protections from liability and hold harmless provisions that apply to the administration of asthma medication, epinephrine injectors, and opioid antagonists. In addition, a statement must be signed by a student's parent/guardian acknowledging the district's protections from liability and hold harmless provisions for these undesignated medications. Id. A similar acknowledgment must be signed by a student's parent/guardian for the self-administration of medication. 105 ILCS 5/10-22.21(c), added by P.A. 101-205, eff. 1-1-20. See 7:270-E1, *School Medication Authorization Form*, for a sample acknowledgement.~~

LEGAL REF.: 105 ILCS 5/10-20.14b, 5/10-22.21b, 5/22-30, and 5/22-33-  
[105 ILCS 145/ Care of Students with Diabetes Act](#).  
410 ILCS 130/, Compassionate Use of Medical Cannabis ~~Pilot~~ Program Act, and  
scheduled to be repealed on July 1, 2020.  
720 ILCS 550/, Cannabis Control Act.  
23 Ill.Admin.Code §1.540.

CROSS REF.: 7:285 (Food Allergy Management)

ADMIN. PROC.: 7:270-API (Dispensing Medication), 7:270-AP2 (Checklist for District Supply of  
Undesignated Asthma Medication, Epinephrine Injectors, ~~and/or~~ Opioid  
Antagonists, [and/or Glucagon](#)), 7:270-E1 (School Medication Authorization  
Form), 7:270-E2 (School Medication Authorization Form - Medical Cannabis)

DRAFT

## Students

### Suicide and Depression Awareness and Prevention 1

Youth suicide impacts the safety of the school environment. It also affects the school community, diminishing the ability of surviving students to learn and the school's ability to educate. Suicide and depression awareness and prevention are important Board goals.

#### Suicide and Depression Awareness and Prevention Program

The Superintendent or designee shall develop, implement, and maintain a suicide and depression awareness and prevention program (Program) that advances the Board's goals of increasing awareness and prevention of depression and suicide. This program must be consistent with the requirements of *Ann Marie's Law* listed below; each listed requirement, 1-6, corresponds with the list of required policy components in the School Code Section 5/2-3.166(c)(2)-(7). The Program shall include:

1. Protocols for administering youth suicide awareness and prevention education to students and staff. <sup>2</sup>
  - a. For students, implementation will incorporate Board policy 6:60, *Curriculum Content*, which implements 105 ILCS 5.2-3.139 and 105 ILCS 5/27-7 (requiring education for students to develop a sound mind and a healthy body).
  - b. For staff, implementation will incorporate Board policy 5:100, *Staff Development Program*, and teacher's institutes under 105 ILCS 5/3-14.8 (requiring coverage of the warning signs of suicidal behavior).
2. Procedures for methods of suicide prevention with the goal of early identification and referral of students possibly at risk of suicide.<sup>3</sup> Implementation will incorporate:

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<sup>1</sup> A suicide awareness and prevention policy is required by 105 ILCS 5/2-3.166(c), ~~amended by P.A. 99-443~~. The first sentence of this policy is required by 105 ILCS 5/2-3.166(c)(1), ~~amended by P.A.s 99-443 and 99-642~~.

This policy contains an item on which collective bargaining may be required. See 105 ILCS 5/10-22.24b. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

<sup>2</sup> Required by 105 ILCS 5/2-3.166(c)(2), ~~amended by P.A.s 99-443 and 99-642~~. While this law is titled Youth Suicide Awareness and Prevention, it requires the policy to include protocols for administering youth suicide awareness and prevention education to *staff* and students.

For student protocols, see 105 ILCS 5/2-3.139 and 105 ILCS 5/27-7.

For staff protocols, see 105 ILCS 5/3-14.8, which requires the regional superintendents to cover the warning signs of suicidal behavior in teacher's institutes. In suburban Cook County, an Intermediate Service Center will perform the responsibilities that are performed in other locations by the regional superintendent. P.A. 96-893.

<sup>3</sup> Required by 105 ILCS 5/2-3.166(c)(3), ~~amended by P.A.s 99-443 and 99-642~~. This policy adds *with the goal of and possibly* to modify the statute's use of "at risk of suicide." *Possibly* is added to inform the public that these identifications are not definitive. School staff members are not licensed medical professionals who are fully trained to make definitive determinations about whether a student is at risk of suicide, and parents/guardians should not take any referral under this requirement as such.

- a. The training required by 105 ILCS 5/10-22.39 for licensed school personnel and administrators who work with students to identify the warning signs of suicidal behavior in youth along with appropriate intervention and referral techniques, including methods of prevention, procedures for early identification, and referral of students at risk of suicide; and
  - b. Ill. State Board of Education (ISBE)-recommended guidelines and educational materials for staff training and professional development, along with ISBE-recommended resources for students containing age-appropriate educational materials on youth suicide and awareness, if available pursuant to *Ann Marie's Law* on ISBE's website.
3. Methods of intervention, including procedures that address an emotional or mental health safety plan for use during the school day and at school-sponsored events for a student identified as being at increased risk of suicide. Implementation will incorporate paragraph number 2, above, along with: <sup>4</sup>
- a. Board policy 6:65, *Student Social and Emotional Development*, implementing the goals and benchmarks of the Ill. Learning Standards and 405 ILCS 49/15(b) (requiring student social and emotional development in the District's educational program);
  - b. Board policy 6:270, *Guidance and Counseling Program*, implementing guidance and counseling program(s) for students, and 105 ILCS 5/10-22.24a and 22.24b, which allow a qualified guidance specialist or any licensed staff member to provide school counseling services;
  - c. Board policy 7:250, *Student Support Services*, implementing the Children's Mental Health Act of 2003, 405 ILCS 49/ (requiring protocols for responding to students with social, emotional, or mental health issues that impact learning ability); and
  - d. State and/or federal resources that address emotional or mental health safety plans for students who are possibly at an increased risk for suicide, if available on the ISBE's website pursuant to *Ann Marie's Law*.

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105 ILCS 5/10-22.39, amended by P.A.s 100-903, ~~and P.A. 101-350~~, requires licensed school personnel and administrators who work with students in kindergarten through grade 12 to be trained to identify the warning signs of suicidal behavior in youth along with appropriate intervention and referral techniques. While very little guidance is available for students in grades 6 and below, *Ann Marie's Law* directs [the Ill. State Board of Education \(ISBE\)](#) to compile, develop and post these items on its website. [Districts may use the Ill. Mental Health training program, established under the Ill. Mental Health First Aid Training Act, to provide the training for this in-service requirement. See f/n 4 in policy 5:100, Staff Development Program, for further discussion of this training requirement.](#)

*Ann Marie's Law* requires ISBE to develop and recommend materials. See the discussion in f/n <sup>7</sup>, below, on ISBE-recommended materials.

<sup>4</sup> Required by 105 ILCS 5/2-3.166(c)(4), ~~amended by P.A.s 99-443 and 99-642~~. For further discussion of 105 ILCS 5/10-22.24b, ~~amended by P.A. 99-276~~, see f/n 2 in policy 6:270, *Guidance and Counseling Program*. This policy adds "for use during the school day and at school-sponsored events" to inform the public about the limitations concerning what schools can realistically provide students and their parent(s)/guardian(s). See the discussion in f/n 3 regarding the addition of the word *possibly*.

4. Methods of responding to a student or staff suicide or suicide attempt. Implementation of this requirement shall incorporate building-level Student Support Committee(s) established through Board policy 7:250, *Student Support Services*.<sup>5</sup>
5. Reporting procedures. Implementation of this requirement shall incorporate Board policy 6:270, *Guidance and Counseling Program*, and Board policy 7:250, *Student Support Services*, in addition to other State and/or federal resources that address reporting procedures.<sup>6</sup>
6. A process to incorporate ISBE-recommended<sup>7</sup> resources<sup>7</sup> on youth suicide awareness and prevention programs, including current contact information for such programs in the District's Suicide and Depression Awareness and Prevention Program.<sup>8</sup>

#### Illinois Suicide Prevention Strategic Planning Committee

The Superintendent or designee shall attempt to develop a relationship between the District and the Illinois Suicide Prevention Strategic Planning Committee, the Illinois Suicide Prevention Coalition Alliance, and/or a community mental health agency. The purpose of the relationship is to discuss how to incorporate the goals and objectives of the Illinois Suicide Prevention Strategic Plan into the District's Suicide Prevention and Depression Awareness Program.<sup>9</sup>

#### Monitoring<sup>10</sup>

The Board will review and update this policy pursuant to *Ann Marie's Law* and Board policy 2:240, *Board Policy Development*.

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<sup>5</sup> Required by 105 ILCS 5/2-3.166(c)(5), ~~amended by P.A.s 99-443 and 99-642~~. See 7:250-AP2, *Protocol for Responding to Students with Social, Emotional, or Mental Health Needs* for information about building-level Student Support Committees. When sharing information from therapists and counselors, these committees are required to follow the Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/, and the Children's Mental Health Act of 2003, 405 ILCS 49/.

<sup>6</sup> Required by 105 ILCS 5/2-3.166(c)(6), ~~amended by P.A.s 99-443 and 99-642~~.

<sup>7</sup> 105 ILCS 5/2-3.166(b)(2)(B), ~~amended by P.A.s 99-443 and 99-642~~, directs ISBE to "compile, develop, and post on its publicly accessible Internet website both of the following, which may include materials already publicly available: (A) [r]ecommended guidelines and educational materials for training and professional development, and (B) [r]ecommended resources and age-appropriate educational materials on youth suicide awareness and prevention."

ISBE has created the *Illinois Youth Suicide Prevention Toolkit: A Reference for Administrators, Counselors, Teachers, and Staff* at: [www.isbe.net/Documents/Suicide-Prevention-Procedures.pdf](http://www.isbe.net/Documents/Suicide-Prevention-Procedures.pdf), as well as listing other resources at: [www.isbe.net/Pages/Suicide-Prevention.aspx](http://www.isbe.net/Pages/Suicide-Prevention.aspx).

<sup>8</sup> Required by 105 ILCS 5/2-3.166(c)(7), ~~amended by P.A.s 99-443 and 99-642~~.

<sup>9</sup> Optional. ~~At the time of publication, the~~The status of the *Illinois Suicide Prevention Strategic Plan* ~~is~~was unclear in light of *Ann Marie's Law*. However, the plan may be found at: <http://www.idph.state.il.us/about/chronic/Suicide-Prevention-Plan-Jan-08.pdf>.

~~www.idph.state.il.us/about/chronic/Suicide-Prevention-Plan-Jan-08.pdf~~ Its goals and objectives reflect the input of public and private organizations and stakeholders that are concerned with mental health. It is designed to reduce suicide through a positive public health approach. The target dates for implementing these goals and objectives started in 2010 with target dates of completion in 2012. See also the Suicide Prevention Resource Center and its Illinois page at [www.sprc.org/states/illinois](http://www.sprc.org/states/illinois) for more information on which goals in the Illinois Suicide Prevention Strategic Plan have been implemented. The Suicide Prevention Resource Center also had an awareness public prevention pilot program titled "It Only Takes One," available at: [www.itonlytakesone.org/](http://www.itonlytakesone.org/).

<sup>10</sup> Required by 105 ILCS 5/2-3.166(d), ~~amended by P.A.s 99-443 and 99-642~~.

## Information to Staff, Parents/Guardians, and Students

The Superintendent shall inform each school district employee about this policy and ensure its posting on the District's website.<sup>11</sup> The Superintendent or designee shall provide a copy of this policy to the parent or legal guardian of each student enrolled in the District. <sup>12</sup>

## Implementation

This policy shall be implemented in a manner consistent with State and federal laws, including the Children's Mental Health Act of 2003, 405 ILCS 49/, Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/, and the Individuals with Disabilities Education Act, 42 U.S.C. §12101 et seq.

The District, Board, and its staff are protected from liability by the Local Governmental and Governmental Employees Tort Immunity Act. Services provided pursuant to this policy: (1) do not replace the care of a physician licensed to practice medicine in all of its branches or a licensed medical practitioner or professional trained in suicide prevention, assessments and counseling services, (2) are strictly limited to the available resources within the District, (3) do not extend beyond the school day and/or school-sponsored events, and (4) cannot guarantee or ensure the safety of a student or the student body. <sup>13</sup>

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<sup>11</sup> Id. See 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. Consult the board attorney about whether a signature is required to prove compliance with the law's specific requirement that *each school district employee* and *each student enrolled in the District* are informed of and/or provided a copy of the policy.

<sup>12</sup> Id. Consult the board attorney about placing the policy in the student handbook instead of and/or in addition to providing a hard copy to each student's parent/guardian. Members of the Ill. Principals Assoc. (IPA) may subscribe to the IPA's Model Student Handbook Service, which are aligned with IASB's policy services. For more information, see: [www.ilprincipals.org/resources/model-student-handbook](http://www.ilprincipals.org/resources/model-student-handbook).

<sup>13</sup> **Consult the board attorney for guidance concerning liability in this area.** Except for cases of willful and wanton conduct, the Local Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 10/, likely protects districts from liability for failure to properly identify and/or respond to a student's mental health issue that results in suicide. See 745 ILCS 10/3-108 and Grant v. Board of Trustees of Valley View School Dist. No. 365-U, 286 Ill.App.3d. 642 (3rd Dist. 1997). However, attorneys have concerns that failing to inform parents/guardians that services required under *Ann Marie's Law* are limited may open districts to potential litigation if services provided under the policy fail or are deemed inadequate. Every situation is fact specific and the issues require careful evaluation. A disclaimer, such as the one presented here, may not be sufficient. A district may take several actions, after discussion with its board attorney, to minimize liability, such as adding limiting phrases (see discussions in f/ns 3 & 4) and ensuring other policies are followed. Ultimately, the best way to minimize liability is to be sure that the district's insurance policies cover the training and other requirements under *Anne Marie's Law*.

In addition to the Tort Immunity Act, school officials and districts may also be entitled to qualified immunity in civil rights lawsuits that seek to hold them liable for a suicide. See Sanford v. Stiles, 456 F.3d 298 (3d Cir. 2006); Martin v. Shawano-Gresham School Dist., 295 F.3d 701 (7th Cir. 2002); Armijo v. Wagon Mount Public Schools, 159 F.3d 1253 (10th Cir. 1998). Yet, recent trends in student-on-student harassment cases are emerging where parents whose children die of suicide allege that a school's failure to properly identify or respond to the child's mental health issues was a contributing cause for the suicide.

In these cases, the parents ask courts to apply Davis v. Monroe County Board of Education, 526 U.S. 629 (1999), to *Section 504* cases. Under the *Davis standard*, parents must prove that: (1) their child was an individual with a disability; (2) their child was harassed based upon his or her disability; (3) the harassment was sufficiently severe or pervasive that it altered the condition of the child's education and created an abusive educational environment; (4) the school district knew about the harassment; and (5) the school district was deliberately indifferent to the harassment.

LEGAL REF.: 105 ILCS 5/2-3.166, 5/14-1.01 et seq., 5/14-7.02, and 5/14-7.02b.  
745 ILCS 10/.

CROSS REF.: 2:240 (Board Policy Development), 5:100 (Staff Development Program), 6:60 (Curriculum Content), 6:65 (Student Social and Emotional Development), 6:120 (Education of Children with Disabilities), 6:270 (Guidance and Counseling Program), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:250 (Student Support Services)

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While not precedential in Illinois, several~~two~~ cases illustrate the uncertainty of a school district's liability in the emerging area of suicide prevention liability and/or failure to properly respond to a student's mental health issues, and may indicate a trend toward courts allowing juries to determine a district's liability: Armijo v. Wagon Mound Public Schools, 159 F.3d 1253 (10th Cir. 1998) (denying summary judgment to two individual defendant district employees based on a state-created danger theory and as to all defendant employees based on a special relationship theory); Estate of Barnwell ex rel. Barnwell v. Watson, 44 Supp.3d 859 (E.D. Ark. 2014) (allowing plaintiff parents ~~allowed~~ to move forward in litigation alleging that school district's Section 504 failures contributed to their son's suicide, but summary judgment in favor of school district eventually granted); and Walsh v. Tehachapi Unified School District, 997 F.Supp.2d 1071 (E.D. Ca. 2014) (denying summary judgment because the school district's conduct may have been the proximate cause of the student suffering an uncontrollable impulse to commit suicide). But see Estate of Lance v. Lewisville Independent School Dist., 743 F.3d 982 (5th Cir. 2014) (~~found~~-finding in favor of the school district because the claimed special relationship theory and state-created danger theories were not actionable).

## Students

### Student Records 1

School student records are confidential. Information from them shall not be released other than as provided by law.<sup>2</sup> A school student record is any writing or other recorded information concerning a student and by which a student may be identified individually that is maintained by a school or at its

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<sup>1</sup> State law requires school boards to adopt a policy and procedures implementing the Illinois School Student Records Act (ISSRA) and specifying the content of school student records. 23 Ill.Admin.Code §§375.100 and 226.740. Both State and federal law address school student records. See the federal Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. §1232g) implemented by federal rules at 34 C.F.R. Part 99) and ISSRA (105 ILCS 10/, amended by P.A. 100-532, implemented by ISBE rules at 23 Ill.Admin.Code Part 375). In addition, the U.S. Dept. of Education's *Protecting Student Privacy* webpage, a service of the Privacy Technical Assistance Center (PTAC) and the Family Policy Compliance Office, is a *one-stop* resource for education stakeholders to learn about student privacy and confidentiality, including data privacy and security practices related to student-level longitudinal data systems, at: [studentprivacy.ed.gov/www.studentprivacy.ed.gov/](http://studentprivacy.ed.gov/www.studentprivacy.ed.gov/). PTAC published a guide for school officials titled *Protecting Student Privacy While Using Online Educational Services: Requirements and Best Practices* (2014), at:

[studentprivacy.ed.gov/resources/protecting-student-privacy-while-using-online-educational-services-requirements-and-best-practices](http://studentprivacy.ed.gov/resources/protecting-student-privacy-while-using-online-educational-services-requirements-and-best-practices)  
[www.studentprivacy.ed.gov/resources/protecting-student-privacy-while-using-online-educational-services-requirements-and-best-practices](http://www.studentprivacy.ed.gov/resources/protecting-student-privacy-while-using-online-educational-services-requirements-and-best-practices). **School officials interested in cloud computing contracts should contact the board attorney.**

Confusion persists regarding the interplay between the FERPA and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Pub. L. 104-191). The Privacy Rule implementing HIPAA, issued by the U.S. Dept. of Health and Human Services (DHS), addresses the disclosure of individuals' health information by *covered entities*. 45 C.F.R. Parts 160 and 164, Subparts A and E. Generally speaking, a school district becomes a *covered entity*, and must comply with applicable sections in the Privacy Rule, if it provides health care and transmits health information in electronic form in connection with transactions. However, *educational records* as defined by FERPA are excluded from HIPAA's definition of *protected health information*. 45 C.F.R. §160.103. In most cases this exception relieves school districts of complying with burdensome privacy notices and authorization forms. The board attorney should be consulted on all HIPAA-related questions.

<sup>2</sup> A plethora of statutory and decisional law protects student records. Aside from the laws identified in f/n 1, other laws protecting student records include:

1. Schools may not provide a student's *personal information* to a business organization or financial institution that issues credit or debit cards. 105 ILCS 5/10-20.38.
2. Schools may not sell personal information concerning a child under the age of 16, with a few exceptions, unless a parent has consented. Children's Privacy Protection and Parental Empowerment Act, 325 ILCS 17/.
3. The release of confidential information given by a student to a therapist, e.g., school counselor or psychologist, is governed by the Mental Health and Developmental Disabilities Confidentiality Act. 740 ILCS 110/.
4. Schools must keep a sex offender registration form received from law enforcement separately from school student records maintained on behalf of the juvenile sex offender. 730 ILCS 152/121.
5. Divorced or separated parents/guardians with and without *parental responsibility* (formerly custody) are both permitted to inspect and copy the student's school student records. The Illinois Marriage and Dissolution of Marriage Act (IMDMA), 750 ILCS 5/602.11, ~~amended by P.A. 99-763~~.
6. Schools may not provide a parent/guardian access to his or her child's school records if the parent is prohibited by an order of protection from inspecting or obtaining such records pursuant to the Domestic Violence Act of 1986 or the Code of Criminal Procedure of 1963. IMDMA, 750 ILCS 5/602.11, ~~amended by P.A. 99-763~~.
7. The protection of student data collected by educational technology companies is governed by the Student Online Personal Protection Act, 105 ILCS 85/, added by P.A. 100-315.

**Note:** Nos. 5 and 6 may conflict with FERPA in that they restrict a parent/guardian's right to access his or her child's school records more than is expressly permitted by FERPA. 20 U.S.C. 1232g(a)(1)(A), (B); 34 C.F.R. 99.10(a). **Consult the board attorney for guidance.**

Allowing students to grade each other's papers does not violate FERPA; such student work is not a *school record* until it is recorded by the teacher. *Owasso I.S.D. No. I-011 v. Falvo*, 534 U.S. 426 (2002). School student records are *per se* prohibited from disclosure; a district is under no obligation to redact them. *Chicago Tribune Co. v. Chicago Bd. of Educ.*, 332 Ill.App.3d 60 (1st Dist. 2002).

direction by a school employee, regardless of how or where the information is stored, except as provided in State or federal law as summarized below: <sup>3</sup>

1. Records kept in a staff member's sole possession.
2. Records maintained by law enforcement officers working in the school. <sup>4</sup>
3. Video and other electronic recordings (including without limitation, electronic recordings made on school buses<sup>5</sup>) that are created in part for law enforcement, security, or safety reasons or purposes. The content of these recordings may become part of a school student record to the extent school officials create, use, and maintain this content, or it becomes available to them by law enforcement officials, for disciplinary or special education purposes regarding a particular student.
4. Any information, either written or oral, received from law enforcement officials concerning a student less than the age of 17 years who has been arrested or taken into custody. <sup>6</sup>

State and federal law grants students and parents/guardians certain rights, including the right to inspect, copy,<sup>7</sup> and challenge school student records.<sup>8</sup> The information contained in school student

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<sup>3</sup> 20 U.S.C. §1232g(a)(4); 34 C.F.R. §99.3; 105 ILCS 10/2(d); 705 ILCS 405/1-7 and 5-905; 23 Ill.Admin.Code §375.10. Rather than listing the exceptions in the policy, a school board may choose to end the sentence after the proviso "except as provided in State or federal law."

<sup>4</sup> For a helpful resource, see f/n 1 in policy 7:150, *Agency and Police Interviews*.

<sup>5</sup> For an explanation, see footnotes in 7:220, *Bus Conduct*.

<sup>6</sup> Many lawyers believe that once these records are received by a school, they are protected as *education records* under FERPA. Consult the board attorney for advice.

<sup>7</sup> 105 ILCS 10/5(a).

105 ILCS 10/5(c), amended by P.A. 100-532, requires that a parent's or student's request to inspect and copy records be granted no later than 10 business days (previously 15 school days) after the date of receipt of such a request by the official records custodian.

105 ILCS 10/5(c-5), added by P.A. 100-532, outlines how a school district may extend the timeline for response by not more than five business days from the original due date if one or more of these six reasons applies:

1. The requested records are stored in whole or in part at other locations than the office having charge of the requested records;
2. The request required the collection of a substantial number of specified records;
3. The request is couched in categorical terms and requires an extensive search for the records responsive to it;
4. The requested records have not been located in the course of routine search and additional efforts are being made to locate them;
5. The request for records cannot be complied with by the school district within the time limits prescribed by subsection (c) without unduly burdening or interfering with the operations of the school district; or
6. There is a need for consultation, which shall be conducted with all practicable speed, with another public body or school district among two or more components of a public body or school district having a substantial interest in the determination or in the subject matter of the request.

The person making the request and the school district may also agree in writing to extend the timeline for compliance for a period to be determined by the parties. *Id.*

<sup>8</sup> 23 Ill.Admin.Code §375.10, amended at 425 Ill. Reg. 5899, provides that districts may, through board policy, allow scores received on college entrance examinations to be included on a student's academic transcript if that inclusion is requested in writing by a student, parent or person who enrolled the student. If the board of a unit or high school district wants to allow this, insert:

A student or the student's parent/guardian may request, in writing, that scores received on college entrance examinations be included on the student's academic transcript.

**Note:** Though 23 Ill.Admin.Code §375.10 uses the phrase "student, parent or person who enrolled the student," student records rights under ISSRA and FERPA attach to *eligible students* and their parents/guardians, not to "a person who enrolled the student" (though that person is typically a parent or guardian).

records shall be kept current, accurate, clear, and relevant. All information maintained concerning a student receiving special education services shall be directly related to the provision of services to that child.<sup>9</sup> The District may release directory information as permitted by law, but a parent/guardian shall have the right to object to the release of information regarding his or her child.<sup>10</sup> However, the District will comply with an *ex parte* court order requiring it to permit the U.S. Attorney General or designee to have access to a student's school records without notice to, or the consent of, the student's parent/guardian.<sup>11</sup> Upon request, the District discloses school student records without consent to officials of another school district in which a student has enrolled or intends to enroll, as well as to any person as specifically required by State or federal law.

The Superintendent shall fully implement this policy and designate an *official records custodian* for each school who shall maintain and protect the confidentiality of school student records, inform staff members of this policy, and inform students and their parents/guardians of their rights regarding school student records. <sup>12</sup>

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If a board allows for the inclusion of college entrance examination scores on academic transcripts, amend the district's notification to parents/guardians and students of their school student records rights with the process for requesting the inclusion. 23 Ill.Admin.Code §375.30(d)(5), amended at ~~425~~ Ill. Reg. 5899. See 7:340-AP1, E1, *Notice to Parents/Guardians and Students of Their Rights Concerning a Student's School Records*, for an example.

<sup>9</sup> 23 Ill.Admin.Code §226.740(a).

<sup>10</sup> This sentence is required if the board allows schools to release student directory information. 20 U.S.C. §1232g; 23 Ill.Admin.Code §375.80; 34 C.F.R. §99.37. There is at least one instance in Illinois in which parents were upset that their school district released students' names and addresses pursuant to a Freedom of Information Act (FOIA) request. FOIA contains an exemption for home addresses. Many lawyers, however, say that a district must release student information pursuant to a FOIA request when each of the following has occurred: the FOIA request seeks information that is included in the district's definition of student directory information, the district notified parents that it releases directory information, and the parents did not opt out of allowing directory information to be released concerning their child. An opinion from the Ill. Public Access Counselor supports that a district may not rely on the FOIA exemption for home addresses. PAO 12-3.

The **PRESS** policy does not identify the components of *directory information*, leaving that task to implementing material. Boards may want to discuss this quagmire with the superintendent knowing that there are good reasons to release directory information, e.g., to allow the district to publish information about specific students, and good reasons to not release directory information, e.g., to avoid releasing names and addresses pursuant to a FOIA request.

23 Ill.Admin.Code 375.80(a)(1), amended at 42 Ill. Reg. 5899, no longer includes *gender* as information which may be designated as directory information. This is consistent with attorneys' views that Illinois' past practice of including *gender* within directory information may have violated FERPA. FERPA regulations provide that directory information "means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed" and it "includes, but is not limited to, the student's name; address; telephone listing; electronic mail address; photograph; date and place of birth; major field of study; grade level; enrollment status (e.g., undergraduate or graduate, full-time or part-time); dates of attendance; participation in officially recognized activities and sports; weight and height of members of athletic teams; degrees, honors, and awards received; and the most recent educational agency or institution attended." 34 C.F.R. 99.3. Though FERPA regulations do not explicitly preclude the designation of *gender* as directory information, U.S. Dept. of Education (DOE) guidance has consistently advised schools not to disclose a student's sex as directory information because it would be considered harmful or an invasion of privacy. See *Letter to Institutions of Postsecondary Education*, DOE Family Policy Compliance Office (September 2009). Consult the board attorney about the practical implementation of this issue. Some attorneys, for example, believe photos of the "Girls Volleyball Team" may contradict DOE guidance.

<sup>11</sup> 20 U.S.C. §1232(g)(j), as added by the Sec. 507 of the U.S.A. Patriot Act of 2001.

<sup>12</sup> Each school must have an *official records custodian*. 105 ILCS 10/4(a). Districts must notify students and parents/guardians of their rights concerning school student records. 105 ILCS 10/3; [105 ILCS 10/4, amended by P.A. 101-161, eff. 1-1-20](#); 23 Ill.Admin.Code §375.30; 34 C.F.R. §99.7. Comprehensive faculty and student handbooks can provide required notices, along with other important information, to recipients. Handbooks can be developed by the building principal, but should be reviewed and approved by the superintendent and board. See 7:340-AP1, E1, *Notice to Parents/Guardians and Students of Their Rights Concerning a Student's School Records*, and 7:340-AP1, *School Student Records*.

## Student Biometric Information Collection 13

The Superintendent or designee may recommend a student biometric information collection system solely for the purposes of identification and fraud prevention.<sup>14</sup> Such recommendation shall be consistent with budget requirements and in compliance with State law. Biometric information means any information that is collected through an identification process for individuals based on their unique behavioral or physiological characteristics, including fingerprint, hand geometry, voice, or facial recognition or iris or retinal scans.

Before collecting student biometric information, the District shall obtain written permission from the person having legal custody/parental responsibility<sup>15</sup> or the student (if over the age of 18).<sup>16</sup> Upon a student's 18th birthday, the District shall obtain written permission from the student to collect student biometric information.<sup>17</sup> Failure to provide written consent to collect biometric information shall not be the basis for refusal of any services otherwise available to a student.

All collected biometric information shall be stored and transmitted in a manner that protects it from disclosure. Sale, lease, or other disclosure of biometric information to another person or entity is strictly prohibited. <sup>18</sup>

The District will discontinue use of a student's biometric information and destroy all collected biometric information within 30 days after: (1) the student graduates or withdraws from the School District, or (2) the District receives a written request to discontinue use of biometric information from the person having legal custody/parental responsibility of the student or the student (if over the age of 18).<sup>19</sup> Requests to discontinue using a student's biometric information shall be forwarded to the Superintendent or designee.

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<sup>13</sup> This program is optional; however, districts either wishing to implement such a program or districts that have already engaged in the collection of student biometric information must have a policy consistent with the requirements of 105 ILCS 5/10-20.40 *et seq.* This section restates the School Code's requirements for a student biometric information policy.

<sup>14</sup> For districts already collecting biometric information, the following is an alternative:

The Superintendent or designee shall maintain a biometric screening program that is consistent with budget requirements and in compliance with State law.

<sup>15</sup> Several statutes define legal custody and when a court may grant it; the term requires statutory construction/interpretation and school boards should discuss this issue with their attorney prior to adopting a policy on collection of student biometric information.

105 ILCS 5/10-20.40(b)(1) states the definition of legal custody is the same as the definition of legal custody for purposes of residency, payment of tuition, hearings, and criminal penalties at 105 ILCS 5/10-20.12b(2)(i)-(v).

The IMDMA, 750 ILCS 5/, ~~amended by P.A.s 99-90 and 99-763~~, changed the terms *custody* and *visitation* to *parental responsibility* and *parenting time*, respectively. ~~P.A. 99-90~~ also requires a *parenting plan* that allocates: (1) significant decision-making responsibilities; and (2) each parent's right to access his or her child's school records. The new law does not amend ISSRA or the School Code.

<sup>16</sup> Based upon 105 ILCS 5/10-20.40, written permission is not required annually; it is valid until a request for discontinuation of the use of biometric information is received or until the student reaches the age of 18. See 7:340-AP1, E5, *Biometric Information Collection Authorization*.

<sup>17</sup> Districts must reissue 7:340-AP1, E5, *Biometric Information Collection Authorization* to students turning 18 years of age during the school year. This is because all rights and privileges accorded to a parent under ISSRA become exclusively those of the student upon his or her 18th birthday, graduation from secondary school, marriage, or entry into military service, whichever comes first. 105 ILCS 10/2(g).

<sup>18</sup> State law contains two exceptions: (1) the individual who has legal custody/parental responsibility of the student or the student (if over the age of 18) consents to the disclosure; and (2) the disclosure is required by court order. 105 ILCS 10-20.40(b)(5).

<sup>19</sup> 105 ILCS 5/10-20.40(d). No notification to or approval from the district's local records commission, pursuant to the Local Records Act, is required to destroy student biometric information. See *f/n 154* for a discussion about the terms *custody* and *parental responsibility*.

The Superintendent or designee shall develop procedures to implement this policy consistent with State and federal law. **20**

- LEGAL REF.: 20 U.S.C. §1232g, Family Educational Rights and Privacy Act, implemented by 34 C.F.R. Part 99.  
50 ILCS 205/7.  
105 ILCS 5/10-20.21b, 5/20.37, 5/20.40, and 5/14-1.01 et seq.  
105 ILCS 10/, Ill. School Student Records Act.  
325 ILCS 17/, Children’s Privacy Protection and Parental Empowerment Act.  
750 ILCS 5/602.11, Ill. Marriage and Dissolution of Marriage Act.  
23 Ill.Admin.Code Parts 226 and 375.  
Owasso I.S.D. No. I-011 v. Falvo, 534 U.S. 426 (2002).  
Chicago Tribune Co. v. Chicago Bd. of Ed., 332 Ill.App.3d 60 (1st Dist. 2002).
- CROSS REF.: 5:100 (Staff Development Program), 5:130 (Responsibilities Concerning Internal Information), 7:15 (Student and Family Privacy Rights), 7:220 (Bus Conduct)
- ADMIN. PROC.: 7:15-E (Notification to Parents of Family Privacy Rights), 7:340-AP1 (School Student Records), 7:340-AP1, E1 (Notice to Parents/Guardians and Students of Their Rights Concerning a Student’s School Records), 7:340-AP1, E3 (Letter to Parents and Eligible Students Concerning Military Recruiters and Postsecondary Institutions Receiving Student Directory Information), 7:340-AP1, E4 (Frequently Asked Questions Regarding Military Recruiter Access to Students and Student Information, 7:340-AP1, E5 (Biometric Information Collection Authorization), 7:340-AP2 (Storage and Destruction of School Student Records), 7:340-AP2, E1 (Schedule for Destruction of School Student Records)

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**20** Whether the student biometric information is an education record under FERPA, 20 U.S.C. §1232g, or falls under an exception to an education record under FERPA is an issue about which school boards should consult their board attorney. Protected Health Information under the DHS’s interpretations of HIPAA excludes education records covered by FERPA, and thus HIPAA requirements are not expected to be triggered by districts collecting student biometric information. However, before implementing policies and procedures to collect student biometric information, a board should discuss these issues with the board attorney.

## Community Relations

### Visitors to and Conduct on School Property 1

The following definitions apply to this policy:

**School property** - District and school buildings, grounds, and parking areas; vehicles used for school purposes; and any location used for a School Board meeting, school athletic event, or other school-sponsored or school-sanctioned events or activities. **2**

**Visitor** - Any person other than an enrolled student or District employee.

All visitors to school property are required to report to the Building Principal's office and receive permission to remain on school property. All visitors must sign a visitors' log, show identification, and wear a visitor's badge. When leaving the school, visitors must return their badge. On those occasions when large groups of parents/guardians, and friends, and/or community members are invited onto school property or when community members are attending Board meetings, visitors are not required to sign in but must follow school officials' instructions. Persons on school property without permission will be directed to leave and may be subject to criminal prosecution. **3**

Except as provided in the next paragraph, any person wishing to confer with a staff member should contact that staff member ~~by telephone or email~~ to make an appointment. Conferences with teachers are held, to the extent possible, outside school hours or during the teacher's conference/preparation period.

Requests to access a school building, facility, and/or educational program, or to interview personnel or a student for purposes of assessing the student's special education needs, should be made at the

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**1** State or federal law controls this policy's content. Boards may make and enforce reasonable rules of conduct and sportsmanship for school events and deny future admission to school events to violators for up to one year provided a notice and hearing are given. ~~(105 ILCS 5/24-24).~~ See f/n 20 below.

This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

**2** School-sponsored or school-sanctioned events or activities aligns with the text of 105 ILCS 5/27-23.7(a).

**3** This paragraph is up to the local board's discretion. Many public school buildings were built before school security was the concern it is now. A first step in creating a secure environment is to manage access to school buildings. Along with limiting the entrances that may be used, school officials should post signs with instructions for visitors and a warning to trespassers. Signs may be as simple as "Visitors Must Report to Office" and "No Trespassing – Violators will be Prosecuted." Applicable criminal trespass laws include: 720 ILCS 5/21-1 (criminal damage to property); 5/21-1.2 (institutional vandalism); 5/21-3 (criminal trespass to real property); 5/21-5 (criminal trespass to State supported land); 5/21-5.5 (criminal trespass to a safe school zone); 5/21-9 (criminal trespass to a place of public amusement); 5/21-11 (distributing or delivering written or printed solicitation on school property). This sample policy identifies board members as visitors.

The following optional provisions must be modified according to local conditions:

Option 1: The Superintendent or designee may post certain school facilities for the community's use on non-school days when they are not being used for school purposes.

Option 2: The Superintendent or designee shall manage a program to allow community use of the following facilities on non-school days, during the daylight, provided they are not being used for school purposes: tennis courts, playground, and track.

appropriate building. Access shall be facilitated according to guidelines from the Superintendent or designee. <sup>4</sup>

The School District expects mutual respect, civility, and orderly conduct among all people on school property or at a school event. No person on school property or at a school event (including visitors, students, and employees) shall perform any of the following acts:

1. Strike, injure, threaten, harass, or intimidate a staff member, ~~a~~-Board member, sports official or coach, or any other person. <sup>5</sup>
2. Behave in an unsportsmanlike manner, or use vulgar or obscene language.
3. Unless specifically permitted by State law, possess a weapon, any object that can reasonably be considered a weapon or looks like a weapon, or any dangerous device. <sup>6</sup>
4. Damage or threaten to damage another's property. <sup>7</sup>
5. Damage or deface school property. <sup>8</sup>
6. Violate any Illinois law,<sup>9</sup> or town or county ordinance.
7. Smoke or otherwise use tobacco products. <sup>10</sup>
8. Distribute, consume, use, possess, or be **impaired by or** under the influence of an alcoholic beverage, **cannabis, other lawful product,** or illegal drug. <sup>11</sup>~~b~~

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<sup>4</sup> 105 ILCS 5/14-8.02(g-5). See administrative procedure 6:120-AP2, *Access to Classrooms and Personnel*, and exhibit 6:120-AP2, E1, *Request to Access Classroom(s) or Personnel for Special Education Evaluation and/or Observation Purposes*.

<sup>5</sup> See e.g., 720 ILCS 5/12-2(aggravated assault); 5/12-3.05(c) and (d)(3)(crimes on school property; aggravated battery (a sports official or coach or school employee); 5/12-9(threats to public officials); 5/24-1.2(discharge of a firearm).

<sup>6</sup> With one exception, a license to carry a firearm does not permit an individual to carry a concealed firearm on or into any building, real property, and or parking area under the control of an elementary or secondary school, or any bus paid for in whole or part with public funds. (430 ILCS 66/65(a), ~~added by P.A. 98-630 and~~ amended by P.A. 99-29). The following optional provision adds that exception, which is a restatement of 430 ILCS 66/65(b), ~~added by P.A. 98-630 and~~ amended by P.A. 99-29, to the text in number 3:

An individual licensed to carry a concealed firearm under the Illinois Firearm Concealed Carry Act is permitted to: (a) carry a concealed firearm within a vehicle into a parking area controlled by a school or the District and may store a firearm or ammunition concealed in a case within a locked vehicle or locked container out of plain view within the vehicle in the parking area, and/or (b) carry a concealed firearm in the immediate area surrounding his or her vehicle in a parking area controlled by a school or the District for the limited purpose of storing or retrieving a firearm within the vehicle's trunk.

Other relevant weapons laws include 705 ILCS 405/5-407, 720 ILCS 5/24-9; 725 ILCS 5/110-4, 5/110-10 (firearms in schools); 720 ILCS 5/24-1.2, 5/24-3 (discharge of firearm near school); 705 ILCS 405/5-130, 405/5-805 (minor 15 years or older who commits aggravated battery with a firearm at school is tried as an adult).

<sup>7</sup> See e.g., 720 ILCS 5/2-19.5, 5/16-1, 5/18-1, 5/19-1,21-1, and 5/21-1.3 (property damage penalties).

<sup>8</sup> See e.g., 720 ILCS 5/21-1.01, 21-1.3.

<sup>9</sup> See e.g., 720 ILCS 5/11-9.3 (presence within school zone by child sex offenders prohibited), 5/11-14(prostitution), 5/11-15(repealed), and 5/11-18(patronizing a prostitute); 720 ILCS 5/21-11 (soliciting students to commit illegal act).

<sup>10</sup> Required by 105 ILCS 5/10-20.5b and 410 ILCS 82/1 et seq. Federal law prohibits smoking inside schools (20 U.S.C. §~~60846083~~); districts failing to comply with the federal no-smoking ban risk a civil penalty of up to \$1000 per violation per day.

<sup>11</sup> See ~~e.g.~~ 720 ILCS 570/407 (delivery of controlled substance on or within 1000 feet of a school) and 410 ILCS 705, added by P.A. 101-27. See also the discussion in f/n/s 5 and 62 of policy 5:50, *Drug- and Alcohol-Free Workplace; E-Cigarette, Tobacco, and Cannabis Prohibition*; this statement must be consistent with employee working conditions and employee conduct standards (see 5:120-AP2, Employee Conduct Standards).

- ~~8-9.~~ Be present when the person's alcoholic beverage, cannabis, other lawful product, or illegal drug consumption is detectible, regardless of when and/or where the use occurred. 12
- ~~9-10.~~ Use or possess medical cannabis, unless he or she has complied with policy 7:270, Administering Medicines to Students, implementing Ashley's Law. 13
- ~~10-11.~~ Impede, delay, disrupt, or otherwise interfere with any school activity or function (including using cellular phones in a disruptive manner). 14
- ~~11-12.~~ Enter upon any portion of school premises at any time for purposes other than those that are lawful and authorized by the Board.
- ~~12-13.~~ Operate a motor vehicle: (a) in a risky manner, (b) in excess of 20 miles per hour, or (c) in violation of an authorized District employee's directive. 15
- ~~13-14.~~ Engage in any risky behavior, including roller-blading, roller-skating, or skateboarding. 16
- ~~14-15.~~ Violate other District policies or regulations, or a directive from an authorized security officer or District employee.
- ~~15-16.~~ Engage in any conduct that interferes with, disrupts, or adversely affects the District or a School function.

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12 Each board and superintendent may want to engage in a conversation regarding how the district might partner with local law enforcement to enforce this policy and the penalties available under the Cannabis Regulation Tax Act, e.g., posting signs barring community members from bringing in weapons, alcohol, cannabis, tobacco, etc. Signage reminding visitors of the policy may make it easier for staff and/or local law enforcement to enforce.

13 Managing cannabis on district property and the school setting presents many unsettled and complex legal issues. To legally use medical cannabis in Illinois, an individual must first become a *registered qualifying patient*. The use of cannabis by a *registered qualifying patient* is permitted only in accordance with the Compassionate Use of Medical Cannabis Pilot Program Act (Medical Cannabis Program Act (MCPA)), (410 ILCS 130/, amended by P.A. 101-363, eff. 1-1-20 and scheduled to be repealed on 7-1-20 added by P.A. 98-122 (eff. 1-1-14)). There are many situations in which no one, even a *registered qualifying patient*, may possess or use cannabis, including (a) in a school bus, (b) on the grounds of any preschool or primary or secondary school, or (c) in close physical proximity to anyone under the age of 18 years of age. (410 ILCS 130/30(a)(2), (3), and (4), amended by P.A. 101-363, eff. 1-1-20 and scheduled to be repealed on 7-1-20 added by P.A. 98-122 (eff. 1-1-14)). However, Ashley's Law, 105 ILCS 5/22-33(b) and (g), added by P.A. 100-660, allows designated caregivers to administer medical cannabis infused products to students who are registered qualifying patients at school or on the school bus, and requires school boards to adopt a policy to implement the law unless the district would lose federal funding. See policy 7:270, Administering Medicines to Students and its f/n 20.

Remember that Ashley's Law requires the designated caregiver to remove the product from the school premises or the school bus after administering it to the student, so as a result, policy 7:270, Administering Medicines to Students, requires immediate removal of medical cannabis infused products after administering them to the student (see f/n 25 of that policy for further discussions).

14 See e.g., 720 ILCS 5/21.2-1 et seq. (interference with a public institution of education).

15 See e.g., 625 ILCS 5/11-605, amended by P.A. 99-212, eff. 1/1/16, (special speed limit zones), 625 ILCS 5/12-610.1(e), prohibits wireless telephone use while operating a motor vehicle on a roadway in a school speed zone except for emergency purposes.

16 The pivotal question in a negligence case is whether the defendant acted reasonably. A ban on roller-blading demonstrates that the district took reasonable steps to reduce the risk of injury.

### Convicted Child Sex Offender 17

State law prohibits a child sex offender from being present on school property or loitering within 500 feet of school property when persons under the age of 18 are present, unless the offender is:

1. A parent/guardian of a student attending the school and has notified the Building Principal of his or her presence at the school for the purpose of: (i) attending a conference at the school with school personnel to discuss the progress of his or her child academically or socially, (ii) participating in child review conferences in which evaluation and placement decisions may be made with respect to his or her child regarding special education services, or (iii) attending conferences to discuss other student issues concerning his or her child such as retention and promotion; or
2. Has permission to be present from the Board, Superintendent, or Superintendent's designee. If permission is granted, the Superintendent or Board President shall provide the details of the offender's upcoming visit to the Building Principal.

In all cases, the Superintendent, or designee who is a certified employee, shall supervise a child sex offender whenever the offender is in a child's vicinity.

### Exclusive Bargaining Representative Agent 18

Authorized agents of an exclusive bargaining representative, upon notifying the Building Principal's office, may meet with a school employee (or group of employees) in the school building during duty-free times of such employees.

### Enforcement

Any staff member may request identification from any person on school property; refusal to provide such information is a criminal act.<sup>19</sup> The Building Principal or designee shall seek the immediate removal of any person who refuses to provide requested identification.

Any person who engages in conduct prohibited by this policy may be ejected from school property. The person is also subject to being denied admission to school events or meetings for up to one calendar year.<sup>20</sup>

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<sup>17</sup> 720 ILCS 5/11-9.3. The statute assigns the child sex offender the "duty to remain under the direct supervision of a school official." In order to ensure this happens and to protect students, the sample policy requires the superintendent, or designee who is a certified employee, to supervise a child sex offender whenever the offender is in a child's vicinity. See also the Sex Offender Community Notification Law (730 ILCS 152/101 *et seq.*); ~~Child~~-Murderer and Violent Offender Against Youth Community Notification Law (730 ILCS 154/75-105); policy 4:170, *Safety*; and administrative procedure 4:175-API, *Criminal Offender Notification Laws; Screening*.

<sup>18</sup> 105 ILCS ~~5/24-24~~ and ~~5/24-25~~. ~~If a provision contained in a collective bargaining agreement addresses this issue, it will supersede this policy for those covered employees. In such cases, the board policy should be amended to state, "Please refer to the applicable collective bargaining agreement." For employees not covered, the policy should reflect the board's current practice. Omit this section if it is covered in a collective bargaining agreement.~~ *Duty-free time* is used to provide a district with discretion about whether preparation time, etc. may be used.

Consult the board attorney about this subhead. It is an item on which collective bargaining may be required. Any policy that impacts wages, hours, or terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. Amend the language to reflect what is recommended by the board attorney.

<sup>19</sup> ~~Id.~~ 105 ILCS ~~5/24-24~~ and ~~5/24-25~~.

## Procedures to Deny Future Admission to School Events or Meetings

Before any person may be denied admission to school events or meetings as provided in this policy, the person has a right to a hearing before the Board. The Superintendent may refuse the person admission pending such hearing. The Superintendent or designee must provide the person with a hearing notice, delivered or sent by certified mail with return receipt requested, at least ten days before the Board hearing date. The hearing notice must contain: **21**

1. The date, time, and place of the Board hearing;
2. A description of the prohibited conduct;
3. The proposed time period that admission to school events will be denied; and
4. Instructions on how to waive a hearing. **22**

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

**20** See Nuding v. Cerro Gordo Community Unit School Dist., [730 N.E.2d 96 \(Ill.App.4, 2000\)](#); [313 Ill. App.3d 344 \(4th Dist. 2000\)](#) (board was authorized to ban parent from attending all school events and extracurricular activities by 105 ILCS 5/24-24; the ban was based on the parent's exposing a toy gun and a pocketknife at a board meeting); Jordan ex rel. Edwards v. O'Fallon Tp. High School Dist., [302 Ill.App.3d 1070706 N.E.2d 137 \(5th Dist.Ill.App.5, 1999\)](#) (105 ILCS 5/24-24 did not give a high school athlete the right, under the due process clause, to a notice and hearing before he could be suspended from participating in interscholastic athletics; the statute expands the schools' authority to ban people from attending school events for breaching conduct and sportsmanship code).

**21** Id. For ease of administration, this text is broader than 105 ILCS 5/24-24, requiring a hearing for both *school events* and *meetings*. The court in Nuding (see f/n 20, above) did not specifically answer whether a board meeting qualified as a *school event* under 105 ILCS 5/24-24, but upheld the board's right to enforce conduct rules at its meetings under 105 ILCS 5/10-20.5.

For boards that wish to narrow the policy text to mirror 105 ILCS 5/24-24, delete the following text from the subhead and the first sentence of the policy:

Procedures to Deny Future Admission to School Events or Meetings

Before any person may be denied admission to school events or meetings as provided in this policy, the person has a right to a hearing before the Board.

Consult the board attorney before deleting the above text, especially if the board has put the current text into practice and now plans to narrow it. This issue involves a balancing of a board's interest in the orderly transaction of its public business and the efficiency of its meetings against an individual's: (a) statutory rights attend meetings and/or comment to and ask questions of the board (105 ILCS 5/10-16 and 5 ILCS 120/2.06(g)) and (b) constitutional freedoms and rights of speech, the press, assembly, and to petition the government (U.S. Constitution, First Amendment and Ill. Constitution, Art. I, §§ 1, 2, 4, and 5).

If a violator is a student, the hearing should be held in a closed meeting. [\(5 ILCS 120/2\(c\)\(9\)\).](#)

If, however, the violator is not a student, the hearing must be held in an open session.

**22** The hearing requirement is for the violator's benefit and, consequently, the violator should be able to waive it.

LEGAL REF.: Nuding v. Cerro Gordo Community Unit School Dist., [313 Ill. App.3d 344 \(4th Dist.730 N.E.2d 96 \(Ill.App.4, 2000\).](#)  
~~Pro-Children Act of 1994~~, 20 U.S.C. §7181 et seq., Pro-Children Act of 1994,  
105 ILCS 5/10-20.5b, 5/22-33, 5/24-24, ~~and 5/24-25~~, and 5/27-23.7(a).  
410 ILCS 130/, Compassionate Use of Medical Cannabis ~~Pilot~~ Program Act.  
430 ILCS 66/, Firearm Concealed Carry Act.  
410 ILCS 705/, Cannabis Tax and Regulation Act.  
720 ILCS 5/11-9.3.

CROSS REF.: 4:170 (Safety), 5:50 (Drug- and Alcohol-Free Workplace; E-Cigarette, Tobacco,  
and Cannabis Prohibition), 6:120 (Education of Children with Disabilities), 6:250  
(Community Resource Persons and Volunteers), 7:190 (Student Behavior), 7:270  
(Administering Medicines to Students), 8:20 (Community Use of School  
Facilities)

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## **7:30 Student Assignment and Intra-District Transfer**

### Attendance Areas

The School District is divided into school attendance areas. The Superintendent will review the boundary lines annually and recommend any changes to the School Board. The Superintendent or designee shall maintain a map of the District showing current school attendance areas. Students living in a given school attendance area will be assigned to that school. Homeless children shall be assigned according to Board policy 6:140, Education of Homeless Children.

### Transfers Within the District

Parent(s)/guardian(s) who wish to have their child attend another District school outside of their normal attendance boundary, may submit their request in writing to the Superintendent of Schools for consideration. The Superintendent may grant the request when the parent(s)/guardian(s) demonstrate that the student could be better accommodated at another school, provided space is available. Decisions involving intra-district transfers will be made on a case by case basis in consultation with the building administrators involved. Factors to be considered shall include, but not be limited to: special student needs, space available, impact on existing programs, and staffing requirements. If a request is granted, the parent/guardian shall be responsible for the safe transport of the student to and from school. The provisions in this section have no applicability to transfers pursuant to the Unsafe School Choice Option covered in Board policy 4:170, *Safety*.

### Class Assignments

The Superintendent or designee shall assign students to classes.

LEGAL REF.:

[105 ILCS 5/10-21.3](#), [5:10-21.3a](#) and [5/10-22.5](#).

CROSS REF.: 4:170 (Safety), 6:30 (Organization of Instruction), 6:140 (Education of Homeless Children)

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It is recommended that the following audio recordings from the closed meetings of the Board of Education be destroyed:

January 9, 2014; January 10, 2014; January 15, 2014; January 24, 2014; January 28, 2014; February 10, 2014; February 24, 2014; March 18, 2014; March 24, 2014; April 14, 2014; April 28, 2014; May 19, 2014; June 9, 2014; and June 23, 2014.

Background

According to the Open Meetings Act and Board policy 2:220 *School Board Meeting Procedure*, verbatim recordings of closed sessions may be destroyed no less than 18 months after completion of the recorded meeting, and after the Board approves written minutes of the closed session and the destruction of the recording.

The Board has approved the written minutes of these meetings and will continue to maintain them in accordance with law and policy.

02/18/2020

Approval of Minutes

ACTION ITEM 20-02-4

I move that the Board of Education of Community Consolidated School District 64 Park Ridge-Niles, Illinois approve the minutes from the Closed Session on January 27, 2020; the Regular Meeting on January 27, 2020; and the Special Meeting on February 4, 2020..

The votes were cast as follows:

Moved by \_\_\_\_\_ Seconded by \_\_\_\_\_

AYES:

NAYS:

PRESENT:

ABSENT:

02/18/20

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**BOARD OF EDUCATION  
COMMUNITY CONSOLIDATED SCHOOL DISTRICT 64  
Minutes of the Regular Board of Education Meeting held at 7:00 p.m.  
January 27, 2020  
Jefferson School - Multipurpose Room  
8200 Greendale Avenue, Niles, Illinois 60714**

Board President Rick Biagi called the meeting to order at 6:30 p.m. Other Board members in attendance were Tom Sotos, Carol Sales, Dr. Denise Pearl, Larry Ryles, Fred Sanchez, and Rebecca Little. Also present were Superintendent Eric Olson; Assistant Superintendent for Human Resources Joel T. Martin; and Board Legal Counsel Kerry Pipal.

Board of Education meetings are videotaped and may be viewed in their full length from the District's website at <http://www.d64.org>. The agenda and reports for this meeting are also available on the website or through the District 64 Educational Service Center, 164 S. Prospect Ave., Park Ridge, IL 60068.

**BOARD RECESSES AND ADJOURNS TO CLOSED SESSION**

At 6:31 p.m. it was moved by Board member Sotos and seconded by Board member Pearl to adjourn to closed session to discuss the appointment, employment, compensation, discipline, performance, or dismissal of specific employees, specific individuals who serve as independent contractors, or specific volunteers of the District or legal counsel for the District, including hearing testimony on a complaint lodged against an employee, a specific individual who serves as an independent contractor, or a volunteer of the District or against legal counsel for the District to determine its validity. However, a meeting to consider an increase in compensation to a specific employee of a public body that is subject to the Local Government Wage Increase Transparency Act may not be closed and shall be open to the public and posted and held in accordance with this Act [5ILCS 120/2(c)(1)]; and collective negotiating matters between the public body and its employees or their representatives, or deliberations concerning salary schedules for one or more classes of employees [5 ILCS 120/2(c)(2)].

The votes were cast as follows:

AYES: Sales, Biagi, Little, Ryles, Sanchez, Sotos, Pearl

NAYS: None

PRESENT: None

ABSENT: None

The motion carried.

**BOARD ADJOURNS FROM CLOSED SESSION AND RESUMES THE REGULAR MEETING**

The Board resumed the regular meeting at 7:02 p.m. In addition to those listed above, also present were Chief School Business Official Luann Kolstad; Assistant Superintendent for Student Learning Lori Lopez;

**DRAFT**

Director of Student Services Lea Anne Frost; Public Information Coordinator Peter Gill; and approximately 35 members of the public.

**PLEDGE OF ALLEGIANCE**

Board member Ryles led the pledge of allegiance.

**OPENING REMARKS FROM THE BOARD PRESIDENT**

President Biagi updated the board on the first meeting of the intragovernmental group with the City of Park Ridge and the Park District, in which he and Board member Ryles participated this past Thursday. He noted that District 207 will be invited to join the group, which will meet monthly for the first four to six months and then gradually scale back to once a month. The mayor of Park Ridge will take the lead for now, and a report will be eventually published of each meeting. The first meeting was focused on initial logistics.

**PUBLIC COMMENTS**

President Biagi invited comments on non-agenda items; none were received.

**APPROVAL OF MEETING AGENDA**

No changes were made to the agenda.

**STUDENT/STAFF RECOGNITION**

Coaches from Lincoln and Emerson Middle Schools for boys’ basketball teams came up to the podium to talk about their teams’ outstanding seasons and accomplishments. The players present were congratulated by the Board and Dr. Olson for their efforts.

**ADOPTION OF RESOLUTION #1244 DIRECTS THE CHIEF SCHOOL BUSINESS OFFICIAL UNDER THE DIRECT SUPERVISION OF THE SUPERINTENDENT TO BEGIN PREPARATION OF A TENTATIVE BUDGET FOR THE 2020-21 FISCAL YEAR IN ACCORDANCE WITH BOARD POLICY 4:10 FISCAL AND BUSINESS MANAGEMENT AND THE ILLINOIS SCHOOL CODE 105 ILCS 5/17-1**

CSBO Kolstad noted this was the start of the budget process for the 2020-21 fiscal year, the Board essentially allowing her with this resolution to start preparing the budget.

ACTION ITEM 20-01-1

It was moved by Board member Pearl and seconded by Board member Sotos that the Board of Education of Community Consolidated School District 64, Park Ridge – Niles, Illinois, adopt Resolution #1244, directing the Chief School Business Official Under the Direct Supervision of the Superintendent to Begin Preparation of a Tentative Budget for the 2020-21 Fiscal Year in Accordance with Board Policy 4:10 *Fiscal and Business Management* and the *Illinois School Code* 105 ILCS 5/17-1.

The votes were cast as follows:

AYES: Little, Biagi, Sotos, Pearl, Sales, Sanchez, Ryles

**DRAFT**

NAYS: None

PRESENT: None

ABSENT: None

The motion carried.

**FIRST READING OF POLICIES FROM PRESS ISSUE 102 AND REVIEW OF POLICIES 2:230 AND 7:30**

Superintendent Olson noted that the policy committee overwhelmingly agreed with the changes and revisions suggested by PRESS services in its current issue 102, except where they conflicted with contracts in place or other District-specific requirements. He also noted that the Board had previously set aside policies 2:230 and 7:30 for further review, which were revised and presented for a first reading. The Board discussed policy 2:230 *Public Participation at Board of Education Meetings* and requested further revisions, such as reciprocal civility when addressing the Board, limiting public comments to three minutes per person, and indicating whether the speaker is a Park Ridge resident. The Board also requested the public comments rules to be posted on the meeting's agenda and clearly indicated at the meetings. Dr. Olson stated the policy will be revised with the requested changes and presented for second reading and approval at the next regular meeting. The Board also requested a minor revision to policy 7:30 *Student Assignment & Intra-District Transfer*.

**PRESENT TENTATIVE DRAFT CALENDAR FOR 2021-22**

Dr. Olson presented the main points of the draft calendar: start of the school year, spring and winter breaks, holidays, and end of the school year. He noted the Board was not required to take action tonight and the calendar would be finalized once District 207's was approved. The Board had no comments and did not request any changes to the calendar as presented.

**CONSIDERATION OF BOARD GOALS**

The Board discussed setting goals and how to go about the process. The members examined their oath, the need to have goals for the Board which would differ from the District's goals, and the purpose of setting such goals. The Board reached consensus to table this discussion for another time.

**APPROVAL OF RECOMMENDED PERSONNEL REPORT**

It was noted that the Board is relying upon the recommendation of the Superintendent and administration in their professional judgment as to the hiring of these individuals per Policy 2:130.

**ACTION ITEM 20-01-2**

It was moved by Board member Ryles and seconded by Board member Little that the Board of Education of Community Consolidated School District 64, Park Ridge – Niles, Illinois, approve the Personnel Report, noting that the Personnel Report is based on the recommendation of the Superintendent and not upon the Board's direct knowledge regarding any of the specific individuals selected for employment.

Joseph Azzi - Employ as Night Custodian at Franklin School effective January 7, 2020 - \$17.03 hourly.  
Sarah Bozai - Employ as Teaching Assistant at Field School effective January 13, 2020 - \$16.31 hourly.  
Jose Chavez - Employ as Night Custodian at Washington School effective January 2, 2020 - \$17.03 hourly.  
Matthew Csongradi - Employ as Night Custodian at Roosevelt School effective January 7, 2020 - \$17.03 hourly.

**DRAFT**

Jacqueline Mirza - Employ as Teaching Assistant at Jefferson School effective January 13, 2020 - \$16.31 hourly.

Marie Murphy - Employ as .5 Title I Teacher at Franklin School effective January 14, 2020 - BA, Step 1 - \$13,678.31.

Kristin Nicholson - Employ as Teaching Assistant at Roosevelt School effective January 6, 2020 - \$16.31 hourly.

Marie Murphy - Resign as .5 Teaching Assistant at Franklin School effective January 13, 2020.

Jairo Fernandez - Terminate as Night Custodian at Roosevelt School effective January 6, 2020.

The votes were cast as follows:

AYES: Pearl, Sotos, Biagi, Sales, Little, Sanchez, Ryles

NAYS: None

PRESENT: None

ABSENT: None

The motion carried.

**CONSENT AGENDA**

The Board members discussed resolution #1245 within the consent agenda, which would change the bills payment schedule from once a month to twice a month, and the possible appointment of a Board member to review the process. CSBO Kolstad noted that she carefully reviews all payments before they are processed and that should any questions arise, she would hold off on any payment which would need clarification or further review. The Board reached consensus to amend the resolution to remove section 4 entirely and omit appointing a single member to oversee the payments. Section 3 was amended to include the posting of the bills on the website for public review. The Board members will receive a reminder email to review the bills posted, CSBO Kolstad will have authority to process payments if no questions are raised within a certain time limit. The Board unremoved the prior motion for the vote and agreed to take action and include the resolution as amended.

- Bills, Payroll and Benefits

Bills

<u>Fund</u>	<u>Fund Total</u>
10 - Education Fund	\$ 1,173,676.36
20 - Operations and Maintenance Fund	\$ 460,230.04
30 - Debt Services	\$ 13,417.77
40 - Transportation Fund	\$ 333,908.39
50 - Retirement (IMRF/SS/MEDICARE)	\$ -
60 - Capital Projects	\$ 280,276.68
61 - Capital Projects-2017 Debt Certificates	\$ -
80 - Tort Immunity Fund	\$ 6,393.68
90 - Fire Prevention and Safety Fund	\$ -
<u>Total:</u>	<u>\$ 2,267,902.92</u>

**DRAFT**

Payroll & Benefits

<u>Fund</u>	<u>Fund Total</u>
10 - Education Fund	\$27,048,149.43
20 - Operations and Maintenance Fund	\$ 3,239,011.34
30 - Debt Services Fund	\$ 2,265,053.71
40 - Transportation Fund	\$ 1,461,995.33
50 - IMRF/FICA Fund	\$ 408,761.54
51 - SS/Medicare	\$ 540,680.02
60 - Capital Projects Fund	\$ 6,252,112.18
80 - Tort Immunity Fund	\$ 490,089.00
<u>Total: \$41,705,852.55</u>	

The Accounts Payable detailed list can be viewed on the District 64 website’s business services page at [www.d64.org](http://www.d64.org).

- Approval of Financial Update for the Period Ending December 31, 2019
- Resolution #1245 Authorizing Payment of Bills
- Approval of Hold or Release of Closed Minutes
- Destruction of Audio Closed Recordings: July 8, 2013; August 12, 2013; August 17, 2013; August 26, 2013; September 19, 2013; September 23, 2013; October 8, 2013; October 28, 2013; December 9, 2013; and December 16, 2013.

ACTION ITEM 20-01-3

It was moved by Board member Sanchez and seconded by Board member Little that the Board of Education of Community Consolidated School District 64, Park Ridge – Niles, Illinois, approve the Consent Agenda for January 27, 2020 which includes: Bills, Payroll and Benefits; Approval of Financial Update for Period Ending December 31, 2019; Resolution #1245 Authorizing Payment of Bills (as amended); Approval of Hold or Release of Closed Minutes; and Destruction of Audio Closed Recordings.

The votes were cast as follows:

AYES: Biagi, Ryles, Sotos, Pearl, Little, Sales, Sanchez

NAYS: None

PRESENT: None

ABSENT: None

The motion carried.

**APPROVAL OF MINUTES**

ACTION ITEM 20-01-4

It was moved by Board member Sotos and seconded by Board member Little that the Board of Education of Community Consolidated School District 64, Park Ridge – Niles, Illinois, approve the minutes from the Closed Session on December 10, 2019; the Special Meeting on December 10, 2019; the Closed Session on December 16, 2019; and the Regular Meeting on December 16, 2019.

**DRAFT**

The votes were cast as follows:

AYES: Sotos, Little, Ryles, Pearl, Biagi, Sales

NAYS: None

PRESENT: None

ABSENT: Sanchez

The motion carried.

**OTHER DISCUSSION AND ITEMS OF INFORMATION**

Dr. Olson reminded the members that the next regular Board meeting on February 18 will be on a Tuesday due to the President’s Day Holiday. He also noted the Board policy committee minutes were included in this report. It was confirmed that there will be a PT3 update at the February meeting and that Board member Sales was attending the next PT3 group meeting.

**NEW BUSINESS**

The Board noted the need for improved communication with the City and Park District, which President Biagi confirmed was discussed at the intragovernmental committee meeting.

**ADJOURNMENT**

At 8:42 p.m. it was moved by Board member Sotos and seconded by Board member Pearl to adjourn, which was approved by unanimous voice vote.

Signed Date: February 18, 2020.

\_\_\_\_\_  
President

\_\_\_\_\_  
Secretary

**DRAFT**

**BOARD OF EDUCATION  
COMMUNITY CONSOLIDATED SCHOOL DISTRICT 64  
Minutes of the Special Board of Education Meeting held at 6:00 p.m.  
February 4, 2020  
Jefferson School - Multipurpose Room  
8200 Greendale Ave, Niles, IL 60714**

Board President Rick Biagi called the meeting to order at 6:00 p.m. Other Board members in attendance were Tom Sotos, Carol Sales, Dr. Denise Pearl, Fred Sanchez, and Rebecca Little. Board member Larry Ryles was absent. Also present were Superintendent Eric Olson and Chief School Business Official Luann Kolstad. No members of the public were present.

Board of Education meetings are videotaped and may be viewed in their full length from the District's website at <http://www.d64.org>. The agenda and reports for this meeting are also available on the website or through the District 64 Educational Service Center, 164 S. Prospect Ave., Park Ridge, IL 60068.

**PLEDGE OF ALLEGIANCE**

Board President Biagi led the pledge.

**PUBLIC COMMENTS**

President Biagi invited comments on non-agenda items; none were received.

**APPROVAL OF ISBE SCHOOL MAINTENANCE PROJECT GRANT**

CSBO Kolstad explained that the Illinois State Board of Education ("ISBE") had made \$44M available in funding for school maintenance projects, and District 64 was seeking approval from the Board to apply for a grant. She stated that the State would match up to \$50,000 and that administration is requesting the maximum grant amount, which would result in \$100,000 total. The District planned to use the money to replace or repair exterior doors at various school buildings. Kolstad answered questions from the Board and confirmed that the doors would have been addressed without the grant, as part of the Master Plan, because they need to close automatically for security reasons. The District would have up to two years to spend the grant money.

**ACTION ITEM 20-02-1**

It was moved by Board member Pearl and seconded by Board member Sotos that the Board of Education of Community Consolidated School District 64, Park Ridge – Niles, Illinois, approve the ISBE School Maintenance Project Grant application as presented.

The votes were cast as follows:

AYES: Sales, Little, Pearl, Sanchez, Biagi, Sotos

NAYS: None

PRESENT: None

**DRAFT**

ABSENT: None

**ADJOURNMENT**

At 6:14 p.m. it was moved by Board member Sotos and seconded by Board member Pearl to adjourn, which was approved by unanimous voice vote.

Signed Date: February 18, 2020

\_\_\_\_\_  
President

\_\_\_\_\_  
Secretary

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## Meeting of the Board of Education Park Ridge – Niles School District 64

Regular Board Meeting Agenda  
Monday, March 16, 2020  
Washington School - Multipurpose Room  
1500 Stewart Avenue  
Park Ridge, IL 60068

*On some occasions, the order of business may be adjusted as the meeting progresses to accommodate Board members' schedules, the length of session, breaks and other needs.*

### 6:00 p.m. Meeting of the Board Convenes

- Roll Call

### Board Recesses and Adjourns to Closed Session

--Collective negotiating matters between the District and its employees or their representatives, or deliberations concerning salary schedules for one or more classes of employees [5 ILCS 120/2(c)(2)].

### 7:00 p.m. Board Adjourns from Closed Session and Resumes the Regular Meeting

#### Pledge of Allegiance & Welcome to Washington School

--Angela Brito, Washington School Principal

#### Opening Remarks from President of the Board

#### Public Comments

### A-1 Approval of Meeting Agenda

--Board President

The Board reserves the right to review the agenda at the beginning of each meeting and request additions, amendments, or deletions prior to approval.

### A-2 Student/Staff Recognition

- Washington Chorus Performance
- Battle of the Books
- Youth Art Month

### A-3 Approval of Asbestos Abatement Project at Washington School

--Chief School Business Official

Action Item 20-03-1

### A-4 Approval of Flooring Project at Washington School

--Chief School Business Official

Action Item 20-03-2

- A-5 Discussion and Approval of Student Fees 2019-20**  
--Chief School Business Official **Action Item 20-03-3**
- A-6 Approval of Third Amendment to Regular Transportation Services Contract**  
--Chief School Business Official **Action Item 20-03-4**
- A-7 Approval of Quest Food Management Services Contract Renewal**  
--Chief School Business Official **Action Item 20-03-5**
- A-8 Approval of Natural Gas Supplier Contract**  
--Chief School Business Official **Action Item 20-03-6**
- A-9 Board Authorizes 2020-21 Staffing Plan**  
--Chief School Business Official/  
Assistant Superintendent for Human Resources **Action Item 20-03-7**
- A-10 Approval of Recommended Personnel Report**  
--Board President **Action Item 20-03-8**  
Personnel Report Including:
- Resolution #1246 Honorable Dismissal of Teachers
  - Resolution #1247 Dismissal of Second Year Probationary Teachers for Reasons Other Than Reduction-in-Force
  - Resolution #1248 Dismissal of Probationary Educational Support Personnel Employees
- A-11 Consent Agenda**  
--Board President **Action Item 20-03-9**
- Bills, Payroll and Benefits
  - Approval of Financial Update for the Period Ending February 29, 2020
  - Approval of Student-Parent Handbook 2020-21
  - Destruction of Audio Closed Recordings
- A-12 Approval of Minutes**  
--Board President **Action Item 20-03-10**
- February 18, 2020 - Closed Session
  - February 18, 2020 - Regular Meeting
- A-13 Other Discussion and Items of Information**  
--Superintendent
- Upcoming Agenda
  - FOIA requests
  - Memorandum of Information
    - Board of Education Regular Meeting Dates for 2020-2021
  - Minutes of Board Committees (None)
- A-14 New Business**
- Adjournment**

Next Meeting: **Monday, April 20, 2020**  
Regular Meeting - 7:00 p.m.  
**Roosevelt School - North Gym**  
1001 S. Fairview Avenue  
Park Ridge, IL 60068

DRAFT

In accordance with the Americans with Disabilities Act (ADA), the Board of Education of Community Consolidated School District 64 Park Ridge-Niles will provide access to public meetings to persons with disabilities who request special accommodations. Any persons requiring special accommodations should contact the Director of Facility Management at (847) 318-4313 to arrange assistance or obtain information on accessibility. It is recommended that you contact the District, 3 business days prior to a school board meeting so we can make every effort to accommodate you or provide for any special needs.

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## Fwd: FOIA Request from NBC Chicago

1 message

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Joel Martin <jmartin@d64.org>

Thu, Jan 30, 2020 at 1:15 PM

[REDACTED]

Joel T. Martin  
Assistant Superintendent for Human Resources  
Community Consolidated School District 64  
164 S. Prospect Avenue, Park Ridge, IL 60068  
847.318.4305 – office / 847.318.4351 – fax

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----- Forwarded message -----

From: **Kim, Katie (NBCUniversal)** <katie.kim@nbcuni.com>

Date: Thu, Jan 30, 2020 at 12:00 PM

Subject: FOIA Request from NBC Chicago

To: jmartin@d64.org <jmartin@d64.org>



A Division of National Broadcasting Company, Inc.

454 North Columbus Drive

Chicago, Illinois 60611-5555

312-836-5555

[www.nbcchicago.com](http://www.nbcchicago.com)

January 30, 2020

Joel Martin

Human Resources Department

Park Ridge-Niles Community Consolidated School District 64

[164 South Prospect Avenue](#)

[Park Ridge, IL 60068-4035](#)

Sent via email to: [jmartin@d64.org](mailto:jmartin@d64.org)

Dear Mr. Martin:

This is a request under the Illinois Freedom of Information Act. I am sending this request to all Chicago-area public school districts, including Park Ridge-Niles Community Consolidated School District 64, to learn more about each district's education technology program as it relates to student learning on school-issued devices such as an iPad or Chromebook.

I am requesting any and all written agreements and/or contracts between Park Ridge-Niles Community Consolidated School District 64 and companies that provide content filtering and monitoring software for school district-issued devices for students, including (but not limited to) Bark, Securly, Go Guardian, etc.; and documents sufficient to show policies and guidelines for school district-issued devices for students.

Please send all requested documentation to me at [katie.kim@nbcuni.com](mailto:katie.kim@nbcuni.com). If you are not able to send these records electronically, please contact me as soon as possible, so that I can arrange another way to get these records from you. And if there is any way in which I can help in gathering this material, I would be happy to do so.

Because these records are in the public interest, I ask that you waive any reproduction fee. And if you deny this request, please tell me on what grounds, and to whom I should appeal.

If you have any questions or need any additional information, please don't hesitate to contact me at [katie.kim@nbcuni.com](mailto:katie.kim@nbcuni.com), or at [REDACTED]

Thank you so much for your time and consideration in this matter.

Sincerely,

Katie Kim



Natasha Nedeljkovic <nnedeljkovic@d64.org>

## FOIA Request

Sonja Dziedzic [REDACTED]  
To: Natasha Nedeljkovic <nnedeljkovic@d64.org>

Sat, Feb 1, 2020 at 1:32 PM

**FOIA Request to:**  
**PARK RIDGE-NILES SCHOOL DISTRICT 64**  
**164 S. PROSPECT AVENUE**  
**PARK RIDGE, IL 60068**

Date Requested: **2/1/2020**  
Request Submitted By: **E-mail**  
Name of Requester: **Sonja Dziedzic**  
Street Address: [REDACTED]

Telephone (Optional): [REDACTED] E-mail (Optional) [REDACTED]

Records Requested: \*Provide as much specific detail as possible so the public body can identify the information that you are seeking. You may attach additional pages, if necessary.

**I would like Longitudinal MAP Data that shows a side-by-side, year-to-year comparison of student achievement in Math and Reading, at each grade level, for Status and Growth, for the past 10 years. (preferably not buried in lengthy annual presentations in which the data is not easily comparable).**

Do you want copies of the documents? **YES**  
--Do you want **electronic** copies or paper copies? **electronic**  
--If you want electronic copies, in what format? **Spreadsheet if possible**  
Is this request for a Commercial Purpose? **NO**

(It is a violation of the Freedom of Information Act for a person to knowingly obtain a public record for a commercial purpose without disclosing that it is for a commercial purpose, if requested to do so by the public body. 5 ILCS 140.3.1(c)).

Are you requesting a fee waiver? **NO**  
If you are requesting that the public body waive any fees for copying the documents, you must attach a statement of the purpose of the request, and whether the principal purpose of the request is to access or disseminate information regarding the health, safety, and welfare or legal rights of the general public. 5 ILCS 140/6(c)).

Office Use Only 2010-  
Date Requested \_\_\_\_\_  
Date Due \_\_\_\_\_

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## Fwd: FOIA Records Request - February 5, 2020

2 messages

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**Eric Olson** <eolson@d64.org>  
To: Natasha Nedeljkovic <nnedeljkovic@d64.org>

Wed, Feb 5, 2020 at 1:21 PM

----- Forwarded message -----

From: **Illinois Retired Teachers Association** <[freedom@irtaonline.org](mailto:freedom@irtaonline.org)>  
Date: Wed, Feb 5, 2020 at 11:18 AM  
Subject: FOIA Records Request - February 5, 2020  
To: <[eolson@d64.org](mailto:eolson@d64.org)>



Dear , District Official, or FOIA Officer:

This is a request under the Illinois Freedom of Information Act. Today's date is February 5, 2020. Your district is listed as Park Ridge Ccsd 64 in Park Ridge, Illinois.

RECORDS REQUESTED: Please provide the name and email address of any certified staff (teachers, administrators, nurses, counselors, etc.) who are retiring this year.

Please provide the requested records electronically. Please email to [freedom@irtaonline.org](mailto:freedom@irtaonline.org).

If your district has NO RETIREES this year, simply reply to this email with the word NONE and the name and number of your district and I will consider the request fulfilled.

This is a request by the Illinois Retired Teachers Association, a 501c4 not-for-profit Illinois organization.

Sincerely,

Nathan Mihelich  
Illinois Retired Teachers Association  
[www.irtaonline.org](http://www.irtaonline.org)  
217-523-8488

**PLEASE WATCH:** A special video highlighting a few of the  
"2019 & 2019 Excellence in Education Grant Program" Recipients!



Addressed to:

Park Ridge Ccsd 64  
164 S Prospect Ave  
Park Ridge, Illinois  
60068

All grant proposals for 2020 must be submitted by June 1. A special committee will select the recipients of the grant money over the summer. Grant awards will be presented in the fall.

Info for your teachers: <https://www.irtaonline.org/index.php/foundation/Grants>

Illinois Retired Teachers Association | [Website](#)



Illinois Retired Teachers Association | 828 S Second St FL 4, Springfield, IL 62704

Unsubscribe [eolson@d64.org](mailto:eolson@d64.org)

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To: Board of Education  
Dr. Eric Olson, Superintendent

From: Valerie Varhalla, Director of Business Services

Date: February 18, 2020

Subject: Unpaid/Outstanding School Fee Update

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One responsibility of the Business Office is to monitor the collection of student registration fees.

**Process:**

Families are given several options to pay for school registration fees:

- 1) Pay at the time of registration in April through Info Snap
- 2) Defer payment until for the upcoming school year through PayPal
- 3) Contact the Business Office to set up a payment plan or apply for a student fee waiver

Families choosing to defer payment during time of online registration, received an invoice through the PayPal system in August requesting payment be made by September 30, 2019. Families then received monthly email reminders through the PayPal system regarding outstanding registration fees. The last week of November 2019, any remaining families whom had not made the necessary registration payment, received a letter via USPS informing them of the outstanding payment and requesting payment by December 20, 2019. Failure of a family to make the necessary payment by this date would result in the family being sent to collections.

The Business Office has been contacted by several families (13) whom were unable to make the full payment and are working with the District on a payment plan.

**Key Updates**

As of January 31, 2020, the Business Office has compiled the below data regarding unpaid/outstanding school fees.

<b>Info Snap (during online registration)</b>		
	Amount	# of students
Paid	\$919,159.00	3,540

<b>PayPal</b>		
	Amount	# of students
Paid	\$258,129.39	952
Unpaid/outstanding	\$54,780.61	173

<b>Summary</b>		
	Amount	# of students
Total amount collected	\$1,177,288.39	4,492
Total amount outstanding	\$54,780.61	173
% outstanding		3.71%

**Next Step:**

By the end of February, the Business Office will take any remaining outstanding registration fees and send them through the District's approved collection agency, Transworld.