

## **School Board**

### **Powers and Duties of the School Board**

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

1. Formulating, adopting, and modifying Board policies, at its sole discretion, subject only to mandatory collective bargaining agreements and State and federal law. <sup>1</sup>
2. Employing a Superintendent and other personnel, making employment decisions, dismissing personnel, and establishing an equal employment opportunity policy that prohibits unlawful discrimination. <sup>2</sup>
3. Directing, through policy, the Superintendent, in his or her charge of the District's administration. <sup>3</sup>
4. Approving the annual budget, tax levies, major expenditures, payment of obligations, annual audit, and other aspects of the District's financial operation; and making available a statement of financial affairs as provided in State law. <sup>4</sup>
5. Entering contracts using the public bidding procedure when required. <sup>5</sup>
6. Indemnifying, protecting, and insuring against any loss or liability of the School District, Board members, employees, and agents as provided or authorized by State law. <sup>6</sup>
7. Providing, constructing, controlling, and maintaining adequate physical facilities; making school buildings available for use as civil defense shelters; and establishing a resource conservation policy. <sup>7</sup>
8. Establishing an equal educational opportunities policy that prohibits unlawful discrimination. <sup>8</sup>

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

<sup>1</sup> State law controls this policy's content. School board powers listed in the School Code are not exclusive (105 ILCS 5/10-20). This policy's intent is to list the *major* statutory powers and duties – not all of them.

For the first numbered paragraph, see 105 ILCS 5/10-20.5 and 115 ILCS 5/1 et seq. (Illinois Educational Labor Relations Act); and policy 2:240, *Board Policy Development*.

<sup>2</sup> 105 ILCS 5/10-21.4 (employing superintendent); 5/10-20.7 and 5/10-21.1 (teachers); 5/10-21.9 (criminal history records checks); 5/10-22.34 (non-certificated personnel); 5/10-22.4 (dismissing teachers for cause); and 5/10-23.5 and 5/24-12 (reduction in force). See the policies in the PRESS Policy Reference Manual Sections 3, General School Administration, and 5, Personnel.

<sup>3</sup> 105 ILCS 5/10-16.7.

<sup>4</sup> 105 ILCS 5/10-20. ~~1947, 5/10-20.49~~ and 5/17-1 et seq. See policies in the PRESS Policy Reference Manual Section 4, Operational Services.

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

<sup>6</sup> 105 ILCS 5/10-20.20 ~~, amended by P.A. 96-62~~ (duty to indemnify) and 5/10-22.3 (duty to insure against loss or liability). The statutes identify the same individuals ~~who must be protected are identical in both statutes for protection~~ except that the ~~2009 legislation amended the~~ indemnification statute ~~to add~~ includes mentors ~~for new of~~ certified staff members. See policy 4:100, *Insurance Management*.

<sup>7</sup> For the first clause, see 105 ILCS 5/10-20.6, ~~(amended by P.A. 96-998)~~, 5/10-20.12, 5/10-22.10, 5/10-22.35A, and 5/10-22.36; and policy 4:150, *Facility Management and Building Programs*. For the second clause, see 105 ILCS 5/10-22.35, ~~, amended by P.A. 96-57~~. For the third clause, see 105 ILCS 5/10-20.19c; ~~, amended by P.A. 95-741~~; and policy 4:70, *Resource Conservation*.

<sup>8</sup> Many civil rights laws guarantee equal educational opportunities; see policy 7:10, *Equal Educational Opportunities*.

9. Approving the curriculum, textbooks, and educational services. **9**
10. Evaluating the educational program and approving School Improvement and District Improvement Plans. **10**
11. ~~Submitting~~ Presenting the District report card and School report card(s) to parents/guardians ; District taxpayers, the Governor, and the General Assembly, and the State Board of Education a school report card assessing the community; these documents report District, School and student performance, of its schools and students. **11**
12. Establishing and supporting student discipline policies designed to maintain an environment conducive to learning, including deciding individual student suspension or expulsion cases brought before it. **12**
13. Establishing attendance units within the District and assigning students to the schools. **13**
14. Establishing the school year. **14**
15. Requiring a moment of silence to recognize veterans during any type of school event held at a District school on November 11. **15**
16. Providing student transportation services. **16**
17. Entering into joint agreements with other boards to establish cooperative educational programs or provide educational facilities. **17**
18. Complying with requirements in the Abused and Neglected Child Reporting Act. Specifically, each individual Board member must, if an allegation is raised to the member during an open or closed Board meeting that a student is an abused child as defined in the Act, direct or cause the Board to direct the Superintendent or other equivalent school administrator to comply with the Act's requirements concerning the reporting of child abuse. **18**
19. Communicating the schools' activities and operations to the community and representing the needs and desires of the community in educational matters. **19**

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**9** 105 ILCS 5/10-20.8, ~~and 5/10-20.9~~. See policies in Section 6, Instruction.

**10** 105 ILCS 5/2-3.25d and 105 ILCS 5/27-1. See policies 6:10, *Educational Philosophy and Objectives*; and 6:15, *School Accountability*.

**11** ~~105 ILCS 5/10-17a.~~ 105 ILCS 5/10-17a. This statute details the requirements for presenting the district report card and school report card(s), including presenting them at a regular school board meeting and posting them on the district's website.

**12** 105 ILCS 5/10-22.6. See policies 7:190, *Student Discipline*; 7:200, *Suspension Procedures*; and 7:210, *Expulsion Procedures*.

**13** 105 ILCS 5/10-21.3 and 5/10-22.5. See policy 7:30, *Student Assignment and Intra-District Transfer*.

**14** 105 ILCS 5/10-19 and 23 Ill.Admin.Code §1.420. See policy 6:20, *School Year Calendar and Day*.

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

**16** 105 ILCS 5/10-22.22. See policy 4:110, *Transportation*.

**17** 105 ILCS 5/10-22.31a. See policy 1:20, *District Organization, Operations, and Cooperative Agreements*.

**18** 325 ILCS 5/4. Abuse and neglect are defined in 325 ILCS 5/3; for a disabled adult student see 20 ILCS1305/1-17(b).

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

LEGAL REF.: 105 ILCS 5/2-3.25d, 5/10, ~~1-et seq.~~, 5/17-1, and 5/27-1.  
115 ILCS 5/, ~~1-et seq.~~  
325 ILCS 5/4.

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

## School Board

### Exhibit - Waiver and Modification Request Resource Guide

Waiver or Modification	Explanation, Special Considerations, and Resources
<p>Waiver for Exemption from Unfunded Mandates, 105 ILCS 5/22-60.</p>	<p><b>Explanation</b></p> <p>Applies to unfunded or under-funded: (1) mandates in the School Code enacted after 8-20-2010, or (2) regulatory mandates promulgated by ISBE and adopted by rule after 8-20-2010, other than those promulgated with respect to 105 ILCS 5/22-60 or statutes already enacted on or before 8-20-2010.</p> <p>Allows the District to petition its Regional Superintendent or a Suburban Cook County Intermediate Service Center, whichever is appropriate, to request exemption from implementing the mandate in school(s) in the next school year.</p> <p><b>Special Considerations</b></p> <ol style="list-style-type: none"> <li>Whether the significance of the unfunded or under-funded mandate justifies the effort needed to seek an exemption, and</li> <li>The advisability of simultaneously seeking a waiver or modification using Section 2-3.25g (see directly below).</li> </ol> <p><b>Resources</b></p> <p><a href="http://www.isbe.net/isbewaivers/">www.isbe.net/isbewaivers/</a>          ISBE Rules and Waivers division at (217) 782-5270, or email <a href="mailto:waivers@isbe.net">waivers@isbe.net</a>.</p>
<p>Waiver of School Code Mandates</p> <p>Waivers/Modification of ISBE Rules and Regulations and Modifications of School Code Mandates, 105 ILCS 5/2-3.25g, amended by P.A. 97-1025, eff. 1-1-2013.</p>	<p><b>Explanation</b></p> <p>Districts may petition the General Assembly through ISBE for a waiver of the School Code or petition ISBE for a modification of the mandates in the School Code or a waiver or modification of ISBE administrative rules.</p> <p>For a waiver or modification of administrative rules or modification of Code mandates, the District must demonstrate that: (1) it can address the intent of the rule or mandate in a more effective, efficient, or economical manner, or (2) a waiver or modification of the rule or mandate is necessary to stimulate innovation or improve student performance.</p> <p>For a waiver of mandates in the School Code, the District must demonstrate that the waiver is necessary to stimulate innovation or improve student performance. Section 2-</p>

Waiver or Modification	Explanation, Special Considerations, and Resources
	<p>3.25g, amended by P.A. 96-861, lists mandates from which school districts may not seek a waiver or modification.</p> <p>The District must also provide certain notices as follows:</p> <ol style="list-style-type: none"> <li>1. Publish a notice in a newspaper of general circulation within the District of the date, time, place, and general subject matter of a public hearing on the proposed waiver or modification request. This notice must be published at least 7 days before the hearing.</li> <li>2. If there is no newspaper published in the county, give notice in a secular newspaper published in an adjoining county having general circulation within the District. 715 ILCS 5/2, amended by P.A. 96-1144.</li> <li>3. Post the time, date, place and general subject matter of the public hearing on the District's website at least 14 days before the hearing. 105 ILCS 5/2-3.25g, amended by P.A. 97-1025, eff. 1-1-2013.</li> </ol> <p><b>Special Considerations</b></p> <p>The District must develop a plan supporting a waiver or modification request that meets the criteria in 105 ILCS 5/2-3.25g. See <a href="http://www.isbe.net/isbewaivers/html/overviewqa.htm#1">www.isbe.net/isbewaivers/html/overviewqa.htm#1</a>. This process is essentially identical for school districts, joint agreements made up of school districts, and regional superintendents on behalf of schools and programs operated by the Regional Office of Education (105 ILCS 5/2-3.25g; 23 Ill.Admin.Code §1.100).</p> <p><b>Resources</b></p> <p>ISBE rule: 23 Ill.Admin.Code §1.100.</p> <p>ISBE waivers page:  <a href="http://www.isbe.net/isbewaivers/default.htm">www.isbe.net/isbewaivers/default.htm</a></p> <p>Waiver overview:  <a href="http://www.isbe.net/isbewaivers/html/overview.htm">www.isbe.net/isbewaivers/html/overview.htm</a>  <a href="http://www.isbe.net/isbewaivers/html/overviewqa.htm#1">www.isbe.net/isbewaivers/html/overviewqa.htm#1</a></p> <p>Instructions:  <a href="http://www.isbe.net/isbewaivers/html/application.htm">www.isbe.net/isbewaivers/html/application.htm</a></p> <p>Application form:  <a href="http://www.isbe.net/isbewaivers/pdf/33-77_waiver_application.pdf">www.isbe.net/isbewaivers/pdf/33-77_waiver_application.pdf</a></p>
<p>Physical Education, 105 ILCS 5/27-6.</p> <p>Drivers Education , 105 ILCS 5/24.2 and 105 ILCS 5/2-3.25g, amended by</p>	<p><b>Explanation</b></p> <p>See the <i>Explanation</i> section of the immediately preceding row above labeled <b>Waiver of School Code Mandates</b>;</p>

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<p>P.A. 97-1025, eff. 1-1-2013.</p> <p>Contracting out with a commercial driver training school (CDTS) to provide the course of study authorized under 105 ILCS 5/27-24.2, 105 ILCS 5/2-3.25g, amended by P.A. 97-1025, eff. 1-1-2013.</p>	<p><b>Waivers/Modification of ISBE Rules and Regulations and Modifications of School Code Mandates.</b></p> <p><b>Special Considerations</b></p> <p>In addition to the <i>Explanation</i> section above, waivers for:</p> <ol style="list-style-type: none"> <li>1. Physical education require the District to hold a public hearing on a day other than when a regular School Board meeting is held, i.e., special meeting.</li> <li>2. Driver education fee increases require the District to include the in the proposed amount of the fee increase (a) in the public notice, and (b) on the District's website. 105 ILCS 5/2-3.25g (c-5), amended by P.A. 97-1025, eff. 1-1-2013. <b>Note:</b> For a sample school district resolution to increase driver education fees, see 4:140-E3, <i>Resolution to Increase Driver Education Fees</i>.</li> <li>3. Contracting out with a CDTS to provide the course of study authorized under 105 ILCS 5/27-24.2 require specific documentation within the District's application, along with posting of the final contract between the District and the CDTS on the District's website (2:250-E2, <i>Immediately Available District Public Records and Web-Posted Reports and Records</i>). 105 ILCS 5/2-3.25g(d), amended by P.A. 97-1025, eff. 1-1-2013.</li> </ol> <p><b>Resources</b></p> <p>See the <i>Resources</i> section of the immediately preceding row above labeled <b>Waiver of School Code Mandates; Waivers/Modification of ISBE Rules and Regulations and Modifications of School Code Mandates.</b></p>
<p>Holiday Modifications, 105 ILCS 5/24-2(b).</p>	<p><b>Explanation</b></p> <p>Allows the District to hold school or schedule teachers' institutes, parent-teacher conferences, or staff development on certain holidays without submitting a modification request to and obtaining approval from ISBE.</p> <p>After a public hearing, the District may hold school or schedule teachers' institutes, parent-teacher conferences, or staff development on:</p> <ol style="list-style-type: none"> <li>1. The third Monday in January (the Birthday of Dr. Martin Luther King, Jr.);</li> <li>2. February 12 (the Birthday of President Abraham Lincoln);</li> <li>3. The first Monday in March (known as Casimir Pulaski's Birthday);</li> </ol>

Waiver or Modification	Explanation, Special Considerations, and Resources
	<p>4. The second Monday in October (Columbus Day); and/or</p> <p>5. November 11 (Veterans' Day).</p> <p><b>Special Considerations</b></p> <p>The Board must provide notice before the public hearing to both educators and parents with: (1) the time, date, and place of the hearing, (2) a description of the proposal, and (3) information that testimony from educators and parents will be taken about the proposal during hearing.</p> <p>The District must prepare a proposal for recognizing the person(s) honored by the holiday through instructional activities conducted on that day or, if the day is not used for student attendance, on the first school day preceding or following that day. The District may also consider aligning the proposal with Board policies 5:200, <i>Terms and Conditions of Employment and Dismissal</i>; 5:330, <i>Sick Days, Vacation, Holidays, and Leaves</i>; and 6:20, <i>School Year Calendar and Day</i>.</p> <p><b>Resources</b></p> <p>See <i>Holiday Modifications</i> ISBE's explanation on their website at: <a href="http://www.isbe.net/isbewaivers/">www.isbe.net/isbewaivers/</a>.</p>
<p>Parent-Teacher Conference Waivers, 105 ILCS 5/18-8.05(F)(2)(d)(1).</p>	<p><b>Explanation</b></p> <p>Allows flexible scheduling options for parent-teacher conferences without the need to submit a formal waiver request through ISBE to the General Assembly. The District may count as a full-day, parent-teacher conference, any of the following configurations:</p> <ol style="list-style-type: none"> <li>1. A minimum of 5 clock-hours of parent-teacher conferences;</li> <li>2. Both a minimum of 2 clock-hours of parent-teacher conferences held in the evening following a full day of student attendance, and a minimum of 3 clock-hours of parent-teacher conferences held on the day immediately following evening parent-teacher conferences; or</li> <li>3. Multiple parent-teacher conferences held in the evenings following full days of student attendance, in which the time used for the parent-teacher conferences is equivalent to a minimum of 5 clock-hours.</li> </ol> <p><b>Special Considerations</b></p> <p>Any other options not covered by the language above will require a waiver request to the General Assembly for its consideration.</p>

Waiver or Modification	Explanation, Special Considerations, and Resources
	<b>Resources</b> See <i>Parent-Teacher Conference Waivers</i> on ISBE's website at: <a href="http://www.isbe.net/isbewaivers/">www.isbe.net/isbewaivers/</a> .



## School Board

### School District Elections <sup>1</sup>

School District elections are non-partisan, governed by the general election laws of the State, and include the election of School Board members, various public policy propositions, and advisory questions. <sup>2</sup> Board members are elected at the consolidated election held on the first Tuesday in April in odd-numbered years. <sup>3</sup> If, however, that date conflicts with the celebration of Passover, the consolidated election is postponed to the first Tuesday following the last day of Passover. <sup>4</sup> The canvass of votes is conducted by the election authority within 21 days after the election. <sup>5</sup>

The Board's election duties are:

1. The Board, by proper resolution, may place ~~public policy propositions on the ballot on the ballot: (a) public policy referendum according to Article 28 of the Election Code, or (b) advisory questions of public policy according to Section 9-1.5 of the School Code.~~ <sup>6</sup>
2. The Board President, Secretary, and the member with the longest continuous service, ~~whose nominating petition is not being challenged,~~ compose the Education Officers Electoral Board to hear and rule on objections to candidate nominating petitions and ~~voter petitions.~~ public questions. However, if any member of the Electoral Board is a candidate for the office for which the objection petition is filed, he or she is replaced on the Electoral Board by the School Board member with the second longest continuous service. <sup>7</sup>
3. The Board Secretary or clerk serves as the local election official, assisted by designated representatives appointed by the Board. <sup>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 ~~or federal~~ law controls this policy's content. Consult the board attorney early concerning any election question.

<sup>2</sup> 105 ILCS 5/9 ~~1-et seq.~~; 10 ILCS 5/1-3, 5/2A ~~1-1-et seq.~~, and 5/28 ~~1-et seq.~~

<sup>3</sup> 10 ILCS 5/2A-1.1.

<sup>4</sup> 10 ILCS 5/2A-1.1a.

<sup>5</sup> All local canvassing boards were abolished in 2006 ~~the School Code provision (5/9-18) requiring and~~ school boards ~~to no longer~~ canvass ~~was repealed by P.A. 95-141.~~ elections. The appropriate "election authority" (county clerk or election commission) canvasses the vote for school district elections (10 ILCS 5/1-8). The election authority must canvass the vote within 21 days after the election (10 ILCS 5/22-17 and 5/22-18), ~~as amended by P.A. 94-647.~~ Within 28 days after the consolidated election, boards must hold an organizational meeting to elect ~~electing~~ officers and fix a time and place for ~~the~~ regular meetings (105 ILCS 5/10-16). See policy 2:210, *Organizational School Board Meeting*.

<sup>6</sup> ~~To place a proposition on the ballot at a referendum, a Board must adopt a resolution citing the specific authorizing statute (10 ILCS 5/28-1 et seq.). This policy addresses two types of public questions: (1) binding referendum governed by 10 ILCS 5/28, and (2) advisory questions of public policy governed by 105 ILCS 5/9-1.5, added by P.A. 97-81. An advisory question must be authorized by majority vote of the board. A third type of public question – a voter-initiated petition – is not covered in the policy; the board does not have any duties regarding this type of petition. A voter-initiated petition must be filed with the school board secretary who, if the timelines are met, must certify the question to be placed on the ballot to the county clerk (10 ILCS 5/10-15, 5/28-2, and 5/28-5).~~

<sup>7</sup> 10 ILCS 5/10-9.

<sup>8</sup> 10 ILCS 5/10 ~~1-et seq.~~ and 5/17-22; 105 ILCS 5/9 ~~1-et seq.~~

LEGAL REF.: 10 ILCS 5/1-3, 5/2A, ~~1-1 et seq.~~, 5/10-9, 5/22-17, 5/22-18, and 5/28 ~~1 et seq.~~  
105 ILCS 5/9 ~~and 5/9-1.5. et seq~~

CROSS REF.: 2:40 (Board Member Qualifications), 2:50 (Board Member Term of Office),  
2:210 (Organizational School Board Meeting)

## School Board

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

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

#### President 3

The Board elects a President from its members for a 2-year term. The duties of the President are to:

1. Focus the Board meeting agendas on appropriate content and preside at all meetings;
2. Make all Board committee appointments, unless specifically stated otherwise; 4
3. Attend and observe any Board committee meeting at his or her discretion; 5
4. Represent the Board on other boards or agencies;
5. Serve as chairperson of the Education Officers Electoral Board which hears challenges to Board candidate nominating petitions;
6. Sign official District documents requiring the President's signature, including Board minutes and Certificate of Tax Levy;
7. Call special meetings of the Board;
8. Serve as the *head of the public body* for purposes of the Open Meetings Act and Freedom of Information Act; 6
9. Ensure that a quorum of the Board is physically present at all Board meetings; 7
10. Administer the oath of office to new Board members; and 8

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

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

2 Districts governed by a board of directors have 3 officers: a president, clerk, and treasurer. The president and clerk must be board members (105 ILCS 5/10-5).

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

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

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

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

7 Optional. Requiring the president to monitor the presence of a quorum assists compliance with the Open Meetings Act's mandate that a quorum be physically present at all board meetings (5 ILCS 120/7).

11. Serve as the Board's official spokesperson to the media.

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

The Vice President fills a vacancy in the Presidency. <sup>9</sup>

#### Vice President <sup>10</sup>

The Board elects a Vice President from its members for a 2-year term. The Vice President performs the duties of the President if:

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

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

#### Secretary <sup>11</sup>

The Board elects a Secretary for a 2-year term. The secretary may be, but is not required to be, a Board member. The Secretary may receive reasonable compensation as determined by the Board before appointment. However, if the secretary is a Board member, the compensation shall not exceed \$500 per year, as fixed by the Board at least 180 days before the beginning of the term. The duties of the Secretary are to:

1. Keep minutes for all Board meetings and keep the verbatim record for all closed Board meetings;
2. Mail meeting notification and agenda to news media who have officially requested copies;
3. Keep records of the Board's official acts, and sign them, along with the President, before submitting them to the Treasurer at such times as the Treasurer may require;
4. Report to the Treasurer on or before July 7, annually, such information as the Treasurer is required to include in the Treasurer's report to the Regional Superintendent; <sup>12</sup>
5. Act as the local election authority for all Board elections;
6. Arrange public inspection of the budget before adoption;

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

<sup>9</sup> 105 ILCS 5/10-13.1 states that the "vice-president shall perform the duties of the president if there is a vacancy in the office of president or in case of the president's absence or inability to act ... ." However, an earlier enacted statute calls for the appointment of a *president pro tempore* if the president is absent from any meeting or refuses to perform his or her duties, and specifies that the "vice-president, if the board elects such officer, shall be appointed the *president pro tempore*." (105 ILCS 5/10-13). This policy resolves any confusion by implementing the latter enacted statute and stating that the vice president fills a vacancy in the presidency.

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

<sup>11</sup> 105 ILCS 5/10-14. The board by resolution may decrease to one year the term of office for the secretary. In districts governed by a board of directors, a clerk who is a board member performs these duties (105 ILCS 5/10-5). The policy's provisions regarding compensation are required by 105 ILCS 5/10-14 (governs secretaries who are board members and non-board members) and by 50 ILCS 145/2 (governs secretaries who are board members).

Of the listed duties, only the following are imposed by law: #1, board meeting minutes (105 ILCS 5/10-7; see policy 2:220, *School Board Meeting Procedure*, for the requirements for minutes); #3, records board's official acts and submits them to the treasurer (105 ILCS 5/10-7; #4, treasurer's report (105 ILCS 5/10-8); #5, local election authority (10 ILCS 5/10-1 *et seq.* and 5/17-22; 105 ILCS 5/9-10); #6, public inspection of the budget (105 ILCS 5/17-1).

<sup>12</sup> Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" in item #4 with "appropriate Intermediate Service Center." Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center." P.A. 96-893 abolished the Regional Office of Education for Suburban Cook County and transferred its duties and powers to Intermediate Service Centers.

7. Publish required notices;
8. Sign official District documents requiring the Secretary's signature; and
9. Maintain Board policy ~~-, financial reports, publicity, and correspondence~~ and such other official documents as directed by the Board.

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

### Recording Secretary 13

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

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

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

### Treasurer 14

The Treasurer of the Board shall be either a member of the Board who serves a 1-year term or a non-Board member who serves at the Board's pleasure. **15** A Treasurer who is a Board member may not be compensated. **16** A Treasurer who is not a Board member may be compensated provided it is established before the appointment. **17** The Treasurer must: **18**

1. Be at least 21 years old;

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

**13** This section is optional.

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

**15** 105 ILCS 5/8-1(b). The treasurer's term of office is 2 years if the district is located in a Class II county (Cook Co.) that was under the jurisdiction and authority of the township treasurer and township trustees of schools at the time those offices were abolished (105 ILCS 5/8-1(c)). Those boards should use the following alternative:

The Treasurer of the Board shall serve a 2-year term beginning and ending on the first day of July.

**16** 105 ILCS 5/8-1(b) and (c).

**17** 105 ILCS 5/8-3.

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

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

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

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

The Treasurer shall: **19**

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

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

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

CROSS REF.: 2:80 (Board Member Oath and Conduct), 2:210 (Organizational School Board Meeting)

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

**19** 105 ILCS 5/8-2, 5/8-6, and 5/8-16.

## School Board

### Board Member Expenses

No School Board member may receive compensation for services, except that a Board member serving as the Board Secretary may be paid an amount up to the statutory limit if the Board so provides. <sup>1</sup>

The Board may advance or reimburse members the actual and necessary expenses incurred while attending: <sup>2</sup>

1. Meetings sponsored by the Illinois State Board of Education or by the Regional Superintendent of Schools;
2. County or regional meetings and the annual meeting sponsored by any school board association complying with Article 23 of the School Code; and
3. Meetings sponsored by an organization in the field of public school education.

In addition, the Board may reimburse a member for registration fees or tuition for a course that allowed the member to comply with the mandatory training described in policy 2:120, Board Member Development. <sup>3</sup>

Expense reimbursement is not guaranteed and Board members should seek pre-approval of expenses, except in situations when the expense is diminutive. <sup>4</sup> A Board member must return to the District any portion of an expense advance not used. Members must submit an itemized, signed voucher to support any expense advanced or to seek expense reimbursement. The voucher must show the amount of actual expense, attaching receipts if possible. A Board member submitting a bill for a group function should record participating members' names on the receipt. Money shall not be advanced or reimbursed for: (1) the expenses of any person except the Board member, or (2) anyone's personal expenses.

The Superintendent shall review the submitted vouchers for compliance with this policy. <sup>5</sup> If any voucher's compliance appears uncertain, the Superintendent shall notify the Board President or Vice

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

<sup>1</sup> State law controls this policy's content (105 ILCS 5/10-9, 5/10-10, and 5/22-1). The legal limit for board secretary compensation is \$500 (105 ILCS 5/10-14).

<sup>2</sup> Board members may not receive compensation for their services (Id.). The board, however, has the power to advance its members anticipated "actual and necessary expenses" incurred in attending only those meetings listed (105 ILCS 5/10-22.32). "Actual and necessary expenses" are those reasonably anticipated to be incurred on necessary travel and attendance days (105 ILCS 5/10-22.32).

Use this alternative for districts in suburban Cook County: replace "Regional Superintendent of Schools" with "appropriate Intermediate Service Center." Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center." P.A. 96-893 abolished the Regional Office of Education for Suburban Cook County and transferred its duties and powers to Intermediate Service Centers.

<sup>3</sup> Boards have this power under 105 ILCS 5/10-20; this statute specifies that the grant of powers to school boards is not exclusive and that school boards may exercise other powers that are not inconsistent with duties. A board may expand this provision's scope by adding the following to the sentence: "... , or other training provided by one of the entities described in the above list."

<sup>4</sup> This paragraph's provisions are required by 105 ILCS 5/10-22.32, except the provisions requiring: (1) pre-approval, and (2) that participating members' names be included in a group bill.

<sup>5</sup> Nothing in this paragraph is required by law. However, the paragraph is consistent with the "IASB Principles of Effective Governance," i.e., that the board is responsible for itself.

President if the voucher in question is from the President, as well as the Board member who submitted the voucher. The Superintendent shall include the voucher in the monthly list of bills that is presented to the Board for approval or rejection.

#### Registration

When possible, registration fees will be paid by the District in advance.

#### Transportation

The least expensive transportation will be used, providing that no hardship will be caused to the Board member. Board members will be reimbursed for:

1. Air travel at the coach or single class commercial airline rate. First class air travel will be reimbursed only if emergency circumstances warrant. The emergency circumstances must be explained on the expense voucher. Copies of airline tickets must be attached to the expense voucher.
2. Rail or bus travel at actual cost. Rail or bus travel costs may not exceed the cost of coach airfare. Copies of tickets will be attached to the expense voucher to substantiate amounts.
3. Use of personal automobiles at the standard mileage rate approved by the Internal Revenue Service for income tax purposes. The reimbursement may not exceed the cost of coach airfare. Mileage for use of personal automobiles in trips to and from transportation terminals will also be reimbursed. Toll charges and parking costs will be reimbursed.
4. Automobile rental costs when the vehicle's use is warranted. The circumstances for such use must be explained on the expense voucher.
5. Taxis, airport limousines, or other local transportation costs.

#### Hotel/Motel Charges

Board members should request conference rate or mid-fare room accommodations. A single room rate will be reimbursed. Board members should pay personal expenses at checkout. If that is impossible, deductions for the charges should be made on the expense voucher.

#### Meal Charges

Meal charges to the School District should represent "mid-fare" selections for the hotel/meeting facility or general area. <sup>6</sup> Tips are included with the meal charges. Expense vouchers must explain the meal charges incurred.

#### Miscellaneous Expenses

Board members may seek reimbursement for other expenses incurred while attending a meeting sponsored by organizations described herein by fully describing the expenses on the expense voucher, attaching receipts if possible.

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<sup>6</sup> Alternatively, a board could set a daily limit on meal costs, such as:

Board members will be reimbursed for meal costs and tips up to \$\_\_\_\_\_ per day.



LEGAL REF.: 105 ILCS 5/10-~~20~~ and 5/10-22.32.

CROSS REF.: 2:100 (Board Member Conflict of Interest), 2:120 (Board Member Development), 4:50 (Payment Procedures)

## School Board

### Exhibit - Guidance for Board Member Communications, Including Email Use <sup>1</sup>

The School Board is authorized to discuss District business only at a properly noticed Board meeting (Open Meetings Act, 5 ILCS 120/1, ~~1-4 et seq.~~). Other than during a Board meeting, a majority or more of a Board quorum may not engage in contemporaneous interactive communication, whether in person or electronically, to discuss District business. This *Guidance* assumes a Board has seven members and covers issues arising from Board policy 2:140, *Communications To and From the Board*.

#### Communications Outside of a Properly Noticed Board Meeting

1. The Superintendent or designee is permitted to email information to Board members. For example, the Superintendent may email Board meeting agendas and supporting information to Board members. When responding to a single Board member's request, the Superintendent should copy all other Board members and include a *do not reply/forward* alert to the group, such as: **"BOARD MEMBER ALERT: This email is in response to a request. Do not reply or forward to the group but only to the sender."**
2. Board members are permitted to discuss any matter except District business with each other, whether in person or by telephone or email, regardless of the number of members participating in the discussion. For example, they may discuss league sports, work, or current events.
3. Board members are permitted to provide information to each other, whether in person or by telephone or email, that is non-deliberative and non-substantive. Examples of this type of communication include scheduling meetings and confirming receipt of information.
4. A Board member is not permitted to discuss District business with more than one other Board member at a time, whether in person or by telephone or email. Stated another way, a Board member may discuss District business in person or by telephone or email with only one other Board member at a time. However, a Board member should not facilitate interactive communication by discussing District business in a series of visits with, or telephone calls or emails to, Board members individually.
5. A Board member should include a *do not reply/forward* alert when emailing a message concerning District business to more than one other Board member. The following is an example of such an alert: **"BOARD MEMBER ALERT: This email is not for interactive discussion purposes. The recipient should not reply to it or forward it to any other individual."**
6. Board members should not ~~reply to or~~ forward email received from another Board member.

The footnotes should be removed before the material is used.

<sup>1</sup> ~~A board should discuss this Guidance with its attorney.~~ This exhibit is not intended as legal advice and should be used after a discussion with the board attorney. To prevent over-loading the district's servers with email messages, the district can annually seek authority from the Local Records Commission to dispose of "all district-wide electronic correspondence" for a year at a time. These types of records are generally not needed in the transaction of district's current business and they generally do not have sufficient administrative, legal, or fiscal value to warrant preservation. The board attorney should also be consulted on all legal issues involving the Open Meetings Act and record retention.

## When Must Email Be Retained?

~~Email, including attachments, that were “~~According to the Freedom of Information Act, a *public record* is any recorded information, regardless of physical form, “having been prepared by or for, or having been or being used by, received, ~~possessed by, in the possession of,~~ or under the control of any public body,” (5 ILCS 140/2). Email sent or received by Board members may be, depending on the content, subject to disclosure as a *public record*. ~~(Freedom of Information Act, 5 ILCS 140/2). Most email sent or received by individual Board members do not satisfy this definition of “public record” even when the content concerns District business. This is because individual Board members generally have no authority other than during a properly called Board meeting. However, there may be exceptions.~~ Accordingly, Board members must be able to distinguish between official record and non-record messages. **Important:** According to the binding Ill. Public Access Opinion No. 11-6, electronic communications concerning the transaction of public business are public records subject to disclosure under FOIA even if they were sent from or received by an electronic device owned by a member of a public body, rather than the public body itself.

### Non-Record Messages

Email messages are *non-record messages* when individual Board members are acting in their individual or personal capacities. ~~This may occur, for example, when an individual Board member’s email describes his or her personal opinions concerning the District or is a response to a community member. **Warning:** these “personal opinions” or “responses” may constitute an illegal Board meeting under the Open Meetings Act if a majority or more of a quorum of the Board discusses District business using email. See the first section of this Guidance.~~

~~Other~~ Examples of non-record messages include:

- ~~1. Information from the Superintendent concerning meeting dates, agenda topics, or materials to prepare for or be discussed during a meeting.~~
- ~~2.1.~~ Personal correspondence, such as, “Do you want to ride with me to the IASB workshop?”
- ~~3.2.~~ Publications or promotional material from vendors, ~~the IASB, or publicly available materials or IASB.~~
- ~~3. Correspondence from parents, staff, Political messages or ones containing campaign strategy.~~
- ~~4. Messages mentioning public business in passing or in a nonsubstantive way.~~
- ~~4.5.~~ Personal correspondence concerning community members activities or children.

Non-record messages are not *public records* under the Freedom of Information Act and do not need to be stored.

### Official Record Messages

~~Email messages are “public records” under the Freedom of Information Act (FOIA) when they are “prepared, used, received, or possessed by, or under the control of” the District.~~ Email that qualifies under FOIA as a *public record* will need to be stored only if it is evidence of the District’s organization, function, policies, procedures, or activities or contains informational data appropriate for preservation (Local Records Act, 50 ILCS 205/1 ~~et seq.~~). An example is any email from a Board officer concerning a decision made in his or her capacity as an officer. If a Board member uses his or her personal email, he or she must

copy this type of email, herein called *official record messages*, to the appropriate District office where it will be stored on the Board member's behalf. If made available, Board members should use their email accounts provided by the District and the District will automatically store the official record messages. The District will delete these official record messages as provided in an applicable, approved retention schedule.

**Important:** Do not destroy any email concerning a topic that is being litigated without obtaining the Board attorney's direction. In federal lawsuits there is an automatic discovery of virtually all types of electronically created or stored data that might be relevant. Attorneys will generally notify their clients at the beginning of a legal proceeding not to destroy any electronic records that might be relevant. For more discussion of a litigation hold, see 2:250-AP2, *Protocols for Record Preservation and Development of Retention Schedules*.

## School Board

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

#### General

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

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

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

<sup>1</sup> State law controls this policy's content. The provisions of the Open Meetings Act (OMA) do not apply to collective bargaining negotiations and grievance arbitrations as provided in 115 ILCS 5/18.

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

<sup>3</sup> State law only requires that meetings be held in a location convenient and open to the public and no open meeting is allowed to be held on a legal holiday unless the regular meeting day falls on that holiday (5 ILCS 120/2.01). ~~With limited exceptions, A board may not meet in a private residence because it would not be convenient and open to the public (Public Access Opinion 12-8).~~ Any person may record an open meeting (5 ILCS 120/2.05). See policy 2:220, *School Board Meeting Procedure*.

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

<sup>5</sup> 5 ILCS 120/1.05(b) applies to training administered by the Attorney General's office; 1.05(c) applies to training administered by IASB (both subparts added by P.A. 97-504). Board members seated on or before 1-1-2012 must complete the training by 1-1-2013 (Id.). Board members elected or appointed after 1-1-2012 must complete the training not later than 90 days after taking the oath of office (Id.). Even before this law, compliance with the OMA has always been considered a shared responsibility of board members. Failing to complete the OMA training does not affect the validity of an action taken by the board nor is it considered a criminal violation (5 ILCS 120/1.05(b) and 120/4, amended by P.A. 97-504). However, a person found to have violated any other provisions of the OMA is guilty of a Class C misdemeanor punishable by a \$1500 fine or 30 days in jail (5 ILCS 120/4, amended by P.A. 97-504).

## Regular Meetings

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

A meeting agenda shall be posted at the District's main office and the Board's meeting room, or other location where the meeting is to be held, at least 48 hours before the meeting. ~~8 Items not specifically on the agenda may still be considered during the meeting.~~

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

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

1. The appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the public body or legal counsel for the public body, including hearing testimony on a complaint lodged against an employee of the public body or against legal counsel for the public body to determine its validity. 5 ILCS 120/2(c)(1). <sup>10</sup>
2. Collective negotiating matters between the public body and its employees or their representatives, or deliberations concerning salary schedules for one or more classes of employees. 5 ILCS 120/2(c)(2).

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

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

<sup>7</sup> Regular meeting dates may be changed by giving at least 10 days notice in a newspaper of general circulation and posting a notice at the district's main office (5 ILCS 120/2.03). Districts with a population of less than 500, in which no newspaper is published, may give the 10 days notice by posting a notice in at least 3 prominent places within the district, in addition to posting a notice at the district's main office (Id.). Notice shall also be given to those news media having filed an annual request to receive notifications (Id.).

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

~~OMA also requires that "any required notice and agenda be *continuously available* for public viewing during the entire 48-hour period preceding the meeting." Emphasis added, 5 ILCS 120/2.02(c), amended by P.A. 97-827 (eff. 1-1-2013). The requirement for *continuously available* is satisfied if the district posts any required notice and agenda on its website. However, to comply with the legislative intent, posting on the district website does not replace the posting described in this sentence. See Rep. Pihos remarks reported in *New open-meetings law: is hard-copy posting of agendas still required?*, Sept. 2012, Illinois Bar Journal.~~

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

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

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

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

~~<sup>10</sup> According to a binding opinion of the Public Access Counselor, "The exception is not intended to allow private discussion of fiscal matters, notwithstanding that they may directly or indirectly impact the employees of the public body." (Public Access Opinion 12-11).~~

3. The selection of a person to fill a public office, as defined in the Open Meetings Act, including a vacancy in a public office, when the public body is given power to appoint under law or ordinance, or the discipline, performance or removal of the occupant of a public office, when the public body is given power to remove the occupant under law or ordinance. 5 ILCS 120/2(c)(3).
4. Evidence or testimony presented in open hearing, or in closed hearing where specifically authorized by law, to a quasi-adjudicative body, as defined in the Open Meetings Act, provided that the body prepares and makes available for public inspection a written decision setting forth its determinative reasoning. 5 ILCS 120/2(c)(4).
5. The purchase or lease of real property for the use of the public body, including meetings held for the purpose of discussing whether a particular parcel should be acquired. 5 ILCS 120/2(c)(5).
6. The setting of a price for sale or lease of property owned by the public body. 5 ILCS 120/2(c)(6).
7. The sale or purchase of securities, investments, or investment contracts. 5 ILCS 120/2(c)(7).
8. Security procedures and the use of personnel and equipment to respond to an actual, a threatened, or a reasonably potential danger to the safety of employees, students, staff, the public, or public property. 5 ILCS 120/2(c)(8).
9. Student disciplinary cases. 5 ILCS 120/2(c)(9).
10. The placement of individual students in special education programs and other matters relating to individual students. 5 ILCS 120/2(c)(10).
11. Litigation, when an action against, affecting or on behalf of the particular public body has been filed and is pending before a court or administrative tribunal, or when the public body finds that an action is probable or imminent, in which case the basis for the finding shall be recorded and entered into the minutes of the closed meeting. 5 ILCS 120/2(c)(11).
12. The establishment of reserves or settlement of claims as provided in the Local Governmental and Governmental Employees Tort Immunity Act, if otherwise the disposition of a claim or potential claim might be prejudiced, or the review or discussion of claims, loss or risk management information, records, data, advice or communications from or with respect to any insurer of the public body or any intergovernmental risk management association or self insurance pool of which the public body is a member. 5 ILCS 120/2(c)(12).
13. Self evaluation, practices and procedures or professional ethics, when meeting with a representative of a statewide association of which the public body is a member. 5 ILCS 120/2(c)(16). **11**
14. Discussion of minutes of meetings lawfully closed under the Open Meetings Act, whether for purposes of approval by the body of the minutes or semi-annual review of the minutes as mandated by Section 2.06. 5 ILCS 120/2(c)(21).
15. Meetings between internal or external auditors and governmental audit committees, finance committees, and their equivalents, when the discussion involves internal control weaknesses, identification of potential fraud risk areas, known or suspected frauds, and fraud interviews

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



conducted in accordance with generally accepted auditing standards of the United States of America. 5 ILCS 120/2(c)(28). <sup>12</sup>

The Board may hold a closed meeting, or close a portion of a meeting, by a majority vote of a quorum, taken at an open meeting. The vote of each Board member present, and the reason for the closed meeting, will be publicly disclosed at the time of the meeting and clearly stated in the motion and the meeting minutes. <sup>13</sup>

A single motion calling for a series of closed meetings may be adopted when such meetings will involve the same particular matters and are scheduled to be held within 3 months of the vote. <sup>14</sup>

No final Board action will be taken at a closed meeting. <sup>15</sup>

#### Reconvened or Rescheduled Meetings

A meeting may be rescheduled or reconvened. Public notice of a rescheduled or reconvened meeting shall be given in the same manner as that for a special meeting, except that no public notice is required when the original meeting is open to the public and: (1) is to be reconvened within 24 hours, or (2) an announcement of the time and place of the reconvened meeting was made at the original meeting and there is no change in the agenda. <sup>16</sup>

#### Special Meetings

Special meetings may be called by the President or by any 3 members of the Board by giving notice thereof, in writing, stating the time, place, and purpose of the meeting to remaining Board members by mail at least 48 hours before the meeting, or by personal service at least 24 hours before the meeting. <sup>17</sup>

Public notice of a special meeting is given by posting a notice at the District's main office at least 48 hours before the meeting and by notifying the news media that have filed a written request for notice. A meeting agenda shall accompany the notice. <sup>18</sup>

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

<sup>12</sup> P.A. 97-318.

<sup>13</sup> 5 ILCS 120/2a. Provided the open meeting was properly noticed, no additional notice is required to close the meeting. A motion to close a meeting can be as simple as, "I move that the Board hold [go into] a closed session to discuss [state one of the closed meeting grounds with reference to the specific section authorizing the closed meeting]."

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

<sup>14</sup> Id.

<sup>15</sup> 5 ILCS 120/2(e).

<sup>16</sup> 5 ILCS 120/2.02.

<sup>17</sup> 105 ILCS 5/10-16 (2 members of a board of directors; 105 ILCS 5/10-6). Lawyers disagree whether 3 members may call a special meeting without violating the OMA, although there is general agreement that no violation occurs if 3 members call a special meeting while they are participating in a lawful board committee meeting with the matter on the agenda.

<sup>18</sup> 5 ILCS 120/2.02. News media that gave the board an address or telephone number within the district's territorial jurisdiction must be given notice in the same manner as that given board members.

OMA requires that "any required notice and agenda be continuously available for public viewing during the entire 48-hour period preceding the meeting." Emphasis added, 5 ILCS 120/2.02(c), amended by P.A. 97-827 (eff. 1-1-2013). The requirement for continuously available is satisfied if the district posts any required notice and agenda on its website. Posting on the district website does not replace the posting described in this paragraph. See f/n #8.



~~No~~ All matters ~~will be~~ discussed ~~, considered, or brought before by~~ the Board at any special meeting ~~other than such matters as were included in the stated purpose of~~ must be related to a subject on the meeting agenda. 19

### Emergency Meetings

Public notice of emergency meetings shall be given as soon as practical, but in any event, before the meeting to news media that have filed a written request for notice. 20

### Posting on the District Website 21

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

LEGAL REF.: 5 ILCS 120/, Open Meeting Act.  
5 ILCS 140/, Freedom of Information Act.  
105 ILCS 5/10-6 and 5/10-16.

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

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

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

19 ~~Id.~~ And Lawyers disagree whether the Open Meetings Act mandates this restriction, i.e., whether it restricts board discussions to items related to an item on the special meeting agenda. The Act limits board action to items on the agenda (5 ILCS 120/2.02(c), added by P.A. 97-827, eff. 1-1-2013); -The it states that the validity of any board action that taken "which is germane to a subject on the agenda is shall not be affected by other errors or omissions in the agenda." (5 ILCS 120/2.02(a). ~~Id.~~ For agenda requirements, see policy 2:220, School Board Meeting Procedure.

20 5 ILCS 120/2.02(a).

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

## School Board

### Administrative Procedure - Types of School Board Meetings

Meeting Type	<del>Public</del> Notice	<del>Notice to Board Members</del>	Agenda	Notice to News Media	<del>District</del> District's Website <sup>1</sup>
<b>Regular</b>	<p>Given once a year when the Board adopts its regular meeting schedule.  <del>5 ILCS 120/2.02.</del>            105 ILCS 5/10-6, 5/10-16.</p> <p><u>The notice and agenda must be continuously available for public review during the entire 48-hour period before the meeting. Posting on the District's website satisfies the requirement for continuous posting. However, to comply with the legislative intent, posting on the District's website does not replace the posting described in the Agenda column.</u>  <u>5 ILCS 120/2.02, amended by P.A. 97-827 (eff. 1-1-2013).</u></p>	<del>None required.</del>	Post at the District's main office and at the meeting site, at least 48 hours before the meeting. 5 ILCS 120/2.02.	Give to any news media that filed an annual request for such notices. 5 ILCS 120/2.02.	<p>Post the annual schedule of regular meetings and post a public notice of each meeting along with the meeting agenda.            5 ILCS 120/2.02.</p> <p>Post regular Board meeting minutes within 7 days after approval; the minutes remain there for at least 60 days.            5 ILCS 120/2.06.</p>
<b>Special</b>	<p>Post a notice at the District's main office or, if no main office exists, at the meeting site, at least 48 hours before the meeting.            5 ILCS 120/2.02.</p> <p><u>The notice and agenda must be continuously available and/or posted on the District's website as provided in the Regular meeting row.</u></p> <p><u>Notice to Board members must be served by mail 48 hours before the meeting or by personal service 24 hours before the meeting.</u>  <u>105 ILCS 5/10-16.</u></p>	<p><del>Notice served by mail 48 hours before the meeting or by personal service 24 hours before the meeting.</del></p> <p><del>105 ILCS 5/10-16.</del></p>	Include with the public notice. 5 ILCS 120/2.02.	Give to any news media that files an annual request. Must also give the same notice as that given Board members if the news media provides an address or telephone number within the District's jurisdiction. 5 ILCS 120/2.02.	<p>Post a public notice of each meeting along with the meeting agenda, at least 48 hrs before the meeting. The notice and agenda must remain posted on the website until the meeting is concluded.            5 ILCS 120/2.02.</p>
<b>Emergency</b>	Post the notice at the District's main office or, if no main office	<del>None specified.</del>	No State law requirements.	Same as for special meetings.	Post a public notice.

The footnotes should be removed before the material is used.

<sup>1</sup> Required *only* if the district has a website that is maintained by a full-time staff member; if not, this column may be omitted (5 ILCS 120/2.06(b)).

Meeting Type	<del>Public</del> -Notice	<del>Notice to Board Members</del>	Agenda	Notice to News Media	<del>District</del> <u>District's</u> Website 1
	exists, at the meeting site, as soon as practicable before the meeting. 5 ILCS 120/2.02.  <u>The notice and agenda must be continuously available and/or posted on the District's website as provided in the <b>Regular</b> meeting row.</u>  <u>No specific notice to Board members is specified, but it is advisable to provide the notice as soon as possible.</u>	<del>but advisable to provide the same notice as for a special meeting.</del>			5 ILCS 120/2.02.
<b>Closed</b>	May hold a closed meeting, or close a portion of an open meeting, upon a majority vote of a quorum present, taken at a properly noticed open meeting. 5 ILCS 120/2a.	<del>None required.</del>	None required, but only topics specified in the vote to hold the closed meeting may be considered. 5 ILCS 120/2a.	No additional notice required.	Post a public notice. 5 ILCS 120/2.02.
<b>Rescheduled or Reconvened</b>	Post a notice at the District's main office or, if no main office exists, at the meeting site at least 48 hours before the meeting. <u>5 ILCS 120/2.02.</u>  <u>The notice and agenda must be continuously available and/or posted on the District's website as provided in the <b>Regular</b> meeting row.</u>  No notice is needed when an open meeting is reconvened within 24 hours, or when the time and place of a reconvened meeting was announced at the original meeting and the agenda is not changed. 5 ILCS 120/2.02.	<del>None required.</del>	Included with any public notice.	Same as for a special meeting.	Post a public notice. 5 ILCS 120/2.02.

## School Board

### School Board Meeting Procedure <sup>1</sup>

#### Agenda

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

Each Board meeting agenda shall contain the general subject matter of any item that will be the subject of final action at the meeting. <sup>4</sup> Items submitted by Board members to the Superintendent or the President shall be placed on the agenda for an upcoming meeting. <sup>5</sup> District residents may suggest inclusions for the agenda. <sup>6</sup> The Board will take final action only on items contained in the posted agenda; items not specifically on the agenda may still be discussed during the meeting; no action will be taken on such items.

The Superintendent shall provide a copy of the agenda, with adequate data and background information, to each Board member at least 48 hours before each meeting, except a meeting held in the event of an emergency. <sup>7</sup> The meeting agenda shall be posted in accordance with Board policy 2:200, *Types of School Board Meetings*.

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

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

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

<sup>3</sup> To comply with the Open Meetings Act's mandate that minutes contain a "summary of discussion on all matters proposed, deliberated, or decided," a board should include a list of consent items in the agenda.

<sup>4</sup> 5 ILCS 120/2.02(c), amended by P.A. 97-827 (eff. 1-1-2013). The Ill. Appellate Court held that the Open Meetings Act prohibits a board from voting on a matter at a regular meeting that is not on the pre-meeting published agenda (Rice v. Board of Trustees of Adams County, 762 N.E.2d 1205 (Ill.App.4, 2002)).

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

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

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

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

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

<sup>7</sup> State law does not require this, except that 105 ILCS 5/10-16 requires members to receive a written notice of a special meeting that includes the meeting's purpose.

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

### Voting Method

Unless otherwise provided by law, when a vote is taken upon any measure before the Board, with a quorum being present, a majority of the votes cast shall determine its outcome. <sup>8</sup> A vote of *abstain* or *present*, or a vote other than *yea* or *nay*, or a failure to vote, is counted for the purposes of determining whether a quorum is present. A vote of *abstain* or *present*, or a vote other than *yea* or *nay*, or a failure to vote, however, is not counted in determining whether a measure has been passed by the Board, unless otherwise stated in law. The sequence for casting votes is rotated. <sup>9</sup>

On all questions involving the expenditure of money and on all questions involving the closing of a meeting to the public, a roll call vote shall be taken and entered in the Board's minutes. An individual Board member may request that a roll call vote be taken on any other matter; the President

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<sup>8</sup> In most situations, the failure of a member to vote has the effect of acquiescence or concurrence with the majority of votes cast. Prosser v. Village of Fox Lake, 438 N.E.2d 134 (1982); People v. Bertrand, 2012 IL App (1st) 111419 (9-28-2012). For example, a motion passes with a vote of 2 *yeas*, 1 *nay*, and 4 *abstentions*. A motion fails with a vote of 2 *yeas*, 3 *nays*, and 2 *abstentions*. A motion fails with a vote of 3 *yeas*, 3 *nays*, and one *abstain* because there is no majority. Exceptions include when a statute requires the *affirmative vote* of a majority or extra. Statutory exceptions include the following board actions:

1. ~~To dismiss~~ Dismissing a teacher for any reason other than reduction of staff or elimination of that position ~~must be approved~~ requires approval by the majority of all members (105 ILCS 5/24-12).
2. ~~To direct~~ Directing the sale of district real property or buildings thereon must be approved by at least 2/3 of the board members (105 ILCS 5/5-22).
3. ~~To make~~ Making or ~~renew~~ renewing a lease of school property to another school district or municipality or body politic and corporate for a term longer than 10 years, or to alter the terms of such a lease whose unexpired term exceeds 10 years, ~~must be approved~~ requires approval by at least 2/3 of the board's full membership (105 ILCS 5/10-22.11).
4. ~~To lease~~ Leasing any building, rooms, grounds, and appurtenances to be used by the district for school or administration purposes for a term longer than 10 years, or to alter the terms of such a lease whose unexpired term exceeds 10 years, ~~must be approved~~ requires approval by at least 2/3 of the board's full membership (105 ILCS 5/10-22.12).
5. ~~To obtain~~ Obtaining personal property by lease or installment contract ~~must be approved~~ requires approval by an affirmative vote of at least 2/3 of the board members. *Personal property* includes computer hardware and software and all equipment, fixtures, and improvements to existing district facilities to accommodate computers (105 ILCS 5/10-22.25a).
6. ~~To adopt~~ Adopting a supplemental budget after a successful referendum ~~must be approved~~ requires approval by a majority of the full board (105 ILCS 5/17-3.2).
7. ~~To petition~~ Petitioning the circuit court for an emergency election ~~must be approved~~ requires approval by a majority of the members (10 ILCS 5/2A-1.4).
8. ~~To expend~~ Expending funds in emergency situation in the absence of required bidding ~~when such emergency expenditure is approved~~ requires approval by at least 3/4 of the board (105 ILCS 5/10-20.21).
9. ~~To exchange~~ Exchanging school building sites ~~must be approved~~ requires approval by at least a 2/3 majority of the board (105 ILCS 5/5-23).
10. ~~To waive~~ Waiving the administrative cost cap ~~must be approved~~ requires approval by an affirmative vote of at least 2/3 of the board (105 ILCS 5/17-1.5).
- 10-11. Authorizing an advisory question of public policy to be placed on the ballot at the next regularly scheduled election requires approval by a majority of the board (105 ILCS 5/9-1.5, added by P.A. 97-81).

<sup>9</sup> Voting sequence is at the board's discretion. A board may indicate how frequently it changes the voting sequence by adding *after each vote*, *monthly*, or *annually* to the end of the sentence. All board members, including officers, may make motions and vote.

or other presiding officer may approve or deny the request but a denial is subject to being overturned by a majority vote of the members present. **10**

### Minutes

The Board Secretary shall keep written minutes of all Board meetings (whether open or closed), which shall be signed by the President and the Secretary. **11** The minutes include: **12**

1. The meeting's date, time, and place;
2. Board members recorded as either present or absent;
3. A summary of the discussion on all matters proposed, deliberated, or decided, and a record of any votes taken;
4. On all matters requiring a roll call vote, a record of who voted *yea* and *nay*;
5. If the meeting is adjourned to another date, the time and place of the adjourned meeting;
6. The vote of each member present when a vote is taken to hold a closed meeting or portion of a meeting, and the reason for the closed meeting with a citation to the specific exception contained in the Open Meetings Act authorizing the closed meeting;
7. A record of all motions, including individuals making and seconding motions;
8. Upon request by a Board member, a record of how he or she voted on a particular motion; **13** and
9. The type of meeting, including any notices and, if a reconvened meeting, the original meeting's date.

The minutes shall be submitted to the Board for approval or modification at its next regularly scheduled open meeting. Minutes for open meetings must be approved within 30 days after the meeting or at the second subsequent regular meeting, whichever is later. **14**

At least semi-annually in an open meeting, the Board: (1) reviews minutes from all closed meetings that are currently unavailable for public release, and (2) decides which, if any, no longer require confidential treatment and are available for public inspection. **15** The Board may meet in a prior

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

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

- Option 1: Any Board member may include a written explanation of his or her vote in the District file containing individual Board member statements; the explanation will not be part of the minutes.
- Option 2: Any Board member may request that his or her vote be changed before the President announces the result.

**11** 105 ILCS 5/10-7 and 5 ILCS 120/2.06. The minutes are the only record showing that the board took official action, including necessary prerequisites to make such action legally sufficient. A non-member recording secretary or clerk may be given these responsibilities (105 ILCS 5/10-14).

**12** All items listed are required to be recorded in minutes **except** items 7-9; other items may be included at the board's discretion (5 ILCS 120/2.06 and 120/2a; 105 ILCS 5/10-7).

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

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

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

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

closed session to review the minutes from closed meetings that are currently unavailable for public release. <sup>16</sup>

The Board's meeting minutes must be submitted to the Board Treasurer at such times as the Treasurer may require. <sup>17</sup>

The official minutes are in the custody of the Board Secretary. <sup>18</sup> Open meeting minutes are available for inspection during regular office hours within 10 days after the Board's approval; <sup>19</sup> they may be inspected in the District's main office, in the presence of the Secretary, the Superintendent or designee, or any Board member. Minutes from closed meetings are likewise available, but only if the Board has released them for public inspection. The minutes shall not be removed from the Superintendent's office except by vote of the Board or by court order.

The Board's open meeting minutes shall be posted on the District website within 10 days after the Board approves them; the minutes will remain posted for at least 60 days. <sup>20</sup>

#### Verbatim Record of Closed Meetings

The Superintendent, or the Board Secretary when the Superintendent is absent, shall audio record all closed meetings. <sup>21</sup> If neither is present, the Board President or presiding officer shall assume this responsibility. After the closed meeting, the person making the audio recording shall label the recording with the date and store it in a secure location. The Superintendent shall ensure that: (1) an audio recording device and all necessary accompanying items are available to the Board for every closed meeting, and (2) a secure location for storing closed meeting audio recordings is maintained close to the Board's regular meeting location. <sup>22</sup>

After 18 months have passed since being made, the audio recording of a closed meeting is destroyed provided the Board approved: (1) its destruction, and (2) minutes of the particular closed meeting. <sup>23</sup>

Individual Board members may listen to verbatim recordings when that action is germane to their responsibilities. In the interest of encouraging free and open expression by Board members during closed meetings, the recordings of closed meetings should not be used by Board members to confirm or dispute the accuracy of recollections. <sup>24</sup>

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

<sup>16</sup> 5 ILCS 120/2 allows boards to discuss the confidentiality needs of closed meeting minutes in closed meetings.

<sup>17</sup> Required by 105 ILCS 5/10-7.

<sup>18</sup> Optional provision: "A copy of the minutes is kept in a secure location appropriate for valuables."

<sup>19</sup> Required by 5 ILCS 120/2.06.

<sup>20</sup> Posting on the website is required *only if* the district has a website that is maintained by a full-time staff member; if not, this sentence may be omitted (5 ILCS 120/2.06(b)).

<sup>21</sup> Boards must keep a verbatim record of their closed meetings in the form of an audio or video recording (5 ILCS 120/2.06). This sample policy uses audio recording only; a board that uses a video recording should amend this policy.

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

<sup>22</sup> Alternatively, use: "is maintained within the District's main office."

<sup>23</sup> This paragraph paraphrases 5 ILCS 120/2.06(c). No notification to, or the approval of, a records commission or the State Archivist is needed if a recording is destroyed under the conditions listed.

<sup>24</sup> This sentence is optional. Intra-board conflicts may escalate if the recording is used to confirm or dispute who-said-what.



### Quorum and Participation by Audio or Video Means 25

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

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

### Rules of Order

Unless State law or Board-adopted rules apply, the Board President, as the presiding officer, will use Robert's Rules of Order, Newly Revised (10th Edition), as a guide when a question arises concerning procedure. 26

### Broadcasting and Recording Board Meetings

Any person may record or broadcast an open Board meeting. 27 Special requests to facilitate recording or broadcasting an open Board meeting, such as seating, writing surfaces, lighting, and access to electrical power, should be directed to the Superintendent at least 24 hours before the meeting.

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

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

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

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

25 5 ILCS 120/2.01 and 120/7. See also 105 ILCS 5/10-6 and 5/10-12. In order to allow attendance by video or audio means, a board must adopt a policy conforming to the restrictions in the Open Meetings Act. The statute requires the board member who wishes to attend remotely to notify the "recording secretary or clerk of the public body." The policy includes the superintendent as a possible person to receive the notice. Everything in this section is required aside from provisions on the length of notification that is given the secretary and the process for accommodating the request. Alternatively, a board may: (1) prohibit members from participating by video or audio means by omitting this section, (2) add other requirements, or (3) alter the 24 hour notification. Note that the statute does not contemplate someone either *approving* or *denying* a request, only that the request be accommodated if the notification is provided.

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

27 The public's right to record meetings must be addressed in board policy (5 ILCS 120/2.05). However, a provision requiring advance notice to record a meeting is invalid (Public Access Opinion 12-10).



## School Board

### **Exhibit - Immediately Available District Public Records and Web-Posted Reports and Records** <sup>1</sup>

*[For use by only those Districts that have websites.]*

The District's Freedom of Information Officer designates the public records that are listed in this table as being immediately available to the public. The records that are asterisked are posted on the District's website and may be immediately inspected, downloaded, printed, and/or copied. Any asterisked public record is also immediately available for inspection or copying upon request at the District's administrative office during its regular business hours, provided any applicable fees are paid. Records without an asterisk will be provided within 5 business days as allowed by the Freedom of Information Act, provided any applicable fees are paid.

Web-posted records and information	Web-posting statutory reference and special instructions
<ul style="list-style-type: none"> <li>*Annual schedule of regular meetings for the current school year that are posted at the beginning of each calendar or fiscal year</li> <li>*Public notice of each Board meeting that is posted at least 48 hours before the meeting and remains posted until the meeting is concluded</li> <li>*Agenda of each regular meeting that is posted at least 48 hours before a meeting and remains posted until the meeting is concluded</li> </ul> <p><b><u>Note: For school districts that do not post board meeting notices and/or agendas on a website (because they do not have a website maintained by a fulltime staff member), the notice and agenda must be continuously available for public review during the entire 48-hour period preceding the meeting</u></b></p>	<p>5 ILCS 120/2.02, <u>amended by P.A. 97-827, eff. 1-1-13.</u></p>

<sup>1</sup> This exhibit has two purposes: (1) to identify the data and documents that must be posted on a district's website, if the district has a website, and (2) to fulfill the requirement in the Freedom of Information Act (FOIA) for the district's FOIA officer to designate the public records that are immediately available to the public (5 ILCS 140/3.5(a)). Many attorneys agree that using the required items for web-posting is an easy and practical way for the FOIA Officer to develop a list of public records that are *immediately available*. Some attorneys prefer that the district also retain copies of its web-posted public records for immediate inspection and/or copying upon request at the administrative office. The introductory paragraph manages this issue by indicating that copies of certain identified public records will also be immediately available in the district's administrative office. This exhibit suggests identifying public records for immediate availability that are easily reproduced and stored, i.e., not voluminous. The FOIA Officer should customize this list as appropriate to the district's circumstances.

Note, however, that simply referring a FOIA requester to a responsive document that is available on the district's website is not a sufficient response and that a copy must be provided on request (see reference in Public Access Counselor binding opinion 2010-001). Consult the board attorney for ideas to manage the district's specific FOIA compliance issues.

The "Intermediate Service Center" is given as an alternative to "Regional Superintendent" herein because 105 ILCS 5/2-3.62, abolished the Regional Office of Education for Suburban Cook County and transferred its powers and duties to Intermediate Service Centers.

Web-posted records and information	Web-posting statutory reference and special instructions
*Official open meeting minutes that are posted within 10 days of the Board's approval and remain posted for at least 60 days	5 ILCS 120/2.06(b), amended by P.A. 96-1473.
*Description of the District and its records including: Summary of the District's purpose Functional subdivisions Total amount of operating budget Number and location of all of its separate offices Approximate number of full and part-time employees (see also, salary and benefits information report for the Superintendent, administrators, and teachers, District's Statement of Affairs) Identification and membership of the Board Brief description of the methods whereby the public may request information and public records Directory information for the Freedom of Information Officer Address where requests for public records should be directed Fees	5 ILCS 140/4, amended by P.A.96-542. The District must prominently post the list at each administrative office and make it available for inspection and copying.
Annual budget for current fiscal year, itemized by receipts and expenditures	105 ILCS 5/17-1.2. This may be accomplished using ISBE's School District Budget Form 50-36 or the summary pages from it. <sup>2</sup> The District must notify the parents or guardians of its students that the budget has been web-posted and what the website's address is.
*District Report Card and a Report Card for each School (the Report Cards will be provided by ISBE by Oct. 31, 2013 and Oct. 31 of each subsequent school year)	105 ILCS 5/10-17a, amended by P.A. 97-671. Annually, no more than 30 calendar days after receiving the Report Cards from the State Superintendent, the District must: (1) present them at a regular Board meeting, (2) post them the District's website, (3) make them available to a newspaper of general

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<sup>2</sup> For school officials that are concerned that some of their district's constituents may not have the proper software to access these documents, ISBE provides links to free *viewer* or *reader* products that support the ISBE School District Budget Form (50-36). These products can be downloaded and used to access the budget as posted on the district's website. See [www.isbe.net/sfms/budget/freeviewer.htm](http://www.isbe.net/sfms/budget/freeviewer.htm).

Web-posted records and information	Web-posting statutory reference and special instructions
	<p>circulation serving the District, and (4) upon request, send them home to parents/guardians.</p> <p>The District also must send a written notice home to parents/guardians stating: (1) that the Report Cards are available on the website, (2) the website's address, (3) that a printed copy will be sent upon request, and (4) the telephone number to request a printed copy.</p>
<p>*A list of all contracts in excess of \$25,000 and any contracts with an exclusive bargaining representative.</p>	<p>105 ILCS 5/10-20.44.</p> <p>There is no statutory timeline for web-posting.</p> <p>Each year, in conjunction with the submission of the Statement of Affairs to ISBE, before Dec. 1, the District must submit to ISBE an annual report on all contracts over \$25,000 awarded during the previous fiscal year.</p>
<p><u>*Contract(s) with any commercial driver training school(s) for driver education</u></p>	<p><u>105 ILCS 5/2-3.25g(d), amended by P.A. 97-1025, eff. 1-1-13.</u></p> <p><u>The District is required to web-post this document if it has a website. If the District has no website, it must make the contract available upon request.</u></p>
<p>Annual Statement of Affairs</p>	<p>105 ILCS 5/10-17.</p> <p>The District is not required to web-post this document. It must, annually by Dec. 1, submit the Statement to ISBE for posting on ISBE's website, have copies of the Statement available in the main administrative office, and publish a summary of the Statement in a newspaper of general circulation published in the District.</p>
<p>*Administrator and Teacher Salary and Benefits Report (itemized salary report for the Superintendent and all administrators and teachers); <i>benefits</i> includes without limitation vacation days, sick days, bonuses, annuities, and retirement enhancements</p>	<p>105 ILCS 5/10-20.47, amended by P.A. 97-256.</p> <p>Annually on or before October 1: (1) the information must be presented at a regular Board meeting and posted on the District's website, and (2) after the Board meeting at which the</p>

Web-posted records and information	Web-posting statutory reference and special instructions
	information was presented, the Report must be provided to ISBE.
<p>*As an employer that participates in the Illinois Municipal Retirement Fund (IMRF), a compensation report for employees who have a total compensation package that exceeds \$75,000 per year; <i>total compensation package</i> means salary, health insurance, a housing allowance, a vehicle allowance, a clothing allowance, bonuses, loans, vacation days granted, and sick days granted</p> <p>As of <del>May</del> <u>Oct.</u> 1, 2012, IASB has not received a response from the Ill. Attorney General's office to its request for guidance concerning whether this requirement applies to employees who do not participate in IMRF, e.g., TRS participants.</p>	<p>5 ILCS 120/7.3, added by P.A. 97-609.</p> <p>The report must be posted within 6 business days after the District approves a budget. The District may choose to post a physical copy of this information at its principal office in lieu of posting the information directly on the website in which case it must post directions on the website for accessing that information.</p>
<p>*As an employer that participates in the Illinois Municipal Retirement Fund, a compensation report for employees who have a total compensation package that is equal to or in excess of \$150,000 per year; <i>total compensation package</i> means payment by the employer to the employee for salary, health insurance, a housing allowance, a vehicle allowance, a clothing allowance, bonuses, loans, vacation days granted, and sick days granted</p> <p>As of <del>May</del> <u>Oct.</u> 1, 2012, IASB has not received a response from the Ill. Attorney General's office to its request for guidance concerning whether this requirement applies to employees who do not participate in IMRF, e.g., TRS participants.</p>	<p>5 ILCS 120/7.3, added by P.A. 97-609.</p> <p>The report must be posted at least 6 days before the District approves an employee's total compensation package that is equal to or in excess of \$150,000. The District may choose to post a physical copy of this information at its principal office in lieu of posting the information directly on the website in which case it must post directions on the website for accessing that information.</p>
A description of activities to address intergroup conflict (an optional program authorized by Sec. 27-23.6)	105 ILCS 5/27-23.6(c).
*Log of Board Members' Training and Development Activities	<p>105 ILCS 5/10-16a, added by P.A. 97-8.</p> <p>The District must post on its website the names of all Board members who have completed professional development leadership training (required for board members taking office after 6/13/2011).</p> <p>5 ILCS 120/1.05(b) and (c), amended by P.A. 97-504.</p> <p>Each Board member must complete</p>

Web-posted records and information	Web-posting statutory reference and special instructions
	<p>training on the Open Meetings Act. After completing the training, each Board member must file a copy of their certificate of completion with the School Board.</p> <p>105 ILCS 5/24-16.5, added by P.A. 97-8. After the implementation of the Performance Evaluation Reform Act (PERA) evaluations, each Board member participating in PERA evaluations must complete a training program.</p>
<p><u>Immunization data reported to ISBE by each Nov. 15</u></p>	<p><u>105 ILCS 5/27-8.1, amended by P.A. 97-910, eff. 1-1-13.</u>  <u>By Dec. 1, the District must annually make the immunization data that it must report to ISBE each year publicly available. The data, not its format, must be identical to the data reported to ISBE. Boards have control over the method(s) used to make this data publicly available. One method is to instruct the reader to ask for the data directly from ISBE.</u></p>

## Operational Services

### ~~Insufficient Fund Checks~~ Insufficient Fund Checks and Debt Recovery

#### Insufficient Fund Checks <sup>1</sup>

The Superintendent or designee is responsible for collecting the maximum fee authorized by State law for returned checks written to the District that are not honored upon presentation to the respective bank or other depository institution for any reason. The Superintendent is authorized to contact the District's attorney whenever necessary to collect the returned check amount, fee, collection costs and expenses, and interest.

#### Delinquent Debt Recovery <sup>2</sup>

The Superintendent is authorized to seek collection of delinquent debt owed the District. The Superintendent or designee shall execute the requirements in any intergovernmental agreement between the District and the Illinois Office of the Comptroller (Comptroller) that has the purpose of debt recovery. The intergovernmental agreement establishes the terms under which the District may request, and the Comptroller will execute, a deduction (offset) of the amount of a debt owed the District from a future payment that the State makes to an individual or entity responsible for paying the debt. The Comptroller will pay the amount deducted to the District and the District will credit that amount against the balance owed to the District until the debt is paid. The Superintendent or designee is responsible, without limitation, for each of the following:

1. Providing notice and due process to the individual or entity against whom a claim is made. Written notice must be given the individual or entity responsible for paying a debt before the debt is certified to the Comptroller for offset. The notice must state the claim's amount, the reason for the amount due, the claim's date or time period, and a description of the process to challenge the claim. An individual or entity challenging a claim shall be provided an informal proceeding to refute the claim's existence, amount, or current collectability; the decision following this proceeding shall be reviewable. An appeal of the denial of a fee waiver request shall be handled according to 4:140, *Waiver of Student Fees*.

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

~~1 State or federal law controls this policy's content. State law controls this policy's content. 810 ILCS 5/3-806 authorizes a \$25.00 collection fee whenever a check is not honored upon presentation because the individual does not have an account with the bank, the individual does not have sufficient funds in his or her account, or the individual does not have sufficient credit with the bank.~~

2 This section is optional but because the policy's title refers to debt recovery, at least the first sentence should be retained. The Comptroller operates an Offset System for collecting debt owed to the State, political subdivisions of the State, and school districts by persons receiving payments from the State. Seeking debt recovery through an offset of a future payment the State makes to a debtor is optional. The requirements in this policy for obtaining an offset are either in statute or the Comptroller's intergovernmental agreement (15 ILCS 405/10.05 and 10.05d, amended by P.A. 97-632). The first step to participate is to enter into the intergovernmental agreement with the Comptroller's office. Contact a Local Debt Recovery Program (LDRP) manager with the Office of the Comptroller to join. Program managers work one-on-one with districts. The LDRP's general number is 312/814-2488 and email is [ldrp@mail.ioc.state.il.us](mailto:ldrp@mail.ioc.state.il.us). Contact the board attorney for advice and assistance.

While this paragraph is not a prerequisite to participation in the Offset Program, it will help the board's monitoring function by identifying the Program's important components. Moreover, it serves as an element of due process by informing the public and the district's debtors that the district will collect debt through the Offset Program.

2. Certifying to the Comptroller that the debt is past due and legally enforceable, and notifying the Comptroller of any change in the status of an offset claim.
3. Responding to requests for information from the Comptroller to facilitate the prompt resolution of any protest received by the Comptroller.

LEGAL REF.: 15 ILCS 405/10.05 and 10.05d.  
810 ILCS 5/3-806.

## Operational Services

### Exhibit - Cover Page Documenting the Process to Seek Offset from the Office of the Comptroller

*An Intergovernmental Agreement between the Ill. Office of the Comptroller and the District must be in place before the District may seek an offset to satisfy a delinquent debt. This cover page documents the steps for recovering a debt through an offset (reduction) of a future payment the State makes to an individual responsible for the delinquent debt. After completing a step, the responsible staff person must record the date, initial the step, and put all material into the claim folder.*

### **Confidential Inter-Office Information**

#### Definitions

*Business Office* means the District department that provides the District's fiscal and business management.

*Change in status* means, without limitation, payments received other than through a successful offset, the filing of a bankruptcy petition, the death of the debtor, or the expiration of the ability for the debt to remain subject to an offset, as provided for in the Intergovernmental Agreement.

*Claim* means the demand for payment of a delinquent debt.

*Claim folder* means the folder containing material for an individual claim; it includes this cover page, the Notice of Claim, relevant supporting information, and any material or explanation received from the Debtor.

*Debtor* means the person or entity that is responsible to satisfy a delinquent debt.

*IOC* means Illinois Office of the Comptroller.

*Notice of Claim* means Exhibit 4:45-E2, *Notice of Claim and Intent to Seek Debt Recovery; Challenge; and Response to Challenge*.

*Offset* means a deduction of the amount of a debt owed to the District from a future payment that the State makes to an individual or entity that is responsible to satisfy the debt.

Debtor	Contact information
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☐ **The claim is satisfied.**

The process to seek offset from the Illinois Office of the Comptroller has ended and the claim folder is closed.

\_\_\_\_\_  
Date                      Initials

**Until the claim is satisfied, the following steps will continue:**

Step	Date	Initials
District sent the Notice of Claim; certified mail, return receipt requested.		
Receipt of certificated receipt showing delivery of the Notice of Claim on _____.		
Receipt of the Debtor's challenge to the claim. <i>If no challenge is received by the deadline in the Notice of Claim, send the claim folder to the Superintendent's office for review and continued processing.</i>		



Step	Date	Initials
Receipt of Debtor's written explanation and/or any documentation.		
Arrangements made for informal proceeding with Debtor; scheduled for _____. <input type="checkbox"/> Telephone or <input type="checkbox"/> In-person		
Informal proceeding held with Debtor. <input type="checkbox"/> Telephone or <input type="checkbox"/> In-person Attendees: _____		
<b>Decision of the Business Office</b> Business office [name] _____, found that the debt should be considered: <input type="checkbox"/> Satisfied or <input type="checkbox"/> Enforceable.		
Business office [name] _____, forwarded the claim folder to the Superintendent's office.		
If the Business office found that the claim is satisfied, the Superintendent or designee notified the Debtor that the claim is considered satisfied. He or she closed this claim folder and checked the "claim is satisfied" box above.		
<b>Review by Superintendent or designee</b> If the Business office found the debt to be enforceable, the Superintendent or designee independently reviewed the claim and made the following finding: <input type="checkbox"/> <b>Satisfied.</b> Debtor sent a notification on _____. The "claim is satisfied" box is checked and the claim folder is closed. <input type="checkbox"/> <b>Enforceable.</b> Debtor notified on _____ that the claim must be paid by _____ to void further collection efforts.		
<b>Offset Processing with Illinois Office of the Comptroller</b> Claim for offset certified to the IOC unless the Debtor paid the claim by the date indicated in the post-review notice (see the above row).		
District informed the IOC of a change in status. This was done as soon as possible but no later than 30 days after being notified of a change in the status of an offset claim.		
District notified by the IOC that the Debtor is protesting the claim.		
District responded to a request from the IOC for assistance or information.		
District received offset from the IOC and the "claim is satisfied" box is checked and the claim folder is closed.		

October 2012

## Operational Services

**Exhibit - Notice of Claim and Intent to Seek Debt Recovery; Challenge; and Response to Challenge**

*Print on district letterhead or on form with district name and address.*

*The information in this Notice of Claim is confidential; disclosure is limited to staff members who have a business need to be informed.*

**Section 1 - Notice of Claim and Intent to Seek Payment of a Delinquent Debt.** *The District completes this section and sends the entire Notice of Claim to the person or entity that is the subject of the claim.*

To: \_\_\_\_\_

Name \_\_\_\_\_ Address \_\_\_\_\_

Our records show that you owe the School District \$\_\_\_\_\_for: *Describe the reason for the debt and date(s) incurred*

**This debt is past due and legally enforceable.** Unless this debt is paid on or before \_\_\_\_\_ the District will certify the debt to the Illinois Office of the Comptroller. That Office will decrease a future payment the State makes to you by the amount of the debt that you owe the District, plus a recovery fee to the Comptroller of no more than fifteen dollars (\$15.00). At that time, your debt will be paid.

You may challenge this claim any time before \_\_\_\_\_ by completing Section 2 below and returning this *Notice of Claim* to the Superintendent's office. If you challenge the debt, you will be invited to an informal proceeding in which the District Business Office will describe the claim and you can explain why you believe the claim is invalid and/or the amount is wrong. A decision finding the debt enforceable will be automatically reviewed by me or my designee (who is not a subordinate of the individual making the enforceability finding).

\_\_\_\_\_  
 Superintendent Date

**Section 2 - Challenge.** *The individual or entity who wants to challenge the claim must complete this section and return the entire Notice of Claim to the Superintendent's office.*

**I am challenging the claim.** *Please check all that apply.*

- ☐ I am submitting with this Notice of Claim a written explanation of why I believe the claim is invalid or the amount is wrong.
- ☐ I would like to explain why I believe the claim is invalid or the amount is wrong during an informal proceeding by telephone or at a meeting in the District office.
- ☐ I am requesting a copy of this Notice of Claim.

Individual or entity challenging the claim	Date
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Contact Number

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**Section 3 - Findings.** *The Business Office completes this section and forwards the entire Notice of Claim to the Superintendent's office along with relevant supporting information and any material or explanation received from the individual or entity challenging the claim.*

The Business Office finds that this debt should be considered: ☐ **Satisfied.**  
☐ **Enforceable.**

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Business Office

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Date

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**Section 4 - Review of Findings and Response to Challenge.** *The Superintendent or designee who reviewed the findings completes this section and sends a copy of the Notice of Claim to the person or entity who challenged the claim.*

☐ **This debt is satisfied.**

☐ **Your challenge is denied.** You must pay the debt by \_\_\_\_\_ to avoid further collection efforts.

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Superintendent

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Date

## Operational Services

### Purchases and Contracts <sup>1</sup>

The Superintendent shall manage the District's purchases and contracts in accordance with State law, the standards set forth in this policy, and other applicable School Board policies.

#### Standards for Purchasing and Contracting

All purchases and contracts shall be entered into in accordance with State law. The Board Attorney shall be consulted as needed regarding the legal requirements for purchases or contracts. All contracts shall be approved or authorized by the Board.

All purchases and contracts should support a recognized District function or purpose as well as provide for good quality products and services at the lowest cost, with consideration for service, reliability, and delivery promptness, and in compliance with State law. <sup>2</sup> No purchase or contract shall be made or entered into as a result of favoritism, extravagance, fraud, or corruption.

Adoption of the annual budget authorizes the Superintendent or designee to purchase budgeted supplies, equipment, and services, provided that State law is followed. Purchases of items outside budget parameters require prior Board approval, except in an emergency. <sup>3</sup>

When presenting a contract or purchase for Board approval, the Superintendent or designee shall ensure that it complies with applicable State law, including but not limited to, those specified below:

1. Supplies, materials, or work involving an expenditure in excess of \$25,000 must comply with the State law bidding procedure, 105 ILCS 5/10-20.21, unless specifically exempted. <sup>4</sup>
2. Construction, lease, or purchase of school buildings must comply with State law and Board policy 4:150, *Facility Management and Building Programs*.
3. Guaranteed energy savings must comply with 105 ILCS 5/19b-1 et seq.
4. Third party non-instructional services must comply with 105 ILCS 5/10-22.34c.
5. Goods and services that are intended to generate revenue and other remunerations for the District in excess of \$1,000, including without limitation vending machine contracts, sports

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

<sup>1</sup> State law controls this policy's content. 105 ILCS 10-20.21 contains bidding plus other requirements. Other laws also govern district contracts. For example, the Prevailing Wage Act requires, among other things, that a district specify in all contracts for public works that the prevailing wage rate must be paid (820 ILCS 130/). When a district awards work to a contractor without a public bid, contract, or project specification, the district must provide the contractor with written notice on the purchase order or a separate document indicating that not less than the prevailing rate of wages shall be paid to all laborers, workers, and mechanics performing work on the project (~~820 ILCS 130/4~~). In addition, the district must notify all contractors of any rate changes by the Dept. of Labor. The law allows a district to discharge this duty by including the following language in all contracts: "Any prevailing rate of wages as they are revised by the Dept. of Labor shall apply to this contract. You are notified that any rate changes to the prevailing wage rate are available on the Dept.'s official website." (820 ILCS 130/4, amended by P.A. 97-964, eff. 1-1-13, and see 4:60-E, *Notice to Contractors for sample language*).

<sup>2</sup> This end statement should be amended according to local board discretion.

<sup>3</sup> An optional addition follows: "Notwithstanding the above, the Superintendent shall not commit to any single, non-customary purchase or expenditure, excluding personnel, of greater than \$\_\_\_\_\_ without prior Board approval." This optional provision's intent is to provide an internal control as well as to keep the board involved when the district is making a large purchase or expenditure, e.g., copiers, computers, textbooks, or something that might not happen every year. It is intended to cover purchases/expenditures regardless of whether they were previously budgeted.

<sup>4</sup> See 4:60-API, *Purchases*, for bidding exemptions and the requirements for electronic bid opening. A board may set a lower bidding threshold by policy but should first seek its attorney's advice because such action may expand a board's vulnerability to a bidding challenge.

and other attire, class rings, and photographic services, must comply with 105 ILCS 5/10-20.21. The Superintendent or designee shall keep a record of: (1) each vendor, product, or service provided, (2) the actual net revenue and non-monetary remuneration from each contract or agreement, and (3) how the revenue was used and to whom the non-monetary remuneration was distributed. The Superintendent or designee shall report this information to the Board by completing the necessary forms that must be attached to the District's annual budget. <sup>5</sup>

6. The purchase of paper and paper products must comply with 105 ILCS 5/10-20.19c and Board policy 4:70, *Resource Conservation*. <sup>6</sup>

The Superintendent or designee shall: (1) execute the reporting and website posting mandates in State law concerning District contracts, and (2) monitor the discharge of contracts, contractors' performances, and the quality and value of services or products being provided. <sup>7</sup>

LEGAL REF.: 105 ILCS 5/10-20.19c, 5/10-20.21, 5/10-22.34c, and 5/19b-1 et seq.  
820 ILCS 130/.

CROSS REF.: 2:100 (Board Member Conflict of Interest), 4:70 (Resource Conservation), 4:150 (Facility Management and Building Programs)

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

<sup>5</sup> 105 ILCS 5/10-20.21(b-5).

<sup>6</sup> 105 ILCS 5/10-20.19c.

<sup>7</sup> This is an optional provision. The numerous reporting and website posting mandates are in 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. As an alternative to the policy's default language, a board may insert the underscored:

The Superintendent or designee shall: (1) execute the reporting and website posting mandates in State law concerning District contracts and maintain a status report for monthly presentation to the Board, and (2) monitor the discharge of contracts, contractors' performances, and the quality and value of services or products being provided.

## Operational Services

### Administrative Procedure - Purchases

The Board Attorney should be consulted, as needed, regarding the legal requirements presented by this administrative procedure as well as before a contract is presented to the Board. <sup>1</sup>

#### Requirements for Purchases and Contracts

- A. Each of the following requirements describes the type of purchase and/or contract to which it applies; requirements in Sections B and C may also apply to a specific purchase or contract.
  1. All purchases of goods or services must be made through the use of contracts or purchase orders, except for those purchases made from petty cash funds or the Imprest Fund, or as otherwise specifically authorized by the Superintendent.
  2. Illinois Use Tax Act compliance (105 ILCS 5/10-20.21(b) and 35 ILCS 105):
    - a. Persons bidding for and awarded a contract, and all affiliates of the person, must collect and remit Illinois Use Tax on all sales of tangible personal property into the State of Illinois in accordance with the provision of the Illinois Use Tax Act.
    - b. All bids and contracts must include: (1) a certification that the bidder or contractor is not barred from bidding for or entering into a contract, and (2) an acknowledgment that the Board may declare the contract void if the certification is false.
  3. All entities seeking to enter into a contract with the District must provide written certification to the District that it will provide a drug free workplace by complying with the Illinois Drug Free Workplace Act, 30 ILCS 580. All contractors must comply with the notification mandates and other requirements in the Illinois Drug Free Workplace Act, 30 ILCS 580. "Contractor" is defined in the Drug Free Workplace Act as "a corporation, partnership, or other entity with 25 or more employees at the time of letting the contract, or a department, division, or unit thereof, directly responsible for the specific performance under a contract of \$5,000 or more."
  4. Before soliciting bids or awarding a contract for supplies, materials, equipment, or services, a certified education purchasing contract that is already available through a State education purchasing entity (as defined in the Education Purchasing Program, Article 28A of the School Code), may be considered as a bid. 105 ILCS 5/10-20.21(d).
  5. All contracts must include provisions required by State or federal law, as applicable. Topics commonly requiring a provision include equal opportunity employment, prevailing wage, minimum wage, and performance bond.
  6. The procurement of architectural, engineering, and land surveying services is governed by the Local Government Professional Services Selection Act, 50 ILCS 510/, implemented by 2:170-AP, *Administrative Procedure - Qualified Based Selection*.
  7. A list must be posted on the District's website, if any, of all contracts in excess of \$25,000 and any contract with an exclusive bargaining representative. <sup>2</sup> 105 ILCS 5/10-20.44.

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The footnotes should be removed before the material is used.

<sup>1</sup> Many legal problems will be avoided by early and frequent consultation with the board attorney.

- B. The following govern all purchases and/or the award of contracts for supplies, materials, or work, and/or contracts with private carrier for transporting students, involving: (a) an expenditure of \$25,000 or less, or (b) in an emergency, an expenditure in excess of \$25,000, provided such expenditure is approved by three-quarters of the Board. <sup>3</sup> 105 ILCS 5/10-20.44.
1. Telephone quotations, verbal quotations, or catalog prices are used to purchase materials that are needed urgently, or small quantity orders.
  2. Written quotations are used to purchase materials or services when time requirements allow. Whenever possible, quotations should be received from at least 2 competitors. The Superintendent or designee may negotiate with vendors at any time, including after receiving quotations.
- C. The following govern all purchases and/or the award of contracts involving an expenditure in excess of \$25,000 for supplies, and materials, or work, ~~and/or contracts with private carriers for transporting students~~. 105 ILCS 5/10-20.21(a), amended by P.A. 97-951.
1. Contracts are awarded to the lowest responsible bidder, considering conformity with specifications, terms of delivery, quality and serviceability, except contracts or purchases for:
    - a. Services of individuals possessing a high degree of professional skill where the ability or fitness of the individual plays an important part;
    - b. Printing of finance committee reports and departmental reports;
    - c. Printing or engraving of bonds, tax warrants, and other evidences of indebtedness;
    - d. Purchase of perishable foods and perishable beverages;
    - e. Materials and work that have been awarded to the lowest responsible bidder after due advertisement, but due to unforeseen revisions, not the fault of the contractor for materials and work, must be revised causing expenditures not in excess of 10% of the contract price;
    - f. Maintenance or servicing of, or provision of repair parts for, equipment which are made with the manufacturer or authorized service agent of that equipment where the provision of parts, maintenance, or servicing can best be performed by the manufacturer or authorized service agent;
    - g. Use, purchase, delivery, movement, or installation of data processing equipment, software, or services and telecommunications and interconnect equipment, software, and services;
    - h. Duplicating machines and supplies;
    - i. Natural gas when the cost is less than that offered by a public utility;
    - j. Equipment previously owned by some entity other than the District itself;
    - k. Repair, maintenance, remodeling, renovation, or construction, or a single project involving an expenditure not to exceed \$50,000 and not involving a change or increase in the size, type, or extent of an existing facility;
  1. Goods or services procured from another governmental agency;

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<sup>2</sup> P.A. 97-256 repealed 105 ILCS 5/10-20.50 which required collective bargaining agreements to be web-posted.

<sup>3</sup> The safeguards in section B of this procedure are not governed by State law except for the provisions on transportation contracts (105 ILCS 5/29-6.1) and the requirement that three-quarters of the board approve an emergency expenditure in excess of \$25,000 when the bidding process is not used (105 ILCS 5/10-20.21).

- m. Goods or services that are economically procurable from only one source, such as for the purchase of magazines, books, periodicals, pamphlets and reports, and for utility services such as water, light, heat, telephone, or telegraph; <sup>4</sup>
  - n. Emergency expenditures when such an emergency expenditure is approved by three-quarters of the members of the Board;
  - o. Goods procured through an education master contract, as defined in the Education Purchasing Program, Article 28A of the School Code; and
  - p. Providing for the transportation of students ~~with special needs or disabilities~~, which contracts must be advertised in the same manner as competitive bids and awarded by first considering the bidder(s) most able to provide safety and comfort for the students ~~with special needs or disabilities~~, stability of service, and any other factors set forth in the request for proposal regarding quality of service, and then price.
2. Competitive bidding process: <sup>5</sup>
- a. An invitation for bids is advertised, where possible, by public notice at least 10 days before the bid date in a newspaper published in the District, or if no newspaper is published in the District, in a newspaper of general circulation in the area of the District. 105 ILCS 5/10-20.21(a).
  - b. The following information should be included in the advertisement for bids:
    - 1) A description of the materials, supplies, or work involved;
    - 2) Completion or delivery date requirements;
    - 3) Requirements for bids, bonds, and/or deposits;
    - 4) Requirements for performance, labor, and material payment bonds;
    - 5) Date, time, and place of the bid opening;
    - 6) The approximate time period between the opening of bids and the award of the contract; and
    - 7) Any other useful information.
  - c. If specifications are available, the advertisement for bids describes where they may be obtained and/or inspected.
  - d. All bids must be sealed by the bidder. 105 ILCS 5/10-20.21(a).
  - e. A Board member or District employee opens the bids at a public bid opening at which time the contents are announced. 105 ILCS 5/10-20.21(a). With the exception of bids for construction purposes, bids may be communicated, accepted, and opened electronically. The following safeguards apply to an electronic bid opening (105 ILCS 5/10-20.21):
    - 1) On the date and time of a bid opening, the primary person conducting the electronic bid process shall log onto a specified database using a unique username and password previously assigned to the bidder to allow access to the bidder's specific bid project number.

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The footnotes should be removed before the material is used.

<sup>4</sup> See *Tarsitano v. Tsp. H.S. Dist. No. 211*, 896 N.E.2d 359 (Ill.App.1.,2008)(holding that school districts may enter into contracts for utility services, such as "water, light, heat, telephone or telegraph," without using the competitive bidding process).

<sup>5</sup> 105 ILCS 5/10-20.21(a). The Ill. Criminal Code, 720 ILCS 5/33E-1 et seq., prohibits certain conduct that promotes deception and collusion arising during the bidding process, e.g., interference with public contracting, bid-rigging, and acquisition or disclosure of bidding information by public official.



- 2) The specified electronic database must be on a network that: (i) is in a secure environment behind a firewall; (ii) has specific encryption tools; (iii) maintains specific intrusion detection systems; (iv) has redundant systems architecture with data storage back-up, whether by compact disc or tape; and (v) maintains a disaster recovery plan.
- f. Each bidder is given at least 3 days' notice of the time and place of the bid opening. 105 ILCS 5/10-20.21(a).
3. Following the opening of bids, the Superintendent (and Board Attorney, if needed) determines the lowest responsible bidder and verifies the bidders' qualifications. Contracts are awarded at a properly called open meeting of the Board. If the Superintendent recommends a bidder other than the lowest bidder, the Superintendent must provide the Board with the factual basis for the recommendation in writing. The Board, if it accepts a bid from a bidder other than the lowest, records the factual basis for its decision in its minutes. A contract arises only when the Board votes to accept a bid, although written notice of the award will later be given to the successful bidder.
4. Notwithstanding the foregoing, the District is relieved from bidding when making joint purchases with other public entities in compliance with the Governmental Joint Purchasing Act (30 ILCS 525/0.01).

LEGAL REF.: 30 ILCS 580/, Ill. Drug Free Workplace Act.  
50 ILCS 510/, Local Government Professional Services Selection Act.  
105 ILCS 5/10-20.21 and 5/10-20.44.

## **Operational Services**

### **Exhibit - Notice to Contractors**

*On District letterhead*

Notice to contractor:

You are receiving this notice because you may or will be performing “public works” for the School District as that term is defined in Section 2 of the Illinois Prevailing Wage Act (820 ILCS 130).

This notice applies to the “public works” described as: \_\_\_\_\_.

The Prevailing Wage Act requires contractors and subcontractors to pay laborers, workers, and mechanics performing services on public works projects no less than the “prevailing rate of wages” (hourly cash wages plus fringe benefits) in the county where the work is performed. Any prevailing rate of wages as they are revised by the Dept. of Labor shall apply to this contract. You are notified that any rate changes to the prevailing wage rate are available on the Dept.’s official website. For information regarding current prevailing wage rates, please see the Illinois Department of Labor’s website at: [www.state.il.us/agency/idol/rates/rates.HTM](http://www.state.il.us/agency/idol/rates/rates.HTM).

All contractors and subcontractors rendering services for the “public works” must comply with all requirements of the Prevailing Wage Act, including but not limited to, all wage, notice, and record-keeping duties.

The above paragraph was or will be included in the project specifications and the contract. 820 ILCS 130/4(a-1). If the work is awarded without a public bid, contract, or project specification, the notice was or will be included in the purchase order related to the work or in a separate document, such as this notification. 820 ILCS 130/4(a-2).

## Operational Services

### Resource Conservation <sup>1</sup>

The Superintendent or designee shall manage a program of energy and resource conservation for the District that includes:

1. Periodic review of procurement procedures and specifications to ensure that purchased products and supplies are reusable, durable, or made from recycled materials, if economically and practically feasible. <sup>2</sup>
2. Purchasing recycled paper and paper products in amounts that will, at a minimum, meet the specifications in the School Code, if economically and practically feasible. <sup>3</sup>
3. Periodic review of procedures on the reduction of solid waste generated by academic, administrative, and other institutional functions. These procedures shall: (a) require recycling the District's waste stream, including landscape waste, computer paper, and white office paper, if economically and practically feasible; (b) include investigation of the feasibility of potential markets for other recyclable materials that are present in the District's waste stream; and (c) be designed to achieve, before July 1, 2020, at least a 50% reduction in the amount of solid waste that is generated by the District. <sup>4</sup>
4. Adherence to energy conservation measures. <sup>5</sup>

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

<sup>1</sup> State or federal law controls this policy's content (105 ILCS 5/10-20.19c, as amended by P.A. 95-741).

<sup>2</sup> Required by 105 ILCS 5/10-20.19c(a-5), as amended by P.A. 95-741.

<sup>3</sup> Required by 105 ILCS 5/10-20.19c(b) - (e), as amended by P.A. 95-741. As of 1992, all paper purchased for publishing student newspapers must be recycled newsprint (105 ILCS 5/10-20.19c(b)(5)).

<sup>4</sup> Required by 105 ILCS 5/10-20.19c(e-5), as amended by P.A. 95-741. Everything in this paragraph is mandatory except that the statute only "encourages" districts to investigate "potential markets for other recyclable materials that are present in the school district's waste stream."

<sup>5</sup> Districts are authorized to enter into "guaranteed energy savings contracts" to implement *energy conservation measures*, including any improvement, repair, alteration of any school district building, or any equipment or fixture to be added to a district building, that is designed to reduce energy consumption or operation costs (105 ILCS 5/19b). The guaranteed energy savings contract must provide that all payments are to be made over time and energy cost savings must be specified and guaranteed to the extent necessary to pay the costs of the energy conservation measures. State law provides the process for requesting proposals and entering into contracts. Any contract is valid whether or not funding has been appropriated in any budget adopted by the board.

Consult the board attorney about whether an energy conservation measure qualifies for funding as an *energy conservation project* under the Ill. Finance Authority Act (20 ILCS 3501/). The Ill. Finance Authority Act now specifically includes energy conservation projects in school districts. The Act's definition of energy conservation project is almost identical to the School Code's definition of *energy conservation measure*; it also includes measures that reduce the amount of electricity or natural gas required to achieve a given end use, consistent with Section 1-10 of the Ill. Power Agency Act (20 ILCS 3501/820-10, amended by P.A. 97-760). Funding under the Ill. Finance Authority Act requires a certification that the project will be a cost-effective energy-related project that will lower energy or utility costs in connection with the operation or maintenance of such building or facility, and will achieve energy cost savings sufficient to cover bond debt service and other project costs within 10 years from the date of project installation.

LEGAL REF.: 105 ILCS 5/10-20.19c.

CROSS REF.: 4:60 (Purchases and Contracts), 4:150 (Facility Management and Building Programs)

## Operational Services

### Insurance Management <sup>1</sup>

The Superintendent shall ~~annually~~ recommend and maintain all insurance programs that provides the broadest and most complete coverage available at the most economical cost, consistent with sound insurance principles.

The insurance program shall include: <sup>2</sup>

1. Liability coverage to insure against any loss or liability of the School District and the listed individuals against civil rights damage claims and suits, constitutional rights damage claims and suits, and death and bodily injury and property damage claims and suits, including defense costs, when damages are sought for negligent or wrongful acts allegedly committed in the scope of employment or under the Board's direction or related to any mentoring services provided to the District's certified staff members; School Board members; employees; volunteer personnel authorized by 105 ILCS 5/10-22.34, 5/10-22.34a, and 5/10-22.34b; mentors of certified staff members authorized in 105 ILCS 5/21A-5 et seq. (new teacher), 105 ILCS 5/2-3.53a (new principal), and 2-3.53b (new superintendents); and student teachers. <sup>3</sup>
2. Comprehensive property insurance covering a broad range of causes of loss involving building and personal property. The coverage amount shall normally be for the replacement cost or the insurable value.
3. Workers' Compensation to protect individual employees against financial loss in case of a work-related injury, certain types of disease, or death incurred in an employee-related situation.

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

<sup>1</sup> State law controls this policy's content. The Health Insurance Portability and Accountability Act (HIPAA) guarantees the continuity of health insurance benefits for individuals changing employment. It also contains provisions promoting the: (1) standardization and efficiency for the electronic submission, processing, and payment of health care claims, and (2) security and privacy requirements for health information (see 45 C.F.R. §§160 and 164). **School officials are urged to consult with their insurance providers and legal counsel to devise a compliance plan.**

<sup>2</sup> Other types of district-purchased insurance should also be listed here, such as: (1) insurance programs for employees and their dependents (105 ILCS 5/10-22.3a) (any employee or retired employee insurance program is a mandatory subject of bargaining) and (750 ILCS 75/) (provides persons entering into a civil union with the obligations, responsibilities, protections and benefits afforded or recognized by Ill. law to spouses), and (2) district-purchased insurance on student athletes as allowed by 105 ILCS 5/22-15. The latter type of insurance should be distinguished from insurance offered through the district by an insurance company covering students and paid for by the student's family.

<sup>3</sup> A board's duty to indemnify and protect specific individuals is found in 105 ILCS 5/10-20.20, amended by P.A. 96-62. A board's duty to insure against loss or liability is found in 105 ILCS 5/10-22.3. The lists of individuals to be protected are identical in both statutes except that *mentors* was added in 2009 to only the indemnification statute. As the best method for providing indemnification is through insurance, this policy includes mentors in its list of individuals covered by the district's liability insurance.

LEGAL REF.: Consolidated Omnibus Budget Reconciliation Act, P. L. 99-272, ¶ 1001, 100 Stat.  
222, 4980B(f) of the I.R.S. Code, 42 U.S.C. §300bb-1 et seq.  
105 ILCS 5/10-20.20, 5/10-22.3, 5/10-22.3a, 5/10-22.3b, 5/10-22.3f, 5/10-22.34,  
5/10-22.34a, and 5/10-22.34b.  
215 ILCS 5/.  
| 750 ILCS 75/.  
820 ILCS 305/.

## Operational Services

### Transportation <sup>1</sup>

The District shall provide free transportation for any student in the District who resides: (1) at a distance of one and one-half miles or more from his or her assigned school, unless the School Board has certified to the Illinois State Board of Education that adequate public transportation is available, <sup>2</sup> or (2) within one and one-half miles from his or her assigned school where walking to school or to a pick-up point or bus stop would constitute a serious hazard due to vehicular traffic or rail crossing, and adequate public transportation is not available. <sup>3</sup> A student's parent(s)/guardian(s) may file a petition with the Board requesting transportation due to the existence of a serious safety hazard. <sup>4</sup> Free transportation service and vehicle adaptation is provided for a special education student if included in the student's individualized educational program. <sup>5</sup> Non-public school students shall be transported in accordance with State law. <sup>6</sup> Homeless students shall be transported in accordance with Section 45/1-15 of the Education for Homeless Children Act. <sup>7</sup>

If a student is at a location within the District, other than his or her residence, for child care purposes at the time for transportation to and/or from school, that location may be considered for purposes of determining the 1½ miles from the school attended. Unless the Superintendent or designee establishes new routes, pick-up and drop-off locations for students in day care must be along the District's

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

<sup>1</sup> State or federal law controls this policy's content. A district that chooses to consider locations other than individual students' residences as pick-up and drop-off locations must adopt a policy establishing this practice to receive State reimbursement (23 Ill.Admin.Code §120.30). Each district must have a pre-trip and post-trip inspection policy (625 ILCS 5/12-816). An ISBE rule requires boards to "institute policies and practices that promote the safety and well-being of school bus passengers," (23 Ill.Admin.Code §1.510). See the cross references for these. **If your district does not provide transportation or if it transports all students, please contact an IASB Policy Consultant for *gratis* help customizing this policy.**

<sup>2</sup> Only the following districts must provide free transportation as described in the sample policy: community consolidated districts, community unit districts, consolidated districts, consolidated high school districts, and combined school districts if the combined district includes any district that was previously required to provide transportation (105 ILCS 5/29-3 and 23 Ill.Admin.Code §1.510(a)). Districts that are not required to provide free transportation may do so (Id.). To qualify for State reimbursement, districts electing to provide transportation when they are not required to do so must afford the same service to all students in that same situation (23 Ill.Admin.Code §1.510(b)). Districts may provide transportation within 1-1/2 miles and may charge for such transportation (105 ILCS 5/29-2).

**Important: the board of a district that ~~is does not required to provide free transportation must amend this policy; preferably after consulting~~ Please contact an IASB Policy Consultant for *gratis* help customizing this policy. You may also need to consult** the board attorney, ~~if the district charges for transportation or does not provide transportation.~~

Optional provision: (105 ILCS 5/29-3.1)

The District may provide transportation to and from school-sponsored activities and may charge for such transportation.

<sup>3</sup> 105 ILCS 5/29-3 and 23 Ill.Admin.Code §1.510.

<sup>4</sup> Required by 105 ILCS 5/29-3. If a petition is filed, the district must conduct a study and forward its findings to the Illinois Department of Transportation for review.

<sup>5</sup> 34 C.F.R. §300.34 and 23 Ill.Admin.Code §226.750.

<sup>6</sup> 105 ILCS 5/29-3.2 and 5/29-4.

<sup>7</sup> 105 ILCS 45/. State law implements the McKinney Homeless Assistance Act, 42 U.S.C. §11431 et seq.

regular routes. The District will not discriminate among types of locations where day care is provided, which may include the premises of licensed providers, relatives' homes, or neighbors' homes. <sup>8</sup>

Bus schedules and routes shall be determined by the Superintendent or designee and shall be altered only with the Superintendent or designee's approval and direction. In setting the routes, the pick-up and discharge points should be as safe for students as possible. <sup>9</sup>

No school employee may transport students in school or private vehicles unless authorized by the administration. <sup>10</sup>

Every vehicle regularly used for the transportation of students must pass safety inspections in accordance with State law and Illinois Department of Transportation regulations. <sup>11</sup> The strobe light on a school bus may be illuminated only when the bus is actually being used as a school bus and (1) is stopping or stopped for loading or discharging students on a highway outside an urban area, or (2) is bearing one or more students. <sup>12</sup> The Superintendent shall implement procedures in accordance with State law for accepting comment calls about school bus driving. <sup>13</sup>

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

<sup>8</sup> This paragraph ~~may should~~ be deleted if a district will not seek State reimbursement for transportation to and from locations other than individual students' residences. As a condition for receiving State reimbursement, an ISBE rule requires boards to have a policy with the provisions in this paragraph (23 Ill.Admin.Code §120.30). This rule also contains the non-discrimination language.

<sup>9</sup> The paragraph is optional. As an alternative, a board may state that pick-up and discharge points "should be as safe and convenient as possible."

<sup>10</sup> Optional. This presents an opportunity for each board to discuss this issue with the superintendent and direct the superintendent to include it in the curriculum for the required in-service on educator ethics, teacher-student conduct, and school employee-student conduct for all personnel (105 ILCS 5/10-22.39). See 5:120, *Ethics and Conduct* (f/n 2), and 5:100 *Staff Development* (f/n 3), for more detailed discussions. Include policies 5:100, *Staff Development* and 5:120, *Ethics and Conduct*, in the cross references when this sentence is used.

<sup>11</sup> 625 ILCS 5/13-109.

~~625 ILCS 5/11-1414.1 requires districts to transport~~ The vehicle and other requirements for transporting students to and from interscholastic or school-sponsored activities, including curriculum-related activities, are found in 105 5/29-6.3 and 625 ILCS 5/11-1414.1, amended by P.A. 97-896. These statutes also contain requirements for the use of multi-function school activity buses (defined at 625 ILCS 5/1-148.3a-5, amended by P.A. 97-378). The legislature frequently amends these statutes, along with many transportation laws; they should be double-checked before relying on them. any curriculum-related school activity in a school bus or vehicle as defined at 625 ILCS 5/1-182. This transportation includes: (1) to and from home and school, (2) tripper or shuttle services between school attendance centers, (3) to and from a vocational or career center or other trade skill development site, (4) to and from a regional safe school, (5) to and from a school-sponsored alternative learning program, and (6) trips directly related to the regular curriculum of a student for which he or she earns credit.

~~105 ILCS 5/29-6.3, amended by P.A. 97-378, requires districts to transport students to and from specified interscholastic or school-sponsored activities in: (1) a school bus (see definition in 625 ILCS 5/1-182), (2) a vehicle manufactured to transport not more than 10 persons including the driver, or (3) a multifunction school activity bus manufactured to transport 11 or more persons including the driver. These activities do not require student participation as part of the education services of the district and are not associated with the regular class for credit schedule or required 5 clock hours of instruction~~

<sup>12</sup> 625 ILCS 5/12-815.

<sup>13</sup> 625 ILCS 5/12-821(b) requires districts that own school busses and multifunction school activity busses to establish procedures for accepting comment calls and responding to them. In accordance with good governance principles, this duty is delegated to the superintendent. For a sample procedure, see 4:110-AP2, *Bus Driver Communication Devices; Pre-Trip and Post-Trip Inspection; Bus Driving Comments*.



All contracts for charter bus services must contain the clause prescribed by State law regarding criminal background checks for bus drivers. **14**

#### Pre-Trip and Post-Trip Vehicle Inspection 15

The Superintendent or designee shall develop and implement a pre-trip and post-trip inspection procedure to ensure that the school bus driver: (1) tests the two-way radio and ensures that it is functioning properly before the bus is operated, and (2) walks to the rear of the bus before leaving the bus at the end of each route, work shift, or work day, to check the bus for children or other passengers in the bus.

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

**14** 105 ILCS 5/10-20.21a, requires all contracts for providing charter bus services to transport students to or from interscholastic athletic or interscholastic or school sponsored activities to contain clause (A) except that a contract with an out-of-state company may contain clause (B) or clause (A). The clause must be set forth in the contract's body in at least 12 points typeface and all upper case letters:

(A) "ALL OF THE CHARTER BUS DRIVERS WHO WILL BE PROVIDING SERVICES UNDER THIS CONTRACT HAVE, OR WILL HAVE BEFORE ANY SERVICES ARE PROVIDED:

(1) SUBMITTED THEIR FINGERPRINTS TO THE DEPARTMENT OF STATE POLICE IN THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT OF STATE POLICE. THESE FINGERPRINTS SHALL BE CHECKED AGAINST THE FINGERPRINT RECORDS NOW AND HEREAFTER FILED IN THE DEPARTMENT OF STATE POLICE AND FEDERAL BUREAU OF INVESTIGATION CRIMINAL HISTORY RECORDS DATABASES. THE FINGERPRINT CHECK HAS RESULTED IN A DETERMINATION THAT THEY HAVE NOT BEEN CONVICTED OF COMMITTING ANY OF THE OFFENSES SET FORTH IN SUBDIVISION (C-1)(4) OF SECTION 6-508 OF THE ILLINOIS VEHICLE CODE; AND

(2) DEMONSTRATED PHYSICAL FITNESS TO OPERATE SCHOOL BUSES BY SUBMITTING THE RESULTS OF A MEDICAL EXAMINATION, INCLUDING TESTS FOR DRUG USE, TO A STATE REGULATORY AGENCY."

(B) "NOT ALL OF THE CHARTER BUS DRIVERS WHO WILL BE PROVIDING SERVICES UNDER THIS CONTRACT HAVE, OR WILL HAVE BEFORE ANY SERVICES ARE PROVIDED:

(1) SUBMITTED THEIR FINGERPRINTS TO THE DEPARTMENT OF STATE POLICE IN THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT OF STATE POLICE. THESE FINGERPIRNTS SHALL BE CHECKED AGAINST THE FINGERPRINT RECORDS NOW AND HEREAFTER FILED IN THE DEPARTMENT OF STATE POLICE AND FEDERAL BUREAU OF INVESTIGATION CRIMINAL HISTORY RECORDS DATABASES. THE FINGERPRING CHECK HAS RESULTED IN A DETERMINATION THAT THEY HAVE NOT BEEN CONVICTED OF COMMITTING ANY OF THE OFFENSES SET FORTH IN SUBDIVISION (C-1)(4) OF SECTION 6-508 OF THE ILLINOIS VEHICLE CODE; AND

(2) DEMONSTRATED PHYSICAL FITNESS TO OPERATE SCHOOL BUSES BY SUBMITTING THE RESULTS OF A MEDICAL EXAMINATION, INCLUDING TESTS FOR DRUG USE, TO A STATE REGULATORY AGENCY."

**15** 625 ILCS 5/12-816(a) requires school districts to have a school bus pre- and post-trip inspection policy with the components as contained in this policy. See also 23 Ill.Admin.Code §1.510(i)(3) and 92 Ill.Admin.Code §440-3. For a sample procedure, see 4:110-AP2, *Bus Driver Communication Devices; Pre-Trip and Post-Trip Inspection; Bus Driving Comments*. School district contracts with a private sector school bus company must require the company to have a pre- and post-trip inspection policy that is equivalent to this section of the policy (625 ILCS 5/12-816(b).

Each school bus must contain an operating two-way radio while the school bus driver is in possession of a school bus (625 ILCS 5/12-813). The two-way radio must be turned on and adjusted in a manner that would alert the driver of an incoming communication request. Two-way radios may not be as effective as cell phones: they do no good when the bus driver is out of the bus with children (the radio is in the bus but the driver is with the children on a field trip, for example) and their range may be inferior to that of cell phones. Four important exceptions allow a driver to use a cell phone while operating a bus: (1) in an emergency situation to communicate with an emergency response operator; a hospital; a physician's office or health clinic; an ambulance service; a fire department, fire district, or fire company; or a police department; (2) in the event of a "mechanical breakdown or other mechanical problem;" (3) to communicate with school authorities about bus operation or the safety of a passenger on the bus; and (4) when the bus is parked. However under no circumstances may the cell phone be used for anything else including personal use (625 ILCS 5/12-813.1).

- LEGAL REF.: McKinney Homeless Assistance Act, 42 U.S.C. §11431 et seq.  
105 ILCS 5/10-22.22 and 5/29-1 et seq.  
105 ILCS 45/1-15.  
625 ILCS 5/1-148.3a-5, 5/1-182, 5/11-1414.1, 5/12-813, 5/12-813.1, 5/12-815,  
5/12-816, 5/12-821, and 5/13-109.  
23 Ill.Admin.Code §§1.510 and 226.750; Part 120.  
92 Ill.Admin.Code §440-3.
- CROSS REF.: 4:170 (Safety), 5:100 (Staff Development), 5:120 (Ethics and Conduct), 5:280  
(Educational Support Personnel - Duties and Qualifications), 6:140 (Education of  
Homeless Children), 7:220 (Bus Conduct)
- ADMIN. PROC.: 4:110-AP2 (Bus Driver Communication Devices; Pre-Trip and Post-Trip  
Inspection; Bus Driving Comments), 4:170-AP3 (School Bus Safety Rules),  
4:170-E3 (Emergency Medical Information for Students Having Special Needs  
or Medical Conditions Who Ride School Buses), 6:140-AP (Education of  
Homeless Children)

## Operational Services

### Safety 1

#### Safety Program

All District operations, including the education program, shall be conducted in a manner that will promote the safety of everyone on District property or at a District event. <sup>2</sup>

The Superintendent or designee shall develop and implement a comprehensive safety and crisis plan incorporating both avoidance and management guidelines. <sup>3</sup> The comprehensive safety and crisis plan shall specifically include provisions for: injury prevention; bomb threats, weapons, and explosives on campus; school safety drill program; <sup>4</sup> tornado protection; instruction in safe bus riding practices;<sup>5</sup> emergency aid; post-crisis management; and, responding to medical emergencies at an indoor and outdoor physical fitness facility. <sup>6</sup> During each academic year, each school building that houses school children must conduct a minimum of: <sup>7</sup>

1. Three school evacuation drills,
2. One bus evacuation drill,

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

<sup>1</sup> State or federal law requires a policy on some aspects of this policy and controls this policy's content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

<sup>2</sup> This simple end statement should be discussed (what effect or impact will this district statement have on the students and the community?) and altered accordingly before board adoption.

<sup>3</sup> See administrative procedure 4:170-API, *Comprehensive Safety and Crisis Program*.

<sup>4</sup> See the School Safety Drill Act, 105 ILCS 128/.

<sup>5</sup> Required by 105 ILCS 128/20(b) and 105 ILCS 5/10-20.14 for all students.

<sup>6</sup> The Physical Fitness Facility Medical Emergency Preparedness Act, 210 ILCS 74/, broadened the definition of physical fitness facility to include outdoor facilities. Entities operating a "physical fitness facility must adopt and implement a written plan for responding to medical emergencies that occur at the facility during the time that the facility is open for use by its members or by the public." Administrative procedures, consistent with the Ill. Dept. of Public Health rules (77 Ill.Admin.Code Part 527), must support this policy in order to comply with the law.

A school with a physical fitness facility must ensure that there is a trained AED user on staff during staffed business hours (210 ILCS 74/15 (b)). "During staffed business hours" is not well defined and may change based upon the school's various circumstances. *Physical fitness facility* excludes any activity or program organized by a private or not-for-profit organization and organized and supervised by a person or persons other than the employees of the school (210 ILCS 74/5.25). Schools with an outdoor physical fitness facility must have an AED on site and a trained AED user available only during activities or events sponsored and conducted or supervised by a person or persons employed by the school (210 ILCS 74/15(b-15)). There is no longer a requirement for a person supervising an activity at an outdoor physical fitness facility to bring an AED along if there is no building within 300 feet of the outdoor physical fitness facility (Id. at (b-10), amended by P.A. 96-1268). However, when there is a building within 300 feet of the outdoor facility where an event or activity is being conducted, an AED must still be housed within that building and the building must provide unimpeded and open access to the housed AED along with marked directions to it (Id.). Consult the board attorney about AED issues and how to manage compliance with the Act and its implementing rules.

Insert the following language if a board wants to define *physical fitness facility* in the policy:

The term *physical fitness facility* excludes any activity or program organized by a private or not-for-profit organization and organized and supervised by a person or persons other than the employees of the school.

<sup>7</sup> Required by the School Safety Drill Act, 105 ILCS 128/. 105 ILCS 5/2-3.12 authorizes fire officials to conduct routine fire safety checks, provided written notice is given to the principal requesting to schedule a mutually agreed upon time. No more than 2 routine inspections may be made in a calendar year. For information about documenting minimum compliance with the School Safety Drill Act, see [www.isbe.net/safety/guide.htm](http://www.isbe.net/safety/guide.htm).

3. One severe weather and shelter-in-place drill, and
4. One law enforcement drill.

The law enforcement drill must be conducted according to the District's comprehensive safety and crisis plan, with the participation of the appropriate law enforcement agency. This drill may be conducted on days and times that students are not present in the building. <sup>8</sup>

In the event of an emergency that threatens the safety of any person or property, students and staff are encouraged to use any available cellular telephone. <sup>9</sup>

The Superintendent or designee shall implement the Movable Soccer Goal Safety Act in accordance with the guidance published by the Illinois Department of Public Health. Implementation of the Act shall be directed toward improving the safety of moveable soccer goals by requiring that they be properly anchored. <sup>10</sup>

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<sup>8</sup> Required by 105 ILCS 128/20(c). Schools must conduct a law enforcement drill to address incidents, including without limitation reverse evacuation, lock-downs, shooting, bomb threat, or hazardous materials. See footnote 3 *supra*.

<sup>9</sup> Cell phone use is addressed in 105 ILCS 5/10-20.28 (allows boards to regulate student use of cell phones; also see 7:190, *Student Discipline*) and 625 ILCS 5/12-610.1(e), amended by P.A. 97-830, eff. 1-1-13, (prohibits wireless telephone use at any time while operating a motor vehicle on a roadway in a school speed zone except for (1) highway construction or maintenance workers within their work zones, (2) any use for emergency purposes, (3) law enforcement officers or emergency responders performing their duties, (4) a person using a wireless telephone in voice-operated mode with or without use of a headset, and (5) a person with technology that uses a single button to initiate or terminate a voice communication, e.g., HandsFreeLink®).

625 ILCS 5/12-813.1, ~~amended by P.A. 96-1066~~, provides four exceptions that allow a bus driver to use a cell phone while operating a bus: (1) in an emergency situation to communicate with an emergency response operator; a hospital; a physician's office or health clinic; an ambulance service; a fire department, fire district, or fire company; or a police department; (2) in the event of a "mechanical breakdown or other mechanical problem;" (3) to communicate with school authorities about bus operation or the safety of a passenger on the bus; and (4) when the bus is parked. However, under no circumstances may the cell phone be used for anything else including personal use ~~(625 ILCS 5/12-813.1, amended by P.A. 96-1066)~~. See policy 4:110, *Transportation*, for a more detailed discussion of two-way radios and cellular telephone use.

<sup>10</sup> The Movable Soccer Goal Safety Act, a/k/a *Zach's Law*, 430 ILCS 145/, added by P.A. 97-234. This paragraph is required only if the school district owns and controls a movable soccer goal, and it should be included in this policy only by those districts. The Act requires: (1) organizations that own and control a movable soccer goal to create a soccer goal safety and education policy that outlines how the organization will specifically address the safety issues associated with movable soccer goals, and (2) the Ill. Department of Public Health to provide technical assistance materials ~~no later than June 30, 2012, which are available at: [www.cpssc.gov/CPSCPUB/PUBS/soccer.pdf](http://www.cpssc.gov/CPSCPUB/PUBS/soccer.pdf)~~.

## Convicted Child Sex Offender and Notification Laws 11

State law prohibits a child sex offender from being present on school property or loitering within 500 feet of school property when persons under the age of 18 are present, unless the offender meets either of the following two exceptions:

1. The offender is a parent/guardian of a student attending the school and has notified the Building Principal of his or her presence at the school for the purpose of: (i) attending a conference with school personnel to discuss the progress of his or her child academically or socially, (ii) participating in child review conferences in which evaluation and placement decisions may be made with respect to his or her child regarding special education services, or (iii) attending conferences to discuss other student issues concerning his or her child such as retention and promotion; or
2. The offender received permission to be present from the School Board, Superintendent, or Superintendent's designee. If permission is granted, the Superintendent or Board President shall provide the details of the offender's upcoming visit to the Building Principal.

In all cases, the Superintendent, or designee who is a certified employee shall supervise a child sex offender whenever the offender is in a child's vicinity. 12

If a student is a sex offender, the Superintendent or designee shall develop guidelines for managing his or her presence in school. 13

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

11 Four laws are relevant to this section:

Paragraphs 1-3 contain the requirements in the Criminal Code, 720 ILCS 5/11-9.3, regulating a child sex offender's presence on school property;

Paragraph 4 concerns the Sex Offender Community Notification Law, 730 ILCS 152/101 *et seq.*, and Murderer and Violent Offender Against Youth Community Notification Law, 730 ILCS 154/75-105, amended by P.A. 97-154;

Paragraph 5 contains the requirements in the School Code concerning mandatory criminal history records check on those contractors' employees who have a "direct, daily contact with students," (105 ILCS 5/10-21.9(f). Sample policy 5:30, *Hiring Process and Criteria*, and administrative procedure 5:30-AP2, *Investigations*, address the criminal offenses listed at 105 ILCS 5/21B-80, added by P.A. 97-607. Being convicted of one will disqualify an individual from work at the school district (105 ILCS 5/10-21.9, amended by P.A. 97-607). If the board president or district (see f/n #17 *infra*) receives information concerning the record of conviction as a sex offender of any contractor's employee, the district must provide the information to another school, school district, community college district, or private school that requests it (105 ILCS 5/10-21.9(h), amended by P.A. 97-248).

An Illinois federal court denied a father's request to enjoin a school's policy that prohibited him, as a child sex offender, from attending his children's school activities in Doe v. Paris Union School Dist., No. 05-2249, 2006 WL 44304 (C.D.Ill., 2006).

12 720 ILCS 5/11-9.3. The statute assigns the child sex offender the "duty to remain under the direct supervision of a school official." In order to ensure this happens and to protect students, the sample policy requires the superintendent, or designee who is a certified employee, to supervise a child sex offender whenever the offender is in a child's vicinity. See also policy 8:30, *Visitors to and Conduct on School Property*.

13 Aside from rumor and notoriety, there are 3 ways that school officials may learn that an enrolled student is a sex offender or a violent offender against youth, that is:

1. By being informed by the student or the student's parent/guardian.
2. Through the Illinois State Police Sex Offender Database, [www.isp.state.il.us/sor](http://www.isp.state.il.us/sor). A juvenile sex offender is listed there after the juvenile becomes 17 years old and will be listed for the remaining registration period (730 ILCS 150/2). The database is updated daily and allows searching by name, city, county, zip code, compliance status, or any combination thereof.
3. By receiving notification from a law enforcement agency that a juvenile sex offender or juvenile violent offender against youth is enrolled in a school. The law enforcement agency having jurisdiction to register the juvenile must provide a copy of the offender registration form to the building principal and guidance counselor designated by the

The Superintendent shall develop procedures for the distribution and use of information from law enforcement officials under the Sex Offender Community Notification Law and the Murderer and Violent Offender Against Youth Community Notification Law. The Superintendent or designee shall serve as the District contact person for purposes of these laws. **14** The Superintendent and Building Principal shall manage a process for schools to notify the parents/guardians during school registration that information about sex offenders is available to the public as provided in the Sex Offender Community Notification Law. **15** This notification must occur during school registration and at other times as the Superintendent or Building Principal determines advisable.

All contracts with the School District that may involve an employee or agent of the contractor having any contact, direct or indirect, with a student, shall contain the following: **16**

The contractor shall not send to any school building or school property any employee or agent who would be prohibited from being employed by the District due to a conviction of a crime listed in 105 ILCS 5/10-21.9, or who is listed in the Statewide Sex Offender Registry or the Statewide Violent Offender Against Youth Database. The contractor shall obtain a fingerprint-based criminal history records check before sending any employee or agent to any school building or school property. Additionally, at least quarterly, the contractor shall check

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principal; the school must keep the registration form separately from the student's school records (730 ILCS 152/121).

If a sex offender is enrolled in a school, guidelines for managing the sex offender's presence in school should be prepared. The components will depend on the situation but generally should include asking the parent/guardian of a sex offender below the age of 17 years for permission to share the information with certain staff for the protection of both the student and other students. In addition, the guidelines should include a supervision plan providing supervision for the student during all aspects of his or her school day. Finally, the guidelines must respect the privacy of juvenile records and comply with the Ill. School Student Records Act, 105 ILCS 10/. The board attorney should be consulted.

**14** Law enforcement officials must notify school districts of the names, addresses, and offenses of registered offenders residing in their respective jurisdictions who have committed sex offenses and violent offenses against youth (see footnote 9). These laws are silent with regard to what, if anything, districts do with the information. The Sex Offender Community Notification Law, however, provides immunity for "any person who provides, or fails to provide, information relevant to the procedures set forth in this Law," (730 ILCS 152/130).

Naming a contact person will facilitate communication and cooperation with local law enforcement agencies. Any school official may be used as the contact person and boards may wish to have a contact person from each building. See administrative procedure 4:170-AP2, *Criminal Offender Notification Laws*, for sample implementing procedures.

**15** State law requires a principal or teacher to notify the parents/guardians during school registration or parent-teacher conferences that information about sex offenders is available to the public as provided in the Sex Offender Community Notification Law, 730 ILCS 152/101 *et seq.* In an effort to keep this policy aligned with good governance practices, the responsibility is given to the superintendent and building principal to manage. While State law allows the notification to be made during registration *or* parent-teacher conferences, the sample policy makes a notification mandatory just during registration to be sure that all parents/guardians are informed.

**16** 105 ILCS 5/10-21.9, amended by P.A.s 97-248 and 97-607. Section 5/10-21.9(f) requires a criminal history background investigation to be performed on those contractors' employees who have a *direct, daily contact with students*. State law places the same restrictions on contractors' employees that it does on district employees. The sample policy is more comprehensive by requiring checks for any contractor's employee who may work in any school building or on school property - after all, the burden is on the contractor to do the checking. For districts that want their policy language to mirror State law, replace: "any contact, direct or indirect" with "direct, daily contact." Board policy should address these issues:

- Who performs the background checks? It is virtually impossible to screen all contractors' employees. Thus, a contractor should warrant that none of its employees who may have contact with a student at school has committed an offense that would prohibit district employment.
- On whom are the checks performed? State law requires the check on those who have a *direct, daily contact with students*. See the discussion in the first paragraph of this f/n addressing this sample policy's more comprehensive language.
- How is compliance assured? This sample policy requires the inclusion of a clause in district contracts prohibiting the use of any sex offender on school property.

See administrative procedure 5:30-AP2, *Investigations*.



if an employee or agent is listed on the Statewide Sex Offender Registry or the Statewide Violent Offender Against Youth Database.

If the District receives information that concerns the record of conviction as a sex offender of any employee of a District contractor, the District will provide the information to another school, school district, community college district, or private school that requests it. <sup>17</sup>

### Unsafe School Choice Option <sup>18</sup>

The unsafe school choice option allows students to transfer to another District school or to a public charter school within the District. The unsafe school choice option is available to:

1. All students attending a persistently dangerous school, as defined by State law and identified by the Illinois State Board of Education.
2. Any student who is a victim of a violent criminal offense, as defined by 725 ILCS 120/3, that occurred on school grounds during regular school hours or during a school-sponsored event.

The Superintendent or designee shall develop procedures to implement the unsafe school choice option.

### Student Insurance <sup>19</sup>

The Board shall annually designate a company to offer student accident insurance coverage. The Board does not endorse the plan nor recommend that parents/guardians secure the coverage, and any contract is between the parents/guardians and the company. Students participating in athletics, cheerleading, or pompons must have school accident insurance unless the parents/guardians state in writing that the student is covered under a family health insurance plan.

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<sup>17</sup> Id. at 5/10-21.9(h), amended by P.A. 97-248. The School Code defines the board president's role in conducting criminal background investigations and receiving the results of these investigations. Many districts delegate this task to a human resource department. However, because the report involves a contractor's employee, the immunity provisions in the Employment Record Disclosure Act (745 ILCS 46/10) may not apply. Consult the board attorney based upon this and all relevant employment record disclosure laws. See policy 5:150, *Personnel Records*, f/n #4 for more discussion about employment record disclosure laws.

<sup>18</sup> A policy provision is required on this topic (105 ILCS 5/10-21.3a). See also 20 U.S.C. §7912. ISBE maintains a list of persistently dangerous schools. Districts having only one school ~~or attendance center~~ may substitute the following provision for this paragraph:

The unsafe school choice option provided in State law permits students to transfer to another school within the District in certain situations. This transfer option is unavailable in this District because the District has only one school or attendance center. A student, who would otherwise have qualified for the choice option, or such a student's parent/guardian, may request special accommodations from the Superintendent or designee<sup>20</sup>.

Districts with each grade in only one attendance center may substitute the following provision for this paragraph:

The unsafe school choice option provided in State law permits students to transfer to another school within the District in certain situations. This transfer option is unavailable in this District because each grade is in only one attendance center. A student, who would otherwise have qualified for the choice option, or such a student's parent/guardian, may request special accommodations from the Superintendent or designee.

<sup>19</sup> This subhead is optional. 105 ILCS 5/22-15 allows districts to purchase insurance on athletes. A form on which parents/guardians check-off whether they want school accident insurance or already have the student covered by other health insurance will suffice for purposes of this policy. Requiring students participating in athletics to have accident insurance is a best practice because: (1) waivers of liability do not prevent a student from bringing suit, and (2) waivers of liability are not favored by Illinois courts.

### Emergency Closing

The Superintendent is authorized to close the schools in the event of hazardous weather or other emergencies that threaten the safety of students, staff members, or school property. **20**

LEGAL REF.: 105 ILCS 5/10-20.28, 5/21B-80, 5/10-21.9, and 128/.  
210 ILCS 74/.  
625 ILCS 5/12-813.1.  
720 ILCS 5/11-9.3.  
730 ILCS 152/101 et seq.

CROSS REF.: 5:30 (Hiring Process and Criteria), 6:190 (Extracurricular and Co-Curricular Activities), 6:250 (Community Resource Persons and Volunteers), 7:220 (Bus Conduct), 7:300 (Extracurricular Athletics), 8:30 (Visitors to and Conduct on School Property), 8:100 (Relations with Other Organizations and Agencies)

ADMIN. PROC.: 4:170-AP2 (Criminal Offender Notification Laws), 4:170-AP3 (School Bus Safety Rules), 4:170-AP6 (Plan for Responding to a Medical Emergency  
Ocurring at a Physical Fitness Facilities with an AED), 5:30-AP2  
(Investigations)

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**20** When adverse weather conditions force a school's closing or a delayed start, the district may count a partial day of attendance as a full day for State aid purposes, provided: (1) at least one hour of instruction was provided, and (2) the superintendent provides the Regional Superintendent or the Suburban Cook County Intermediate Service Center, whichever is appropriate, with a written report in support of the partial day within 30 days (105 ILCS 5/18-12, ~~amended by P.A. 96-734~~). P.A. 96-893 abolished the Regional Office of Education for Suburban Cook County and transferred its duties and powers to the Intermediate Service Center for the area.



## General Personnel

### Hiring Process and Criteria <sup>1</sup>

The District hires the most qualified personnel consistent with budget and staffing requirements and in compliance with School Board policy on equal employment opportunity and minority recruitment. <sup>2</sup> The Superintendent is responsible for recruiting personnel and making hiring recommendations to the Board. <sup>3</sup> If the Superintendent's recommendation is rejected, the Superintendent must submit another. <sup>4</sup> No individual will be employed who has been convicted of a criminal offense listed in Section 5/21B-80 of the School Code. <sup>5</sup>

All applicants must complete a District application in order to be considered for employment. <sup>6</sup>

### Job Descriptions

The Superintendent shall develop and maintain a current comprehensive job description for each position or job category; however, a provision in a collective bargaining agreement or individual contract will control in the event of a conflict. <sup>7</sup>

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<sup>1</sup> State or federal law controls this policy's content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

<sup>2</sup> See policy 5:10, *Equal Employment Opportunity and Minority Recruitment*. Districts may not classify a job as either a male or female job (29 C.F.R. §1604.5, 34 C.F.R. §106.55).

<sup>3</sup> Boards must consider the superintendent's recommendations concerning, among other things, "the selection, retention, and dismissal of employees," 105 ILCS 5/10-16.7. The board may want to use this alternative sentence:

All personnel decisions are made by the Board, but only on the recommendation of the Superintendent.

Subject to an applicable collective bargaining agreement in effect on June 13, 2011, a board that fills a "new or vacant teaching position" must select a candidate based on: (1) certifications, (2) qualifications, (3) merit and ability (including performance evaluation, if available), and (4) relevant experience (105 ILCS 5/24-1.5, amended by P.A. 97-8). The statute does not define "new or vacant teaching positions." This new requirement does not apply to filling vacant positions under 105 ILCS 5/24-12 (reduction in force). Consult the board attorney about how this section of P.A. 97-8 applies to the district's circumstances.

<sup>4</sup> An additional optional sentence follows:

The Superintendent may select personnel on a short-term basis for a specific project or emergency condition before the Board's approval.

<sup>5</sup> 105 ILCS 5/10-21.9(c), amended by P.A. 97-607.

<sup>6</sup> Any person who applies for employment as a teacher, principal, superintendent, or other certificated employee who willfully makes a false statement on his or her application for employment, material to his or her qualifications for employment, which he or she does not believe to be true, is guilty of a Class A misdemeanor (105 ILCS 5/22-6.5). District employment applications must contain a statement to this effect (Id.).

Each employment application for a certificated position must state the following (Id.):

Failure to provide requested employment or employer history which is material to the applicant's qualifications for employment or the provision of statements which the applicant does not believe to be true may be a Class A misdemeanor.

<sup>7</sup> Job descriptions will become the basis for categorizing a teacher into one or more positions that the teacher is qualified to hold for reduction in force (RIF) dismissal and recall purposes (105 ILCS 5/24-12(b), amended by P.A. 97-8). However, any collective bargaining agreements in effect on June 13, 2011 supersede this law until June 30, 2013 (Id.). A board should consult with its attorney to review its current list of job descriptions and discuss the district's specific responsibilities in light of P.A. 97-8.

## Investigations

The Superintendent or designee shall ensure that a fingerprint-based criminal history records check and a check of the Statewide Sex Offender Database and Violent Offender Against Youth Database is performed on each applicant as required by State law. <sup>8</sup> The Superintendent or designee shall notify an applicant if the applicant is identified in either database. <sup>9</sup> The School Code requires the Board President to keep a conviction record confidential and share it only with the Superintendent, Regional Superintendent, State Superintendent, State Educator Preparation and Licensure Board, any other person necessary to the hiring decision, or for purposes of clarifying the information, the Department of State Police and/or Statewide Sex Offender Database. <sup>10</sup>

~~The Superintendent or designee shall ensure that an applicant's credit history or report from a consumer reporting agency is used only when a satisfactory credit history is an established bona fide occupational requirement of a particular position.~~

Each newly hired employee must complete an Immigration and Naturalization Service Form as required by federal law. <sup>11</sup>

The District retains the right to discharge any employee whose criminal background investigation reveals a conviction for committing or attempting to commit any of the offenses outlined in Section

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A job description is evidence of a position's *essential functions* (29 C.F.R. §1630.2(n)). The Americans with Disabilities Act protects individuals who have a disability and are qualified, with reasonable accommodation, to perform the *essential functions* of the job (42 U.S.C. §12101, amended by the ADA Amendments Act (ADAAA), Pub. L. 110-325). Determining which functions are essential may be critical to determining if an individual with a disability is qualified. An individual is qualified to perform a job even though he or she is unable, due to a disability, to perform tasks which are incidental to the job. Only when an individual is unable to perform the *essential functions* of a job may a district deny the individual employment opportunities (29 C.F.R. §1630.2(m)). For a particular function to be essential: (1) the employer must actually require employees in the position to perform it, and (2) the position would be *fundamentally altered* if the function were removed (*Id.*). Whether a particular function is essential is a factual determination.

**Important:** The ADAAA makes significant changes to the ADA's definition of disability that broadens the scope of coverage and overturns a series of U.S. Supreme Court decisions that made it difficult to prove that an impairment was a disability. The final regulations were by a bipartisan vote and approved on March 25, 2011. There is information about the regulations and a link to them at: [www.eeoc.gov/laws/regulations/adaaa\\_fact\\_sheet.cfm](http://www.eeoc.gov/laws/regulations/adaaa_fact_sheet.cfm). Consult the board attorney regarding how these amendments impact the district's hiring processes.

<sup>8</sup> The policy's requirements on criminal records checks are mandated by 105 ILCS 5/10-21.9, amended by P.A.s 96-1452, 96-1489, and 97-607. See administrative procedure 5:30-AP2, *Investigations*, for the process and positions requiring criminal background investigation. The Statewide Sex Offender Database (a/k/a Sex Offender Registry) is available at: [www.isp.state.il.us/sor](http://www.isp.state.il.us/sor). The Statewide Murderer and Violent Offender Against Youth Database is available at: [www.isp.state.il.us/cmvo/](http://www.isp.state.il.us/cmvo/).

<sup>9</sup> *Id.*

<sup>10</sup> 105 ILCS 5/10-21.9(b). The School Code continues to define the board president's role in conducting criminal background investigations and receiving the results of these investigations, including the results for employees of district contractors (105 ILCS 5/10-21.9, amended by P.A. 97-248). Many districts delegate this task in the hiring process to a human resources department.

Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center." The Regional Office of Education for Suburban Cook County was abolished and its duties and powers transpired to the intermediate service center for the area by P.A. 96-893.

<sup>11</sup> Immigration Reform and Control Act, 8 U.S.C. §1324a *et seq.* Consult with the board attorney regarding the district's rights and responsibilities under all Illinois laws if the district uses any electronic employment verification system, including *E-Verify* and/or the Basic Pilot Program (820 ILCS 55/). This statute urges employers who voluntarily use *E-Verify* (formerly known as the Basic Pilot/Employment Eligibility Verification Program) to consult the Ill. Dept. of Labor's website for current information on the accuracy of *E-Verify* and to review and understand their legal responsibilities relating to the use of any electronic employment verification systems. See f/n #2 in 5:150-AP, *Personnel Records*, for a more detailed discussion of *E-Verify* issues.

5/21B-80 of the School Code or who falsifies, or omits facts from, his or her employment application or other employment documents.

The Superintendent shall ensure that the District does not engage in any investigation or inquiry prohibited by law and complies with each of the following: **12**

1. The District uses an applicant's credit history or report from a consumer reporting agency only when a satisfactory credit history is an established bona fide occupational requirement of a particular position. **13**
2. The District does not ask an applicant or applicant's previous employers about claim(s) made or benefit(s) received under the Workers' Compensation Act. **14**
3. The District does not request of an applicant or employee access in any manner to his or her social networking website, including a request for passwords to such sites. **15**
4. The District provides equal employment opportunities to all persons. See policy 5:10, *Equal Employment Opportunity and Minority Recruitment*.

### Physical Examinations

New employees must furnish evidence of physical fitness to perform assigned duties and freedom from communicable disease, including tuberculosis. **16** All physical fitness examinations and tests for

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**12** As an alternative to describing the prohibited investigations, a board may substitute this sentence:

The Superintendent shall ensure that the District does not engage in any investigation or inquiry prohibited by law, including without limitation, investigation into or inquiry concerning: (1) credit history or report unless a satisfactory credit history is an established bona fide occupational requirement of a particular position; (2) claim(s) made or benefit(s) received under Workers' Compensation Act; and (3) access to an employee's or applicant's social networking website, including a request for passwords to such sites.

The default policy provision and the alternative stated above – whichever is selected – may be made a prohibition rather than a duty of the superintendent; to do this, delete the stricken text as follows: “The Superintendent shall ensure that the District does not engage ....”

**13** Employee Credit Privacy Act, 820 ILCS 70/. This Act allows inquiries into an applicant's credit history or credit report or ordering or obtaining an applicant's credit report from a consumer reporting agency when a satisfactory credit history is an established bona fide occupational requirement of a particular position. The Act identifies circumstances that permit a satisfactory credit history to be a job requirement, such as, the position's duties include custody of or unsupervised access to cash or marketable assets valued at \$2,500 or more.

**14** Right to Privacy in the Workplace Act, 820 ILCS 55/10(a).

**15** Id., 820 ILCS 55/10(b), added by P.A. 97-875 and known as the Facebook Password Law (effective 1-1-2013). There are no exceptions to the rule stated in the policy. The statute specifically permits an employer to: (1) maintain workplace policies governing the use of the employer's electronic equipment, including policies regarding Internet use, social networking site use, and electronic mail use; and (2) monitor usage of the employer's (district's) electronic equipment and electronic mail. The statute also states that it does not prohibit an employer from obtaining information about an applicant or an employee that is in the public domain or that is otherwise obtained in compliance with the statute. Finally, the statute does not apply to other types of personal technology that employees may use to communicate with students or other individuals, such as, personal email or text messages on a personal phone. Consult the board attorney about these issues.

**16** Pre-employment medical inquiries must be limited to whether the applicant is able to perform job-related functions; required medical examinations of applicants is forbidden (American with Disabilities Act [ADA], 42 U.S.C. §12112(d)(2), as amended by the ADAAA, Pub. L. 110-325); see also f/n #7 for an explanation regarding the ADAAA. Districts may condition an employment offer on taking and passing medical inquiries or physical exams, provided that all entering employees in the same classification receive the same conditional offer. Boards must require new employees to furnish evidence of a physical examination and a tuberculin skin test and, if appropriate, an X-ray (105 ILCS 5/24-5).

Note that while examination by a spiritual leader/practitioner is sufficient for purposes of leaves, the statute does not permit an examination by a spiritual leader/practitioner for initial employment exams. This difference may present a constitutional issue; contact the board attorney for an opinion if an applicant wants to use an examination by a spiritual leader/practitioner.

tuberculosis must be performed by a physician licensed in Illinois, or any other state, to practice medicine and surgery in any of its branches, or an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice nurse to perform health examinations, or a physician assistant who has been delegated the authority by his or her supervising physician to perform health examinations. The employee must have the physical examination and tuberculin test performed no more than 90 days before submitting evidence of it to the Board.

Any employee may be required to have an additional examination by a physician who is licensed in Illinois to practice medicine and surgery in all its branches, or an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice nurse to perform health examinations, or a physician assistant who has been delegated the authority by his or her supervising physician to perform health examinations, if the examination is job-related and consistent with business necessity. <sup>17</sup> The Board will pay the expenses of any such examination.

#### Orientation Program

The District's staff will provide an orientation program for new employees to acquaint them with the District's policies and procedures, the school's rules and regulations, and the responsibilities of their position.

LEGAL REF.:        [105 ILCS 5/10-21.9.](#)  
                         [Employee Credit Privacy Act, 820 ILCS 70/.](#)  
                         [Right to Privacy in the Workplace Act, 820 ILCS 55/.](#)  
                         Americans with Disabilities Act, 42 U.S.C. §12112, 29 C.F.R. Part 1630.  
                         Immigration Reform and Control Act, 8 U.S.C. §1324a *et seq.*  
                         105 ILCS 5/10-16.7, 5/10-20.7, 5/10-21.4, 5/10-21.9, 5/21B-10, 5/21B-80, 5/10-22.34, 5/10-22.34b, 5/22-6.5, and 5/24-1 *et seq.*  
                         820 ILCS 55/ and 70/.  
                         Duldulao v. St. Mary of Nazareth Hospital, 483 N.E.2d 956 (Ill.App.1, 1985), *aff'd in part and remanded* 505 N.E.2d 314 (Ill., 1987).  
                         Kaiser v. Dixon, 468 N.E.2d 822 (Ill.App.2, 1984).  
                         Molitor v. Chicago Title & Trust Co., 59 N.E.2d 695 (Ill.App.1, 1945).

CROSS REF.:        3:50 (Administrative Personnel Other Than the Superintendent), 5:10 (Equal Employment Opportunity and Minority Recruitment), 5:40 (Communicable and Chronic Infectious Disease), 5:[125 \(Personal Technology and Social Media; Usage and Conduct\)](#), 5:220 (Substitute Teachers), 5:280 (Educational Support Personnel - Duties and Qualifications)

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<sup>17</sup> The State law (105 ILCS 5/24-5) allowing boards to require physicals of current employees "from time to time," has been superseded by federal law (ADA, 42 U.S.C. §12112(d)(4), as amended by the ADAAA, Pub. L. 110-325). The ADA allows medical inquiries of current employees only when they are job-related and consistent with business necessity or part of a voluntary employee wellness program (*Id.*). Districts may deny jobs to individuals with disabilities who pose a direct threat to the health or safety of others in the workplace, provided that a reasonable accommodation would not either eliminate the risk or reduce it to an acceptable level (42 U.S.C. §12113; 29 C.F.R. Part 1630.2(r)). See f/n #7 for an explanation regarding the ADAAA.

See the f/n #16 for a discussion of examinations by spiritual leaders/practitioners.

## General Personnel

### Personal Technology and Social Media; Usage and Conduct <sup>1</sup>

#### Definitions

**Includes** - Means “includes without limitation” or “includes, but is not limited to.”

**Social media** - Media for social interaction, using highly accessible communication techniques through the use of web-based and mobile technologies to turn communication into interactive dialogue. <sup>2</sup> This includes *Facebook*, *LinkedIn*, *MySpace*, *Twitter*, and *YouTube*. <sup>3</sup>

**Personal technology** - Any device that is not owned or leased by the District or otherwise authorized for District use and: (1) transmits sounds, images, text, messages, videos, or electronic information, (2) electronically records, plays, or stores information, or (3) accesses the Internet, or private communication or information networks. <sup>4</sup> This includes smartphones such as BlackBerry®, Android®, iPhone®, and other devices, such as, iPads® and iPods®. <sup>5</sup>

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<sup>1</sup> This policy is optional. Consult the board attorney because personal technology and social media involve an unprecedented area of the law. Public employees’ First Amendment rights involve an unsettled area of the law. Personal technology and social media platforms change continually. Therefore, instead of prohibiting specific actions, this sample policy focuses on what will not change - maintaining appropriate behavior as outlined in 5:120, *Ethics and Conduct*, the Ill. Educators’ Code of Ethics at 23 Ill.Admin.Code §22.20, and 105 ILCS 5/21-23, amended by P.A. 97-8, repealed, added and renumbered at 105 ILCS 5/21B-75 by P.A. 97-607 (allows suspensions or revocations of certificates for *immorality* and *unprofessional conduct*, among other things). *Immoral* has been defined by one court to mean “shameless conduct showing moral indifference to the opinions of the good and respectable members of the community,” (see Ahmad v. Board of Education of City of Chicago, 847 N.E.2d 810, 819 (1<sup>st</sup> Dist. 2006)).

Consult the board attorney when a board wants to prohibit more specific actions and/or specific speech, e.g., *friending* students on Facebook or similar social media, *tweeting* or otherwise communicating with students on Twitter or similar social media sites, and text messaging or emailing students. See also the discussion in f/n 6 below.

This policy also contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. When a policy’s subject matter is superseded by a bargaining agreement, the board policy can state, “Please refer to the current [*insert name of CBA*].”

<sup>2</sup> Several definitions of social media exist, and a board may wish to use another definition or create its own with the board attorney. This sample policy’s definition is very broad. It is adapted from a frequently cited Wikipedia definition at [en.wikipedia.org/wiki/Social\\_media](http://en.wikipedia.org/wiki/Social_media). Merriam-Webster’s definition is at [www.merriam-webster.com/dictionary/social%20](http://www.merriam-webster.com/dictionary/social%20).

<sup>3</sup> Optional. A board may want to add other sites. As of October 2010, the publication *eBizMBA Inc.* lists the top 4 social networking sites as Facebook, Myspace, Twitter, and LinkedIn, respectively.

<sup>4</sup> *Personal technology* is not yet defined. It is the title of a weekly column in *The Wall Street Journal*. The column was created and is authored by Walt Mossberg, who frequently directs readers to his review of new technologies on a website titled *All Things Digital* at [allthingsd.com](http://allthingsd.com). Many of the reviewed devices operate as described in this sample definition.

<sup>5</sup> Optional.

## Usage and Conduct

All District employees who use personal technology and social media shall: **6**

1. Adhere to the high standards for appropriate school relationships in policy 5:120, *Ethics and Conduct* at all times, regardless of the ever-changing social media and personal technology platforms available. This includes District employees posting images or private information about themselves or others in a manner readily accessible to students and other employees that is inappropriate as defined by policy 5:20, *Workplace Harassment Prohibited*; 5:120, *Ethics and Conduct*; 6:235, *Access to Electronic Networks*; 7:20, *Harassment of Students Prohibited*; and the Ill. Code of Educator Ethics, 23 Ill.Admin.Code §22.20.
2. Choose a District-provided or supported method whenever possible to communicate with students and their parents/guardians.
3. Not interfere with or disrupt the educational or working environment, or the delivery of education or educational support services.
4. Comply with policy 5:130, *Responsibilities Concerning Internal Information*. This means that personal technology and social media may not be used to share, publish, or transmit information about or images of students and/or District employees without proper approval. For District employees, proper approval may include implied consent under the circumstances. **7**
5. Refrain from using the District's logos without permission and follow Board policy 5:170, *Copyright*, and all District copyright compliance procedures. **8**
6. Use personal technology and social media for personal purposes only during non-work times or hours. Any duty-free use must occur during times and places that the use will not interfere with job duties or otherwise be disruptive to the school environment or its operation. **9**
7. Assume all risks associated with the use of personal technology and social media at school or school-sponsored activities, including students' viewing of inappropriate Internet materials through the District employee's personal technology or social media. The Board expressly

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**6** The following list is optional and may contain items on which collective bargaining may be required (see f/n 1). To ensure that the listed expectations match local conditions, boards may want to initiate a conversation with the superintendent about these expectations. Expectations will be most effective when they reflect local conditions and circumstances. This conversation provides an additional opportunity for the board and superintendent to examine all current policies, collective bargaining agreements, and administrative procedures applicable to this subject (see f/n 2 of policy 5:120, *Ethics and Conduct*, for more discussion about how to initiate this conversation). Employee conduct issues may be subjects of mandatory collective bargaining, therefore consulting the board attorney should be a part of this process. After discussing these issues, the board may have further expectations and may choose to reflect those expectations here.

**7** Inherent dangers exist when district employees use personal technology and social media without understanding how the information is used within the chosen platform and what choices are available within the platform to control it. Some examples of laws that require the safekeeping of district and school records include: the Federal Educational Rights and Privacy Act, 20 U.S.C. §1232g and the Ill. School Student Records Act, 105 ILCS 10/ (both prohibit the unauthorized disclosure of student school records), 5 ILCS 140/7 (exempts personnel information and other items such as school security and response plans and maps from disclosure), 45 C.F.R. §164.502 (protects the employees' health information), and 820 ILCS 40/ (governs the release of an employee's disciplinary action). For district employees, implied consent may be sufficient in some circumstances, e.g., teachers taking pictures of each other at a birthday party in the teachers' lounge or at a social event off school grounds and later posting those pictures on Facebook.

**8** 17 U.S.C. §101 *et seq.*

**9** 105 ILCS 5/24-9; Fair Labor Standards Act, 29 U.S.C. §201 *et seq.* See also f/ns 1 and 6 above.



disclaims any responsibility for imposing content filters, blocking lists, or monitoring of its employees' personal technology and social media. **10**

8. Be subject to remedial and any other appropriate disciplinary action for violations of this policy ranging from prohibiting the employee from possessing or using any personal technology or social media at school to dismissal and/or indemnification of the District for any losses, costs, or damages, including reasonable attorney fees, incurred by the District relating to, or arising out of, any violation of this policy. **11**

The Superintendent shall: **12**

1. Inform District employees about this policy during the in-service on educator ethics, teacher-student conduct, and school employee-student conduct required by Board policy 5:120, *Ethics and Conduct*.
2. Direct Building Principals to annually:
  - a. Provide their building staff with a copy of this policy.
  - b. Inform their building staff about the importance of maintaining high standards in their school relationships.
  - c. Remind their building staff that those who violate this policy will be subject to remedial and any other appropriate disciplinary action up to and including dismissal.
3. Build awareness of this policy with students, parents, and the community.

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**10** The Children's Internet Protection Act (CIPA), 47 U.S.C. §254, requires school districts to maintain a policy and provide Internet access that protects against access to websites containing material that is obscene, pornographic, or harmful to minors. See 6:235, *Access to Electronic Networks*. Because a district cannot subject its employees' usage of personal technology and social media to the same measures required under CIPA (i.e., content filters, blocking lists, or district monitoring of Internet website traffic for patterns of usage that could indicate inappropriate network usage), this statement seeks to balance the district's duty by shifting responsibility for inappropriate behavior to the individual employee.

**11** The Ill. Human Rights Act makes it a civil rights violation to fail to take remedial action, or to fail to take appropriate disciplinary action against any employee, when the district knows that the employee committed or engaged in sexual harassment of a student (775 ILCS 5/5A-102). Sexual harassment of a student is also prohibited by 7:20, *Harassment of Student Prohibited*, and of an employee by 5:20, *Workplace Harassment Prohibited*.

Whether to discipline an employee for his or her speech is always highly fact sensitive and should always occur after a consultation with the board attorney (see f/n's 1 and 6). The discipline will require careful balancing of the District's obligations to protect its students with employees' rights. Further, a board may not discipline its employees for discussing the terms and conditions of their employment with co-workers and others or otherwise interfere with their employees' efforts to work to improve the terms and conditions of their workplace (29 U.S.C. §151 *et seq.*).

**12** 105 ILCS 5/10-16.7. The school board directs, through policy, the superintendent in his or her charge of the district's administration. One logical method for a board to address the issue of district employees' use of personal technology and social media is to include its expectations during its in-service trainings required by 105 ILCS 5/10-22.39. Many experts in social media risk management advocate training employees about the expectations concerning social media usage. For boards that do not want to include this as a part of the in-service, delete the phrase "during the in-service on educator ethics, teacher-student conduct, and school employee-student conduct required by Board policy 5:120, *Ethics and Conduct*."

Public employee First Amendment issues involve the balance between the importance of the speech and the district's interest in maintaining order and effective school operations. The First Amendment "does not entitle primary and secondary teachers, when conducting the education of captive audiences, to cover topics, or advocate viewpoints, that depart from the curriculum adopted by the school system." See *Mayer v. Monroe County Community School Corp.*, 474 F.3d 477 (7<sup>th</sup> Cir. 2007). Nor is the First Amendment likely to entitle a teacher to protection for purely personal speech that does not touch on a matter of public concern. See *Pickering v. High School Dist. 205*, 391 U.S. 563 (1968). However, when public employees speak as private citizens on their own time about matters of public concern, they may face only those speech restrictions that are necessary for their employers to operate efficiently and effectively (*Garcetti v. Ceballos*, 547 U.S. 410 (2006)).

4. Ensure that no one for the District, or on its behalf, requests of an employee or applicant access in any manner to his or her social networking website or requests passwords to such sites. 13

4.5. Periodically review this policy and any procedures with District employee representatives and electronic network system administrator(s) and present proposed changes to the Board.

LEGAL REF.: 105 ILCS 5/21B-75 and 5/21B-80.  
Ill. Human Rights Act, 775 ILCS 5/5A-102.  
Code of Ethics for Ill. Educators, 23 Ill.Admin.Code §22.20.  
Garcetti v. Ceballos, 547 U.S. 410 (2006).  
Pickering v. High School Dist. 205, 391 U.S. 563 (1968).  
Mayer v. Monroe County Community School Corp., 474 F.3d 477 (7th Cir. 2007).

CROSS REF.: 5:20 (Workplace Harassment Prohibited), 5:30 (Hiring Process and Criteria),  
5:120 (Ethics and Conduct), 5:130 (Responsibilities Concerning Internal  
Information), 5:150 (Personnel Records), 5:170 (Copyright), 5:200 (Terms and  
Conditions of Employment and Dismissal), 6:235 (Access to Electronic  
Networks), 7:20 (Harassment of Students Prohibited), 7:340 (Student Records)

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13 Right to Privacy in the Workplace Act, 820 ILCS 55/10(b), added by P.A. 97-875 and known as the Facebook Password Law (effective 1-1-2013). The statute specifically permits an employer to: (1) maintain workplace policies governing the use of the employer's electronic equipment, including policies regarding Internet use, social networking site use, and electronic mail use; and (2) monitor usage of the employer's electronic equipment and electronic mail. The statute also states that it does not prohibit an employer from obtaining information about an applicant or an employee that is in the public domain or that is otherwise obtained in compliance with the statute. Finally, the statute does not apply to other types of personal technology that employees may use to communicate with students or other individuals, such as personal email or text messages on a personal phone. Consult the board attorney about these issues.



## Instruction

### School Year Calendar and Day <sup>1</sup>

#### School Calendar

The School Board, upon the Superintendent's recommendation and subject to State regulations, annually establishes the dates for opening and closing classes, teacher institutes and in-services, the length and dates of vacations, and the days designated as legal school holidays. <sup>2</sup> The school calendar shall have a minimum of 185 days to ensure 176 days of actual student attendance. <sup>3</sup>

#### Commemorative Holidays

The teachers and students shall devote a portion of the school day on each commemorative holiday designated in the School Code to study and honor the commemorated person or occasion. <sup>4</sup> The Board may, from time to time, designate a regular school day as a commemorative holiday.

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<sup>1</sup> State or federal law controls this policy's content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

<sup>2</sup> State-mandated school holidays are found in 105 ILCS 5/24-2, ~~amended by P.A. 96-640~~. See policy 5:330, *Sick Days, Vacation, Holidays, and Leaves*, for a holiday listing. ~~P.A. 96-640~~ The law allows a school board to hold school or schedule teachers' institutes, parent-teacher conferences, or staff development on five identified school holidays if: (1) the school board first holds a public hearing on the proposal, and (2) the person or persons honored by the holiday are recognized through instructional activities conducted on the school holiday or on the first school day preceding or following the school holiday. This is an item on which collective bargaining may be required, and a board that wishes to implement this law should consult its attorney.

A State mandated school holiday on "Good Friday" is unconstitutional according to *Metzl v. Leininger*, 57 F.3d 618 (7th Cir., 1995). Closing school on religious holidays may still be permissible for those districts able to demonstrate (e.g., through surveys) that remaining open would be a waste of educational resources due to widespread absenteeism. Also, districts may be able to close school on Good Friday by adopting a "spring holiday" rationale or ensuring that it falls within spring break. School districts should discuss all of these options, and collective bargaining implications with their board attorneys.

If the county board or board of election commissioners chooses a school to be a polling place, the school district must make the school available; however, for the election day, a school district may choose to keep the school open or hold a teachers' institute (10 ILCS 5/11-4.1).

<sup>3</sup> The school calendar must have a minimum 185 days to ensure 176 days of actual pupil attendance (105 ILCS 5/10-19 and 5/24-1; 23 Ill.Admin.Code §1.420). Schools must be closed during county institute (105 ILCS 5/24-3). The school calendar may be a mandatory subject of collective bargaining. The calendar for the school term and any changes must be submitted to and approved by the regional superintendent before the calendar or changes may take effect (105 ILCS 5/10-19).

<sup>4</sup> 105 ILCS 5/24-2, ~~amended by P.A. 96-640~~, lists the following as commemorative holidays: Jan. 28 (Christa McAuliffe Day commemorating space exploration), Feb. 15 (Susan B. Anthony), March 29 (Viet Nam War Veterans' Day), the school day immediately preceding Veterans' Day (Korean War Veterans' Day), Oct. 1 (Recycling Day), and Dec. 7 (Pearl Harbor Veterans' Day). Other commemorative holidays include: Arbor and Bird Day on the last Friday in April (105 ILCS 5/27-18), Leif Erickson day on Oct 9 if a school day and otherwise on a school day nearest the date (105 ILCS 5/27-19), American Indian Day on the 4th Friday of Sept. (105 ILCS 5/27-20), Ill. Law Week during the first full school week in May (105 ILCS 5/27-20.1), "Just Say No" Day on a school day in May (105 ILCS 5/20.2), a Day of Remembrance on Sept. 11 (5 ILCS 490/86), Ronald Reagan Day on Feb. 6 (5 ILCS 490/2), Day of Remembrance of the Victims of Slavery and the Transatlantic Slave Trade on March 25 (5 ILCS 490/155 ~~added by P.A. 96-930~~), ~~and~~ the first full week of January as Emancipation Proclamation Week (5 ILCS 490/155, ~~added by P.A. 96-1238, eff. 1-1-11~~), ~~and the third Thursday in May of each year is designated Volunteer Emergency Responder Appreciation Day (5 ILCS 490/126, amended by P.A. 97-1124).~~

## School Day

The Board establishes the length of the school day with the recommendation of the Superintendent and subject to State law requirements. <sup>5</sup> The Superintendent or designee shall ensure that observances required by State law are followed during each day of school attendance. <sup>6</sup>

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<sup>5</sup> A school day must consist of a minimum 5 clock hours under the direct supervision of a teacher or non-teaching volunteer providing non-teaching or supervisory duties as specified in 105 ILCS 5/10-22.34(a), in order to qualify as a full day for calculating state aid entitlement (105 ILCS 5/18-8.05(F), amended by P.A. ~~96-640~~, ~~97-742~~, eff. 6-30-2013; and 23 Ill.Admin.Code §1.420(f). Students in attendance for fewer than two hours of school work are not counted for calculating average daily attendance (23 Ill.Admin.Code §1.420(f)(4). **Note:** Eff. 6-30-2013, P.A. 97-742 repeals the section of the School Code that allows districts to count days of attendance less than 5 clock hours on the opening and closing of the school term, and upon the first day of pupil attendance, if preceded by a day or days utilized as an institute or teachers' workshop.

Contrast 105 ILCS 5/18-12, ~~amended by P.A. 96-734~~. It allows a partial day of attendance to be counted as a full day when: (1) the school district has provided at least one hour of instruction prior to the closure of the school district; (2) a school building has provided at least one hour of instruction prior to the closure of the school building; or (3) the normal start time of the school district is delayed. ~~P.A. 96-734~~ The law also outlines the process to claim attendance prior to providing any instruction when a school district must close a building or buildings, but not the entire district, after consultation with a local emergency response agency or due to a condition beyond the control of the district. Additionally, 105 ILCS 5/18-12.5, ~~added by P.A. 96-689~~ outlines the process for claiming attendance when a school district must close a building or buildings, but not the entire district, specifically because of a public health emergency. Attendance for such days may only be claimed if the school building(s) was scheduled to be in operation on those days.

Alternative education programs may provide fewer than 5 hours under certain circumstances (105 ILCS 5/2-3.33a and 5/13B-50). Exceptions also exist for kindergarten, teaching hospitalized or homebound students, first-grade, disabled children less than 6 years old, ~~the opening and closing days of the school term~~, in-service training for teachers in accordance with 105 ILCS 5/10-22.39, parent-teacher conferences, and days when the Prairie State Achievement Examination is administered (105 ILCS 5/18-8.05(F, ~~amended by P.A. 96-640~~).

<sup>6</sup> 105 ILCS 5/27-3 requires the Pledge of Allegiance to be recited every day in elementary and secondary schools. Note that the Illinois statute does not require every student to recite the Pledge – that kind of mandatory participation would violate the U.S. Constitution. Schools may not coerce a student into saying the Pledge, nor may they punish students for refusing to participate in any aspect of the flag ritual, including standing, saluting the flag, and reciting the Pledge. West Virginia State Board of Education v. Barnette, 319 U.S. 624 (1943); Sherman v. Community Consolidated School District 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.

On 10-11-07, an Illinois law went into effect requiring a mandatory *brief period of silence* for all Illinois public school students (Silent Reflection and Student Prayer Act, 105 ILCS 20/1). A student filed a federal lawsuit alleging that the *brief period of silence* law was unconstitutional because it is too vague and violates the First Amendment. Sherman v. THSD 214 and Koch, 624 F.Supp.2d 907 (N.D.Ill., 2007). The court issued a preliminary injunction to prevent the plaintiff-student's school district from implementing the Act and State Superintendent Koch from enforcing it. The court granted plaintiff's request to make the lawsuit a class action – the defendant class comprising all Illinois public school districts. After the case's merits are heard, the preliminary injunction may be made permanent or be rescinded. School districts must follow court orders and the State Superintendent's instructions.

105 ILCS 5/10-24.46, ~~amended by P.A. 96-84~~, requires a moment of silence to recognize veterans during any type of event held at a district school on November 11. See f/n <sup>#2</sup> above for more discussion.

LEGAL REF.: 105 ILCS 5/10-19, 5/10-24.46, 5/18-8.05, 5/18-12, 5/18-12.5, 5/24-2, 5/27-3, 5/27-18, 5/27-19, 5/27-20, 5/27-20.1, 5/27-20.2, and 20/1.  
23 Ill.Admin.Code §1.420(f).  
Metzl v. Leininger, 850 F.Supp. 740 (N.D. Ill., 1994), *aff'd* by 57 F.3d 618 (7th Cir., 1995).

CROSS REF.: 2:20 (Powers and Duties of the School Board), 5:200 (Terms and Conditions of Employment and Dismissal), 5:330 (Sick Days, Vacation, Holidays, and Leaves), 6:60 (Curriculum Content), 6:70 (Teaching About Religions), 7:90 (Release During School Hours)

## Instruction

### Curriculum Content 1

The curriculum shall contain instruction on subjects required by State statute or regulation as follows:

1. In kindergarten through grade 8, subjects include: (a) language arts, (b) reading, (c) other communication skills, (d) science, (e) mathematics,<sup>2</sup> (f) social studies, (g) art, (h) music,<sup>3</sup> and (i) drug and substance abuse prevention. <sup>4</sup> A reading opportunity of 60 minutes per day will be promoted for all students in kindergarten through grade 3 whose reading levels are one grade level or more lower than their current grade level. <sup>5</sup>
2. In grades 9 through 12, subjects include: (a) language arts, (b) writing intensive course, (c) science, (d) mathematics,<sup>6</sup> (e) social studies including U.S. history, (f) foreign language, (g) music, (h) art, (i) driver and safety education, and (j) vocational education. <sup>7</sup>

Students otherwise eligible to take a driver education course must receive a passing grade in at least 8 courses during the previous 2 semesters before enrolling in the course. The Superintendent or designee may waive this requirement if he or she believes a waiver to be in

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<sup>1</sup> Districts must have a policy on physical education (23 Ill.Admin.Code §1.420(p). Policies on the remaining topics in this policy are optional. State or federal law controls this policy's content.

<sup>2</sup> 105 ILCS 5/2-3.156, added by P.A. 97-704, eff. 1-1-2013, 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. [www.isbe.net/common\\_core/default.htm](http://www.isbe.net/common_core/default.htm).

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.

<sup>5</sup> 105 ILCS 5/10-20.53, added by P.A. 97-88.

<sup>6</sup> 105 ILCS 5/2-3.156, added by P.A. 97-704, eff. 1-1-2013. See f/n #2.

<sup>7</sup> 23 Ill.Admin.Code §1.440, 105 ILCS 5/27-22 ~~and 5/27-23~~. The General Assembly encouraged school boards to implement American sign language courses into the school foreign language curriculum (105 ILCS 5/10-20.46, ~~added by P.A. 96-843~~). Senate Joint Resolution 68, 96<sup>th</sup> General Assembly, encourages school districts to explore the introduction of Arabic as a foreign language in their curriculums.

School districts may contract with a commercial driver training school (CDTS) for driver education by obtaining a waiver or modification of the administrative rules and regulations promulgated by the ISBE or a modification of School Code mandates (105 ILCS 5/2-3.25g, amended by P.A. 97-1025, eff. 1-1-13). See 2:20-E, *Waiver and Modification Request Resource Guide*. 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 dates and driver's license number of each instructor who will teach driver education (Id.).

the student's best interest. <sup>8</sup> The course shall include classroom instruction on distracted driving as a major traffic safety issue. <sup>9</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>10</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>11</sup>

3. In grades 7 through 12, as well as in interscholastic athletic programs, steroid abuse prevention must be taught. <sup>12</sup>
4. In kindergarten through grade 12, provided it can be funded by private grants or the federal government, violence prevention and conflict resolution must be stressed, including: (a) causes of conflict, (b) consequences of violent behavior, (c) non-violent resolution, and (d) relationships between drugs, alcohol, and violence. <sup>13</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>14</sup>

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<sup>8</sup> 105 ILCS 5/27-~~23~~ and 5/27-24.2.

<sup>9</sup> 105 ILCS 5/27-24.2.

<sup>10</sup> 105 ILCS 5/27-17.

<sup>11</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 8 courses during the 2 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 GED or alternative education program or a GED certificate;
2. Written verification that before dropping out, the individual had received passing grades in at least 8 courses during the 2 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>12</sup> 105 ILCS 5/27-23.3.

<sup>13</sup> 105 ILCS 5/27-23.4, amended by P.A. 97-87.

<sup>14</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 7 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."

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. **15**
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. **16**
8. In all grades, physical education must be taught including a developmentally planned and sequential curriculum that fosters the development of movement skills, enhances health-related fitness, increases students' knowledge, offers direct opportunities to learn how to work cooperatively in a group setting, and encourages healthy habits and attitudes for a healthy lifestyle. Unless otherwise exempted, all students are required to engage daily during the school day in a physical education course. For exemptions and substitutions, see policies 6:310, *Credit for Alternative Courses and Programs*, and *Course Substitution*, and 7:260, *Exemption from Physical Activity*. **17**
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, and (d) dangers and avoidance of abduction. The Superintendent shall implement a comprehensive health education program in accordance with State law. **18**
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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**15** 105 ILCS 5/27-12. The Ill. General Assembly invited boards to "make suitable provisions for instruction in bullying prevention and gang resistance education and training in all grades and include such instruction in the courses of study regularly taught therein," 105 ILCS 5/27-23.7(c). A board that shares this concern may add the following option: "In addition, in all grades, bullying prevention and gang resistance education and training must be taught."

**16** 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 Board of Education v. Barnett, 319 U.S. 624 (1943); Sherman v. Community Consolidated School 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.

**17** 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.

105 ILCS 5/27-6 describes when students may be excused from daily P.E. See also 23 Ill.Admin.Code §1.420(p). 105 ILCS 5/27-7 describes the goals and requirements for P.E. courses; these are re-stated in this sample policy.

105 ILCS 5/27-6 contains an exception to the daily P.E. requirement for schools engaged in block scheduling; if this is applicable, substitute this sentence for the last sentence in this paragraph:

Unless otherwise exempted, all students are required to engage daily during the school day, except on block scheduled days for those schools in block scheduling, in a physical education course.

**18** 105 ILCS 5/27-13.2 and 110/3; 23 Ill.Admin.Code §1.420(n). Health education program content is described in administrative procedure 6:60-AP, *Comprehensive Health Education Program*; this administrative procedure requires the development of a family life and sex education program. The State Police and ISBE must develop instruction on child abduction prevention (20 ILCS 2605/2605-480).



an extension of the regular classroom. A career awareness and exploration program must be available at all grade levels. **19**

11. In grades 9 through 12, consumer education must be taught, including: financial literacy; installment purchasing; budgeting, savings, and investing; banking; simple contracts; income taxes; personal insurance policies; the comparison of prices; homeownership; and the roles of consumers interacting with agriculture, business, labor unions, and government in formulating and achieving the goals of the mixed free enterprise system. **20**
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. **21**
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. **22**

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. **23**

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. **24**
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. **25**
16. In all schools, the curriculum includes a unit of instruction on the history, struggles, and contributions of women. **26**

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**19** 23 Ill.Admin.Code §1.420(i). See 105 ILCS 435/ for the Vocational Education Act.

**20** 105 ILCS 5/27-12.1, ~~amended by P.A. 96-1061~~; 23 Ill.Admin.Code §1.420(k).

**21** 105 ILCS 5/27-13.1 and 23 Ill.Admin.Code §1.420(l).

**22** 105 ILCS 5/27-21, ~~amended by P.A. 96-629~~, and 23 Ill.Admin.Code §1.420(r).

**23** Section 111 of Division J of Pub. L. 108-447, the Consolidated Appropriations Act, 2005, Dec. 8, 2004; 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 . . . .”

**24** 105 ILCS 5/27-3.5, ~~added by P.A. 96-99~~. The Congressional Medal of Honor film is available on ISBE’s website for no cost at [www.isbe.net/curriculum/html/medal\\_of\\_honor.htm](http://www.isbe.net/curriculum/html/medal_of_honor.htm).

**25** 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*.

**26** 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*.

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. **27**
18. In all schools offering a secondary agricultural education program, the curriculum includes courses as required by 105 ILCS 5/2-3.80. **28**
19. In all schools, instruction during courses as determined by the Superintendent or designee on disability history, awareness, and the disability rights movement. **29**

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, 5/27-7, 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, 5/27-21, 5/27-22, 5/27-23, ~~5/27-23.3~~, 5/27-23.4, 5/27-23.7, 5/27-23.8, 5/27-24.2, 435/, and 110/3.  
 625 ILCS 5/6-408.5.  
 23 Ill.Admin.Code §§1.420, 1.430, and 1.440.  
 Consolidated Appropriations Act of 2005, Pub. L. No. 108-447, Section 111 of Division J.  
 Protecting Children in the 21<sup>st</sup> 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), 7:190 (Student Discipline); 7:260 (Exemption from Physical Activity)

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**27** 105 ILCS 527-20.4 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*.

**28** 105 ILCS 5/2-3.80(e) or (f).

**29** 105 ILCS 5/27-23.8, ~~added by P.A. 96-191~~. 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.



## Instruction

### Administrative Procedure - Comprehensive Health Education Program

The major educational areas of the District's comprehensive health education program are described below:

1. In all elementary and secondary schools the health program shall include human ecology and health; human growth and development; the emotional, psychological, physiological, hygienic, and social responsibilities of family life (including sexual abstinence until marriage); prevention and control of disease, and course material and instruction to advise students of the Abandoned Newborn Infant Protection Act. The program shall include information about cancer, including without limitation, types of cancer, signs and symptoms, risk factors, the importance of early prevention and detection, and information on where to go for help. <sup>1</sup>
2. The grades 6-12 health program shall include the prevention, transmission and spread of AIDS; public and environmental health; consumer health; safety education and disaster survival; mental health and illness; personal health habits; alcohol and drug use and abuse (including the medical and legal ramifications of alcohol, drug, and tobacco use and abuse during pregnancy); sexual abstinence until marriage; tobacco; nutrition; and dental health. <sup>2</sup> Secondary schools shall include sexual assault awareness. <sup>3</sup>
3. The following areas may also be included ~~as~~ in the curricula: basic first aid (including cardiopulmonary resuscitation and the Heimlich maneuver); in grades 6-8, video training on cardiopulmonary resuscitation and how to use an automated external defibrillator; heart disease; diabetes; stroke; the prevention of child abuse, neglect, and suicide; and teen dating violence in grades 8 ~~through~~ 12. <sup>4</sup>
4. In grades 5-12, the health program shall include instruction on alcohol and drug use and abuse, including the consequences of drug and substance abuse. <sup>5</sup>
5. In grades K-8, students should be provided with age-appropriate information about the dangers of drug abuse. The District's educational program shall offer drug education units that are integrated into the curricula and are designed to promote effective methods for the prevention and avoidance of drug and substance abuse. <sup>6</sup>
6. In grades 7-12, the program shall include the prevention of abuse of anabolic steroids. In addition, coaches and sponsors of interscholastic athletic programs shall provide instruction on steroid abuse prevention to students participating in these programs. <sup>7</sup>

The footnotes should be removed before the material is used.

<sup>1</sup> Required by 105 ILCS 110/3, amended by P.A. 96-128.

<sup>2</sup> Id.

<sup>3</sup> Id. 105 ILCS 5/22-22 defines *secondary education* as the curriculum offered by a school district or an attendance center or centers serving grades 9 through 12 or grades 10 through 12.

<sup>4</sup> 105 ILCS 5/27-17; ~~and~~, amended by P.A. ~~96-128~~ 97-714; and ~~P.A. 96-383~~ 110/3.

<sup>5</sup> Id.

<sup>6</sup> 105 ILCS 5/27-13.2.

<sup>7</sup> Required by 105 ILCS 5/27-23.3, as implemented by 23 Ill.Admin.Code §1.420(u).

7. The family life and sex education program shall be developed in a sequential pattern and related in depth and scope to the students' physical, emotional, and intellectual maturity level. Family life courses offered in grades 6-12, shall include information regarding the alternatives to abortion and information regarding the prevention, transmission, and spread of AIDS. Course content shall be age-appropriate. <sup>8</sup>

Class sessions which deal exclusively with human sexuality may be conducted separately for males and females.

8. The health program in grades K-8 shall include annual instruction on the danger of and how to avoid abduction as part of the District's regular curriculum. Students shall be given, as appropriate, information on child sexual abuse. <sup>9</sup>
9. Students shall be provided parenting education in grades 6-12. <sup>10</sup>
10. Students shall be provided safety education in all grades. <sup>11</sup>
11. All students shall receive age-appropriate instruction on motor vehicle safety and litter control. <sup>12</sup>
12. Students in grades 9 or 10 shall receive instruction on donations and transplants of organs/tissue and blood. <sup>13</sup>

No student shall be required to take or participate in any class or course on AIDS, family life instruction, sex abuse, or organ/tissue transplantation, if his or her parent/guardian submits a written objection to the Building Principal. Parents/guardians of students in grades kindergarten through 8 shall be given at least 5 days written notice before instruction on avoiding sex abuse begins. Refusal to take or participate in any such course or program shall not be reason for disciplinary action or academic penalty. <sup>14</sup>

Parents/guardians shall be provided the opportunity to preview all print and non-print materials used for instructional purposes. <sup>15</sup>

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The footnotes should be removed before the material is used.

<sup>8</sup> Course requirements are mandated by 105 ILCS 5/27-9.1, ~~amended by P.A. 96-1082~~, and 5/27-9.2, but offering the course is optional. 105 ILCS 5/27-9.1 lists several requirements for sex education courses that discuss sexual intercourse. ~~Most recently, P.A. 96-1082~~ The law also requires instruction about the dangers of drug and alcohol consumption during pregnancy.

<sup>9</sup> The first sentence is required by 105 ILCS 5/27-13.2 and 23 Ill.Admin.Code §1.420(t). The second sentence is optional according to 105 ILCS 5/27-13.2.

<sup>10</sup> Course requirements are mandated by 105 ILCS 5/27-23.1, but offering the course is optional.

<sup>11</sup> Optional according to 105 ILCS 5/27-17.

A repealed statute required ISBE to develop a model program for "reduction of self-destructive behavior" and invited districts to include such instruction in their curriculum (105 ILCS 5/27-23.2, repealed by P.A. 95-793). ISBE never developed the program but any district that includes such instruction may add this provision, amending it to reflect its program: "Students in grades 6-12 shall receive instruction for decreasing self-destructive behavior, including methods for increasing life-coping skills, self-esteem, and parenting skills of adolescents and teenagers as a deterrent to their acceptance or practice of self-destructive actions."

<sup>12</sup> ~~Optional. Formerly~~ required by 105 ILCS 5/27-23 ~~and now repealed by P.A. 96-734. Delete this sentence if the district no longer provides this education.~~

<sup>13</sup> Optional according to 105 ILCS 5/27-23.5.

<sup>14</sup> Required by 105 ILCS 5/27-9.1, 5/27-13.2, and 5/27-23.5.

<sup>15</sup> Id.

LEGAL REF.: 105 ILCS 5/27-9.1, 5/27-9.2, 5/27-13.2, 5/27-17, 5/27-23, ~~5/27-23~~.1, 5/27-23.3, 5/27-23.5, 5/27-26, and 110/3.

## Instruction

### Student Social and Emotional Development <sup>1</sup>

~~Student s~~ Social and emotional ~~development~~ learning (SEL) is defined as the process through which students enhance their ability to integrate thinking, feeling, and behaving to achieve important life tasks. Students competent in SEL are able to recognize and manage their emotions, establish healthy relationships, set positive goals, meet personal and social needs, and make responsible and ethical decisions. <sup>2</sup>

The Superintendent shall ~~be incorporated in~~ incorporate SEL into the District's curriculum and other educational programs ~~and shall be~~ consistent with the ~~social and emotional development standards to be contained in the~~ District's mission and the goals and benchmarks of the ~~Illinois~~ Learning Standards. <sup>3</sup> The ~~objectives~~ Ill. Learning Standards include three goals for ~~addressing the needs of~~ students ~~for~~. <sup>4</sup>

1. Develop self-awareness and self-management skills to achieve school and life success.
2. Use social ~~and emotional development through the~~ awareness and interpersonal skills to establish and maintain positive relationships.
3. Demonstrate decision-making skills and responsible behaviors in personal, school, and community contexts.

The incorporation of SEL objectives into the District's curriculum and other educational programs ~~are~~ may include but is not limited to: <sup>5</sup>

1. Classroom and school-wide programming to ~~F~~oster a safe, supportive learning environment where students feel respected and valued. This may include incorporating scientifically based,

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<sup>1</sup> State law requires this subject matter be covered by policy; it required districts to submit it to ISBE by 8/31/04.

<sup>2</sup> See the definition on the Ill. Children's Mental Health Partnership website:  
[www.icmhp.org/initiatives/SocialandEmotionalStandards.htm](http://www.icmhp.org/initiatives/SocialandEmotionalStandards.htm).

<sup>3</sup> Required by the Children's Mental Health Act of 2003, 405 ILCS 49/4 ~~et seq.~~. ISBE incorporated social and emotional development standards into the ~~Illinois~~ Learning Standards. For more information see  
[www.isbe.net/il/social\\_emotional/standards.htm](http://www.isbe.net/il/social_emotional/standards.htm). [www.isbe.net/ils/social\\_emotional/standards.htm](http://www.isbe.net/ils/social_emotional/standards.htm).

105 ILCS 5/2-3.142, ~~added by P.A. 95-558~~, created the Ensuring Success in School Task Force. Supervised by ISBE, this task force ~~will~~ developed policies, procedures, and protocols for school boards to adopt to address the education and related needs of students who are parents, expectant parents, or victims of domestic or sexual violence; the goal is to encourage these students to stay in school, stay safe while in school, and successfully complete their education. School boards and superintendents may want to create their own study group to prepare for implementing of the task force's policies, procedures, and protocols. A report of the task force's findings ~~is due~~ was made to the General Assembly ~~on or before January 1, 2009~~ and is available here:

<http://karenarbrough.com/2010/News&Events/FinalESSAExecutiveSummary.pdf>.

<sup>4</sup> The goals, along with their benchmarks, descriptors and indicators are available at:  
[www.isbe.net/ils/social\\_emotional/pdf/SEL\\_goal1.pdf](http://www.isbe.net/ils/social_emotional/pdf/SEL_goal1.pdf).

The specific listing of indicators is listed at: [www.isbe.net/learningsupports/html/conditions.htm](http://www.isbe.net/learningsupports/html/conditions.htm). The Ill. Children's Mental Health Partnership provides a more visual listing of the SEL Learning Standards in its links to Goals 31, 32 & 33 at:  
[www.icmhp.org/initiatives/SocialandEmotionalStandards.htm](http://www.icmhp.org/initiatives/SocialandEmotionalStandards.htm).

<sup>5</sup> The objectives are a matter of local school board discretion. A board may replace the sample objectives with its own local objectives. This sample policy lists the suggested core components of a comprehensive social and emotional development policy, available on ISBE's website at: [www.isbe.net/spec-ed/pdfs/cmh\\_core\\_components.pdf](http://www.isbe.net/spec-ed/pdfs/cmh_core_components.pdf).

age-and-culturally appropriate classroom instruction, District-wide, and school-wide strategies that teach SEL skills, promote optimal mental health, and prevent risk behaviors for all students;

2. ~~Partner~~Staff development and training to promote students' SEL development. This may include providing all personnel with age-appropriate academic and SEL and how to promote it. 6
- 2.3. ~~Parent/Guardian and family and involvement~~ to promote students' SEL development. This may include providing parents/guardians and families with learning opportunities related to the importance of their children's optimal SEL development and ways to enhance it. 7
4. ~~e~~Community partnerships to promote students' SEL development. This may include establishing partnerships with diverse community agencies and organizations to assure a coordinated approach to addressing children's mental health and SEL development.
5. ~~Teach social and emotional skills~~Early identification and intervention to enhance students' school readiness, academic success, and use of good citizenship skills. This may include development of a system and procedures for periodic and universal screening, assessment, and early intervention for students who have significant risk factors for social, emotional, or mental health conditions that impact learning. 8
6. Treatment to prevent or minimize mental health ~~problems~~ conditions in students. This may include building and strengthening referral and follow-up procedures for providing effective clinical services for students with social, emotional, and mental health conditions that impact learning. This may include student and family support services, school-based behavioral health services, and school-community linked services and supports.
7. Assessment and accountability for teaching SEL skills to all students. This may include implementation of a process to assess and report baseline information and ongoing progress about school climate, students' social and emotional development, and academic performance. 9

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6 SEL trainers for each region in Ill. are listed here: [www.icmhp.org/initiatives/SELTrainingandSupport.htm](http://www.icmhp.org/initiatives/SELTrainingandSupport.htm).

7 The Ill. Children's Mental Health Partnership provides SEL Parent Newsletters at: [www.icmhp.org/initiatives/SELresources.html](http://www.icmhp.org/initiatives/SELresources.html).

8 The Ill. Children's Mental Health Partnership provides information about Early Childhood Mental Health Consultation at:

[www.icmhp.org/initiatives/earlychildconsult.html](http://www.icmhp.org/initiatives/earlychildconsult.html).

9 For information on this objective, see ISBE's Comprehensive System of Learning Supports at:

[www.isbe.net/learningsupports/](http://www.isbe.net/learningsupports/).

Information about school climate is available from ISBE at: [www.isbe.net/learningsupports/climate/default.htm](http://www.isbe.net/learningsupports/climate/default.htm).

LEGAL REF.:	Children's Mental Health Act of 2003, 405 ILCS 49/ <del>1-et seq.</del>
CROSS REF.:	<u>1:30, (School District Philosophy), 6:10 (Educational Philosophy and Objectives), 6:40 (Curriculum Development), 6:60 (Curriculum Content), 6:270 (Guidance and Counseling Program), 7:100 (Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students), 7:180 (Preventing Bullying, Intimidation, and Harassment), 7:250 (Student Support Services)</u>

## Instruction

### Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program <sup>1</sup>

The Superintendent or designee shall develop, maintain, and supervise a program for students at risk of academic failure or dropping out of school. The program shall include education and support services addressing individual learning styles, career development, and social needs, and may include without limitation one or more of the following:

- Parent-teacher conferences
- Counseling services by social workers and/or guidance counselors
- Counseling services by psychologists
- Psychological testing
- Truants' alternative and optional education program <sup>2</sup>
- Alternative school placement
- Community agency services
- Alternative learning opportunities program, in conformity with the Alternative Learning Opportunities Law, as it may be amended from time to time <sup>3</sup>
- Graduation incentives program <sup>4</sup>
- ~~Illinois Hope and Opportunity Pathways through Education (IHOPE) Program~~
- Remediation program <sup>5</sup>

Any student who is below the age of 20 years is eligible to enroll in a graduation incentives program if he or she: <sup>6</sup>

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<sup>1</sup> State or federal law controls this policy's content.

<sup>2</sup> 105 ILCS 5/2-3.66 authorizes the ISBE to award grants to school districts, ROEs, and community college districts.

<sup>3</sup> 105 ILCS 5/13B-1 et seq. Districts are not required to establish an alternative learning opportunities program. However, if they do, State law requires that the program "provide a flexible standards-based learning environment, innovative and varied instructional strategies, a student-centered curriculum, social programs, and supplemental social, health, and support services to improve the educational achievement of students at risk of academic failure" (105 ILCS 5/13B-20). The program must also meet the requirements in 105 ILCS 5/13B-45. Alternative learning opportunities programs "may include without limitation evening high school, in-school tutoring and mentoring programs, in-school suspension programs, high school completion programs to assist high school dropouts in completing their education, support services, parental involvement programs, and programs to develop, enhance, or extend the transition for students transferring back into the regular school program, an adult education program, or a post-secondary education program" (105 ILCS 5/13B-20.5). See 105 ILCS 5/13B-25.10, as well as other requirements for general State aid, for additional requirements to receive State funds for creating this program.

<sup>4</sup> Required by 105 ILCS 5/26-16.

<sup>5</sup> 105 ILCS 5/2-3.64, amended by P.A. 97-86, provides that "[i]f, by performance on the State tests or local assessments or by teacher judgment, a student's performance is determined to be 2 or more grades below current placement, the student shall be provided a remediation program developed by the district in consultation with a parent or guardian. Such remediation programs may include, but shall not be limited to, increased or concentrated instructional time, a remedial summer school program of not less than 90 hours (with an emphasis on reading and mathematics if the student has performed below grade level for 2 consecutive school years), improved instructional approaches, tutorial sessions, retention in grade, and modifications to instructional materials." 105 ILCS 5/10-20.9a requires remedial assistance for students who are not promoted to the next higher grade.

1. Is considered a dropout according to State law;
2. Has been suspended or expelled;
3. Is pregnant or is a parent;
4. Has been assessed as chemically dependent; or
5. Is enrolled in a bilingual education or LEP program.

~~Illinois Hope and Opportunity Pathways through Education (IHOPE) Program <sup>7</sup>~~

~~The Superintendent or designee shall develop the required partnerships necessary to build a comprehensive plan to re-enroll high school dropouts in the District through the IHOPE Program. The IHOPE Program shall include all components required by State law and regulations. Any student who wishes to earn a high school diploma must meet the prerequisites to receiving a high school diploma in policy 6:300, *Graduation Requirements*.~~

LEGAL REF.: 105 ILCS 5/2-3.41, 5/2-3.64, 5/2-3.66, ~~5/2-3.66b, 5/13B-1 et seq., 5/26-2a, 5/26-13, 5/26-14, and 5/26-16.~~  
~~23 Ill.Admin.Code Part 210.~~

CROSS REF.: 6:280 (Grading and Promotion), 6:300 (Graduation Requirements), 7:70 (Attendance and Truancy)

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<sup>6</sup> Required by 105 ILCS 5/26-16. Graduation incentives programs are entitled to claim general State aid. A district must ensure that its graduation incentives program receives supplemental general State aid, transportation reimbursements, and special education resources, if appropriate, for students enrolled in the program. 105 ILCS 5/26-2a defines *dropout* as “any child enrolled in grades 9 through 12 whose name has been removed from the district enrollment roster for any reason other than the student’s death, extended illness, removal for medical non-compliance, expulsion, aging out, graduation, or completion of a program of studies and who has not transferred to another public or private school and is not known to be home-schooled by his or her parents or guardians or continuing school in another country.”

~~<sup>7</sup>Optional. 105 ILCS 5/2-3.66b and its implementing rules, 23 Ill.Admin.Code Part 210, authorize ISBE to award Illinois Hope and Opportunity Pathways through Education (IHOPE) Program grants to ROEs that partner with school districts, community colleges and other community programs that work with dropouts to re-enroll high school dropouts in programs that will enable them to earn their high school diploma. Alternatively, an ROE can contract with a school district (and create a sub grant) to operate the IHOPE Program. An ROE or school district that enrolls students who receive qualifying services in a program funded by the IHOPE Program may claim general State aid.~~

~~Delete 23 Ill.Admin.Code Part 210 from the policy’s legal references if the board does not include this subhead.~~



## Instruction

### Administrative Procedure - Service Animals

State and federal law allow a student with a disability to be accompanied by a service animal that is individually trained to perform work or tasks for the benefit of a student. The animal may accompany the student to all school functions, whether in or outside the classroom. Use this procedure to identify and manage legal and practical issues when a student with a disability uses a service animal at school.

#### Definitions

**Service Animal** – A dog or ~~any other~~ miniature horse trained or being trained as a hearing animal that is individually, guide animal, assistance animal, seizure alert animal, mobility animal, psychiatric service animal, autism service animal, or animal otherwise trained to ~~perform tasks for the benefit of a student~~ assist an individual with a physical, mental or intellectual disability, according to State law (105 ILCS 5/14-6.02, amended by P.A. 97-956). Federal law defines service animal as any dog or miniature horse that is individually trained to perform tasks or work for the benefit of a student with a disability (28 C.F.R. §§35.104 and 35.136). Federal law also explains that other species of animals, whether wild or domestic, trained or untrained, are not service animals.

Under federal law, *disability* includes a physical, sensory, psychiatric, intellectual, or other mental disability. The “work or tasks performed” must be directly related to the student’s disability. Examples of work or tasks include, but are not limited to assisting a student who is blind or has low vision with navigation and other tasks; alerting a student who is deaf or hard of hearing to the presence of people or sounds; providing non-violent protection or rescue work; pulling a wheelchair; assisting a student during a seizure; alerting a student to the presence of allergens; retrieving items such as medicine or the telephone; providing physical support and assistance with balance and stability to a student with mobility disabilities; and helping a student with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors or performing other duties.

For more information about the definition of *service animal*, see the U.S. Dept. of Justice, Civil Rights Div., *Disability Rights Section*, document titled *Service Animals* at: [www.ada.gov/service\\_animals\\_2010.htm](http://www.ada.gov/service_animals_2010.htm).

**Handler** - An individual who has and maintains control over the service animal. This individual may be the student using the service animal. Control of the service animal means using a harness, leash, or other tether, unless the handler is unable because of a disability to use one of these devices or their use would interfere with the service animal’s safe, effective performance of work or tasks. If or when these devices are not used, control of the service animal must be accomplished through voice control, signals, or other effective means.

Actor	Action
Parent/Guardian	<p>Informs the School District of the need for a service animal to accompany their disabled child to school.</p> <p>Cooperates with the District to successfully incorporate the service animal into the educational environment.</p>
Superintendent or designee	<p>Discusses this procedure with the Building Principal, other appropriate administrative and special education staff, and the Board Attorney.</p> <p>The Board Attorney will be a necessary participant in the District’s efforts to manage the issues presented by service</p>

Actor	Action
	<p>animals being used in school facilities. The Superintendent may want to authorize the Building Principal to consult with the Board Attorney as needed for this issue.</p> <p>Contacts the District’s insurance carrier(s) to assess appropriate coverage for issues involving service animals, including a handler.</p> <p>Informs all Building Principals and Special Education Coordinators that any <i>disabled student</i> has the right to be accompanied by a service animal “that is individually trained to perform tasks or work for the benefit of a student” at any school facility or function.</p> <p>105 ILCS 5/14-6.02 grants students with a disability the right to bring a service animal to school. Schools must modify their policies, practices, or procedures to permit the use of a service animal by a student with a disability (28 C.F.R. §35.136).</p> <p>Discusses 6:120-AP3, E1, <i>Guidelines for Service Animals in School Facilities</i>, with building principals and instructs them to: (1) inform their individual building staff of these guidelines when service animals are present in their individual buildings, and (2) use this exhibit as an internal District document to ensure legitimate safety interests of staff and students. It may not be used as an agreement between the District and its students and their parents/guardians as a condition of the student using a service animal.</p>
IEP and/or 504 Team	<p>For a student who is not already identified as disabled, follows the District’s evaluation procedures for determining whether a student is a student with a disability within the meaning of IDEA or Section 504. See Board policy 6:120, <i>Education of Children with Disabilities</i>.</p> <p>If a student does not qualify as a student with a disability, consult the Board Attorney before excluding the service animal from the school. This will ensure that there are not special circumstances that require the school to allow access despite a student’s non-disabled status.</p> <p>For a student with an IEP or Section 504 plan, or who qualifies for one, determines:</p> <ol style="list-style-type: none"> <li>1. Whether the service animal is a required <i>related service</i> to ensure the provision of a “free appropriate public education” (FAPE), and/or</li> <li>2. Whether the service animal is an appropriate <i>reasonable accommodation</i> for the student’s disability.</li> </ol> <p>Permits the use of the service animal if the answer to either of the above questions is positive (i.e., determines that the service animal will perform tasks for the benefit of a student with a disability).</p> <p>Informs the parent/guardian that the student’s service animal may accompany the student to school, and explain that the service animal must be under the control of its handler at all times and housebroken (28 C.F.R. 35.136).</p> <p>If the school excludes the service animal:</p>

Actor	Action
	<ol style="list-style-type: none"> <li>1. Notifies the parent/guardian in writing of the reasons for the exclusion and the right to appeal. Provides any required procedural safeguard notices. See 23 Ill.Admin.Code Part 226; Section 504 of the Rehabilitation Act of 1973 (34 C.F.R. Parts 104 and 300); and 6:120-AP1, E1, <i>Notice to Parents/Guardians Regarding Section 504 Rights</i>.</li> <li>2. Gives the student with a disability the opportunity to participate in all of the school's services, programs, or activities without having the service animal at the school facility.</li> </ol>
Building Principal	<p><b>When notice of the need for a service animal in a school facility is provided:</b></p> <p>Balances student's need for the service animal and the legitimate safety interests of other students and staff by ensuring the service animal will meet the guidelines listed in 6:120-AP3, E1, <i>Guidelines for Service Animals in School Facilities</i>. Takes appropriate steps to inform the student's parent/guardian of any unmet guidelines and what actions must be taken to meet these guidelines and avoid exclusion of the service animal.</p> <p>Discusses 6:120-AP3, E1, <i>Guidelines for Service Animals in School Facilities</i>, with building staff. Requests to be immediately informed if the animal's behavior does not conform to these guidelines.</p> <p>Ensures that the District conducts a criminal background check on any handler(s) pursuant to policy 6:250, <i>Community Resource Persons and Volunteers</i>. See 6:250-AP, <i>Securing and Screening Resource Persons and Volunteers</i>, and 6:250-E, <i>Resource Person and Volunteer Information Form and Waiver of Liability</i>.</p> <p>The ADA regulation, 28 C.F.R. §§35.130(f) and 35.136(h), and the Illinois White Cane Act, 775 ILCS 30/, both prohibit charging a disabled individual a deposit or a surcharge as a condition to allowing a service animal to accompany the disabled individual. Consult the Board Attorney about payment of any criminal background screening fees for an adult handler.</p> <p>Creates a plan with the student's parent/guardian and the handler for:</p> <ol style="list-style-type: none"> <li>1. Integrating the animal into the classroom and school environment (assemblies, cafeteria, library, etc.), and</li> <li>2. Meeting the service animal's basic needs during the school day.</li> </ol> <p>Any plan depends on the individual student's service animal arrangement, any management issues, and the schedules within each individual building. The school staff is not required to provide care or assistance except in special circumstances (see 28 C.F.R. §35.136(e). Consider addressing: where the animal will relieve itself, who disposes of the waste, where the animal drinks water, and who provides it, etc. <b>Note:</b> While the school is not</p>

Actor	Action
	<p>required to provide staff to take the animal outside, it may need to provide a staff member to accompany a student outside if the student is the animal's handler (see 28 C.F.R. §35.130(b)(7).</p> <p>Checks with the school nurse regarding any known allergies among students attending the school.</p> <p>Manages identified students' competing educational interests by:</p> <ol style="list-style-type: none"> <li>1. Consulting the Board Attorney.</li> <li>2. Minimizing contact between any allergic students and the service animal.</li> <li>3. Creating a method to monitor identified competing educational interests between students based upon the individual facts of the situation.</li> <li>4. Responding to future unidentified competing educational interests and managing them immediately.</li> <li>5. Modifying any other conditions as the individual facts of the situation require.</li> </ol> <p>See <u>Kalbfleisch ex rel. v. Columbia Community Unit School District</u>, Ill.App.3d 1105, for a discussion about the balancing of interests. Other helpful publications include:</p> <p>The U.S. Department of Education's "Reasonable Accommodation Handbook," Section C10, provides information about balancing competing interests in the context of a service animal's presence in the work environment. It is available at: <a href="http://www2.ed.gov/policy/gen/leg/foia/acshbom3.pdf">www2.ed.gov/policy/gen/leg/foia/acshbom3.pdf</a>.</p> <p>The Ill. Attorney General Office's "Disability Rights Service Animals: A Guide for Illinois Businesses and Other Public Accommodations," available at: <a href="http://www.illinoisattorneygeneral.gov/rights/servanimals.html">www.illinoisattorneygeneral.gov/rights/servanimals.html</a>.</p> <p>The U.S. Dept. of Justice's "Commonly Asked Questions about Service Animals in Places of Business," available at: <a href="http://www.ada.gov/qasrvc.htm">www.ada.gov/qasrvc.htm</a>.</p> <p>Facilitates the dissemination of accurate information about the presence of the service animal at school while respecting privacy rights.</p> <p>Considers creating a joint communication from the Building Principal and the parent/guardian of the student using a service animal. The communication should inform other students and their parents/guardians about the placement of a service animal in their educational setting.</p> <p>Providing a joint communication allows the school to exchange the information needed to balance competing educational interests without violating federal or State laws that govern student records. See Family Educational Rights and Privacy Act</p>

Actor	Action
	<p>(FERPA), 20 U.S.C. §1232g, and its implementing rules at 34 C.F.R. Part 99; Ill. School Student Records Act, 105 ILCS 10/, and its implementing rules at 23 Ill.Admin.Code Part 375. FERPA prohibits schools from disclosing personally identifiable information from students' education records without the consent of a parent or eligible student, unless an exception applies. See policy 7:340, <i>Student Records</i>.</p> <p>Prepares a list of answers to anticipated questions.</p> <p>Educates students, staff, and the community about the rights of students to use service animals in the school and the consequences for mistreatment of animals. See Humane Care of Animals Act (510 ILCS 70/4.03, 70/4.04, and 70/7.15 make it unlawful to meddle or tamper with a service dog or to tease, strike or mistreat one); White Cane Law (775 ILCS 30/3 makes it unlawful to interfere with the rights of a disabled person); <del>Guide Dog</del> <u>Service Animal</u> Access Act (720 ILCS 630/1, <u>amended by P.A. 97-956</u>, makes it unlawful to deny right of entry and use of facilities of any public place of accommodation).</p> <p>Contacts the student's parent/guardian if at any time the animal fails to meet the guidelines listed in 6:120-AP3, E1, <i>Guidelines for Service Animals in School Facilities</i>.</p> <p><b>When a service animal arrives at school without notice:</b></p> <p>Keeps the animal with the student if the service animal is obviously:</p> <ol style="list-style-type: none"> <li>1. Able to perform tasks or work for the benefit of a student with a disability,</li> <li>2. Able to stay under the control of its handler and, if not, the handler can take effective action to control it, and</li> <li>3. Housebroken.</li> </ol> <p>Informs staff that the animal may not be taken away from the student.</p> <p>Informs the parent/guardian of this procedure and requests their cooperation with the District to successfully incorporate the service animal into the educational environment.</p> <p>Excludes the animal and contacts the student's parent/guardian if the animal does not obviously meet the conditions in 6:120-AP3, E1, <i>Guidelines for Service Animals in School Facilities</i>.</p> <p>Contacts animal control if the Principal or designee believes the animal is not properly vaccinated, licensed, may be dangerous, or is sick.</p>

LEGAL REF.: 105 ILCS 5/14-6.02.  
Humane Care for Animals Act, 510 ILCS 70/.  
| ~~Guide-Dog~~ Service Animal Access Act, 720 ILCS 630/.  
Illinois White Cane Act, 775 ILCS 30/.  
28 C.F.R. Part 35.  
28 C.F.R. §36.104.  
34 C.F.R. Parts 100 and 300.

## Instruction

### Instructional Materials <sup>1</sup>

All District classrooms and learning centers should be equipped with an evenly-proportioned, wide assortment of instructional materials, including textbooks, workbooks, audio-visual materials, and electronic materials. These materials should provide quality learning experiences for students and: <sup>2</sup>

1. Enrich and support the curriculum;
2. Stimulate growth in knowledge, literary appreciation, aesthetic values, and ethical standards;
3. Provide background information to enable students to make informed judgments and promote critical reading and thinking;
4. Depict in an accurate and unbiased way the cultural diversity and pluralistic nature of American society; and
5. Contribute to a sense of the worth of all people regardless of sex, race, religion, nationality, ethnic origin, sexual orientation, disability, or any other differences that may exist.

The Superintendent or designee shall annually provide a list or description of textbooks and instructional materials used in the District to the School Board. Anyone may inspect any textbook or instructional material. <sup>3</sup>

Teachers are encouraged to use supplemental material only when it will enhance, or otherwise illustrate, the subjects being taught and to ensure it is age-appropriate. No R-rated movie shall be shown to students unless prior approval is received from the Superintendent or designee, and no movie rated NC-17 (no one 17 and under admitted) shall be shown under any circumstances. These restrictions apply to television programs and other media with equivalent ratings. <sup>4</sup>

### Instructional Materials Selection and Adoption

The Superintendent shall approve the selection of all textbooks and instructional materials according to the standards described in this policy. <sup>5</sup> The School Code governs the adoption and purchase of textbooks and instructional materials. <sup>6</sup>

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

<sup>1</sup> State or federal law controls some of this policy's content.

<sup>2</sup> A local board may customize these standards to be consistent with the board's mission, vision, and goals.

~~<sup>3</sup> 105 ILCS 5/28-19.1. Additionally, This paragraph is optional; either or both sentences may be struck although the second sentence describes a right granted by statute. The requirement to provide the board with a list or description of texts and instructional material allows the board to monitor this policy's implementation. Moreover, as 105 ILCS 5/28-19.1 grants anyone the right to inspect texts and instructional materials, having an annual list of texts and instructional materials facilitates compliance with such a request. Because some instructional materials, e.g., Internet sites, are difficult to list, the sample policy permits a list or description.~~ Federal law grants parents/guardians the right to inspect all instructional material that will be used for a survey, analysis, or evaluation (20 U.S.C. §1232h); see 7:15, *Student and Family Privacy Rights*.

<sup>4</sup> This paragraph's content is at the board's discretion. An optional provision follows:

The Superintendent or designee shall give parents/guardians an opportunity to request that their child not participate in a class showing a movie, television program, or other media with an R or equivalent rating.

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

The Superintendent shall recommend to the Board for consideration and adoption all textbooks and instructional materials and shall include the following information: (1) title, publisher, copyright dates, number of copies desired, and cost; (2) any texts being replaced; and (3) rationale for recommendation.

LEGAL REF.: 105 ILCS 5/10-20.8, 5/10-20.9, and 5/28-19.1.

CROSS REF.: 6:30 (Organization of Instruction), 6:40 (Curriculum Development), 6:80 (Teaching About Controversial Issues), 6:170 (Title I Programs), 6:260 (Complaints About Curriculum, Instructional Materials, and Programs), 7:10 (Equal Educational Opportunities), 7:15 (Student and Family Privacy Rights), 8:110 (Public Suggestions and Concerns)

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<sup>6</sup> 105 ILCS 5/28-1 ~~et seq., amended throughout by P.A. 96-1403~~. The term *textbook* includes electronic or digital textbooks used for educational purposes (105 ILCS 5.28-20, ~~amended by P.A. 96-1403~~). The term *instructional materials* means both print and non-print materials, including electronic textbooks being used in the educational process (Id.).



## Students

### Attendance and Truancy <sup>1</sup>

#### Compulsory School Attendance <sup>2</sup>

This policy applies to individuals who have custody or control of a child: (a) between the ages of 7 and 17 years of age (unless the child has graduated from high school), or (b) who is enrolled in any of grades, kindergarten through 12, in the public school regardless of age. These individuals must cause the child to attend the District school wherein the child is assigned, except as provided herein or by State law. Subject to specific requirements in State law, the following children are not required to attend public school: (1) any child attending a private school (including a home school) or parochial school, (2) any child who is physically or mentally unable to attend school (including a pregnant student suffering medical complications as certified by her physician), (3) any child lawfully and necessarily employed, (4) any child over 12 and under 14 years of age while in confirmation classes, (5) any child absent because his or her religion forbids secular activity on a particular day, and (6) any child 16 years of age or older who is employed and is enrolled in a graduation incentives program.

The parent/guardian of a student who is enrolled must authorize all absences from school and notify the school in advance or at the time of the student's absence. A valid cause for absence includes illness, observance of a religious holiday, death in the immediate family, family emergency, other situations beyond the control of the student, other circumstances that cause reasonable concern to the parent/guardian for the student's safety or health, or other reason as approved by the Superintendent or designee. <sup>3</sup>

#### Absenteeism and Truancy Program

The Superintendent or designee shall manage an absenteeism and truancy program in accordance with the School Code and School Board policy. The program shall include but not be limited to:

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

<sup>1</sup> State law requires boards to adopt a policy covering some of the topics herein and controls this policy's content. 105 ILCS 5/26-13 requires a policy on supportive services and available resources for truant. 23 Ill.Admin.Code §1.290 requires the same plus contains a definition of *valid cause* for absence.

<sup>2</sup> 105 ILCS 5/26-2 addresses enrolled students below age 7 or over age 17. The amendment requires any persons having custody or control of a child who is enrolled in grades kindergarten through 12 in the public school to cause the child to attend school.

105 ILCS 5/26-1 contains the compulsory school age exemptions. Each listed exception is specifically included in the statute, except the reference to *home school*. See policy 7:40, *Nonpublic School Students, Including Parochial and Home-Schooled Students*, regarding assigning students who enroll from a non-public school. See policy 6:150, *Home and Hospital Instruction*, regarding providing instruction to a pregnant student who is medically unable to attend school.

<sup>3</sup> These reasons are in 105 ILCS 5/26-2a, amended by P.A. 97-218, except that "other reason as approved by the Superintendent" was added. ISBE rule requires that the absenteeism and truancy policy defines valid causes for absence (23 Ill.Admin.Code §1.290). P.A. 97-218 changed the definition of *chronic or habitual truant*, which is now "a child who is subject to compulsory school attendance and who is absent without valid cause from such attendance for 5% ~~(down from 10%)~~ or more of the previous 180 regular attendance days." P.A. 97-975 replaced the Juvenile Court Act's definition of *chronic truant* with a reference to the definition in Sec. 26-2a of the School Code.

1. A protocol for excusing a student from attendance who is necessarily and lawfully employed. The Superintendent or designee is authorized to determine when the student's absence is justified. <sup>4</sup>
2. A process to telephone, within 2 hours after the first class, the parents/guardians of students in grade 8 or below who are absent without prior parent/guardian notification. <sup>5</sup>
3. A process to identify and track students who are truants, chronic or habitual truants, or truant minors as defined in the School Code, Section 26-2a.
4. Methods for identifying the cause(s) of a student's unexcused absenteeism, including interviews with the student, his or her parent(s)/guardian(s), and staff members or other people who may have information. <sup>6</sup>
5. The identification of supportive services that may be offered to truant or chronically truant students, including parent-teacher conferences, student and/or family counseling, or information about community agency services. <sup>7</sup> See Board policy 6:110, *Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program*.
6. A process to request the assistance and resources of outside agencies, such as, the juvenile officer of the local police department or the truant office of the appropriate Regional Office of Education, if truancy continues after supportive services have been offered. <sup>8</sup>
7. A protocol for cooperating with non-District agencies including County or municipal authorities, the Regional Superintendent, truant officers, the Community Truancy Review Board, and a comprehensive community based youth service agency. Any disclosure of

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<sup>4</sup> Any child "necessarily and lawfully employed" may be exempted from attendance by the superintendent "on certification of the facts by and the recommendation of the school board" (105 ILCS 5/26-1). The policy's language serves to delegate this "certification of the facts" to the superintendent or designee. The following option allows a board to consider and include specific criteria in the policy:

A student may be excused, at the Superintendent's discretion, when: (1) the student has a last period study hall, (2) the parent/guardian provides written permission, (3) the student's employer provides written verification of employment, (4) the student provides evidence of a valid work permit, or (5) other reason deemed justifiable by the Superintendent.

Child Labor laws include: 29 C.F.R. Part 570 (minimum age standards, occupations, conditions, etc.); 820 ILCS 205/ (child labor laws); 56 Ill.Admin.Code Part 250 (child labor regulations).

<sup>5</sup> This notification is required by 105 ILCS 5/26-3b.

<sup>6</sup> Each district must have a policy describing diagnostic procedures to identify the cause(s) of absenteeism and supportive services and available resources for truants and chronic truants (105 ILCS 5/26-13; 23 Ill.Admin.Code §1.290).

<sup>7</sup> 23 Ill.Admin.Code §1.290. The School Code references to dropout prevention include: 105 ILCS 5/26-3a (regional superintendent activities and annual report); 105 ILCS 5/10-20.25a (annual report by boards); and 105 ILCS 5/1A-4(E) (State Board of Education report).

<sup>8</sup> Use this alternative for districts in suburban Cook County: replace "Regional Office of Education" with "appropriate Intermediate Service Center." Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center." P.A. 96-893 abolished the Regional Office of Education for Suburban Cook County and transferred its duties and powers to Intermediate Service Centers.

school student records must be consistent with Board policy 7:340, *Student Records*, as well as State and federal law concerning school student records. <sup>9</sup>

8. An acknowledgement that no punitive action, including out-of-school suspensions, expulsions, or court action, shall be taken against a chronic truant for his or her truancy unless available supportive services and other school resources have been provided to the student. <sup>10</sup>
9. The criteria to determine whether a student's non-attendance is due to extraordinary circumstances shall include economic or medical necessity or family hardship and such other criteria that the Superintendent believes qualifies. <sup>11</sup>

[For high school and unit districts only]

10. A process for a 17 year old resident to participate in the District's various programs and resources for truants. <sup>12</sup> The student must provide documentation of his/her dropout status for the previous 6 months. A request from an individual 19 years of age or older to re-enroll after having dropped out of school is handled according to provisions in 7:50, *Students School Admissions and Student Transfers To and From Non-District Schools*.
11. A process for the temporary exclusion of a student 17 years of age or older for failing to meet minimum academic or attendance standards according to provisions in State law. A parent/guardian has the right to appeal a decision to exclude a student. <sup>13</sup>

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

<sup>9</sup> 105 ILCS 5/26-9 requires school officers and superintendents to assist truant officers. A minor who is reported by the regional superintendent as a chronic truant may be adjudicated a "truant minor in need of supervision" if the minor declines or refuses to fully participate in truancy intervention services (705 ILCS 405/3-33.5). Counties and municipalities may regulate truants by ordinance and impose fines and/or community services on truants or, if the truant is under 10 years of age, on the parent or custodian (55 ILCS 5/5-1078.2 and 65 ILCS 5/11-5-9). Such local officials or authorities that enforce, prosecute, or adjudicate municipal ordinances adopted under 55 ILCS 5/5-1078.2 and 65 ILCS 5/11-5-9, or that work with school districts to address truancy problems, are designated as (i) part of the juvenile justice system, established by the Juvenile Court Act of 1987, and (ii) *juvenile authorities* within the definition set forth in subsection (a)(6.5) of Section 10-6 of the Ill. School Student Records Act (*Id.*). **A superintendent should consult with the board attorney before disclosing school student records to non-district entities.** See 7:340-AP, *Student Records* for a sample procedure for release of such records to juvenile authorities.

<sup>10</sup> 105 ILCS 5/26-12 prohibits punitive action "unless available supportive services and other school resources have been provided to the student."

<sup>11</sup> 105 ILCS 5/26-3a requires the district to "establish, in writing, a set of criteria for use by the local superintendent of schools in determining whether a pupil's failure to attend school is the result of extraordinary circumstances, including but not limited to economic or medical necessity or family hardship."

This statute also requires the "clerk or secretary" of the board to quarterly report to the regional superintendent and Secretary of State the identity of students who were removed from the regular attendance roll, exclusive of transferees, because they were expelled; have withdrawn; left school; withdrew due to extraordinary circumstances; have re-enrolled in school since their names were removed from the attendance rolls; were certified to be chronic or habitual truants; or were previously certified as chronic or habitual truants who have resumed regular school attendance. The statute provides that the status of a driver's license or instructional permit will be jeopardized for a student who is the subject of this notification because of non-attendance unless the non-attendance is due to extraordinary circumstances as determined by the local district. State Superintendent Koch announced in his *Weekly Message*, 8-28-07, [www.isbe.net/board/archivemessages/message\\_082807.pdf](http://www.isbe.net/board/archivemessages/message_082807.pdf), p.2, that ISBE is delaying implementing this statute based upon legal guidance from the U.S. Department of Education's Family Policy Compliance Office that its implementation would violate the Federal Education Rights and Privacy Act.

<sup>12</sup> A district must allow this participation; the length of the drop-out period and the documentation requirement contained in the next sentence are permissive (105 ILCS 5/26-14).

<sup>13</sup> Optional, but provided in 105 ILCS 5/26-2(c); ISBE's rule controls the appeal process, 23 Ill.Admin.Code §1.242.

LEGAL REF.: 105 ILCS 5/26-1 through 16.  
705 ILCS 405/3-33.5.  
23 Ill.Admin.Code §§1.242 and 1.290.

CROSS REF.: 6:110 (Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program), 6:150 (Home and Hospital Instruction), 7:10 (Equal Educational Opportunities), 7:50 (School Admissions and Student Transfers To and From Non-District Schools), 7:60 (Residence), 7:80 (Release Time for Religious Instruction/Observance), 7:190 (Student Discipline), 7:340 (Student Records)

## Students

### **Administrative Procedure - Guidelines for Reciprocal Reporting of Criminal Offenses Committed by Students** <sup>1</sup>

State law requires a reciprocal reporting system between the School District and local law enforcement agencies regarding criminal offenses committed by students (105 ILCS 5/10-20.14). The Juvenile Court Act of 1987 and the School Code set requirements for the management and sharing of law enforcement records and other information about students if they have contact with local law enforcement. Implementation of reciprocal reporting procedures relies heavily on the District's parent-teacher advisory committee and Building Principals, in cooperation with local law enforcement agencies (105 ILCS 5/10-20.14). The parent-teacher advisory committee is a School Board committee and, thus, is subject to the Open Meetings Act (5 ILCS 120/1.02). Local implementation of reciprocal reporting procedures may be modified based upon the District's and local law enforcement's specific implementation needs.

#### Guidelines for Reports from the District to Local Law Enforcement

When sharing information, school officials should be aware of State and federal laws regarding *school student records* (Family Educational Rights and Privacy Act, 20 U.S.C. §1232g; 34 C.F.R. Part 99; Illinois School Student Records Act, 105 ILCS 10/). Information kept by law enforcement professionals working in a school is not considered a school student record (105 ILCS 10/2). Also, law enforcement records maintained by law enforcement agencies are not considered a school student record (105 ILCS 5/22-20, amended by P.A. 97-1104, eff. 1-1-2013). For more detailed information about school student records and its definition, see 7:340-AP1, School Student Records.

1. The Building Principal and/or the Police Department School Liaison Officer will arrange meetings as needed between school officials and individuals representing law enforcement to share information. While not required by State law, meetings may enhance a cooperative relationship between the school and local law enforcement agencies. The following people should be invited to these meetings: dean, building principal, guidance counselor, State's Attorney, juvenile probation officer, and police department school liaison officer. <sup>2</sup>
2. The Building Principal and the Police Department School Liaison Officer will share information with the appropriate law enforcement agencies regarding the arrest of a student who is less than 17 years of age and is enrolled in the Building Principal's school when the arrest was for any offense ~~classified as a felony or a Class A or B misdemeanor~~ listed in the Juvenile Court Act of 1987. 105 ILCS 5/10-20.14.
  - a. The reporter should identify the student by name and describe the circumstances of the alleged criminal activity. If the information is a school student record, local law enforcement officials must certify in writing that ~~the information received from the school-they~~ will not be disclosed ~~it~~ to any other party except as provided by State law

The footnotes should be removed before the material is used.

<sup>1</sup> State or federal law requires this subject matter be covered by procedure. State or federal law controls this procedure's content. This procedure concerns an area in which the law is unsettled in that a school's ability to share student records is restricted by State and federal law. In addition, circumstances that allow law enforcement's ability to share its records of contacts with students enrolled in their local school districts are governed by State law.

<sup>2</sup> These meetings are optional.

without the prior written consent of the student's parent/guardian. See administrative procedure 7:340-AP1, School Student Records, Section H. The written certification requirement is at 105 ILCS 10/6(6.5) and 20 U.S.C. §1232g(b)(1)(E)(ii)(II).

- b. The report should be made as soon as possible after the Liaison Officer or Building Principal reasonably suspects that a student is involved in such activity. <sup>3</sup>
- c. The Building Principal's duty to report such activity arises only when the activity occurs on school property or off school grounds at a school-related function. <sup>4</sup>

#### Guidelines for Reporting from Local Law Enforcement to the District

The information shared with the District from law enforcement agencies and the confidentiality of shared law enforcement records are managed under 105 ILCS 5/22-20 and 705 ILCS 405/1-7, amended by P.A. 97-1104, eff. 1-1-2013. These laws require the Building Principal to maintain all information and records that the District receives from local law enforcement separate from a student's official school student record. Unless otherwise indicated, the information received from local law enforcement may only be used by school staff having a legitimate educational or safety interest in the information to support (1) the proper rehabilitation of the student, and/or (2) the protection and safety of students and employees in the school.

1. The State's Attorney shall provide to the Building Principal a copy of any delinquency dispositional order concerning any student regardless of age where the crime would be a felony if committed by an adult, or was a Class A misdemeanor in violation of Section Article 24-1, 24-3, 24-3.1, or 24.5 of the Criminal Code (weapon offenses). Access to this information is limited to only the Building Principal, the Superintendent, and any guidance counselor designated by either administrator. 705 ILCS 405/1-8(F).
2. Local law enforcement may disclose the identity of a victim of aggravated battery, battery, attempted first degree murder, or another non-sexual violent offense to appropriate school officials if the presiding judge of the juvenile court approves the disclosure to prevent foreseeable violence. 705 ILCS 405/5-905(2.5).
3. Local law enforcement may transmit records relating to a minor who is arrested or taken into custody before his or her 17th birthday only if law enforcement believes that there is imminent threat of physical harm to students, school personnel, or others who are present in the school or on school grounds. 705 ILCS 405/1-7(A)(8) and 405/5-905(h), amended by P.A. 97-1104. For an example of relevancy and implementation of this type of law enforcement information in a school building, see 4:170-AP7, Targeted School Violence Prevention Program.
4. Local law enforcement agencies and all courts must report to the Building Principal the fact that a student enrolled in the building has been detained for proceedings under the Juvenile Court Act of 1987 or for any crime or violation of a municipal or county ordinance. 105 ILCS 5/22-20, amended by P.A. 97-1104.
5. Local law enforcement may allow the Building Principal or appropriate school official(s) to inspect and copy law enforcement records concerning a minor enrolled in the school who has been arrested or taken into custody for violating the following Ill. laws: Article 24 of the

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<sup>3</sup> A report's timing is not specified in State law.

<sup>4</sup> This limitation is implicit in State law.

Criminal Code of 1961 (dangerous weapons); Ill. Controlled Substances Act; Cannabis Control Act; forcible felonies defined at Section 2-8 of the Criminal Code of 1961; Methamphetamine Control and Community Protection Act; Section 1-2 of the Harassing and Obscene Communications Act; Hazing Act; or Article 12 of the Criminal Code of 1961 (bodily harm); or Article 25 of the Criminal Code of 1961 (mob action and related offenses). 705 ILCS 405/1-7(A)(8)(A) and 405/5-905(h)(A), amended by P.A. 97-1104.

~~3.6.~~ Local law enforcement shall provide a copy of all arrest records, and the State's Attorney shall provide a copy of all conviction records, to the Building Principal if the record involves a student who is arrested or taken into custody *after* his or her 17th birthday. <sup>5</sup>

7. Local law enforcement may disclose only oral information about a minor who is the subject of a current police investigation that is directly related to school safety. 705 ILCS 405/5-905(h), amended by P.A. 97-1104. For an example of relevancy and implementation of this type of law enforcement information in a school building, see 4:170-AP7, Targeted School Violence Prevention Program.

~~4.8.~~ Local law enforcement and the State's Attorney may share or disclose information or records relating or pertaining to juveniles subject to the provisions of the Serious Habitual Offender Comprehensive Action Program when that information is used to assist in the early identification and treatment of habitual juvenile offenders. 705 ILCS 405/1-8(G).

LEGAL REF.: 105 ILCS 5/10-20.14 and 5/22-20.  
705 ILCS 405/1-7, 1-8(F), 1-8(G), and 5-905.

CROSS REF.: 2:150 (Committees), 4:170-AP7 (Targeted School Violence Prevention Program), 7:150 (Agency and Police Interviews), 7:340-AP1 (School Student Records)

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<sup>5</sup> This duty is not imposed by State law, but it may be part of the reciprocal reporting guidelines.