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School Board

Administrative Procedure - Superintendent Committees

The Superintendent or designee creates Superintendent or administrative committees as deemed necessary, makes all appointments, and directs all activities. A Superintendent or administrative committee reports directly to the Superintendent or designated administrator. The Superintendent or designee should consult the Board Attorney (a) concerning whether any of these committees must comply with the Open Meetings Act (OMA), and/or (b) to receive guidance for ensuring that the meetings either comply with OMA requirements or do not trigger OMA.[1] ~~Unless otherwise indicated, the following Superintendent or administrative committees are optional.~~

Required Superintendent or Administrative Committees:

Bilingual Parent Advisory Committee[2]

This committee is required when the District has a Transitional Bilingual Education (TBE) Program. The committee maximizes the practical involvement of parents/guardians of students in the District's TBE program(s). Its purpose is to:

1. Afford parents/guardians the opportunity to effectively express their views; and
2. Ensure that the District's program(s) are planned, operated, and evaluated with the involvement of, and in consultation with, parents/guardians of students served by the program(s).

Committee members must include parents/guardians of students enrolled in the District's TBE program(s), transitional bilingual education teachers, counselors, and representatives from community groups. A majority of the committee members (or if the District has multiple committees, each committee) must be parents/guardians of students enrolled in the District's TBE program(s).[3] All

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[1] Superintendent and administrative committees are generally not governed by the Open Meetings Act (OMA), but the operation and function of specific committees may make the Act applicable. For example, any committee, whether superintendent or board, having as members at least a majority of the quorum (three out of seven) of the board, will be subject to OMA. 5 ILCS 120/1.02. For a five-member board, OMA is applicable when a quorum of board members (three out of five) sit on a committee. Id. Other factors that determine whether a committee is governed by OMA include "who appoints the members of the entity, the formality of their appointment, and whether they are paid for their tenure; the entity's assigned duties, including duties reflected in the entity's by-laws or authorizing statute; whether its role is solely advisory or whether it also has a deliberative or investigative function; whether the entity is subject to government control or otherwise accountable to any public body; whether the group has a budget; its place within the larger organization or institution of which it is a part; and the impact of decisions or recommendations that the group makes." Univ. Prof'ls v. Stukel, 344 Ill.App.3d 856, 865 (1st Dist. 2003).

[2] 105 ILCS 5/14C-10; 23 Ill.Admin.Code §228.30(c)(4). A district must establish a program in transitional bilingual education when, at the beginning of a school year, it has 20 or more English learners in a (home) language classification within an attendance center of the district (private school students are excluded from the attendance center count). 105 ILCS 5/14C-3. See www.isbe.net/Pages/BPAC.aspx for additional guidance. This committee carries out its duties autonomously, but a district may intervene to ensure compliance after consultation with ISBE's Multilingual/Language Development Department. 23 Ill.Admin.Code §228.30(c)(4)(C).

[3] 105 ILCS 5/14C-10.

Building Principals or their designees attend committee meetings.[4] The District must provide annual training to the committee. [5]

This committee must elect officers and establish bylaws (internal rules, guidelines, and procedures).[6] It meets at least four times per year.

Title I Parent Advisory Committee

This committee is required if the District receives or plans ~~desires~~ to receive Title I funds. See Board policy 6:170, *Title I Programs*; administrative procedure 6:170-AP1, E1, *District-Level Parent and Family Engagement Plan*; 20 U.S.C. §§6312(a)(1)(A), 6318(a)(2)(F). The committee supports the development and implementation of the District's Title I plan. Its activities may include, at the Superintendent or designee's directive:

1. Facilitating the active involvement of parents/guardians in their children's academic success by such activities as coordinating Title I parent-teacher conferences, providing information to help parents/guardians assist their children, coordinating volunteer or paid participation by parents/guardians in school activities, and establishing a process to respond to parents/guardians' inquiries and recommendations.
2. Distributing Title I informational materials.
3. Consulting on the District's Title I Plan.
4. Supporting the implementation of Board policy 6:170, Title I Programs.
5. Committee members include parents/guardians and family members of Title I children. [7]

PERA (Performance Educational Reform Act) Joint Committee and the RIF (Reduction in Force) Joint Committee [8]

1. **PERA joint committee**. This mandatory committee is "composed of equal representation selected by the district and its teachers, or where applicable, the exclusive bargaining representative of its teachers." 105 ILCS 5/24A-4(b-5), added by P.A. 104-20. This committee:
   a. May, but is not required to, incorporate data and indicators on student growth as a factor in rating teaching performance in the teacher evaluation plan. Id. Beginning July 1, 2026, if the PERA joint committee cannot reach an agreement on whether to include student growth in the teacher evaluation plan and there is no collective bargaining agreement that incorporates student growth or that incorporates it by reference, the student growth component must be removed from the teacher evaluation plan. 105

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[4] Optional. ISBE recommends that a district representative attend (rather than serve on) meetings of this committee. See the *Bilingual Parent Advisory FAQ* at: www.isbe.net/Pages/BPAC.aspx.

[5] The training must be conducted in a language that parent/guardian members can understand. It must include but need not be limited to: (1) information related to instructional approaches and methods in bilingual education; (2) the provisions of State and federal law related to students' participation and parents' rights; and (3) accountability measures relevant to students in bilingual programs. 23 Ill.Admin.Code §228.30(c)(4)(B).

[6] 105 ILCS 5/14C-10; 23 Ill.Admin.Code §228.30(c)(4). This committee must file its bylaws and records of the election of officers with the school district.

[7] Inclusion of parents/guardians and family members of Title I children on this committee aligns with 20 U.S.C. §6318(a)(2)(A), which requires a district to involve them in the joint development of a district's plan to help low-achieving children meet challenging achievement and academic standards, and in the development of comprehensive and targeted support and improvement plans.

[8] These committees are not subject to OMA. 105 ILCS 5/24A-4(b-5) and 105 ILCS 5/24-12(c).

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ILCS 5/24A-4, amended by P.A. 104-646. The amendment of an evaluation plan continues to be a mandatory subject of bargaining.

b. Agrees to the panel of qualified evaluators that reviews appeals of *unsatisfactory* performance ratings and determines the criteria for successful appeals.[9] 105 ILCS 5/24A-5.5.

c. Establishes a teacher evaluation plan that ensures that each tenured teacher whose performance is rated as either *excellent* or *proficient* is evaluated at least once in the course of the three school years after receipt of the rating.

d. Implements an informal teacher observation plan established by ISBE rule and by agreement of this committee to ensure that each tenured teacher whose performance is rated as *excellent* or *proficient* is informally observed at least once in the course of the two school years after receipt of the rating. 105 ILCS 5/24A-5.

e. Meets at least once a year to assess and review the effectiveness of the District's evaluation plan for the purposes of continuous improvement of instruction and evaluation practices. 105 ILCS 5/24A-4(d).

f. Determines how artificial intelligence tools may be used in the teacher evaluation plan. 105 ILCS 5/24A-5. [10]

2. **RIF joint committee**. This mandatory committee convenes annually to consider issues identified in the statute concerning the selection of teachers for layoff. 105 ILCS 5/24-12(c). On or before December 1 of each year, the RIF joint committee must be established and must hold its first meeting. It is composed of individuals appointed by the Board and the teachers (or the exclusive collective bargaining representative of its teachers).

Concussion Oversight Team [11]

The Concussion Oversight Team is required until its function has been fulfilled. State law requires the team to establish protocols for return-to-play and return-to-learn for students who have suffered a concussion or head injury during interscholastic athletic activities. See Board policy 7:305, *Student Athlete Concussions and Head Injuries*. 105 ILCS 5/22-80(d). The Board must appoint or approve a Concussion Oversight Team. Section 22-80(d) identifies who must be on each Concussion Oversight Team. A physician, to the extent possible, must be on the Team. If the school employs an athletic trainer and/or nurse, they must be on the Team to the extent practicable. The Team must include, at a minimum, one person who is responsible for implementing and complying with the return-to-play and return-to-learn protocols adopted by the Team. Other licensed health care professionals may be appointed to serve on the Team. If it is not practicable for a physician, athletic trainer, and/or nurse to be on the Team and other licensed health care professionals are not appointed to serve on the Team, the Team may be composed of only one person who need not be a licensed healthcare professional; however, that individual may not be a coach.

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[9] The PERA joint committee does not determine what rating will be issued to replace an unsatisfactory rating in the event of a successful appeal; that issue must be collectively bargained. 105 ILCS 5/24A-5.5.

[10] If an evaluator uses an artificial intelligence (AI) tool, the name of the tool and the specific purpose of the tool must be disclosed to the teacher being evaluated. Evaluators are prohibited from using AI to assign a numerical score or qualitative rating for any component of a teacher's evaluation or any task that requires professional judgment, but evaluators may use such a tool to support administrative tasks. If the teacher being evaluated uses an AI tool, they must disclose to the evaluator the name and specific purpose of the tool. Teachers may not use an AI tool to generate evidence of professional practice that will be used by an evaluator to evaluate the teacher's performance, but they may use AI tools to support administrative tasks. 105 ILCS 5/24A-5, amended by P.A. 104-565, eff. 1-1 27.

[11] 105 ILCS 5/22-80(d).

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Time Out and Physical Restraint Oversight Team [12]

The Time Out and Physical Restraint Oversight Team is required. The Team includes, but is not limited to, Building Principals, teachers, paraprofessionals, school service personnel, and administrators who develop:

1. The District's plan, including school-specific considerations,[13] for reducing and eventually eliminating the use of isolated time out, time out, and physical restraint in accordance with the goals and benchmarks established by ISBE;[14] and
2. Procedures to implement the plan and make the plan available for review by parents/guardians.

Optional Superintendent or Administrative Committees: [15]

Communicable and Chronic Infectious Disease Program Task Force

This task force assists in the development and review of a chronic and infectious disease program consistent with the District's policies and State and federal laws and regulations, and reports directly to the Superintendent or designee. Appointments are made to the task force only if the Superintendent or designee determines that its input is desirable. See Board policies 5:40, *Communicable and Chronic Infectious Disease* (addressing personnel); and 7:280, *Communicable and Chronic Infectious Disease* (addressing students).

Task force members include the Superintendent or designee, the District medical advisor, a school nurse, and representatives from the School Board, local health department, PTA or PTO, the professional staff, and other employee groups.

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[12] 105 ILCS 5/2-3.130(e) requires boards to create a Time Out and Physical Restraint Oversight Team. As this is administrative/staff work rather than governance work, the best practice is to have the team be an administrative committee but consult the board attorney for guidance.

[13] An *entity-specific plan* (district-specific plan) is required by 105 ILCS 5/2-3.130(e), amended by P.A. 103-175; however, final ISBE rules at 23 Ill.Admin.Code §1.285(k)(1)(B) go beyond the authority of the statute and require a *school district plan* that includes *school-specific recommendations*.

Plans were required to be submitted to ISBE from 2022-2024 unless a district could show that it: (1) did not use physical restraint, time out, and isolated time out (RTO) within the previous three years, (2) adopted a policy prohibiting the use of RTO, and (3) enforced the policy. 105 ILCS 5/2-3.130(f); 23 Ill.Admin.Code §1.285(k)(1)(B). Consult the board attorney to determine if a team is required for a district; a team may still be required by law even if no plan was required.

The plan had to include, but was not limited to, specific actions the school took to: (1) reduce and eventually eliminate relying on RTO for behavioral interventions and develop noncoercive environments, (2) develop individualized student plans (separate from a student's individualized education program or 504 plan) that aim to prevent the use of RTO, (3) ensure that appropriate school personnel are fully informed of the student's history, including any history of physical or sexual abuse, and other relevant medical and mental health information, except that any disclosure of student information must be consistent with laws and rules governing student confidentiality and privacy rights, and (4) support a vision for cultural change that reinforces using the following in lieu of RTO: positive behavioral interventions and supports, effective ways to de-escalate situations, crisis intervention techniques, and debriefing meetings to reassess what occurred and why. 105 ILCS 5/2-3.130(e)(1)-(4).

[14] See www.isbe.net/Pages/restraint-time-out.aspx for further information.

[15] Before removing any optional committee, a district should first determine if the committee is or will be needed for a useful function(s), such as implementing board policy. If a district removes a committee from this procedure, ensure that all other board policies and administrative procedures that reference the committee are properly aligned.

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Communicable and Chronic Infectious Disease Review Team

This review team assists with the implementation of the chronic and infectious disease program developed by the Communicable and Chronic Infectious Disease Program Task Force. It monitors those employees and students who have a communicable and chronic infectious disease, and:

1. Reviews individual medical case histories.
2. Recommends the most appropriate educational setting for a student, which may include temporary removal from and return to the regular educational setting.
3. Recommends the most appropriate work setting for an employee; this may include retention in his/her present position, transfer to another position, or temporary excusal from or return to his/her work assignment.

Team members may include the District's medical advisor, a school nurse, the Building Principal, and the Superintendent or designee. [16]

The review team is guided by the Board's policies, Ill. Dept. of Public Health (IDPH) rules and regulations, and all other applicable State and federal laws. See also Board policies 5:40, *Communicable and Chronic Infectious Disease*; and 7:280, *Communicable and Chronic Infectious Disease*. The review team consults the employee's or the student's personal physician and local health department officials before making any recommendations.

The Communicable and Chronic Infectious Disease Review Team respects the privacy rights of each employee and student and takes such precautions as may be necessary to secure confidentiality.

Anaphylaxis Prevention, Response, and Management Committee

This committee develops and implements the District's Anaphylaxis Prevention, Response, and Management Program. It monitors the program and establishes a schedule to ensure the Superintendent reports on the program's effectiveness to the Board at least once every three years. See Board policy 7:285, *Anaphylaxis Prevention, Response, and Management Program*, and administrative procedure 7:285-AP, *Anaphylaxis Prevention, Response, and Management Program*, based upon the Ill. State Board of Education (ISBE) Anaphylaxis Response Policy for Illinois Schools at: www.isbe.net/Documents/Anaphylactic-policy.pdf.

Committee members may include District-level administrators, Building Principals, the District Safety Coordinator (see administrative procedure 4:170-AP1, *Comprehensive Safety and Security Plan*, **Part C, District Safety Coordinator and Safety Team; Responsibilities**), District 504 Coordinator (see exhibit 6:120-AP1, E1, *Notice to Parents/Guardians Regarding Section 504 Rights*), staff members, parents/guardians, community members, and students.

Employee Substance Abuse Prevention Committee

This committee makes recommendations directly to the Superintendent or designee regarding the issues of employee substance abuse and resulting employee conduct standards, and:

1. Cooperates with community and State agencies on substance abuse programs.

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[16] The team members listed align with prior joint guidance of the Ill. State Board of Education (ISBE) and the Ill. Dept. of Public Health. See https://catalog.hathitrust.org/Record/100815799~~https://wordpress.uchospitals.edu/infectionprevention/files/2011/05/IDPH-Chronic-ID-in-schoolchildren.pdf~~. Additional federal guidance on planning teams for infectious diseases is available at: https://files.eric.ed.gov/fulltext/ED623697.pdf~~https://rems.ed.gov/docs/PandemicFactSheet_508C.pdf~~.

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2. Gathers information about substance abuse and suggests methods to share it with employees.
3. Develops a support network that encourages employees to self-refer for treatment and suggests procedures for early identification and treatment.
4. Recommends procedures that would protect the privacy of employees while taking into consideration any directives from the Board to the Superintendent regarding the District's obligation to provide a safe environment and to ensure high-quality performance, which may include but not be limited to:
    a. Securing training for designated district employees to educate them on identifying symptoms of being impaired by or under the influence of substances prohibited by policy. For guidance about what impaired by or under the influence of means, see:
        i. Footnote numbers five and six in Board policy 5:50, *Drug- and Alcohol-Free Workplace; E-Cigarette, Tobacco, and Cannabis Prohibition*;
        ii. 625 ILCS 5/11-501.2 and 5/11-501.9, (chemical and other tests, validity, etc., a/k/a *field sobriety tests*);
        iii. 410 ILCS 705/10-50(d) ("An employer may consider an employee to be impaired or under the influence of cannabis if the employer has a *good faith belief* that an employee manifests specific, articulable symptoms while working that decrease or lessen the employee's performance of the duties or tasks of the employee's job position, including symptoms of the employee's speech, physical dexterity, agility, coordination, demeanor, irrational or unusual behavior, or negligence or carelessness in operating equipment or machinery; disregard for the safety of the employee or others, or involvement in any accident that results in serious damage to equipment or property; disruption of a production or manufacturing process; or carelessness that results in any injury to the employee or others.") (**Note:** Consult the Board Attorney about identifying cannabis use); and
        iv. Professional development opportunities in the area, e.g., local law enforcement agencies may be a place to begin.
    b. Implementing a reasonable suspicion and/or drug testing[17] program(s) to enhance the District's ability to identify and discipline employees suspected of being impaired by and/or under the influence of prohibited substances. **Note:** Consult the Board Attorney before implementing any drug-testing program(s) or disciplining employees based upon the results of these programs. Drug testing will likely assist the District with the challenges of identifying cannabis-related issues, but the science behind impairment identification and behavioral testing for cannabis impairment is new and emerging.

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[17] The best practice for ensuring the strongest defense when disciplining an employee for undertaking tasks while being impaired by and/or under the influence of prohibited substances is a confirmed, positive drug test used in combination with reasonable suspicion of impairment. Drug testing may be cost prohibitive and disruptive for school districts while also presenting several other legal considerations, including possible collective bargaining implications upon request by the employee representative. For example, while the Americans with Disabilities Act allows the results of such tests to be used as the basis for disciplinary action (42 U.S.C. §12114; 29 C.F.R. §1630.16(c)), drug tests may still violate other laws, e.g., Title VII and the Rehabilitation Act (42 U.S.C. §2000e et seq.; and 29 U.S.C. §701 et seq.). Identifying and disciplining employees for cannabis use on a drug test alone may present a unique set of challenges because cannabis can remain in a person's system for weeks.

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c. Addressing expectations for employees in positions of leadership who are perpetually on call[18] due to the nature of their positions and responsibilities.
d. Holding licensed educators to a higher standard than non-licensed employees due to their professional code of conduct expectations. [19]
e. Holding employees working directly with students to a higher standard than employees not working directly with students.
f. Recommending a method to explicitly inform employees of the consequences of violating the Board's policy.
g. Recommending best practices for discipline of employees who are suspected of violating or are violating the Board's policy. [20]

Committee members may include the Superintendent or designee, the District's medical advisor/medical review officer, and employee representatives from both professional and educational support personnel. The committee is guided by Board policies, administrative procedures, and relevant State and federal statutes. See Board policies 5:50, *Drug- and Alcohol-Free Workplace; E-Cigarette, Tobacco, and Cannabis Prohibition*; 5:120, *Employee Ethics; Code of Professional Conduct; and Conflict of Interest;* and administrative procedure 5:120-AP2, *Employee Conduct Standards*.

Pandemic Planning Team

This team builds a strong relationship with the local health department and emergency medical agencies and uses their assistance to develop and implement a comprehensive pandemic influenza school action plan and build awareness of the final plan among staff, students, and the community. See Board policy 4:180, *Pandemic Preparedness; Management; and Recovery*, and its procedures.

Team members may include one or two Board members, administrators, and staff members.

Sex Equity Committee

This committee supports the District's efforts to eliminate sexual harassment by advising the Superintendent or designee on prevention, intervention, and education. Committee members may include community representatives, District administrators, teachers, and students. See Board policies 2:260, *Uniform Grievance Procedure*; 2:265, *Title IX Grievance Procedure*; 5:10, *Equal Employment Opportunity and Minority Recruitment*; 5:20, *Workplace Harassment Prohibited*; 5:90, *Abused and Neglected Child Reporting*; 7:10, *Equal Educational Opportunities*; 7:20, *Harassment of Students Prohibited*; 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*; and 7:185, *Teen Dating Violence Prohibited*.

School Violence Prevention Team

This team builds awareness about and supports the development and implementation of the District's:

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[18] See f/n 3 of sample policy 5:50, *Drug- and Alcohol-Free Workplace; E-Cigarette, Tobacco, and Cannabis Prohibition*.

[19] If a district holds all its employees to the same standard of professional conduct regardless of licensure status or whether an employee works directly with students (see item e.), delete item e. in the list and replace item d. with the following:

Holding all employees to the same high standard of conduct expectations, regardless of their licensure status or whether they work directly with students.

[20] Consult the board attorney regarding any disciplinary action explored for employees based solely on a positive cannabis test result. Employee discipline is an item on which collective bargaining may be required.

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1. Targeted School Violence Prevention Program. See Board policy 4:190, *Targeted School Violence Prevention Program*, and administrative procedure 4:190-AP1, *Targeted School Violence Prevention Program*.
2. Anti-bullying program, as appropriate. See Board policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*; and administrative procedure 7:180-AP1, *Prevention, Identification, Investigation, and Response to Bullying*.

All Building Principals or their designees serve on this team.[21] Other team members may include the District Safety Coordinator (see administrative procedure 4:170-AP1, *Comprehensive Safety and Security Plan*, **Part C, District Safety Coordinator and Safety Team; Responsibilities**), law enforcement representatives, the Board Attorney, District psychologist(s), mental health workers and/or social service agencies, faith leaders, community members, and students.

Wellness Committee [22]

The Wellness Committee includes at least one representative from each of the following groups: parents, students, representatives of the school food authority, teachers of physical education, school health professionals, a member of the Board,[23] school administrators,[24] and members of the community. Individuals of this committee will participate in the development, implementation, periodic reviews, and updates of Board policy 6:50, *School Wellness*. 7 C.F.R. §210.31(d)(1).

Children's Advocacy Center (CAC) Communication Committee [25]

This committee supports the implementation of the Alleged Incidents of Sexual Abuse; Investigations subhead of Board policy 5:90, *Abused and Neglected Child Reporting*. It includes the District Nondiscrimination Coordinator, District Safety Coordinator, and at least one representative from each of the following groups: District-level administrators, Building Principals, school personnel, and employees from the accredited CAC that serves the District. See Board policy 5:90, *Abused and Neglected Child Reporting*, and administrative procedure 5:90-AP1, *Coordination with Children's Advocacy Center*.

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[21] Including building principals on this team aligns with sample administrative procedure 4:190-AP1, *Targeted School Violence Prevention Program*, which provides that "Building Principals are mandatory for successful implementation" of a Targeted School Violence Prevention Plan.

[22] Establishing a wellness committee is optional; if established, it should be listed here, or delete it if the board has not directed the superintendent to convene a wellness committee in policy 6:50, *School Wellness*. See f/n 27 in sample policy 6:50, *School Wellness*. The preamble to 7 C.F.R. §210.31(d)(1) suggests one method to comply with the rules is by: "identifying individuals" to serve on a "local school wellness policy committee." 81 Fed. Reg. 50151-01. However, the final text of 7 C.F.R. §210.31(d)(1) does not specifically require districts to establish a local school wellness policy committee – only that they "permit [groups listed in the procedure above] to participate … .".

[23] See f/n 1 above. As much of the work of developing a plan to involve local stakeholders is administrative/staff work rather than governance work, the best practice is to have a wellness committee be an administrative committee, but consult the board attorney for guidance about the application of OMA when three or more board members serve on this committee.

[24] If a board wants to comply with the U.S. Dept. of Agriculture's encouragement to include Supplemental Nutrition Assistance Program Education (SNAP-ED) coordinators or educators in the group to provide input about the wellness policy, insert: "Supplemental Nutrition Assistance Program Education (SNAP-ED) coordinators, educators," immediately before: ", and members of the community."

[25] Establishing a Children's Advocacy Center (CAC) communication committee is optional and only applies to school districts within a county served by an accredited CAC. See f/n 14 in sample policy 5:90, *Abused and Neglected Child Reporting*, and sample administrative procedure 5:90-AP1, *Coordination with Children's Advocacy Center*.

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Educational Technology Committee [26]

This committee supports the following functions:

1. Implementation of Board policy 7:345, *Use of Educational Technologies; Student Data Privacy and Security*. Committee members may include the Head of Information Technology, District-level administrators, Building Principals, and teachers. See administrative procedure 7:345-AP, *Use of Educational Technologies; Student Data Privacy and Security*.
2. The District's submission of an annual report to ISBE regarding educational technology capacities and policies. [27]
3. Developing, monitoring, and updating the District's Artificial Intelligence (AI) Plan and AI Responsible Use Guidelines. [28]

Remote Learning Committee [29]

This committee develops a plan for instruction in grades pre-K through 12 and presents it to the Superintendent for approval who then presents it to the Board for adoption when the:

1. Governor declares a disaster due to a public health emergency (20 ILCS 3305/7); and
2. State Superintendent of Education declares a requirement for the District to implement and use Remote Learning Days (RLDs) or Blended Remote Learning Days (BRLDs).

After adoption of the plan by the Board, this committee supervises the implementation of administrative procedure 6:20-AP, *Remote and/or Blended Remote Learning Day Plan(s)*, and exists until its function has been fulfilled.

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[26] Establishing an Educational Technology Committee is optional. The Student Online Personal Protection Act (SOPPA), 105 ILCS 85/, centralizes decision making about what K-12 online sites, services, and applications will be used in schools by requiring boards to adopt a policy for designating which district employees are authorized to enter into agreements with *operators* who collect personally identifiable information about students. See sample policy 7:345, *Use of Educational Technologies; Student Data Privacy and Security*, and sample administrative procedure 7:345-AP, *Use of Educational Technologies; Student Data Privacy and Security*.

[27] 105 ILCS 5/10-20.74. See www.isbe.net/Pages/Educational-Technology.aspx.

[28] See sample administrative procedure 6:235-AP3, *Development of an Artificial Intelligence (AI) Plan and AI Responsible Use Guidelines*. Delete Item #3 if a board has not adopted the optional **Use of Artificial Intelligence (AI)-Enabled Tools** subhead in policy 6:235, *Access to Electronic Networks*.

[29] Establishing this committee is optional. 105 ILCS 5/10-30, requires "the district to adopt a remote and blended remote learning day plan approved by the district superintendent" when certain emergency conditions exist that are related to the management of a public health emergency under the Ill. Emergency Management Act. See f/n 1 in sample administrative procedure 6:20-AP, *Remote and/or Blended Remote Learning Day Plan(s)*. A committee can assist the superintendent to ensure all the statutory requirements for implementing, monitoring, and amending the plan are met.

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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. [1]

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. Ill. 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 Ill. Use Tax on all sales of tangible personal property into the State of Illinois in accordance with the provision of the Ill. 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 Ill. Drug Free Workplace Act, 30 ILCS 580/. All contractors must comply with the notification mandates and other requirements in the Ill. Drug Free Workplace Act. "Contractor" is defined in the Ill. 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, 105 ILCS 5/28A), 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. [2]
   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, *Qualification Based Selection*.

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[1] Many legal problems will be avoided by early and frequent consultation with the board attorney. A board cannot use its failure to follow proper bidding or contracting procedures to later avoid payment to contractors or vendors that perform a contract in good faith. Restore Construction Co., Inc. v. Bd. of Educ. of Proviso Twp. High Sch. Dist. 209, 444 Ill.Dec. 663 (Ill. 2020).

[2] For contract provisions required for non-federal entity contracts under federal awards and State awards governed by the Grant Accountability and Transparency Act (30 ILCS 708/), see Appendix II to 2 C.F.R. Part 200, available at: www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200?toc=1.

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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. 105 ILCS 5/10-20.44(b).
8. Each contractor with the District must comply with 105 ILCS 5/10-21.9(f) and: (a) not allow any of its employees to have direct, daily contact with one or more students if the employee was found guilty of any offense listed in 105 ILCS 5/10-21.9(c) or 5/21B-80(c)[3]; (b) prohibit any of its employees from having direct, daily contact with one or more students if the employee was found guilty of any offense in 5/21B-80(b) (certain drug offenses) until seven years following the end of the employee's sentence for the criminal offense; (c) require each of its employees who will have direct, daily contact with one or more student(s) to cooperate during the District's fingerprint-based criminal history records check on him or her; and (d) reimburse the District for the cost of the fingerprint-based criminal history records check that the District obtains on each employee of a contractor who will have direct, daily contact with a student(s). See 4:60-AP3, *Criminal History Records Check of Contractor Employees*.
9. For each position involving *direct contact with children or students*,[4] each contractor must perform sexual misconduct related employment history reviews (EHRs) of its employees as required by 105 ILCS 5/22-94, ~~added by P.A. 102-702~~amended by P.A. 104-831, eff. 1-1-27, and: (a) prohibit any of its employees from having direct contact with children or students if the contractor has not performed an EHR; (b) discipline, up to and including termination or denial of employment, any employee who provides false information or willfully fails to disclose information required by an EHR, and prohibit any such employee from having direct contact with children or students[5]; (c) immediately inform the District of any instances of sexual misconduct involving an employee as provided in 105 ILCS 5/22-94(j)(3); (d) prohibit any of its employees from having direct contact with children or students if the District objects to the employee's assignment after being informed of an instance of sexual misconduct; (e) maintain all records of EHRs and provide copies of such records upon the District's request; and (f) not enter into any agreements prohibited by 105 ILCS 5/22-94(g).[6] See 4:60-AP4, *Sexual Misconduct Related Employment History Review (EHR) of Contractor Employees*.
10. Each contractor with the District must comply with 105 ILCS 5/24-5 and: (a) concerning each new employee who will provide services to students or in schools, provide the District with evidence of physical fitness to perform the duties assigned and freedom from communicable disease; and (b) require any new or existing employee who provides services to students or in schools to complete additional health examinations as required by the District and be subject

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[3] 105 ILCS 5/10-21.9(c); 105 ILCS 5/21B-80(c).

[4] See sample policy 4:60, *Purchases and Contracts*, at f/n 12, for the definition of *direct contact with children or students* and its distinction from *direct, daily contact*, which requires a *complete criminal history records check*.

[5] The law requires contractors to discipline employees who provide false information or willfully fail to disclose information required by a sexual misconduct related employment history review (EHR), but it does not specifically require contractors to prohibit such employees from having direct contact with children or students. 105 ILCS 5/22-94(d)~~, added by P.A. 102-702~~. This procedure prohibits contractors who have not provided the required EHR information from having direct contact with students as a best practice.

[6] See sample policy 4:60, *Purchases and Contracts*, at f/n 12, for more information about the types of agreements that are prohibited by 105 ILCS 5/22-94(g)~~, added by P.A. 102-702~~.

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to additional health examinations, including tuberculosis screening, as required by the Ill. Dept. of Public Health rules or order of a local health official. [7]

11. Any contract to purchase food with a bidder or offeror must comply with 105 ILCS 5/10-20.21(b-10) (food donations). [8]
12. Any pavement engineering project using a coal tar-based sealant product or high polycyclic aromatic hydrocarbon sealant product for pavement engineering-related use must comply with the Coal Tar Sealant Disclosure Act by (a) requesting a bid with an alternative for asphalt-based or latex-based sealant product, and (b) considering whether an asphalt-based or latex-based sealant product should be used for the project based upon costs and life cycle costs that regard preserving pavements, product warranties, and the benefits to public health and safety.[9]
13. Guaranteed energy savings contracts must comply with 105 ILCS 5/19b-1 et seq.
14. Design-build contracts must comply with 105 ILCS 5/15A-1 et seq. [10]
15. Before the Board approves a new contract for a district-administered assessment: (a) the Superintendent or designee must substantially present the terms of the proposal at a regular board meeting, (b) the public must be afforded the opportunity to comment on the proposal at the meeting, and (c) the Board must hold a public vote on the contract at the meeting. The Superintendent or designee shall ensure the assessment is presented in a manner such that the assessment tool and any other intellectual property of the publisher is not able to be widely disseminated to the public. [11]

B. To the extent feasible, the following requirements govern all purchases and/or the award of contracts for supplies, materials, or work, and/or contracts with private carriers for transporting students, involving: (a) an expenditure of $35,000 or less, or (b) in an emergency, an expenditure in excess of $35,000, provided such expenditure is approved by three-quarters of the Board. See 105 ILCS 5/10-20.21(a)(xiv) (3/4s of the members of the Board must approve an emergency expenditure in excess of $35,000 when the bidding process is not used) and 5/29-6.1, amended by P.A. 103-460 (time limitations for transportation contracts).
   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 two competitors. The

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[7] 105 ILCS 5/24-5. Since 2014, the Ill. Dept. of Public Health (IDPH) has only required school employees in daycare and preschool settings to be screened for tuberculosis. 77 Ill.Admin.Code §696.140(a)(3). Consult the board attorney before requesting a contractor's employee to complete a health examination, to ensure it is legal under other personnel laws, including the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.).

[8] 105 ILCS 5/10-20.21(b-10).

[9] 410 ILCS 170/10(b)~~, added by P.A. 102-242~~. See the IDPH's *Compliance With the Coal Tar Sealant Disclosure Act: Guidance for Public Schools and Licensed Day Care Facilities* (Jan. 2023), available at: www.dph.illinois.gov/content/dam/soi/en/web/idph/resources/topics-services/environmental-health-protection/toxicology/eh-factsheet-coaltarsealant-header.pdf.

[10] See sample policy 4:60, *Purchases and Contracts*, at f/n 15, for more information regarding the *design-build* delivery method.

[11] 105 ILCS 5/10-20.865, added by P.A. 103-393 and renumbered by P.A. 103-605. To protect a publisher's intellectual property rights and the validity of an assessment, districts are required to include technical and procedural safeguards in their review to ensure materials are not widely disseminated to the general public. Id. For example, a district may provide a general description of the proposed assessment in board packet materials and at the board meeting, without including the actual content of the assessment tool or its accompanying copyrighted materials.

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Superintendent or designee may negotiate with vendors at any time, including after receiving quotations.

C. The following requirements govern all purchases and/or the award of contracts involving an expenditure in excess of $35,000 for supplies and materials or work. 105 ILCS 5/10-20.21(a). [12]

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. 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. Fuel, including diesel, gasoline, oil, aviation, natural gas, or propane, lubricants, or other petroleum products;
    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;
    l. Goods or services procured from another governmental agency;
    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; [13]
    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, 105 ILCS 5/28A; and
    p. Providing for the transportation of students, 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, stability of service, and any other factors set forth in the request for proposal regarding quality of service, and then price.

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[12] 105 ILCS 5/10-20.21(a), amended by P.A.~~s 102-1101 and~~ 103-8~~, eff. 1-1-24~~.

[13] See Tarsitano v. Twp. H.S. Dist. No. 211, 385 Ill.App.3d 868 (1st Dist. 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).

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q. Goods, services, or management in the operation of a school's food service, including a school that participates in any of the U.S. Dept. of Agriculture's (USDA) child nutrition programs if a good faith effort is made on behalf of the District to give preference to contracts that: (a) procure food that promotes the health and well-being of students, in compliance with USDA nutrition standards for school meals, and contracts should also promote the production of scratch-made, minimally processed foods; (b) give a preference to State or regional suppliers that source local food products; (c) utilize producers that adopt hormone and pest management practices recommended by the USDA; (d) give a preference to food suppliers that value animal welfare; and (e) increase opportunities for businesses owned and operated by minorities, women, or persons with disabilities.
When this exemption applies, the bidder shall submit to the District at the time of the bid, to the best of the bidder's ability, and annually thereafter during the term of the contract, the food supplier data required in this Section q. The food supplier data shall also include the name and address of each supplier, distributor, processor, and producer involved in the provision of the products that the bidder is to supply.

2. Competitive bidding process:
   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:
      i. A description of the materials, supplies, or work involved;
      ii. Completion or delivery date requirements;
      iii. Requirements for bids, bonds, and/or deposits;
      iv. Requirements for performance, labor, and material payment bonds;
      v. Date, time, and place of the bid opening;
      vi. The approximate time period between the opening of bids and the award of the contract; and
      vii. 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). Bids may be communicated, accepted, and opened electronically. The following safeguards apply to an electronic bid opening (105 ILCS 5/10-20.21(a)):
      i. 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.
      ii. 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 three days' notice of the time and place of the bid opening. 105 ILCS 5/10-20.21(a).

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g. Conduct that promotes deception and collusion during the bidding process is prohibited and may violate the Ill. Criminal Code, 720 ILCS 5/33E-1 et seq. Examples include interference with public contracting, bid-rigging, and acquisition or disclosure of bidding information by a public official.

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/.

LEGAL REF.: 105 ILCS 5/10-20.21, 5/10-20.44, 5/10-20.85, 5/10-21.9, 5/19A-1 et seq., 5/21B-80, 5/22-94, and 5/24-5.
30 ILCS 580/, Ill. Drug Free Workplace Act.
35 ILCS 105/, Ill. Use Tax Act.
50 ILCS 510/, Local Government Professional Services Selection Act.
410 ILCS 170/10, Coal Tar Sealant Disclosure Act.

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Operational Services

Administrative Procedure - Sexual Misconduct Related Employment History Review (EHR) of Contractor Employees

Use this procedure to implement the sexual misconduct related employment history review (EHR) required by 105 ILCS 5/22-94 when an employee of a contractor will have direct contact with children or students. A copy of this procedure may be provided to a contractor to inform or remind the contractor of its legal obligations.

Glossary of Terms

Contractor - A firm holding a contract with any school including, but not limited to, food service workers, school bus drivers, and other transportation employees who have direct contact with children or students. 105 ILCS 5/22-94(b)~~, added by P.A. 102-702, eff. 7-1-23~~.

Direct contact with children or students - The possibility of care, supervision, guidance, or control of children or students or routine interaction with children or students. 105 ILCS 5/22-94(b)~~, added by P.A. 102-702, eff. 7-1-23~~.

School - A public or nonpublic elementary or secondary school. 105 ILCS 5/22-94(b)~~, added by P.A. 102-702, eff. 7-1-23~~.

Sexual misconduct - Any act, including but not limited to, any verbal, nonverbal, written, or electronic communication or physical activity, by an employee with direct contact with a student, that is directed toward or with a student to establish a romantic or sexual relationship with the student. Examples include but are not limited to: 1) a sexual or romantic invitation, 2) dating or soliciting a date, 3) engaging in sexualized or romantic dialog, 4) making sexually suggestive comments that are directed toward or with a student, 5) self-disclosure or physical exposure of a sexual, romantic, or erotic nature, 6) a sexual, indecent, romantic, or erotic contact with the student. 105 ILCS 5/22-94(b)~~, added by P.A. 102-702, eff. 7-1-23~~; 105 ILCS 5/22-85.5(c)~~, added by P.A. 102-676~~.

EHR of Contractor Employees

Actor	Action
Contractor	At the time of initial hiring of an employee or prior to the assignment of an employee to perform work involving *direct contact with children or students*, conducts an EHR of the employee, in accordance with 105 ILCS 5/22-94, ~~added by P.A. 102-702~~amended by P.A. 104-831, eff. 1-1-27~~, eff. 7-1-23~~, specifically: Provides the employee with: (a) a *Sexual Misconduct Disclosure* form, using the Ill. State Board of Education's (ISBE) *Sexual Misconduct Disclosure Template for Applicant* at www.isbe.net/Documents/Temp1-ISBE-Sexual-Misconduct-Disclosure-Form-Applicant.pdf and (b) copies of the *Authorization for Release of Sexual Misconduct-Related Information and Current/Former Employer Response* form, using

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	ISBE's *Authorization for Release of Sexual Misconduct-Related Information and Current/Former Employer Response Template* at www.isbe.net/Documents/Temp2-Auth-Release-Sexual-Misconduct-Related-Info.pdf for the applicant to complete for each current employer and for each former employer where the applicant worked in direct contact with children or students.[1] The Contractor cannot hire an applicant for a position involving direct contact with children or students who does not provide the information required by the forms (105 ILCS 5/22-94(f)~~, added by P.A. 102-702, eff. 7-1-23~~). Reviews the applicant's completed *Sexual Misconduct Disclosure* form and *Authorization for Release of Sexual Misconduct-Related Information and Current/Former Employer Response* form(s). Provides to all employers identified by the applicant in Section 3 of the *Authorization for Release of Sexual Misconduct-Related Information and Current/Former Employer Response* form a copy of the *Authorization for Release of Sexual Misconduct-Related Information and Current/Former Employer Response* form (105 ILCS 5/22-94(c)(4), ~~added by P.A. 102-702~~amended by P.A. 104-831, eff. 1-1-27~~, eff. 7-1-23~~). The employer(s) must return the completed form(s) to the Contractor within 20 calendar days (105 ILCS 5/22-94(e), ~~added by P.A. 102-702~~amended by P.A. 104-831, eff. 1-1-27~~, eff. 7-1-23~~) after receipt. [2] Informs the District of any instance known to the Contractor in which the employee: (a) has been the subject of a sexual misconduct allegation unless a subsequent investigation resulted in a finding that the allegation was false, unfounded, or unsubstantiated; (b) has ever been discharged, been asked to resign from, resigned from, or otherwise been separated from any employment, been removed from a substitute list, been disciplined by an employer, or had an employment contract not renewed due to an adjudication or finding of sexual misconduct or while an allegation of sexual misconduct was pending or under investigation, unless the investigation was false, unfounded, or

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[1] Districts must use Ill. State Board of Education templates to develop their sexual misconduct related employment history review (EHR) forms. 105 ILCS 5/22-94(c), ~~added by P.A. 102-702~~amended by P.A. 104-831, eff. 1-1-27~~, eff. 7-1-23~~. Districts may incorporate the templates into existing forms and/or add to the templates' requirements, but they cannot alter the templates' contents.

[2] Consult the board attorney for guidance in the event a district wants to move forward with the assignment of a contractor employee who will have direct contact with children or students before a contractor has completed the EHR of the employee. The law states a contractor shall "initiate" the EHR, but it also states that the EHR "shall be performed," either at the time of the initial hiring of the employee or prior to the assignment of the employee, and it requires contractors to inform schools of any instances of sexual misconduct *prior* to assigning the employee. 105 ILCS 5/22-94(c)(1), (4) and (j)(3), ~~added by P.A. 102-702~~amended by P.A. 104-831, eff. 1-1-27~~, eff. 7-1-23~~.

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	unsubstantiated; or (c) has ever had a license or certificate suspended, surrendered, or revoked due to an adjudication or finding of sexual misconduct or while an allegation of sexual misconduct was pending or under investigation, unless the investigation resulted in a finding that the allegation was false, unfounded, or unsubstantiated. 105 ILCS 5/22-94(j)(3)(A-C)~~, added by P.A. 102-702, eff. 7-1-23~~.
Superintendent, Business Manager, or designee	Confirms that the Contractor has performed or will perform an EHR for each of its employees who will perform work involving direct contact with children or students. The EHR remains valid as long as the employee remains employed by Contractor, even if the employee is assigned to perform work for another school.[3] 105 ILCS 5/22-94(j)(1)~~, added by P.A. 102-702, eff. 7-1-23~~. To ensure the EHR is performed, may require the following sample language or similar language be included in each contract with the Contractor: Either at the time of initial hiring or prior to assigning any employee to perform work in the District involving direct contact with children or students, the Contractor will perform an Employment History Review (EHR) for the employee, in accordance with the requirements of 105 ILCS 5/22-94, as it may be amended from time to time. Notwithstanding the foregoing, if Contractor is furnishing substitute staffing services, Contractor shall perform the EHR upon initial hiring of the substitute employee. In performing the EHR, the Contractor agrees it will provide the employee with: (1) a *Sexual Misconduct Disclosure* form, using the Ill. State Board of Education's (ISBE) *Sexual Misconduct Disclosure Template for Applicant* at www.isbe.net/Documents/Temp1-ISBE-Sexual-Misconduct-Disclosure-Form-Applicant.pdf and (2) copies of the *Authorization for Release of Sexual Misconduct-Related Information and Current/Former Employer Response* form, using ISBE's *Authorization for Release of Sexual Misconduct-Related Information and Current/Former Employer Response Template* at www.isbe.net/Documents/Temp2-Auth-Release-Sexual-Misconduct-Related-Info.pdf for the employee to complete for each current employer and for each former employer

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[3] Consult the board attorney for guidance on whether the EHR remains valid when a contractor employee moves from one district (or non-public school) to another district. 105 ILCS 5/22-94 broadly defines *school* to mean a public or nonpublic elementary or secondary school, which lends support to the interpretation that a contractor need only perform the EHR for an employee once, as long as the employee remains employed by the contractor.

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	where the employee worked in direct contact with children or students. The Contractor shall provide to all employers identified by the employee in Section 3 of the *Authorization for Release of Sexual Misconduct-Related Information and Current/Former Employer Response* form a copy of the *Authorization for Release of Sexual Misconduct-Related Information and Current/Former Employer Response* form (105 ILCS 5/22-94(c)(4)~~, added by P.A. 102-702, eff. 7-1-23~~). The Contractor will instruct the identified employer(s) to return the completed form(s) to the Contractor within 20 calendar days after receipt. The Contractor shall immediately inform the District of any instances of sexual misconduct involving the employee as set forth in 105 ILCS 5/22-94(j)(3). The Contractor shall maintain all records of EHRs and upon the District's request shall provide the District with access to and copies of records pertaining to the EHRs of Contractor employees. The Contractor shall not send to any school building or other District property: (1) any employee for whom an EHR has not been performed, (2) any employee who provides false information or willingly fails to disclose information required by the EHR[4], or (3) any employee to whom the District objects after the Contractor informs it of an instance of sexual misconduct involving the employee as set forth in 105 ILCS 5/22-94(j)(3). 105 ILCS 5/22-94(e) provides that a "contractor who provides information or records about a current or former employee or applicant under this Section [105 ILCS 5/22-94] is immune from criminal and civil liability for the disclosure of the information or records, unless the information or records provided were knowingly false." For the duration of this Agreement, and in accordance with 105 ILCS 5/22-94(g), the Contractor agrees it will not enter into any collective bargaining agreement, employment contract, agreement for resignation or termination, severance agreement, or any other contract or agreement that: (1) has the effect of suppressing information concerning a pending investigation or a completed investigation in which an allegation was substantiated related to a report of suspected sexual misconduct by a current or former employee, (2) affects the ability of the Contractor to report suspected sexual misconduct to the appropriate authorities, or (3) requires the Contractor to expunge information about allegations or findings of suspected sexual misconduct from

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[4] See f/n 6 below, for more information about item #2 of this paragraph.

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	any documents maintained by the Contractor, unless, after an investigation, an allegation is found to be false, unfounded, or unsubstantiated. Whenever a Contractor sends an employee who will have direct contact with children or students to the District for the first time, requests that the Contractor provide the District with copies of the records pertaining to the EHR of any employee involved in an instance of sexual misconduct as set forth in 105 ILCS 5/22-94(j)(3). [5]

Following the EHR of Contractor Employees

Actor	Action
Contractor	Maintains records documenting EHRs as required by law and upon the District's request, provides the District access to records pertaining to the employment history reviews of employees. 105 ILCS 5/22-94(j)(2)~~, added by P.A. 102-702, eff. 7-1-23~~. Prohibits the assignment of an employee to a position at the District involving direct contact with children or students if: (1) the employee does not provide the information required by 105 ILCS 5/22-94(c) or provides false information or willfully fails to disclose information required by the EHR[6] (2) the Contractor determines the employee is unfit for the position, or (3) the District objects to the assignment after the Contractor informs it of an instance of sexual misconduct as listed in the section above. 105 ILCS 5/22-94(f) and j(4)~~, added by P.A. 102-702, eff. 7-1-23~~. Disciplines, up to and including termination or denial of employment, any employee who provides false information or willfully fails to disclose information required by the EHR. 105 ILCS 5/22-94(d)~~, added by P.A. 102-702, eff. 7-1-23~~. As appropriate, reports responses received from an applicant's employer(s) to ISBE, a state licensing agency, a law enforcement agency, a child protective services agency, another school or contractor, or a prospective employer. **Note:** A contractor or

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[5] Whether a district requests EHR records from a contractor is at a district's discretion. 105 ILCS 5/22-94(j)(2)~~, added by P.A. 102-702, eff. 1-1-23~~. If a district wants to request that contractors provide *all* EHR records of contractor employees, delete the phrase "of any employee involved in an instance of sexual misconduct as set forth in 105 ILCS 5/22-94(j)(3)" from the sentence.

[6] The law requires contractors to discipline employees who provide false information or willfully fail to disclose information required by a sexual misconduct related employment history review, but it does not specifically require contractors to prohibit such employees from having direct contact with children or students. 105 ILCS 5/22-94(d)~~, added by P.A. 102-702, eff. 7-1-23~~. This procedure includes that prohibition as a best practice.

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Actor	Action
	district that reports information or records about a current or former employee or applicant under 105 ILCS 5/22-94 is immune from criminal and civil liability for the disclosure of the information or records unless the information or records provided were knowingly false. 105 ILCS 5/22-94(e), ~~added by P.A. 102-702~~amended by P.A. 104-831, eff. 1-1-27~~, eff. 7-1-23~~.
Superintendent, Business Manager, or designee	Reviews all EHR records provided by the Contractor to evaluate the employee's fitness to be assigned to work in the District. As appropriate, reports responses received from an applicant's employers to ISBE, a state licensing agency, a law enforcement agency, a child protective services agency, another school or contractor, or a prospective employer. If a Contractor employee is alleged to have engaged in sexual misconduct with an enrolled student, ensures notice to the student and parent(s)/guardian(s) of the student is provided and the allegations are investigated in accordance with administrative procedure 5:90-AP2, *Parent/Guardian Notification of Sexual Misconduct*, see the **Notification of Alleged Sexual Misconduct** subhead. If any of the Contractor's employees will have direct, daily contact with one or more students, conducts a *complete criminal history records check* of the Contractor employees under 105 ILCS 5/10-21.9(f) by following 4:60-AP3, *Criminal History Records Check of Contractor Employees*. [7]

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[7] See sample policy 4:60, *Purchases and Contracts*, at f/n 12, for a discussion of the overlapping standards that trigger *complete criminal history records checks* of contractor employees under 105 ILCS 5/10-21.9(f) (see 5:30-AP2, *Investigations*, and 4:60-AP3, *Criminal History Records Check of Contractor Employees*) and EHRs of contractor employees under 105 ILCS 5/22-94, ~~added by P.A. 102-702~~amended by P.A. 104-831, eff. 1-1-27~~, eff. 7-1-23~~. For ease of administration, a district may wish to require contractors to undergo a *complete criminal history records check* whenever the obligation to conduct an EHR is triggered, and vice versa.

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