

## 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 Illinois 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.

## Disposition of District Property 5

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 designee may unilaterally dispose of personal property of a diminutive value.

## Taxable Fringe Benefits 6

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 7

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,

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**4** The Ill.~~inois~~ 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.

**5** 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),<sup>2</sup> and 5/10-22.8. 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.~~tion~~ 12-801 of the Ill.~~inois~~ Vehicle Code. 625 ILCS 5/12-806(b), added by P.A. 100-277, ~~eff. 1-1-18~~.

**6** 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 (2017~~08~~), *Employer's Tax Guide to Fringe Benefits*, [www.irs.gov/pub/irs-pdf/p15b.pdf](http://www.irs.gov/pub/irs-pdf/p15b.pdf).

**7** 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.

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 8

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 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 9

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

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**8** 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.

**9** 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-AP, *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.

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>10</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.

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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<sup>10</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.

## Instruction

### Curriculum Content<sup>1</sup>

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>
2. In grades 9 through 12, subjects include: (a) language arts, (b) writing intensive course, (c) science, (d) mathematics,<sup>7</sup> (e) social studies including U.S. history, American government

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<sup>1</sup> Districts must have a policy on physical education (~~23 Ill.Admin.Code §1.420(p)~~), and what grade level(s) students will be offered cursive writing instruction (105 ILCS 5/27-20.7, added by P.A. 100-548, eff. 7-1-18). 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 recommends that activities, including student internships and observations of government in action, be a part of the instructional program where appropriate.

<sup>2</sup> 105 ILCS 5/2-3.156 requires 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 <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 (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, eff. 7-1-18, 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) \_\_\_\_\_.

<sup>7</sup> 105 ILCS 5/2-3.156. See f/n 2.

105 ILCS 5/27-22 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*.



and, for students entering the 9th grade in the fall of 2016 and each year after it, one semester of civics,<sup>8</sup> (f) foreign language, (g) music, (h) art, (i) driver and safety education, and (j) vocational education.<sup>9</sup>

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>10</sup> The course shall include: (a) classroom instruction on distracted driving as a major traffic safety issue<sup>11</sup>, and (b) 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>12</sup> Automobile safety instruction covering traffic regulations and highway safety must include instruction on the consequences of alcohol consumption and the operation of a motor vehicle.<sup>13</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>14</sup>

3. In grades 7 through 12, as well as in interscholastic athletic programs, steroid abuse prevention must be taught.<sup>15</sup>

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<sup>8</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>9</sup> 23 Ill.Admin.Code §1.440, 105 ILCS 5/27-22. The General Assembly encouraged school boards to implement American Sign Language courses into the school foreign language curriculum. 105 ILCS 5/10-20.46. Senate Joint Resolution 68, 96th General Assembly, encourages school districts to explore the introduction of Arabic as a foreign language in their curriculums. The ISBE rule on driver education personnel is found at 23 Ill.Admin.Code §252.40. 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. 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. 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>10</sup> 105 ILCS 5/27-24.2, amended by P.A. 100-465.

<sup>11</sup> Id.

<sup>12</sup> Id., amended by P.A. 99-720.

<sup>13</sup> 105 ILCS 5/27-17.

<sup>14</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>15</sup> 105 ILCS 5/27-23.3.

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>16</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>17</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, discipline, respect for others, and moral courage.<sup>18</sup>
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>19</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

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<sup>16</sup> 105 ILCS 5/27-23.4.

<sup>17</sup> 47 C.F.R. § 54.520(c)(1)(i) 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).

105 ILCS 5/27-13.3 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>18</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>19</sup> 105 ILCS 5/27-3 requires the Pledge of Allegiance to be recited every day in elementary and secondary schools. 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.

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>20</sup> but at a minimum of three days per five-day week. For exemptions and substitutions, see policies 6:310, *High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students* and 7:260, *Exemption from Physical Education*.<sup>21</sup>

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.<sup>22</sup>
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

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<sup>20</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>21</sup> 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(e).

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/PE-Health-Learning-Standards.aspx](http://www.isbe.net/Pages/PE-Health-Learning-Standards.aspx). See also 23 Ill.Admin.Code §1.425 (g) and (h); ISBE’s *IL Fitness Assessments and Data Reporting Requirements Questions and Answers* (Rev. 5/22/17) 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.

<sup>22</sup> 105 ILCS 110/3 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. 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 and 110/3), among other health education topics including *teen dating violence* (105 ILCS 110/3.1, 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 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.



an extension of the regular classroom. A career awareness and exploration program must be available at all grade levels.<sup>23</sup>

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>24</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>25</sup>
13. In all schools, United States 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.<sup>26</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>27</sup>

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>28</sup>

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<sup>23</sup> 23 Ill.Admin.Code §1.420(i). See 105 ILCS 435/ for the Vocational Education Act.

<sup>24</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>25</sup> 105 ILCS 5/27-13.1; 23 Ill.Admin.Code §1.420(l).

<sup>26</sup> 105 ILCS 5/27-21; 23 Ill.Admin.Code §1.420(r).

<sup>27</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 ... .”

<sup>28</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).

15. In all schools, the curriculum includes a unit of instruction 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>29</sup>
16. In all schools, the curriculum includes a unit of instruction on the history, struggles, and contributions of women.<sup>30</sup>
17. In all schools, the curriculum includes a unit of instruction 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>31</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>32</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>33</sup>

LEGAL REF.: 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, 5/27-24.2, 435/, and 110/3.  
 625 ILCS 5/6-408.5.  
 23 Ill.Admin.Code §§1.420, 1.425, 1.430, and 1.440.  
 Consolidated Appropriations Act of 2005, Pub. L. No. 108-447, Section 111 of Division J.  
 Protecting Children in the 21st Century Act, Pub. L. No. 110-385, Title II, 122 stat. 4096 (2008).  
 47 C.F.R. §54.520.

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)

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<sup>29</sup> 105 ILCS 5/27-20.3 requires the curriculum to include a *unit of instruction* on this subject but does not specify the amount of time that constitutes a *unit of instruction*.

<sup>30</sup> 105 ILCS 5/27-20.5 requires the curriculum to include a *unit of instruction* on this subject but does not specify the amount of time that constitutes a *unit of instruction*. House Resolution 365 (2013) and Senate Resolution 1073 (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>31</sup> 105 ILCS 5/27-20.4 requires the curriculum to include a *unit of instruction* on this subject but does not specify the amount of time that constitutes a *unit of instruction*.

<sup>32</sup> 105 ILCS 5/2-3.80(e) or (f).

<sup>33</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.

## Students

### School Admissions and Student Transfers To and From Non-District Schools 1

Age [Elementary or Unit Districts only]

To be eligible for admission, a child must be five years old on or before September 1 of that school term.<sup>2</sup> A child entering first grade must be six years of age on or before September 1 of that school term.<sup>3</sup> Based upon an assessment of a child's readiness to attend school, the District may permit him or her to attend school prior to these dates.<sup>4</sup> A child will also be allowed to attend first grade based upon an assessment of his or her readiness if he or she attended a non-public preschool, continued his or her education at that school through kindergarten, was taught in kindergarten by an appropriately licensed teacher, and will be six years old on or before December 31.<sup>5</sup> A child with exceptional needs who qualifies for special education services is eligible for admission at three years of age.<sup>6</sup> Early entrance to kindergarten or first grade may also be available through Board policy 6:135, Accelerated Placement Program.<sup>7 8</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 requires some of the subject matter contained in this sample policy to be covered by policy and controls this policy's content. Boards must adopt a policy on school admissions (105 ILCS 5/10-21.2) and restricting a student from transferring from another school while under a suspension or expulsion from that school (105 ILCS 5/10-22.6). A registration guidance document, updated annually, is available from the Ill. State Board of Education (ISBE) at: [www.isbe.net/Documents/guidance\\_reg.pdf](http://www.isbe.net/Documents/guidance_reg.pdf).

<sup>2</sup> 105 ILCS 5/10-20.12. The district may, however, establish a kindergarten for children between the ages of 4 and 6 years old. ~~(105 ILCS 5/10-20.19a and 5/10-22.18).~~ Any child between the ages of 7 and 17 (unless the child has already graduated from high school) must attend public or private school, with certain exceptions allowed for physical and mental disability, lawful employment, or other reasons as specified by statute. ~~(105 ILCS 5/26-1).~~ The phrase "a child between the ages of 7 and 17" is liberally construed to fully carry out the true intent and meaning of the General Assembly (5 ILCS 70/1.01), which is to ensure that students graduate from high school (105 ILCS 5/26-1). Therefore "the ages of 7-17" means a child is 17 until his or her 18<sup>th</sup> birthday.

<sup>3</sup> Optional sentence.

<sup>4</sup> 105 ILCS 5/10-20.12.

<sup>5</sup> Id. Required by 105 ILCS 5/10-20.12. Delete the first four sentences in this paragraph if the district operates a year-round school and use the following alternative in a district operating on a year-round basis:

To be eligible for admission, a child must be at least five years old within 30 days after the commencement of that school term. Based upon an assessment of the child's readiness to attend school, the District may permit him or her to attend school prior to this date. ~~A~~ child may also attend first grade based upon an assessment of his or her readiness if he or she attended a non-public preschool and continued his or her education at that school through kindergarten, was taught in kindergarten by an appropriately licensed teacher, and will attain age six within four months after the commencement of the term.

<sup>6</sup> 105 ILCS 5/14-1.02 and 5/14-1.03a. An ISBE rule states: "Each school district shall be responsible for actively seeking out and identifying all children from birth through age 21 within the district (and those parentally-placed private school children for whom the district is responsible under 34 C.F.R. §300.131) who may be eligible for special education and related services." ~~(23 Ill.Admin.Code §226.100).~~ Note that after a child is determined to be eligible for special education services, the child must be placed in the appropriate program no later than the beginning of the next school semester. ~~(105 ILCS 5/14-8.02).~~

<sup>7</sup> 105 ILCS 5/14A-17, added by P.A. 100-421, eff. 7-1-18 (the Accelerated Placement Act (APA)). For high school districts, delete this sentence and the cross reference to 6:135, Accelerated Placement Program. See 6:135, Accelerated Placement Program, and 6:135-AP, Accelerated Placement Program Procedures, for further detail.

Attorneys disagree whether the APA conflicts with 105 ILCS 5/10-20.12 (School year – School age.). See f/n 4 in sample policy 6:135, Accelerated Placement Program for a discussion about reconciling the APA and 105 ILCS 5/10-20.12. Consult the board attorney for guidance.

<sup>8</sup> 105 ILCS 5/10-20.12. Districts that wish to permit early admission may add the following optional paragraph:

## Admission Procedure

All students must register for school each year on the dates and at the place designated by the Superintendent. Parents/guardians of students enrolling in the District for the first time must present:

1. A certified copy of the student's birth certificate. If a birth certificate is not presented, the Superintendent or designee shall notify in writing the person enrolling the student that within 30 days he or she must provide a certified copy of the student's birth certificate. A student will be enrolled without a birth certificate.<sup>9</sup> When a certified copy of the birth certificate is presented, the school shall promptly make a copy for its records, place the copy in the student's ~~temporary~~permanent<sup>10</sup> record, and return the ~~original~~certified copy to the person enrolling the child. If a person enrolling a student fails to provide a certified copy of the student's birth certificate, the Superintendent or designee shall immediately notify the local law enforcement agency, and shall also notify the person enrolling the student in writing that, unless he or she complies within ten days, the case will be referred to the local law enforcement authority for investigation. If compliance is not obtained within that ten-day period, the Superintendent or designee shall so refer the case. The Superintendent or designee shall immediately report to the local law enforcement authority any material received pursuant to this paragraph that appears inaccurate or suspicious in form or content.<sup>11</sup>
2. Proof of residence, as required by Board policy 7:60, *Residence*.

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~~Parents/guardians may request early admission for a child. The Superintendent or designee shall assess the child's readiness to attend school and make the decision accordingly.~~

Districts ~~that implement this option~~ should also consider implementing specific and objective criteria for early admissions and address such issues as who pays the costs for assessments, etc. Using this exception defeats the age requirement rules because it only relies upon a child's readiness, regardless of his or her age.

<sup>9</sup> Presenting a certified copy of a student's birth certificate is a missing children's law enforcement issue **that may not be used for denying enrollment**. See **Guidance Documents** subhead in 7:50-AP, *School Admissions and Student Transfers To and From Non-District Schools*, for more information about enrollment and residency issues. Consult the board attorney if a student cannot produce a certified copy of his or her birth certificate and wishes to provide a passport, visa or other governmental documentation of identity. To balance the tension between the missing children's laws reporting requirements and Plyler v. Doe (457 U.S. 202 (1982)), many attorneys advise not to report a student's failure to produce a birth certificate; however always consult the board attorney for assistance based upon the specific facts of the enrollment situation (see f/n ~~8~~<sup>11</sup> below).

<sup>10</sup> 23 Ill.Admin.Code §375.10 states that the student permanent record shall include basic identifying information, including the student's name, birth date and place, and gender, and evidence required under 325 ILCS 50/5(b)(1).

<sup>11</sup> Two almost identical laws govern this requirement: Missing Children Records Act (325 ILCS 50/) and Missing Children Registration Law (325 ILCS 55/). We reconciled their differences as much as possible but chiefly used the language from the Registration Law because it has the clearest explanation. The statutory enforcement requirements, as nonsensical as they may seem, are quoted in the policy. **Important:** Schools cannot deny admission based upon immigration (illegal) status alone. Note that singling out foreign-looking students for visa requests is probably illegal discrimination. See Plyler v. Doe, 402 U.S. 2382 (1982). See also f/n ~~12~~<sup>18</sup> below.

According to the III. State Police, a certified copy of the student's birth certificate is the only acceptable proof of the child's identity and age, ~~(20 Ill.Admin.Code §1290.60(a))~~. For more discussion about acceptable proof of identity, see f/n 1 in 7:50-AP, *School Admissions and Student Transfers To and From Non-District Schools*. The Missing Children's Records Act requires schools to make prompt copies of these certified copies. 325 ILCS 50/5(b). Once made, schools need not request another certified copy with respect to that child for any other year in which the child is enrolled in that school or other entity. Id. While the Act does not mandate where the copy should be kept, it is appropriate for placement in the student's temporary record. See 23 Ill.Admin.Code §375.10. The school person who receives the copy of the certified birth certificate should initial and date the document. That way, if there is a question or an investigation (which can happen even years after enrollment) there will not be an issue as to who received the document and the date it was processed.

A district must also *flag* a student's record on notification by the State police of the student's disappearance and report to the State police any request for a *flagged* student record. 325 ILCS 50/3, 50/5.

3. Proof of disease immunization or detection and the required physical examination, as required by State law and Board policy 7:100, *Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students*.<sup>12</sup>

The individual enrolling a student shall be given the opportunity to voluntarily state whether the student has a parent or guardian who is a member of a branch of the U.S. Armed Forces and who is either deployed to active duty or expects to be deployed to active duty during the school year.<sup>13</sup> Students who are children of active duty military personnel transferring will be allowed to enter: (a) the same grade level in which they studied at the school from which they transferred, if the transfer occurs during the District's school year, or (b) the grade level following the last grade completed.<sup>14</sup>

### Homeless Children

Any homeless child shall be immediately admitted, even if the child or child's parent/guardian is unable to produce records normally required for enrollment.<sup>15</sup> Board policy 6:140, *Education of Homeless Children*, and its implementing administrative procedure, govern the enrollment of homeless children.

### Foster Care Students

The Superintendent will 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 ~~Illinois Department~~ of Children and Family Services when enrolling in or changing schools. <sup>16</sup>

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<sup>12</sup> Each school must maintain records for each student that reflect compliance with the examinations and immunizations required by 105 ILCS 5/27-8.1; ~~and~~ 23 Ill.Admin.Code §1.530(a). A Tuberculosis skin test is required if the student lives in an area designated by the Ill. Dept. of Public Health as having a high incidence of Tuberculosis.

<sup>13</sup> This paragraph is optional in the policy; it reflects the requirements of State and federal law. P.A. 99-30 repealed the Military Compact Act at 105 ILCS 5/22-65 because of the Educational Opportunity for Military Children Act (EOMCA, 105 ILCS 70/); this exact language is not contained in the recoded ~~EOMCA Educational Opportunity for Military Children Act, 105 ILCS 70/~~.

<sup>14</sup> Optional. The ~~Educational Opportunity for Military Children Act, 105 ILCS 70/33, EOMCA~~ further details enrollment and entrance requirements for children of active military personnel. 105 ILCS 70/33. After enrollment, the law allows a district to perform evaluations to ensure appropriate placement of the student. Course, program, graduation, extracurricular(s), and other placement options for this student population are further discussed in 7:50-AP, *School Admissions and Student Transfers To and From Non-District Schools*.

<sup>15</sup> Required by Education for Homeless Children Act (105 ILCS 45/) and the McKinney-Vento Homeless Assistance Act; (42 U.S.C. §11431 et seq.). See §11432(g)(3)(C)(i).

<sup>16</sup> Optional. 105 ILCS 5/10-20.58, added by P.A. 99-781, allows school boards to appoint liaisons for foster care students. These liaisons must be licensed under Article 21B of the School Code. 105 ILCS 5/10-20.58 directs how employees are prioritized for liaison appointment. Liaisons are "encouraged to build capacity and infrastructure within their school district to support students in the legal custody of the Department of Children and Family Services." Liaison responsibilities may include:

1. Streamlining the enrollment process for students in foster care;
2. Implementing student data tracking and monitoring mechanisms;
3. Ensuring that students in DCFS custody receive all school nutrition and meal programs available;
4. Coordinating student withdrawal from a school, record transfers, and credit recovery;
5. Becoming experts on the foster care system and State laws and policies in place that support students in DCFS custody;
6. Coordinating with child welfare partners;
7. Providing foster care-related information and training to the district;
8. Working with DCFS to help students maintain their school placement, if appropriate;
9. Reviewing student schedules to ensure students are on track to graduate;
10. Encouraging a successful transition into adulthood and post-secondary opportunities;
11. Encouraging involvement in extracurricular activities; and
12. Knowing what support is available within the district and community for students in DCFS custody.



## Student Transfers To and From Non-District Schools<sup>17</sup>

A student may transfer into or out of the District according to State law and procedures developed by the Superintendent or designee. A student seeking to transfer into the District must serve the entire term of any suspension or expulsion, imposed for any reason by any public or private school, in this or any other state, before being admitted into the School District.

## Foreign Students [High School or Unit Districts only]<sup>18</sup>

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

<sup>17</sup> 105 ILCS 5/2-3.13a requires each transferor (original) school to keep documentation of transfers in the student's record. It also requires "notification [by the transferee (recipient) school] of the transfer on or before July 31 following the school year during which the student withdraws from the transferor school or school district or the student shall be counted in the calculation of the transferor school's or school district's annual student dropout rate." ISBE rule, 23 Ill.Admin.Code §375.75(e), is consistent with this requirement. The rule also requires the transferring school or district to maintain any documentation of the student's transfer, including records indicating the school or school district to which the student transferred, in that student's temporary record.

Out-of-state transfer students, including children of military personnel, may use unofficial transcripts for admission to a school until official transcripts are obtained from the student's last school district. ~~105 ILCS 5/10-8.1~~ ~~&and~~ 70/32). See also 7:50-AP, *School Admissions and Student Transfers To and From Non-District Schools*.

A board has two basic options for students transferring into the district who are serving a suspension or expulsion. Under option one, it may comply with the minimum requirements of section 2-3.13a by refusing to allow a student transferring from any public school to attend classes until the period of any suspension or expulsion has expired when the penalty was for: (1) knowingly possessing in a school building or on school grounds a weapon as defined in the Gun Free Schools Act; (2) knowingly possessing, selling, or delivering in a school building or on school grounds a controlled substance or cannabis; or (3) battering a staff member of the school. Under option two, a board may require a student who was suspended or expelled for any reason from any public or private school in this or any other state to complete the entire term of the suspension or expulsion before being admitted to the school district. The sample policy uses the second, more simple, more comprehensive alternative.

A board may adopt a policy providing that if a student is suspended or expelled for any reason from any school, anywhere, the student must complete the suspension's or expulsion's entire term in an alternative school program under Article 13A before being admitted into the school district if there is no threat to the safety of students or staff in the alternative program. ~~105 ILCS 5/2-3.13a; and 5/10-22.6(g)~~. If a board wants to provide for this alternative, it may add the following to either of the above options:

The Superintendent is authorized to allow a student who was suspended or expelled from any public or private school to be placed in an alternative school program established under Article 13A of the School Code for the remainder of the suspension or expulsion.

<sup>18</sup> Generally, a citizen of a foreign country who wishes to enter the U.S. must first obtain either: (1) a nonimmigrant visa (for temporary stay for tourism, medical treatment, business, temporary work, or study), or (2) an immigrant visa for permanent residence. Common visas presented by foreign students are:

1. J-1 nonimmigrant visas for participants in educational and cultural exchange programs designated by the U.S. Department of State (DOS), Exchange Visitor Program, and Designation Staff. These students are enrolled provided they otherwise qualify for admission. For information about J-1 visas and the Exchange Visitor Program, see [j1visa.state.gov/programs](http://j1visa.state.gov/programs).
2. F-1 nonimmigrant student visa. F-1 visas are not issued for attendance at an elementary or middle school (K-8). Before obtaining an F-1 student visa, the individual must submit evidence that the school district has been reimbursed for the unsubsidized per capita cost of the education. These students are enrolled provided they otherwise qualify for admission. However, attendance at U.S. public high schools cannot exceed a total of 12 months.
3. B-2 visitor nonimmigrant visas. There is disagreement over whether these students must be enrolled tuition free. Their visitor visa is evidence of nonresident status. Call ~~INS or~~ the district's attorney for guidance.
4. The qualified school-age child of an alien who holds another type of visa ~~(i.e., A, E, H, I, L, etc.)~~, other than a visitor visa. These students are enrolled provided they otherwise qualify for admission. Likewise, dependents of foreign nationals on long-term visas are enrolled provided they otherwise qualify for admission.
5. No immigration documentation. *Plyler v. Doe*, ~~102 S.Ct. 2382 (1982)~~. A school cannot deny admission based upon immigration (illegal) status alone. Note that singling out foreign-looking students for visa requests is probably illegal discrimination. Thus, undocumented aliens are enrolled, provided they otherwise qualify for admission.

The District accepts foreign exchange students with a J-1 visa and who reside within the District as participants in an exchange program sponsored by organizations screened by administration. Exchange students on a J-1 visa are not required to pay tuition.<sup>19</sup>

Privately sponsored exchange students on an F-1 visa may be enrolled if an adult resident of the District has temporary guardianship, and the student lives in the home of that guardian. Exchange students on an F-1 visa are required to pay tuition at the established District rate.<sup>20</sup> F-1 visa student admission is limited to high schools, and attendance may not exceed 12 months.

The Board may limit the number of exchange students admitted in any given year. Exchange students must comply with District immunization requirements. Once admitted, exchange students become subject to all District policies and regulations governing students.

#### Re-enrollment<sup>21</sup> [*High School or Unit Districts only*]

Re-enrollment shall be denied to any individual 19 years of age or above who has dropped out of school and who could not earn sufficient credits during the normal school year(s) to graduate before his or her 21st birthday. However, at the Superintendent's or designee's discretion and depending on program availability, the individual may be enrolled in a graduation incentives program established under 105 ILCS 5/26-16 or an alternative learning opportunities program established under 105 ILCS 5/13B-1 (see 6:110, *Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program*). Before being denied re-enrollment, the District will offer the individual due process as required in cases of expulsion under policy 7:210, *Expulsion Procedures*. A person denied re-enrollment will be offered counseling and be directed to alternative educational programs, including adult education programs that lead to graduation or receipt of a GED diploma. This section does not apply to students eligible for special education under the Individuals with Disabilities Education Improvement Act or accommodation plans under the Rehabilitation Act, Section 504.

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6. Immigrant visa. These students are enrolled provided they otherwise qualify for admission.

The Student and Exchange Visitor Information System (SEVIS) is an Internet-based system that provides tracking and monitoring, with access to accurate and current information on nonimmigrant students (F and M visas) and exchange visitors (J visa), and their dependents (F-2, M-2, and J-2). See §641, Illegal Immigration Reform and Immigrant Responsibility Act. Section 641 is an exception to the Family Educational Rights and Privacy Act. See 8 C.F.R. §214.1(h). SEVIS enables schools and program sponsors to transmit electronic information and event notifications, via the Internet, to the Dept. of Homeland Security (DHS) and the INS and Department of State-DOS throughout a student's or exchange visitor's stay. SEVIS will provide system alerts, event notifications, and reports to the end-user schools and programs, as well as for DHS/INS and DOS offices.

According to federal regulations, students who apply for F-1, M-1, F-3, or M-3 visas must pay a \$100 fee, and students who apply for J-1 visas must pay a \$35 fee, to the DH~~Department of Homeland Security~~. The regulations describe when and how the fee is to be paid, who is exempt from the fee, and the consequences for failure to pay. ~~8 C.F.R. Parts 103, 214, and 299).~~

<sup>19</sup> State law allows, but does not require, boards to waive nonresident tuition for these students. ~~(105 ILCS 5/10-22.5a).~~

<sup>20</sup> Exchange students on F-1 visas must pay the full-unsubsidized public education costs before entering the U.S. ~~(8 U.S.C. §1101).~~ Boards may not waive the fee.

<sup>21</sup> 105 ILCS 5/26-2(b). The requirements in this section are provided in State law, that is: (1) it is mandatory that a district deny re-enrollment as provided in this section; (2) it is permissive whether to enroll the individual in a district graduation incentives program or alternative learning opportunities program (although depending on circumstances, a student below the age of 20 may be entitled to enroll in a graduation incentives program); (3) it is mandatory to provide due process before denying re-enrollment; (4) it is mandatory to offer the individual who is denied re-enrollment counseling and to direct that person to alternative educational programs; and (5) it is mandatory that this section not apply to students eligible for special education.

105 ILCS 5/26-2(c) allows a district to deny enrollment to a student 17 years of age or older for one semester for failure to meet minimum academic or attendance standards if certain conditions are met. See sample policy 7:70, *Attendance and Truancy*.

LEGAL REF.: 8 U.S.C. §1101, Illegal Immigrant and Immigrant Responsibility Act of 1996.  
20 U.S.C. §1232, Family Educational Rights and Privacy Act.  
20 U.S.C. §1400 et seq., Individuals With Disabilities Education Improvement Act.  
29 U.S.C. §794, Rehabilitation Act of 1973, Section 504.  
42 U.S.C. §11431 et seq., McKinney-Vento Homeless Assistance Act.  
105 ILCS 5/2-3.13a, 5/10-20.12, 5/10-22.5a, 5/14-1.02, 5/14-1.03a, 5/26-1, 5/26-2, 5/27-8.1,  
105 ILCS 10/8.1, Ill. School Student Records Act.  
105 ILCS 45/, Education for Homeless Children Act.  
105 ILCS 70/, Educational Opportunity for Military Children Act.  
325 ILCS 50/, Missing Children Records Act.  
325 ILCS 55/, Missing Children Registration Law.  
410 ILCS 315/2e, Communicable Disease Prevention Act.  
20 Ill.Admin.Code Part 1290, Missing Person Birth Records and School Registration.  
23 Ill.Admin.Code Part 226, Special Education.  
23 Ill.Admin.Code Part 375, Student Records.

CROSS REF.: 4:110 (Transportation), 6:30 (Organization of Instruction), 6:110 (Programs for Students At Risk of Academic Failure and/or Dropping out of School and Graduation Incentives Program), 6:135 (Accelerated Placement Program), 6:140 (Education of Homeless Children), 6:300 (Graduation Requirements), 6:310 (High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students), 7:60 (Residence), 7:70 (Attendance and Truancy), 7:100 (Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students), 7:340 (Student Records)

## Instruction

### Program for the Gifted <sup>1</sup>

The Superintendent or designee shall implement an education program for gifted and talented learners that will challenge and motivate academically advanced learners and engage them in appropriately differentiated learning experiences to develop their unique abilities.<sup>2</sup> If the State Superintendent of Education issues a Request for Proposals because sufficient State funding is available to support local programs of gifted education, the Superintendent or designee shall inform the Board concerning the feasibility and advisability of developing a “plan for gifted education” that would qualify for State funding.<sup>3</sup>

Eligibility to participate in the gifted program shall not be conditioned upon race, religion, sex, disability, or any factor other than the student’s identification as gifted or talented learner.<sup>4</sup>

The School Board will monitor this program’s performance by meeting periodically with the Superintendent or designee to determine and/or review the indicators and data that evidence whether the educational program for gifted and talented learners is accomplishing its goals and objectives and is otherwise in compliance with this policy.

LEGAL REF.: 105 ILCS 5/14A.  
23 Ill.Admin.Code Part 227.

CROSS REF.: 6:135 (Accelerated Placement Program)

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<sup>1</sup> State law controls this policy’s content to the extent that districts can qualify for State funding for the education of gifted and talented children, should such funding be available. (105 ILCS 5/14A). While a policy on this topic programs for gifted and talented children is not required, a policy on accelerated placement is required. 105 ILCS 5/14A-32, added by P.A. 100-421, eff. 7-1-18 (the Accelerated Placement Act). See 6:135, Accelerated Placement Program, and 6:135-AP, Accelerated Placement Program Procedures.

<sup>2</sup> The goals and objectives of this program may be modified by the board.

<sup>3</sup> School districts have the authority and flexibility to design education programs for gifted and talented learners, but these programs must comply with 105 ILCS 5/14A-30 and 23 Ill.Admin.Code Part 227 to qualify for State funding, should such funding become available.

If a board does not wish to tie the gifted program to requirements for State funding, use this alternative:

The Superintendent or designee shall implement an education program for gifted and talented learners that is responsive to student needs and is within the budget parameters as set by the Board.

<sup>4</sup> 105 ILCS 5/14A-25, amended by P.A. 100-421, eff. 7-1-18.

## Instruction

### Accelerated Placement Program <sup>1</sup>

The District provides an Accelerated Placement Program (APP). The APP advances the District's goal of providing educational programs with opportunities for each student to develop to his or her maximum potential.<sup>2</sup> The APP provides an educational setting with curriculum options usually reserved for students who are older or in higher grades than the student participating in the APP.<sup>3</sup> APP options include, but may not be limited to: (a) accelerating a student in a single subject; (b) other grade-level acceleration; and (c) early entrance to kindergarten or first grade.<sup>4</sup> Participation in the APP is open to all students who demonstrate high ability and who may benefit from accelerated placement. It is not limited to students who have been identified as gifted and talented.<sup>5</sup> Eligibility to participate in the District's APP shall not be conditioned upon the protected classifications identified in School Board policy 7:10, *Equal Educational Opportunities*, or any factor other than the student's identification as an accelerated learner.<sup>6</sup>

The Superintendent or designee shall implement an APP that includes:

1. Decision-making processes that are fair, equitable, and involve multiple individuals, e.g. District administrators, teachers, and school support personnel, and a student's parent(s)/guardian(s);<sup>7</sup>
2. Notification processes that notify a student's parent(s)/guardian(s) of a decision affecting a student's participation in the APP; and<sup>8</sup>
3. Assessment processes that include multiple valid, reliable indicators.<sup>9</sup>

The Superintendent or designee shall annually notify the community, parent(s)/guardian(s), students, and school personnel about the APP, the process for referring a student for possible evaluation for

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<sup>1</sup> State law requires this subject matter be covered by policy and controls its content. 105 ILCS 5/14A, amended by P.A. 100-421, eff. 7-1-18 (the Accelerated Placement Act (APA)).

<sup>2</sup> Optional. Ensure this statement matches the board's current educational philosophy and objectives. See sample policy 6:10, *Educational Philosophy and Objectives*.

<sup>3</sup> 105 ILCS 5/14A-17, added by P.A. 100-421, eff. 7-1-18.

<sup>4</sup> Id. For high school districts, delete "~~and (c) early entrance to kindergarten or first grade~~" and insert the word "and" between (a) and (b).

Attorneys disagree whether the APA conflicts with 105 ILCS 5/10-20.12 (*School year – School age.*). The APA requires accelerated placement to include early entrance to kindergarten and early entrance to first grade. 105 ILCS 5/10-20.12 *permits* districts to offer early entrance to kindergarten or first grade "based upon an assessment of the student's readiness to attend school." 105 ILCS 5/10-20.12 also states that students may enter first grade early when they: (1) are assessed for readiness; (2) have attended a non-public preschool and continued their education at that school through kindergarten; (3) were taught in kindergarten by an appropriately certified teacher; and (4) will attain the age of 6 years on or before December 31. Id. See sample policy 7:50, *School Admissions and Student Transfers To and From Non-District Schools*. **Consult the board attorney for guidance.**

<sup>5</sup> 105 ILCS 5/14A-32(a)(1), added by P.A. 100-421, eff. 7-1-18.

<sup>6</sup> 105 ILCS 5/14A-25, amended by P.A. 100-421, eff. 7-1-18.

<sup>7</sup> 105 ILCS 5/14A-32(a)(2), added by P.A. 100-421, eff. 7-1-18, requires that the accelerated placement policy include "a fair and equitable decision-making process that involves multiple persons and includes a student's parents or guardians" but does not specify what individuals are to be involved or limit those individuals to district employees. Amend this listing to align with the local board's preference.

<sup>8</sup> 105 ILCS 5/14A-32(a)(3), added by P.A. 100-421, eff. 7-1-18.

<sup>9</sup> 105 ILCS 5/14A-32(a)(4), added by P.A. 100-421, eff. 7-1-18.



accelerated placement, and the methods used to determine whether a student is eligible for accelerated placement.<sup>10</sup> Notification may: (a) include varied communication methods, such as student handbooks and District or school websites; and (b) be provided in multiple languages, as appropriate.<sup>11</sup>

LEGAL REF.: 105 ILCS 5/14A.

CROSS REF.: 6:10 (Educational Philosophy and Objectives), 6:130 (Program for the Gifted), 7:10 (Equal Educational Opportunities), 7:50 (School Admissions and Student Transfers To and From Non-District Schools)

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<sup>10</sup> Optional. 105 ILCS 5/14A-32(b)(1) permits, but does not require “procedures for annually informing the community at-large, including parents or guardians, about the accelerated placement program and the methods used for the identification of children eligible for accelerated placement.”

<sup>11</sup> Optional. 105 ILCS 5/14A does not require this but it is a recommended best practice and aligns with sample policy 7:10, *Equal Educational Opportunities*.

## Students

### Student Records <sup>1</sup>

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

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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 ~~data~~ student privacy, and confidentiality, ~~and including data privacy and~~ security practices related to student-level longitudinal data systems, ~~has information available at: ptac.ed.gov/studentprivacy.ed.gov/~~. PTAC published a guide for school officials titled *Protecting Student Privacy While Using Online Educational Services: Requirements and Best Practices*, at:

~~tech.ed.gov/wp-content/uploads/2014/09/Student-Privacy-and-Online-Educational-Services-February-2014.pdf~~ [studentprivacy.ed.gov/resources/protecting-student-privacy-while-using-online-educational-services-requirements-and-best](http://studentprivacy.ed.gov/resources/protecting-student-privacy-while-using-online-educational-services-requirements-and-best). **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. Schools may not provide a parent/guardian who is not allocated parenting time (formerly visitation) access to his or her child's school records, unless a court finds that it is in the child's best interests to provide those records to the parent.~~ The Illinois Marriage and Dissolution of Marriage Act (IMDMA), 750 ILCS 5/602.11, amended by P.A. 99-90763.
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. ~~The Illinois Marriage and Dissolution of Marriage Act~~ 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.**

student and by which a student may be identified individually that is maintained by a school or at its 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.
3. Video and other electronic recordings (including without limitation, electronic recordings made on school buses<sup>4</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>5</sup>

State and federal law grants students and parents/guardians certain rights, including the right to inspect, copy<sup>6</sup>, and challenge school student records.<sup>7</sup> The information contained in school student

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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).

<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 an explanation, see ~~footnotes in 7:220, Bus Conduct~~.

<sup>5</sup> Many lawyers believe that once these records are received by a school, they are protected as *education records* under the federal Family Educational Rights and Privacy Act, 20 U.S.C. §1232g FERPA. Consult the board attorney for advice.

<sup>6</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>7</sup> 23 Ill.Admin.Code §375.10, amended at 45 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.

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>8</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>9</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>10</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>11</sup>

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**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).

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 45 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>8</sup> 23 Ill.Admin.Code §226.740(a).

<sup>9</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 however Illinois' past practice of including *gender* within directory information may have violated the federal Family Educational Rights and Privacy Act (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 (EDDOE) 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*, EDDOE 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 EDDOE guidance.

<sup>10</sup> 20 U.S.C. §1232(g)(j), as added by the Sec. 507 of the U.S.A. Patriot Act of 2001.

<sup>11</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; 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 exhibit 7:340-AP1, E1, *Notice to Parents/Guardians and Students of Their Rights Concerning a Student's School Records*, and administrative procedure 7:340-AP1, *School Student Records*.

## Student Biometric Information Collection 12

The Superintendent or designee may recommend a student biometric information collection system solely for the purposes of identification and fraud prevention.<sup>13</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>14</sup> or the student (if over the age of 18).<sup>15</sup> Upon a student's 18th birthday, the District shall obtain written permission from the student to collect student biometric information.<sup>16</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>17</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

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<sup>12</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>13</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>14</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 ~~Illinois Marriage and Dissolution of Marriage Act~~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. ~~Consult the board attorney about whether the Illinois Marriage and Dissolution of Marriage Act's provisions change a noncustodial parent's ability to access a student's records.~~

<sup>15</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>16</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>17</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); ~~750 ILCS 5/602.11, amended by P.A. 99-90.~~



18).<sup>18</sup> Requests to discontinue using a student's biometric information shall be forwarded to the Superintendent or designee.

The Superintendent or designee shall develop procedures to implement this policy consistent with State and federal law. <sup>19</sup>

- 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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<sup>18</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 1<sup>24</sup> for a discussion about the terms *custody* and *parental responsibility*.

<sup>19</sup> 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 ~~U.S. Dept. of Health and Human Service~~DHS's interpretations of ~~the~~ 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.