

## School Board

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

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

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

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

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

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

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

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

<sup>3</sup> 105 ILCS 5/10-23.12(c), added by P.A. 101-531; 105 ILCS 5/21B-75(b), amended by P.A.s 101-531, [and 102-552, and 102-702, eff. 7-1-23](#). For further discussion see f/n 22 in policy 5:90, *Abused and Neglected Child Reporting*. **Note:** While 105 ILCS 5/10-23.12(c) permits boards to *immediately* dismiss certain employees upon the determination that he or she has willfully or negligently failed to report, this does not negate a board's responsibility to provide employees with due process required by the law and district policies and procedures. Consult the board attorney for further guidance.

<sup>4</sup> 105 ILCS 5/10-21.4 (employing superintendent); 5/10-20.7 and 5/10-21.1 (teachers); 5/10-21.9 (criminal history records checks); 5/10-22.34, [amended by P.A. 102-894](#) (nonlicensed-certificated personnel ~~(this statute still uses certificated rather than licensed)~~); 5/10-22.4 (dismissing teachers for cause); and 5/10-23.5 and 5/24-12 (reduction in force). See policies in the **PRESS** Policy Reference Manual Sections 3, General School Administration, and 5, Personnel.

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

6. Entering contracts using the public bidding procedure when required. <sup>7</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>8</sup>
8. Establishing an equal educational opportunities policy that prohibits unlawful discrimination. <sup>9</sup>
9. Approving the curriculum, textbooks, and educational services. <sup>10</sup>
10. Evaluating the educational program and approving School Improvement and District Improvement Plans. <sup>11</sup>
11. Presenting the District report card and School report card(s) to parents/guardians and the community; these documents report District, School, and student performance. <sup>12</sup>
12. Establishing and supporting student behavior policies designed to maintain an environment conducive to learning, including deciding individual student suspension or expulsion cases brought before it. <sup>13</sup>
13. Establishing attendance units within the District and assigning students to the schools. <sup>14</sup>
14. Establishing the school year. <sup>15</sup>
15. Requiring a moment of silence to recognize veterans during any type of school event held at a District school on November 11. <sup>16</sup>
16. Providing student transportation services pursuant to State law. <sup>17</sup>
17. Entering into joint agreements with other boards to establish cooperative educational programs or provide educational facilities. <sup>18</sup>

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

<sup>7</sup> 105 ILCS 5/10-20.21, [amended by P.A. 102-1101](#). See policy 4:60, *Purchases and Contracts*.

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

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

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

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

<sup>12</sup> 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.

<sup>13</sup> 105 ILCS 5/10-20.14 and 5/10-22.6. See policies 7:190, *Student Behavior*; 7:200, *Suspension Procedures*; and 7:210, *Expulsion Procedures*.

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

<sup>15</sup> 105 ILCS 5/10-19, amended by P.A.s 101-12 and 101-643; 23 Ill.Admin.Code §1.420. See policy 6:20, *School Year Calendar and Day*.

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

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

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

18. Complying with requirements in the Abused and Neglected Child Reporting Act (ANCRA). Specifically, each individual Board member must, if an allegation is raised to the member during an open or closed Board meeting that a student is an abused child as defined in ANCRA, direct or cause the Board to direct the Superintendent or other equivalent school administrator to comply with ANCRA's requirements concerning the reporting of child abuse. <sup>19</sup>
19. Notifying the State Superintendent of Education promptly and in writing of the name of a licensed teacher who was convicted of a felony, along with the conviction and the name and location of the court where the conviction occurred. <sup>20</sup>
20. Notifying the Teachers' Retirement System (TRS) of the State of Ill. Board of Trustees promptly and in writing when it learns that a teacher as defined in the Ill. Pension Code was convicted of a felony, along with the name and location of the court where the conviction occurred, and the case number assigned by that court to the conviction. <sup>21</sup>
21. Communicating the schools' activities and operations to the community and representing the needs and desires of the community in educational matters. <sup>22</sup>

### Indemnification <sup>23</sup>

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

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<sup>19</sup> 325 ILCS 5/4(d), amended by P.A. 101-564. *Abuse and neglect* are defined in 325 ILCS 5/3, amended by P.A.s 102-567 and 102-676. For an *adult student with a disability* see 20 ILCS 1305/1-17(b). While board members are not required to take mandated reporter training provided by the Ill. Dept. of Children and Family Services (DCFS), being familiar with ANCRA's definition of an abused child and how mandated reporting works enables board members to better meet their duty under 325 ILCS 5/4(d). Board members may learn about ANCRA by taking DCFS mandated reporter training (available to anyone online at: <https://mr.dcfstraining.org>) or IASB's ANCRA course (available in the Online Learning eCenter at: [www.iasb.com](http://www.iasb.com)).

<sup>20</sup> 105 ILCS 5/21B-85(a).

<sup>21</sup> Id. at 5/21B-85(b), amended by P.A. 102-552.

<sup>22</sup> See policy 8:10, *Connection with the Community*.

<sup>23</sup> 105 ILCS 5/10-20.20 (duty to indemnify) and 5/10-22.3 (duty to insure against loss or liability). These statutes identify the same individuals for protection except that the indemnification statute includes mentors of certified staff members. See f/n 3 in sample policy 4:100, *Insurance Management*.

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

LEGAL REF.: 105 ILCS 5/10, 5/17-1, 5/21B-85, and 5/27-1.  
115 ILCS 5/, Ill. Educational Labor Relations Act.  
325 ILCS 5/, Abused and Neglected Child Reporting Act.

CROSS REF.: 1:10 (School District Legal Status), 1:20 (District Organization, Operations, and Cooperative Agreements), 2:10 (School District Governance), 2:80 (Board Member Oath and Conduct), 2:140 (Communications To and From the Board), 2:210 (Organizational School Board Meeting), 2:240 (Board Policy Development), 4:60 (Purchases and Contracts), 4:70 (Resource Conservation), 4:100 (Insurance Management), 4:110 (Transportation), 4:150 (Facility Management and Building Programs), 4:165 (Awareness and Prevention of Sexual Abuse and Grooming Behaviors), 4:175 (Convicted Child Sex Offender; Screening; Notifications), 5:10 (Equal Employment Opportunity and Minority Recruitment), 5:30 (Hiring Process and Criteria), 5:90 (Abused and Neglected Child Reporting), 5:120 (Employee Ethics; [Code of Professional Conduct](#); and Conflict of Interest), 5:150 (Personnel Records), 5:210 (Resignations), 5:290 (Employment Termination and Suspensions), 6:10 (Educational Philosophy and Objectives), 6:15 (School Accountability), 6:20 (School Year Calendar and Day), 7:10 (Equal Educational Opportunities), 7:30 (Student Assignment and Intra-District Transfer), 7:190 (Student Behavior), 7:200 (Suspension Procedures), 7:210 (Expulsion Procedures), 8:10 (Connection with the Community), 8:30 (Visitors to and Conduct on School Property)

## 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, by proper resolution, may cause to be placed 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>

The Board Secretary serves as the local election official. He or she receives petitions for the submission of a public question to referenda and forwards them to the proper election officer and otherwise provides information to the community concerning District elections.<sup>7</sup>

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

<sup>1</sup> State law controls this policy's content. Consult the board attorney early concerning any election question.

<sup>2</sup> 105 ILCS 5/9-10 provides that nominating petitions are filed with the county clerk or the county board of election commissioners if one was created pursuant to 10 ILCS 5/6A-1. Objections to nominating petitions or to a petition for a public question are submitted to the county officers electoral board. 10 ILCS 5/10-8 and 10-9. The Election Code also addresses reportable campaign contributions (10 ILCS 5/9); simultaneous filing of nominating petitions (10 ILCS 5/10-6.2); withdrawal from nomination (10 ILCS 5/10-7); Electoral Board duties (10 ILCS 5/10-10); and advertising in proximity of a polling place (10 ILCS 5/19A-70). See also 10 ILCS 5/1-3 (definitions), 5/2A (time of holding elections), and 5/28 (submitting public questions). The school board secretary or clerk has no statutory duties regarding the election of members to the school board. He or she is well-advised to refer all questions to the county clerk or the county board of election commissioners, whichever is applicable.

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

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

<sup>5</sup> 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. Within ~~4028~~ days after the consolidated election, boards must hold an organizational meeting to elect officers and fix a time and place for regular meetings. 105 ILCS 5/10-16, amended by P.A. 102-798. See sample policy 2:210, *Organizational School Board Meeting*.

<sup>6</sup> 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. 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 5/28-6 provides that any petition for the submission of a public question to referendum must be filed with the *local election official*. The board secretary or clerk is the *local election official*. 105 ILCS 5/9-2 and 10 ILCS 5/1-3. See f/n 2 as many of the duties of the *local election official* were reassigned after the 2014 changes to the law. The board may delete the following PR function: ~~“and otherwise provides information to the community concerning District elections.”~~

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

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

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## School Board

### Board Member Term of Office <sup>1</sup>

The term of office for a School Board member begins immediately after both of the following occur:

1. The election authority canvasses the votes and declares the winner(s); this occurs within 21 days after the consolidated election held on the first Tuesday in April in odd-numbered years.
2. The successful candidate takes the oath of office as provided in Board policy 2:80, *Board Member Oath and Conduct*. <sup>2</sup>

The term ends 4 years later when the successor assumes office. <sup>3</sup>

LEGAL REF.: 10 ILCS 5/2A-1.1, 5/22-17, and 5/22-18.  
105 ILCS 5/10-10, 5/10-16, and 5/10-16.5.

CROSS REF.: 2:30 (School District Elections), 2:80 (Board Member Oath and Conduct), 2:210 (Organizational School Board Meeting)

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

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

<sup>2</sup> The oath requirement is mandated by 105 ILCS 5/10-16.5, ~~amended by P.A. 100-1055~~.

<sup>3</sup> All local canvassing boards were abolished in 2006. The appropriate *election authority* (county clerk or election commission, if one was established under Article 6A of the Election Code) canvasses the vote for school district elections. 10 ILCS 5/1-8. The election authority is responsible for school board member elections. 10 ILCS 5/1-3(8). Any provision in the School Code to the contrary is superseded and ineffective.

The election authority must canvass the vote within 21 days after the election. See 10 ILCS 5/22-17 and 5/22-18. Within ~~40~~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, ~~amended by P.A. 102-798~~.

The board, by resolution, may submit to the district's voters the question of increasing the term from four to six years. 105 ILCS 5/9-5. If the board has increased the term, edit the text of the policy to reflect it.

## School Board

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

#### Prohibited Political Activity

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

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

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

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

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

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



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

#### Limitations on Receiving Gifts <sup>4</sup>

Except as permitted by this policy, no Board member or employee, and no spouse of or immediate family member living with a Board member or employee,<sup>5</sup> shall intentionally solicit or accept any *gift* from any *prohibited source*, as those terms are defined herein, or that is otherwise prohibited by law or policy. No prohibited source shall intentionally offer or make a gift that violates this policy.

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

1. Opportunities, benefits, and services that are available on the same conditions as for the general public.
2. Anything for which the Board member or employee, or his or her spouse or immediate family member, pays the fair market value.
3. Any: (a) contribution that is lawfully made under the Election Code, or (b) activities associated with a fundraising event in support of a political organization or candidate.
4. Educational materials and missions.
5. Travel expenses for a meeting to discuss business.
6. A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-

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

Generally, 2 C.F.R. §200.318(c)(1) prohibits employees, officers, or agents of a school district from participating in the selection, award, or administration of a contract supported by a federal award if they have a real or apparent *conflict of interest*. For more discussion on conflict of interest, see sample policy 2:100, *Board Member Conflict of Interest*. Specifically, 2 C.F.R. §200.318(c)(1) requires school districts to "set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value (*standards*)," along with "disciplinary actions to be applied for violations (*disciplinary actions*)" without defining *nominal value*.

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

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

For further discussion, see the *Grant Accountability and Conflicts of Interest* section in the Ill. Council of School Attorneys' publication, **Answers to FAQs, Conflict of Interest and Incompatible Offices** at:

[www.iasb.com/law/COI\\_FAQ.pdf](http://www.iasb.com/law/COI_FAQ.pdf).

<sup>5</sup> 105 ILCS 5/22-930 (~~final citation pending~~), added by P.A. 102-327 and renumbered by P.A. 102-813, bans high school guidance counselors from intentionally soliciting or accepting gifts from a *prohibited source*, narrowly defined as "any person who is employed by an institution of higher education or is an agent or spouse of or an immediate family member living with a person employed by an institution of higher education." *Id.* Exceptions exist for certain circumstances, e.g., gifts from a relative or based on a personal friendship. A guidance counselor does not violate this law if he or she promptly takes reasonable action to return the gift to the prohibited source or donates the gift or an amount equal to its value to a tax-exempt charity. *Id.*

law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiancé or fiancée.

7. Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient or his or her spouse or immediate family member and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as: (a) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals; (b) whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (c) whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other Board members or employees, or their spouses or immediate family members.
8. Food or refreshments not exceeding \$75 per person in value on a single calendar day; provided that the food or refreshments are: (a) consumed on the premises from which they were purchased or prepared; or (b) catered. *Catered* means food or refreshments that are purchased ready to consume, which are delivered by any means.
9. Food, refreshments, lodging, transportation, and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of a Board member or employee), if the benefits have not been offered or enhanced because of the official position or employment of the Board member or employee, and are customarily provided to others in similar circumstances.
10. Intra-governmental and inter-governmental gifts. *Intra-governmental gift* means any gift given to a Board member or employee from another Board member or employee, and *inter-governmental gift* means any gift given to a Board member or employee from an officer or employee of another governmental entity.
11. Bequests, inheritances, and other transfers at death.
12. Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100.

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

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

#### Enforcement

The Board President and Superintendent shall seek guidance from the Board attorney concerning compliance with and enforcement of this policy and State ethics laws.<sup>6</sup> The Board may, as necessary or prudent, appoint an Ethics Advisor for this task.

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<sup>6</sup> This provision is consistent with sample policy 2:160, *Board Attorney*.

Written complaints alleging a violation of this policy shall be filed with the Superintendent or Board President. If attempts to correct any misunderstanding or problem do not resolve the matter, the Superintendent or Board President shall, after consulting with the Board Attorney, either place the alleged violation on a Board meeting agenda for the Board's disposition or refer the complainant to Board policy 2:260, *Uniform Grievance Procedure*. A Board member who is related, either by blood or by marriage, up to the degree of first cousin, to the person who is the subject of the complaint, shall not participate in any decision-making capacity for the Board. If the Board finds it more likely than not that the allegations in a complaint are true, it shall notify the State's Attorney and/or consider disciplinary action for the employee. <sup>7</sup>

### Definitions <sup>8</sup>

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

*Political activity* means:

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

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<sup>7</sup> The Ill. Attorney General's model ethics ordinance includes the specific penalties from the Ethics Act, 5 ILCS 430/50-5. Elsewhere the Act states that a "governmental entity **may** provide in [its] ordinance or resolution ... for penalties similar to those provided in this Act for similar conduct." 5 ILCS 430/70-10. Thus, school boards do not need to enact policy containing criminal sanctions. Rather, as provided in this sample policy, violations can be referred to the State's Attorney.

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

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

<sup>8</sup> The definitions contained in this policy are all from 5 ILCS 430/~~1-5~~<sup>1-5</sup> with minor adaptations.

7. Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.
8. Initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question.
9. Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.
10. Preparing or reviewing responses to candidate questionnaires.
11. Distributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question.
12. Campaigning for any elective office or for or against any referendum question.
13. Managing or working on a campaign for elective office or for or against any referendum question.
14. Serving as a delegate, alternate, or proxy to a political party convention.
15. Participating in any recount or challenge to the outcome of any election.

With respect to an employee whose hours are not fixed, *compensated time* includes any period of time when the employee is on premises under the control of the District and any other time when the employee is executing his or her official duties, regardless of location.<sup>9</sup>

*Prohibited source* means any person or entity who:

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

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

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<sup>9</sup> The Ethics Act prohibits employees from engaging in political activities on *compensated time* but does not define the term. *Compensated time* is easy to determine for employees with fixed working hours. Determining *compensated time* for a salaried employee who does not have obligatory hours of attendance is more difficult. For this reason, the term *compensated time* should include both the time when the employee is physically present on district premises as well as any other time when the employee is engaged in official duties.

## Complaints of Sexual Harassment Made Against Board Members by Elected Officials <sup>10</sup>

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

Board members and elected officials should report claims of sexual harassment against a member of the Board to the Board President or Superintendent. If the report is made to the Superintendent, the Superintendent shall promptly notify the President, or if the President is the subject of the complaint, the Vice President. Reports of sexual harassment will be confidential to the greatest extent practicable. <sup>11</sup>

When a complaint of sexual harassment is made against a member of the Board by another Board member or other elected official, the Board President shall appoint a qualified outside investigator who is not a District employee or Board member to conduct an independent review of the allegations. If the allegations concern the President, or the President is a witness or otherwise conflicted, the Vice President shall make the appointment. If the allegations concern both the President and Vice President, and/or they are witnesses or otherwise conflicted, the Board Secretary shall make the appointment. The investigator shall prepare a written report and submit it to the Board. <sup>12</sup>

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<sup>10</sup> Required. Under SOEEA, school districts must, by resolution, amend their sexual harassment policies "to provide for a mechanism for reporting and independent review of allegations of sexual harassment made against an elected official of the governmental unit by another elected official of a governmental unit." 5 ILCS 430/70-5, amended by P.A. 101-221. This policy includes both elected and appointed board members to effectuate the intent of the law, to comprehensively address sexual harassment in the workplace, and for consistent treatment. The statute does not address whether the *independent review* must or may be limited to a board member's conduct in his or her official capacity, or if it can extend to a board member's behavior in his or her individual capacity. Consult the board attorney for advice. See sample policy 5:20, *Workplace Harassment Prohibited*, and its f/ns for information about what types of conduct may rise to the level of unlawful sexual harassment under federal and State laws. This policy only addresses the requirements of the SOEEA; it does not address harassment complaints made by employees or other non-elected individuals against board members. Such complaints may be processed under sample policy 2:260, *Uniform Grievance Procedure, or, if the allegations involve Title IX sexual harassment, sample policy 2:265, Title IX Sexual Harassment Procedure*. See [policy 2:260, Uniform Grievance Procedure](#), at f/ns 1 and 6.

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

<sup>11</sup> The Open Meetings Act (OMA) does not provide a specific exemption for discussion of complaints against a members of a public body in closed session. 5 ILCS 120/2(c)(1), amended by P.A. 101-459.

<sup>12</sup> 5 ILCS 430/70-5(a), amended by P.A. 101-221. The law requires governmental units, including school districts, to conduct an *independent review* of allegations of sexual harassment made against an elected official by another elected official; however, that term is not defined. Consult the board attorney about how to investigate such complaints.

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

If a Board member has engaged in sexual harassment, the matter will be addressed in accordance with the authority of the Board. <sup>13</sup>

The Superintendent will post this policy on the District website and/or make this policy available in the District's administrative office. <sup>14</sup>

LEGAL REF.: 105 ILCS 5/22-9~~30~~ ~~(final citation pending)~~.  
5 ILCS 430/, State Officials and Employees Ethics Act.  
10 ILCS 5/9-25.1, Election Interference Prohibition Act.

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

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<sup>13</sup> A board's ability to address the harassing behavior of a board member is relatively limited because it does not have the legal authority to remove one of its members. See sample policy 2:60, *Board Member Removal from Office*, and its footnotes for more information about board member removal. Consult the board attorney when dealing with a claim of sexual harassment by a board member to discuss enforcement options, as well as the accused board member's participation in any decisions regarding the complaint.

<sup>14</sup> This paragraph is optional, but it aligns with the intent of P.A. 101-221. See f/n 10, above.

## School Board

### Access to District Public Records <sup>1</sup>

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

### Freedom of Information Officer <sup>3</sup>

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

### Definition <sup>4</sup>

The District's *public records* are defined as records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all other documentary material pertaining to the transaction of public business, regardless of physical form or characteristics, having

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

See also [Let the Sunshine In: School Board Meetings and Records published by IASB at: www.iasb.com/IASB/media/Documents/IPBSunshine.pdf](http://www.iasb.com/IASB/media/Documents/IPBSunshine.pdf).

Any person denied access to a public record may request a review by the Ill. Public Access Counselor (PAC) established in the office of the Ill. Atty. Gen. 5 ILCS 140/9.5. As a result of the review, the PAC may issue an opinion binding on the requester and public body. IASB reports on the opinions relevant to school districts [on its website](http://www.iasb.com/law/decisions.cfm?SubjectArea=Freedom%20of%20Information%20Act%20-%20FOIA) at:

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

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

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

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

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

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

The definition of *public records*, for purposes of this policy, is the definition contained in 5 ILCS 140/2(ce) without amendment.

been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of the School District.

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

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

### Responding to Requests

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

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

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

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

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

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

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

<sup>7</sup> 5 ILCS 140/7, amended by P.A.s 101-434, ~~eff. 1-1-20~~, 102-791, 102-752, ~~eff. 1-1-23~~, and 102-753, ~~eff. 1-1-23~~, and 140/7.5 describe numerous explicit exceptions to the presumption that all public records are available for public inspection. Each record is "presumed to be open to inspection or copying" and the district will have "the burden of proving by clear and convincing evidence that it is exempt." 5 ILCS 140/1.2 and 140/11(f). A person who prevails in a court proceeding to enforce FOIA will be awarded attorney's fees; the public body may incur a civil penalty of between \$2,500 and \$5,000 for each occurrence of a willful or intentional violation of FOIA or other action in bad faith; and courts may impose additional penalties of up to \$1,000 for each day the violation continues if (1) the board fails to comply with the court's order after 30 days, (2) the court's order is not on appeal or stayed, and (3) the court does not grant the public body additional time to comply with the court's order to disclose public records. 5 ILCS 140/11(i) and (j). School officials should seek the board attorney's advice concerning the denial of a record request.

Two State laws limit the disclosure of employee personnel evaluations:

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

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

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



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

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

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

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

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

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

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

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

The Freedom of Information Officer shall respond to record requests according to the time periods described in 5 ILCS 140/3.

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

<sup>13</sup> 5 ILCS 140/7, amended by P.A.s 101-434, [eff. 1-1-2010](#), [102-791](#), [102-752](#), [eff. 1-1-23](#), and [102-753](#), [eff. 1-1-23](#). Redacting exempt portions is permitted, but not required, except that contractors' employees' addresses, telephone numbers, and social security numbers must be redacted before disclosure. 5 ILCS 140/2.10. Reviewing past responses to FOIA requests will promote uniform treatment of requests for similar records.

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

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

review fees for responding to a request for a *commercial purpose* and fees, costs, and personnel hours in connection with responding to a *voluminous request*.

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

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

#### Provision of Copies and Access to Records

A public record that is the subject of an approved access request will be available for inspection or copying at the District's administrative office during regular business hours, unless other arrangements are made by the Freedom of Information Officer. <sup>16</sup>

Many public records are immediately available from the District's website including, but not limited to, the process for requesting a public record.<sup>17</sup> The Freedom of Information Officer shall direct a requester to the District's website if a requested record is available there. If the requester is unable to reasonably access the record online, he or she may resubmit the request for the record, stating his or her inability to reasonably access the record online, and the District shall make the requested record available for inspection and copying as otherwise provided in this policy. <sup>18</sup>

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<sup>15</sup> 5 ILCS 140/6(c) makes it mandatory to furnish records "without charge or at a reduced charge" if the request is in the *public interest* as defined by FOIA. If a board wants to indicate when a reduction is available by paraphrasing the statute, it may substitute the following alternative for the default paragraph:

A fee reduction is available if the person requesting the record states a specific purpose for the request and indicates that a fee reduction is in the public interest by having as its principal purpose the preservation of the general public's health, safety, welfare, or legal rights and is not for the principal purpose of personal or commercial benefit. The Freedom of Information Officer shall set the amount of the reduction, taking into consideration the amount of material requested and the cost of copying it.

<sup>16</sup> Public bodies may adopt rules for the times and places where records will be made available. 5 ILCS 140/3(h). A board may amend this sentence to reflect other times and/or places where records will be made available.

<sup>17</sup> 5 ILCS 140/4. A district may reduce FOIA requests by posting records on its website. Many records are required to be web-posted, see 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. If the district does not have a website, [changereplace](#) this paragraph as follows:

Some public records are available for immediate access including a description of the process for requesting a public record, and a list of all types or categories of records under its control.

For a list of required web-postings see 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. Using the district's website is also a convenient way to comply with FOIA's requirement to identify documents that are *immediately* available. 5 ILCS 140/3.5(a). Although not required to be web-posted, a list of all types or categories of records under its control must be prepared and made available. 5 ILCS 140/5; see 2:250-API, *Access to and Copying of District Public Records*.

<sup>18</sup> 5 ILCS 140/8.5.

## Preserving Public Records

Public records, including email messages, shall be preserved and cataloged if: (1) they are evidence of the District's organization, function, policies, procedures, or activities, (2) they contain informational data appropriate for preservation, (3) their retention is required by State or federal law, or (4) they are subject to a retention request by the Board Attorney (e.g., a litigation hold), District auditor, or other individual authorized by the School Board or State or federal law to make such a request.<sup>19</sup> Unless its retention is required as described in items numbered 3 or 4 above, a public record, as defined by the Illinois Local Records Act, may be destroyed when authorized by the Local Records Commission.<sup>20</sup>

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<sup>19</sup> The Local Records Act (50 ILCS 205/3) requires the preservation of records described in items #1-3. The preservation of records described in item #3 is also required by the Family Educational Rights and Privacy Act (20 U.S.C. §1232g) and the Ill. School Student Records Act (105 ILCS 10/), among other laws. An example of a record described in item #4 is a record subject to a *litigation hold* or a document preservation requirement pursuant to Federal Rules of Civil Procedure, Rules 16 and 26.

Categorizing email messages is complicated because two laws apply and the rules differ when a board member is a party. See sample policy 2:140, *Communications To and From the Board*, for a discussion of email between or among board members. When employees or agents are using email for school purposes, the email messages may be *public records*, but will not necessarily be subject to disclosure depending on the topic discussed. FOIA's list of exemptions from disclosure determines whether these emails are subject to disclosure. For exemptions see 5 ILCS 140/7, amended by P.A. [101-434, eff. 1-1-20](#); [102-791, 102-752, eff. 1-1-23, and 102-753, eff. 1-1-23](#), and 140/7.5.

Not all email messages between or among employees must be preserved, even if they are *public records* for purposes of FOIA. The definition of *public record* in the Local Records Act (50 ILCS 205/3) is narrower than its definition in FOIA. Thus, staff email, like all district records, must be retained only when it contains material described in #1-4. While this is a slippery slope without definitive parameters, employee email that is conversational or personal, or contains brainstorming may generally be deleted.

The Prevailing Wage Act (820 ILCS 130/5, ~~amended by P.A. 100-1177~~) requires contractors, while participating in public works, to keep certified payroll records of all laborers, mechanics, and other workers employed by them on the project and to submit this record no later than the 15<sup>th</sup> of the month to the public body, until the Ill. Dept. of Labor (IDOL) activates an electronic database for certified payrolls no later than 4-1-20, at which time contractors will submit certified payrolls only to that database. *Id.* The public body in charge of the project must keep the records submitted before 1-1-14 for a period of not less than three years. Records submitted on or after 1-1-14 must be kept for a period of five years or until the IDOL activates the electronic database for certified payrolls, whichever is less. *Id.* Records may be retained in paper or electronic format. These records are considered public records, except for contractors' employees' addresses, telephone numbers, social security numbers, race, ethnicity, and gender, and they must be made available in accordance with FOIA. ***Id.* Note:** 820 ILCS 130/5, ~~amended by P.A. 100-1177~~, requires contractors to maintain records of the race, ethnicity, gender, and veteran status of workers on a public works project. FOIA, however, was not similarly amended to require public bodies to redact the workers' race, ethnicity, and gender from certified payroll records before disclosure. See 5 ILCS 140/2.10. The Ill. Atty. Gen. has previously issued at least one non-binding opinion finding that disclosure of a person's gender is not an unwarranted invasion of personal privacy under 5 ILCS 140/7(1)(c). Districts should consult with their board attorneys regarding what categories of information may be properly redacted in response to a FOIA request for certified payroll records.

<sup>20</sup> 50 ILCS 205/. Preservation and destruction of documents is covered in 2:250-AP2, *Protocols for Record Preservation and Development of Retention Schedules*. See also the Ill. Secretary of State's website for information on preserving and destroying records, [at: www.cyberdriveillinois.com/departments/archives/records\\_management/](http://www.cyberdriveillinois.com/departments/archives/records_management/).

LEGAL REF.: 5 ILCS 140/, Illinois Freedom of Information Act.  
105 ILCS 5/10-16 and 5/24A-7.1.  
820 ILCS 40/11.  
820 ILCS 130/5.

CROSS REF.: 2:140 (Communications To and From the Board), 5:150 (Personnel Records),  
7:340 (Student Records)

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## General School Administration

### Goals and Objectives <sup>1</sup>

The Superintendent directs the administration in the management of the School District and to facilitate the implementation of a quality educational program in alignment with School Board policy 1:30, *School District Philosophy*. Specific goals and objectives are to:

1. Provide educational expertise.
2. Plan, organize, implement, and evaluate educational programs that will provide for students' mastery of the Illinois Learning Standards. <sup>2</sup>
3. Meet or exceed student performance and academic improvement goals established by the Board. <sup>3</sup>
4. Develop and maintain channels for communication between the school and community.
5. Develop an administrative procedures manual and handbooks for personnel and students that are in alignment with Board policy. <sup>4</sup>
6. Manage the District's fiscal and business activities to ensure financial health, cost-effectiveness, and protection of the District's assets.
7. Provide for the proper use, reasonable care, and appropriate maintenance of the District's real and personal property, including buildings, equipment, and supplies.

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

<sup>1</sup> This policy provides an opportunity for a board to give the superintendent a big picture of its vision for the district by identifying some high-level goals. While [sample](#) policy 1:30, *School District Philosophy*, contains the district's mission statement, i.e., why the district exists, this policy contains progress expectations and desired results, i.e., goals. This policy is designed to contain goals for which the administration will be responsible, including goals concerning finances, instruction, property, connecting with the community, etc. The list of goals should be replaced with the board's goals and objectives for school administration, if any.

This policy is in alignment with State law. The superintendent and principal's general duties are listed in 105 ILCS 5/10-21.4 and 5/10-21.4a, respectively. See also 105 ILCS 5/10-16.7.

<sup>2</sup> See the State Goals for Learning [and Learning Standards](#), 23 Ill.Admin.Code §1, Appendix D, ~~amended at 43 Ill.Reg. 3799.~~

<sup>3</sup> School administrators may be employed under a multi-year contract only if it is performance-based and contains goals and indicators of student performance and academic improvement. 105 ILCS 5/10-23.8 and 5/20-23.8a. Principal evaluations must use data and indicators on student growth as a significant factor. 105 ILCS 5/24A-15(c). Thus, a policy statement that administrative staff shall "meet or exceed student performance and academic improvement goals" is consistent with legal requirements.

<sup>4</sup> Staff and student handbooks provide a means to distribute important information and are referenced in many sample policies and procedures. Members of the Ill. Principals Assoc. may subscribe to its Model Student Handbook Service. While this service is not a handbook *per se*, it provides principals with quick, user-friendly access to model student handbook provisions that are attorney drafted and fully aligned with IASB's policy services. For more information, see:

[www.ilprincipals.org/msh](http://www.ilprincipals.org/msh)~~[www.ilprincipals.org/resources/model-student-handbook](http://www.ilprincipals.org/resources/model-student-handbook)~~

LEGAL REF.: 105 ILCS 5/10-16.7, 5/10-21.4, and 5/10-21.4a.

CROSS REF.: 1:30 (School District Philosophy), 2:20 (Powers and Duties of the School Board; Indemnification), 2:130 (Board Superintendent Relationship), 3:40 (Superintendent), 3:50 (Administrative Personnel Other Than the Superintendent), 3:60 (Administrative Responsibility of the Building Principal), 6:10 (Educational Philosophy and Objectives)

DRAFT

## General School Administration

### Administrative Personnel Other Than the Superintendent<sup>1</sup>

#### Duties and Authority

The School Board establishes District administrative and supervisory positions in accordance with the District's needs and State law. This policy applies to all administrators other than the Superintendent, including without limitation, Building Principals. The general duties and authority of each administrative or supervisory position are approved by the Board, upon the Superintendent's recommendation, and contained in the respective position's job description.<sup>2</sup> In the event of a conflict, State law and/or the administrator's employment agreement shall control.

#### Qualifications

All administrative personnel shall be appropriately licensed and shall meet all applicable requirements contained in State law and Illinois State Board of Education rules.<sup>3</sup>

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

<sup>1</sup> State or federal law controls this policy's content. 105 ILCS 5/10-23.8a requires each principal, assistant principal, and other school administrator to be employed under either: (1) a one-year contract, in which case he or she gains and retains tenure rights, or (2) a multi-year performance-based contract, in which case he or she waives all tenure rights but does not lose any previously acquired tenure credit with the district. A multi-year performance-based contract must contain specific student performance and academic improvement goals and indicators.

<sup>2</sup> Job descriptions are advisable, but optional. See [sample](#) policy 5:30, *Hiring Process and Criteria*, for a discussion of job descriptions. An Ill. State Board of Education (ISBE) rule (23 Ill.Admin.Code §1.310) allows *divided service*, meaning that a superintendent or principal may be employed by two school districts or serve in two professional capacities provided that full-time equivalency results in a maximum of one full-time position. In districts with an enrollment of 100 or fewer, an individual may serve as superintendent/principal and teach up to one-half day.

<sup>3</sup> 105 ILCS 5/21B-20 and 5/21B-25 govern Professional Educator Licenses and administrative, principal, and chief school business official endorsements. The requirements for supervisory or administrative staff are in 23 Ill.Admin.Code §1.705; the requirements for endorsements are in 23 Ill.Admin.Code Part 25, Subpart E. Standards for Administrative Endorsements are in 23 Ill.Admin.Code Part 29.

The following option may be added at the end of this paragraph:

Administrative personnel must reside in the District within a specified period as provided in their initial employment agreement.

State law (105 ILCS 5/24-4.1) prohibiting residency requirements for teachers does not apply to non-instructional personnel, e.g., assistant principals. *Owen v. Kankakee Sch. Dist.*, 261 Ill.App.3d 298 (3rd. Dist. 1994). A board may impose residency requirements on a principal or assistant principal only if the individual's initial contract with the district made residency an express condition of employment or continued employment as a principal. 105 ILCS 5/10-21.4a. Residency within a district may not be considered in determining a principal's compensation, assignment, or transfer. Id.

## Evaluation

The Superintendent or designee shall evaluate all administrative personnel and make employment and salary recommendations to the Board. <sup>4</sup>

Administrators shall annually present evidence to the Superintendent of professional growth through attendance at educational conferences, additional schooling, in-service training, and Illinois Administrators' Academy courses, or through other means as approved by the Superintendent. <sup>5</sup>

## Administrative Work Year

The work year for administrators shall be the same as the District's fiscal year, July 1 through June 30, unless otherwise stated in the employment agreement. In addition to legal holidays, administrators shall have vacation periods as approved by the Superintendent. All administrators shall be available for work when their services are necessary. <sup>6</sup>

## Compensation and Benefits

The Board and each administrator shall enter into an employment agreement that complies with Board policy and State law.<sup>7</sup> The terms of an individual employment contract, when in conflict with this policy, will control.

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<sup>4</sup> All licensed school district employees must be evaluated. 105 ILCS 5/24A-1, 23 Ill.Admin.Code §1.320. Each district must implement a performance evaluation plan for its principals and assistant principals. 105 ILCS 5/24A-15, [amended by P.A. 102-729](#); 23 Ill.Admin.Code §50.300. The statutory deadline for evaluating principals and assistant principals depends on whether the individual's employment contract is for one year or multiple years: (1) the evaluation of individuals on a single year contract must take place annually by March 1, and (2) the evaluation of individuals on a multi-year contract must take place by March 1 of the contract's final year. 105 ILCS 5/24A-15, [amended by P.A. 102-729](#). Individual contracts may require an earlier deadline. [For the 2022-2023 school year only, if the Governor has declared a disaster due to a public health emergency, districts have the option to waive the evaluation requirement of principals and assistant principals who received either excellent or proficient ratings during the last school year in which they were evaluated, as long as the Governor's disaster declaration remained in effect.](#) Id. 105 ILCS 5/24A-3 requires that an individual who conducts an evaluation of a teacher, principal, or assistant principal, (1) be prequalified before undertaking any evaluation, and (2) participate in a regularly scheduled retraining program.

<sup>5</sup> The professional growth reporting requirements in this paragraph are optional. However, professional development activities are required for license renewal. 105 ILCS 5/21B-45, contains the license renewal process, along with the professional development hours and carry over of these hours.

A school board must require the administrators who evaluate employees to complete training on the evaluation of licensed personnel that is provided or approved by ISBE. 105 ILCS 5/24A-3 and 5/24A-20(a)(4). Any prequalification process or retraining program developed and used by a school district must, at a minimum, meet the requirements of 23 Ill.Admin.Code Part 50, Subpart E. Administrative personnel must participate in this training (1) before they evaluate, and (2) at least once during each certificate renewal cycle. 105 ILCS 5/24-3.

<sup>6</sup> Legal holidays are provided by 105 ILCS 5/24-2, amended by P.A.s 101-642 (*2020 Election Day*), 102-15 (*2022 Election Day*), and 102-14, [eff. 1-1-22](#), and 102-334, (both establishing *Juneteenth National Freedom Day*).

<sup>7</sup> According to 105 ILCS 5/10-23.8a, a principal, assistant principal, and any other school administrator must be employed under either: (1) a one-year contract, in which case he or she gains and retains tenure rights, or (2) a multi-year performance-based contract, in which case he or she waives all tenure rights but does not lose any previously acquired tenure credit with the district. A multi-year performance-based contract must contain specific student performance and academic improvement goals and indicators.

The employment contract should be *in writing* even though the School Code does not require it to be written. Contact the board attorney for assistance. An administrator who is not working under a written contract is presumed to have a contract of one year's duration. [Schaumburg Cmty. Consol. Sch. Dist. v. TRS, 984 N.E.2d 66 \(4th Dist. 2013\)](#)(interpreting 105 ILCS 5/10-23.8a). The Ill. Statute of Frauds may make it impossible to execute an *oral* multi-year administrator contract or to *orally* extend a multi-year written contract. 740 ILCS 80/1.



The Board will consider the Superintendent's recommendations when setting compensation for individual administrators. These recommendations should be presented to the Board no later than the March Board meeting or at such earlier time that will allow the Board to consider contract renewal and nonrenewal issues.<sup>8</sup>

Unless stated otherwise in individual employment contracts, all benefits and leaves of absence available to teaching personnel are available to administrative personnel.<sup>9</sup>

LEGAL REF: 105 ILCS 5/10-21.4a, 5/10-23.8a, 5/10-23.8b, 5/21B, and 5/24A.  
23 Ill.Admin.Code §§1.310, 1.705, and 50.300; and Parts 25 and 29.

CROSS REF: 3:60 (Administrative Responsibility of the Building Principal), 4:165 (Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors), 4:175 (Convicted Child Sex Offender; Screening; Notifications), 5:30 (Hiring Process and Criteria), 5:90 (Abused and Neglected Child Reporting), 5:120 (Employee Ethics; [Code of Professional Conduct](#); and Conflict of Interest), 5:150 (Personnel Records), 5:210 (Resignations), 5:250 (Leaves of Absence), 5:290 (Employment Termination and Suspensions)

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The Open Meetings Act requires all Ill. Municipal Retirement Fund (IMRF) employers, which includes school boards, to: (1) within six business days after approving a budget, web-post each employee's total compensation package if it exceeds \$75,000 per year; and (2) at least six days before approval, web-post an employee's total compensation package if it is \$150,000 or more. 5 ILCS 120/7.3. Conflicting opinions concern whether school districts must comply with these posting requirements for their employees who do not participate in IMRF. Contact the board attorney for advice.

Annually by Oct. 1, each school board must report to ISBE the base salary and benefits of the superintendent, administrators, and teachers it employs. 105 ILCS 5/10-20.47. Before this annual reporting to ISBE, the information must be presented at a regular school board meeting and then posted on the district's website, if any.

<sup>8</sup> State law does not address when the board should consider salary issues. The March deadline was chosen because the statutory notice deadline for reclassification is April 1 of the year in which a principal or assistant principal's contract expires unless the contract provides for an earlier deadline. 105 ILCS 5/10-23.8b. Alternatively, the policy could require that recommendations be presented "in a timely manner."

<sup>9</sup> State law does not require that administrative and teaching personnel receive identical benefits and leaves of absence, but it does set the minimum in days and type for all [certificated-licensed](#) personnel.

## General School Administration

### Administrative Responsibility of the Building Principal <sup>1</sup>

#### Duties and Authority

The School Board, upon the recommendation of the Superintendent, employs Building Principals as the chief administrators and instructional leaders of their assigned schools, and may employ Assistant Principals. The primary responsibility of a Building Principal is the improvement of instruction.<sup>2</sup> Each Building Principal shall perform all duties as described in State law as well as such other duties as specified in his or her employment agreement or as the Superintendent may assign, that are consistent with the Building Principal's education and training.<sup>3</sup> Each Building Principal and Assistant Principal shall complete State law requirements to be a prequalified evaluator before conducting an evaluation of a teacher or assistant principal.<sup>4</sup>

#### Evaluation Plan

The Superintendent or designee shall implement an evaluation plan for Principals and Assistant Principals that complies with Section 24A-15 of the School Code and relevant Illinois State Board of

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

<sup>2</sup> Required by 105 ILCS 5/10-21.4a.

<sup>3</sup> An alternative follows: "...or as agreed upon by the Building Principal and Superintendent."

The principal's duties are generally described in 105 ILCS 5/10-21.4a and 5/24A-15(c-5). However, many other statutes impose additional duties, e.g., 105 ILCS 127/2 (requires principals to report to the police certain violations of the Cannabis Control Act, Controlled Substance Act, and Methamphetamine Control and Community Protection Act occurring at specified locations); 105 ILCS 5/10-27.1A(b) (requires the principal or designee to immediately notify local law enforcement upon receiving a report of a person in possession of a firearm on school grounds, and, if that person is a student, to notify a student's parent/guardian); and 730 ILCS 152/ and 154/ (require notification to parents/guardians that information about sex offenders and violent offenders against youth is available). The county clerk may appoint high school principals or their designees as deputy registrars to accept voter registrations of any qualified resident of the State. 10 ILCS 5/4-6.2(a). The Firearm Concealed Carry Act requires a principal to notify the Ill. Dept. of State Police whenever he or she determines that a student (or any person) poses a "clear and present danger to himself, herself or to others." 430 ILCS 66/105; 405 ILCS 5/6-103.3. Lawyers disagree whether this requirement violates the federal Family Educational Rights and Privacy Act. Contact the board attorney for advice.

<sup>4</sup> This restates 105 ILCS 5/24A-3 and 23 Ill.Admin.Code Part 50, Subpart E. Individuals who evaluate teachers, principals, or assistant principals must: (1) be prequalified, and (2) participate in a regularly scheduled retraining program. The prequalification and retraining programs must be either developed or approved by the Ill. State Board of Education (ISBE).

105 ILCS 5/24A-5 permits a first-year principal to evaluate a teacher; however, a new two-year evaluation plan must be established for any tenured teacher who is evaluated by a first-year principal. 105 ILCS 5/24A-5.

Anyone who has not previously been a principal in Ill. must participate in ISBE's *new principal mentoring program*; however, implementation of a principal mentoring program in any given year is dependent upon an appropriation. If appropriations are not likely sufficient to serve all anticipated first-year principals in any given year, the program is voluntary. Mentoring services are extended to second-year principals only if appropriations are sufficient to serve all first-year principals. If mentoring services are extended to second-year principals but appropriations are not sufficient to serve all second-year principals who wish to participate in the new principal mentoring program, then priority access to mentoring services is provided to second year principals who are in the highest need schools as determined by the State Superintendent of Education. 105 ILCS 5/2-3.53a, amended by P.A. 102-521 (adding, subject to annual appropriation, a competitive grant program to support the new principal mentoring program for districts to participate in); 23 Ill.Admin.Code Part 35. Annually by June 1, each superintendent must report to the State Superintendent or designee the expected number of first-year and second-year principals along with information specified in 23 Ill.Admin.Code §35.20.

Education rules.<sup>5</sup> Using that plan, the Superintendent or designee shall evaluate each Building Principal and Assistant Principal.<sup>6</sup> The Superintendent or designee may conduct additional evaluations.

#### Qualifications and Other Terms and Conditions of Employment

Qualifications and other terms and conditions of employment are found in Board policy 3:50, *Administrative Personnel Other Than the Superintendent*.

LEGAL REF.: 105 ILCS 5/2-3.53a, 5/10-20.14, 5/10-21.4a, 5/10-23.8a, 5/10-23.8b, and 5/24A-15.  
10 ILCS 5/4-6.2, Election Code.  
105 ILCS 127/, School Reporting of Drug Violations Act.  
23 Ill.Admin.Code Parts 35 and 50, Subpart D.

CROSS REF.: 3:50 (Administrative Personnel Other Than the Superintendent), 4:165 (Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors), 4:175 (Convicted Child Sex Offender; Screening; Notifications), 5:90 (Abused and Neglected Child Reporting), 5:120 (Employee Ethics; [Code of Professional Conduct](#); and Conflict of Interest); 5:150 (Personnel Records), 5:210 (Resignations), 5:250 (Leaves of Absence), 5:290 (Employment Termination and Suspensions)

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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> Each district must implement a performance evaluation plan for its principals and assistant principals. 105 ILCS 5/24A-15, [amended by P.A. 102-729](#); 23 Ill.Admin.Code §50.300. A board may substitute this alternative for the first sentence: “The Superintendent or designee shall implement a principal and assistant principal evaluation plan that complies with State law.” The statutory deadline for evaluating principals and assistant principals depends on whether the individual’s employment contract is for one year or multiple years: (1) the evaluation of individuals on a single-year contract must take place annually by March 1, and (2) the evaluation of individuals on a multi-year contract must take place by March 1 of the contract’s final year. 105 ILCS 5/24A-15, [amended by P.A. 102-729](#). Individual contracts may require an earlier deadline. [For the 2022-2023 school year only, if the Governor has declared a disaster due to a public health emergency, districts have the option to waive the evaluation requirement if certain conditions were met. See sample policy 3:50, Administrative Personnel Other than the Superintendent, at f/n 4 for more information. Id.](#)

<sup>6</sup> Required by 105 ILCS 5/10-21.4a and 5/24A-15, [amended by P.A. 102-729](#). For a principal who also serves as the district superintendent, the evaluator must be appointed by the [board/school](#) and not be the person whose performance as principal is being evaluated. 23 Ill.Admin.Code §50.300(b). In addition, the evaluator must hold a valid professional educator license endorsed for superintendent issued under Article 21B and have completed the prequalification process and any retraining, as applicable. [Id.](#) Add this option if appropriate: “...or, in the absence of the Superintendent or his or her designee, an individual appointed by the ~~School~~ Board who holds a valid professional educator license endorsed for superintendent.”

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## Operational Services

### Food Services <sup>1</sup>

Good nutrition shall be promoted in the District's meal programs and in other food and beverages that are sold to students during the school day. The Superintendent shall manage a food service program that complies with this policy and is in alignment with School Board policy 6:50, *School Wellness*.

Food or beverage items sold to students as part of a reimbursable meal under federal law must follow the nutrition standards specified in the U.S. Dept. of Agriculture rules that implement the National School Lunch and Child Nutrition Acts. Schools being reimbursed for meals under these laws are *participating schools*. <sup>2</sup>

The food service program in participating schools shall comply with the nutrition standards specified in the U.S. Dept. of Agriculture's *Smart Snacks rules* when it offers competitive foods to students on the school campus during the school day.<sup>3</sup> *Competitive foods* are all food and beverages that are offered by any person, organization or entity for sale to students on the school campus during the school day that are not reimbursed under programs authorized by federal law.<sup>4</sup> The food service programs in participating schools shall also comply with any applicable mandates in the Illinois State Board of Education's School Food Service rules implementing these federal laws and the Ill. School Breakfast and Lunch Program Act. <sup>5</sup>

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

<sup>1</sup> State or federal law controls this policy's content. Districts that participate in programs under the National School Lunch Act and Child Nutrition Acts must establish policies and procedures as are necessary to ensure compliance with 7 C.F.R. §210.1(b).

The Ill. State Board of Education (ISBE) limits the sale of competitive food and beverages sold to students on the school campus of any school that participates in the School Breakfast Program or the National School Lunch Program. 23 Ill.Admin.Code §305.15(a).

This policy's first sentence provides an opportunity for a school board to consider goals for the food service program and, if appropriate, amend the sentence. For example, a board may want to address the role of parents, alignment with curriculum, or the purpose of vending machines.

<sup>2</sup> 7 C.F.R. Parts 210 & 220.

<sup>3</sup> Russell B. National School Lunch Act, 42 U.S.C. §1751 et seq., as amended by the Healthy Hunger-Free Kids Act of 2010 (P.L. 111-296); 7 C.F.R. §210.11(c).

<sup>4</sup> 7 C.F.R. §210.11(a)(2); 23 Ill. Admin. Code §305.5.

<sup>5</sup> [105 ILCS 125/5.5, added by P.A. 102-761, requires districts that participate in the National School Lunch Program to provide a plant-based school lunch option that complies with federal nutritional standards to those students who submit a prior request to the district for the option. Districts may, but are not required to, incorporate a plant-based option into their planned menu as a means of compliance. See ISBE's Dietary Accommodations guidance, at: \[www.isbe.net/Documents/K-Accommodations.pdf\]\(http://www.isbe.net/Documents/K-Accommodations.pdf\).](#)



All revenue from the sale of any food or beverages sold in competition with the School Breakfast Program or National School Lunch Program to students in food service areas during the meal period shall accrue to the nonprofit school lunch program account. <sup>6</sup>

LEGAL REF.: 42 U.S.C. §1751 et seq., Russell B. National School Lunch Act.  
42 U.S.C. §1771 et seq., Child Nutrition Act of 1966.  
7 C.F.R. Parts 210 ([National School Lunch Program](#)) and 220 ([School Breakfast Program](#)), ~~Food and Nutrition Service~~.  
105 ILCS 125/, [School Breakfast and Lunch Program Act](#).  
23 Ill.Admin.Code Part 305, School Food Service.

CROSS REF.: 4:130 (Free and Reduced-Price Food Services), 6:50 (School Wellness)

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<sup>6</sup> This paragraph addresses the federal *requirements for competitive food* in 7 C.F.R. §210.11(b). This rule requires state agencies (ISBE) and/or [school districts] to “establish such policies and procedures as are necessary to ensure compliance with [the federal rules]. State agencies and/or [school districts] may impose additional restrictions on competitive foods...—” ISBE’s implementing rule, 23 Ill.Admin.Code §305.15(~~de~~), imposes additional restrictions by requiring “the revenue from any food or beverage meeting the competitive food standards sold to students in food service areas during the meal period accrue to the nonprofit school lunch program account.”

## Operational Services

### Targeted School Violence Prevention Program<sup>1</sup>

Threats and acts of targeted school violence harm the District's environment and school community, diminishing students' ability to learn and a school's ability to educate. Providing students and staff with access to a safe and secure District environment is an important Board goal. While it is not possible for the District to completely eliminate threats in its environment, a Targeted School Violence Prevention Program (Program) using the collective efforts of local school officials, staff, students, families, and the community helps the District reduce these risks to its environment.

The Superintendent or designee shall develop and implement the Program.<sup>2</sup> The Program oversees the maintenance of a District environment that is conducive to learning and working by identifying, assessing, classifying, responding to, and managing threats and acts of targeted school violence. The

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<sup>1</sup> While this sample policy is optional, 105 ILCS 128/45, added by P.A. 101-455 and amended by P.A. 102-791, requires school districts to implement a threat assessment *procedure* "no later than 120 days after [8-26-19]" that may be part of a school board targeted school violence prevention policy. Consult the board attorney regarding this implementation date. Thus, regardless of whether the board adopts a policy, an administrative procedure must exist to comply with the law. See the first sentence in f/n 2 below. It contains items from *Threat Assessment in Virginia Public Schools: Model Policies, Procedures, and Guidelines*, Second Edition (August 2016), Virginia Center for School and Campus Safety, Virginia Dept. of Criminal Justice Services, at: [www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/publications/law-enforcement/threat-assessment-model-policies-procedures-and-guidelinespdf.pdf](http://www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/publications/law-enforcement/threat-assessment-model-policies-procedures-and-guidelinespdf.pdf). *Threat Assessment in Virginia Public Schools* is based upon a synthesis of established research and recognized standards of practice regarding threat assessment and management in school and workplace settings, including *Threat Assessment in Schools: A Guide to Managing Threatening Situations and to Creating Safe School Climates*, a 2002/2004 publication of the U.S. Secret Service and the U.S. Dept. of Education, at: [www.secretservice.gov/data/protection/ntac/ssi\\_guide.pdf](http://www.secretservice.gov/data/protection/ntac/ssi_guide.pdf) [www2.ed.gov/admins/lead/safety/threatassessmentguide.pdf](http://www2.ed.gov/admins/lead/safety/threatassessmentguide.pdf). The July 2018 update of this document was renamed *Enhancing School Safety Using a Threat Assessment Model: An Operational Guide for Preventing Targeted School Violence*, published by the U.S. Secret Service, at: [www.dhs.gov/sites/default/files/publications/18-0711-USSS-NTAC-Enhancing-School-Safety-Guide.pdf](http://www.dhs.gov/sites/default/files/publications/18-0711-USSS-NTAC-Enhancing-School-Safety-Guide.pdf) [www.secretservice.gov/sites/default/files/reports/2020-10/USSS-NTAC-Enhancing-School-Safety-Guide.pdf](http://www.secretservice.gov/sites/default/files/reports/2020-10/USSS-NTAC-Enhancing-School-Safety-Guide.pdf). See also *Averting Targeted School Violence*, a 2021 publication of the U.S. Dept. of Homeland Security and the U.S. Secret Service, at: [www.secretservice.gov/sites/default/files/reports/2021-03/USSS%20Averting%20Targeted%20School%20Violence.2021.03.pdf](http://www.secretservice.gov/sites/default/files/reports/2021-03/USSS%20Averting%20Targeted%20School%20Violence.2021.03.pdf).

Adopting a policy that addresses targeted school violence prevention provides (a) a way for boards to monitor that it is being done, and (b) an opportunity for each board and the superintendent to examine all current policies, collective bargaining agreements, and administrative procedures on this subject. Before adoption of this policy, each board may want to have a conversation with the superintendent to determine how local conditions and resources and current practices will support the full implementation requirements of 105 ILCS 128/45, added by P.A. 101-455 and amended by P.A. 102-791. Its goals and program will be most effective when they reflect local conditions and circumstances.

<sup>2</sup> To balance the requirement to implement a threat assessment procedure (105 ILCS 128/45, added by P.A. 101-455 and amended by P.A. 102-791) with the practicalities of managing a district and to align with the best practices outlined in IASB's *Foundational Principles of Effective Governance* ([www.iasb.com/conference-training-and-events/training/training-resources/foundational-principles-of-effective-governance/www.iasb.com/pdf/found-prin.pdf](http://www.iasb.com/conference-training-and-events/training/training-resources/foundational-principles-of-effective-governance/www.iasb.com/pdf/found-prin.pdf)), this sentence delegates the duty to implement a procedure to the superintendent. See 4:190-API, *Targeted School Violence Prevention Program*, for a sample implementation procedure. Ensuring school safety begins with establishing a comprehensive targeted school violence prevention program, which "includes forming a multidisciplinary threat assessment team, establishing central reporting mechanisms, identifying behaviors of concern, defining the threshold for law enforcement intervention, identifying risk management strategies, promoting safe school climates, and providing training to stakeholders." *Enhancing School Safety Using a Threat Assessment Model: An Operational Guide for Preventing Targeted School Violence*, published by the U.S. Secret Service, at: [www.secretservice.gov/sites/default/files/reports/2020-10/USSS-NTAC-Enhancing-School-Safety-Guide.pdf](http://www.secretservice.gov/sites/default/files/reports/2020-10/USSS-NTAC-Enhancing-School-Safety-Guide.pdf) [www.dhs.gov/sites/default/files/publications/18-0711-USSS-NTAC-Enhancing-School-Safety-Guide.pdf](http://www.dhs.gov/sites/default/files/publications/18-0711-USSS-NTAC-Enhancing-School-Safety-Guide.pdf).

Program shall be part of the District's Comprehensive Safety and Security Plan, required by Board policy 4:170, *Safety*, and shall:

1. Establish a District-level School Violence Prevention Team to: (a) develop a District-level Targeted School Violence Prevention Plan, and (b) oversee the District's Building-level Threat Assessment Team(s).<sup>3</sup>
2. Establish Building-level Threat Assessment Team(s)<sup>4</sup> to assess and intervene with individuals whose behavior may pose a threat to safety. This team may serve one or more schools.
3. Comply with State and federal law and align with Board policies.

The Local Governmental and Governmental Employees Tort Immunity Act protects the District from liability. The Program does not: (1) replace the care of a physician licensed to practice medicine in all of its branches or a licensed medical practitioner or professional trained in violence prevention, assessments and counseling services, (2) extend beyond available resources within the District, (3) extend beyond the school day and/or school-sponsored events, or (4) guarantee or ensure the safety of students, District staff, or visitors.<sup>5</sup>

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<sup>3</sup> The establishment of threat assessment teams in K-12 public schools is Recommendation #1 of the *Recommendations of the Illinois Terrorism Task Force School Safety Working Group*, presented to the Office of the Governor on 4-5-18, at: [www.iasb.com/safety/](http://www.iasb.com/safety/). Illinois higher education institutions have required threat assessment teams since the passage of the Campus Security Enhancement Act of 2008 (110 ILCS 12/20(b)(2), eff. 1-1-09) in response to the shootings that took place at Virginia Polytechnic Institute and State University on 4-16-07 and Northern Illinois University on 2-14-08.

<sup>4</sup> 105 ILCS 128/45, added by P.A. 101-455 and amended by P.A. 102-791, requires school districts to establish a threat assessment team "no later than 180 days after [8-26-19]." ~~Consult the board attorney regarding this implementation date.~~ If a school district is unable to establish a threat assessment team with school district staff and resources, it may use a regional behavioral threat assessment and intervention team. Id. [The district's threat assessment procedure and a list identifying the members of all district threat assessment teams must be filed with a local law enforcement agency and the regional office of education or appropriate intermediate service center before the start of each school year. 105 ILCS 128/45\(b\), amended by P.A. 102-791.](#) See 4:190-AP2, *Threat Assessment Team (TAT)*, and its accompanying exhibits for further information on threat assessment teams and how to connect with a regional behavioral threat assessment team. [Records concerning the work of the TAT, including but not limited to any threat assessment procedure, are exempt from disclosure under the Ill. Freedom of Information Act. 5 ILCS 140/7\(II\), added by P.A. 102-791.](#)

<sup>5</sup> **Consult the board attorney for guidance concerning liability in this area.** Except for cases of willful and wanton conduct, the Local Governmental and Governmental Employees Tort Immunity Act (TIA) likely protects districts from liability for failure to properly identify and/or respond to a student's behavior that results in injury or suicide. See 745 ILCS 10/3-108 and *Grant v. Board of Trustees of Valley View School Dist. No. 365-U*, 286 Ill.App.3d 642 (3rd Dist. 1997). Every situation is fact specific, and the issues require careful evaluation. A disclaimer, such as the one presented here, may not be sufficient. A district may take several actions, after discussion with its board attorney, to minimize liability, such as adding limiting phrases and ensuring other policies are followed.

In addition to the TIA, school officials and districts may also be entitled to qualified immunity in civil rights lawsuits that seek to hold them liable for a suicide. For further discussion, see *f/n 143* in policy 7:290, *Suicide and Depression Awareness and Prevention*.

LEGAL REF.: 105 ILCS 5/10-20.14, 5/10-21.7, 5/10-27.1A, 5/10-27.1B, 5/24-24, and 5/27-23.7.  
105 ILCS 128/, School Safety Drill Act.  
745 ILCS 10/, Local Governmental and Governmental Employees Tort Immunity Act.  
29 Ill.Admin.Code Part 1500.

CROSS REF.: 2:240 (Board Policy Development), 4:170 (Safety), 5:90 (Abused and Neglected Child Reporting), 5:100 (Staff Development Program), 5:230 (Maintaining Student Discipline), 6:65 (Student Social and Emotional Development), 6:270 (Guidance and Counseling Program), 7:140 (Search and Seizure), 7:150 (Agency and Police Interviews), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior), 7:250 (Student Support Services), 7:290 (Suicide and Depression Awareness and Prevention), 7:340 (Student Records), 8:30 (Visitors to and Conduct on School Property), 8:100 (Relations with Other Organizations and Agencies)

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## General Personnel

### Equal Employment Opportunity and Minority Recruitment<sup>1</sup>

The School District shall provide equal employment opportunities<sup>2</sup> to all persons regardless of their race;<sup>3</sup> color; creed; religion;<sup>4</sup> national origin; sex;<sup>5</sup> sexual orientation;<sup>6</sup> age;<sup>7</sup> ancestry; marital

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<sup>1</sup> Federal and State law (see the policy's Legal References) require that all districts have a policy on equal employment opportunities and control this policy's content. **This is a complex, confusing, and highly litigated area of the law; consult the board attorney for advice on the application of these laws to specific fact situations.**

<sup>2</sup> *Equal employment opportunities* apply to virtually all terms and conditions of employment, e.g., discharge, hire, promotion, pay, demotion, and benefits (see the policy's Legal References). The Ill. Constitution protects the following categories from discrimination in employment: race, color, creed, national ancestry, sex, and handicap. Art. I, §§17, 18, and 19. The Ill. Human Rights Act (IHRA) protects the following categories from discrimination in employment, whether *actual* or *perceived*: race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, order of protection status, sexual orientation, pregnancy, unfavorable discharge from military service, and arrest record, conviction record (unless authorized by law), citizenship status, and work authorization status. 775 ILCS 5/1-102, amended by P.A.s 101-221 and 102-233; and 5/1-103, amended by P.A.s 101-221, 101-565, 102-362, 102-419, and 101-656; and 775 ILCS 5/2-103.1, added by P.A. 101-656. The IHRA requires employers to annually disclose to the Ill. Dept. of Human Rights (IDHR) certain information about adverse judgments and administrative rulings where there was a finding of sexual harassment or unlawful discrimination under any federal, State, or local law, as well as data regarding settlement agreements, if requested by an IDHR investigator. 775 ILCS 5/2-108, added by P.A. 101-221, scheduled to be repealed on 1-1-30.

The Equal Employment Opportunities Act (EEOA, a/k/a Title VII of the Civil Rights Act of 1964) prohibits discrimination because of an individual's race, color, religion, sex, or national origin. 42 U.S.C. §2000e et seq., amended by The Lilly Ledbetter Fair Pay Act of 2009 (LLFPA), Pub.L. 111-2.

Under the Workplace Transparency Act (WTA) (820 ILCS 96/, added by P.A. 101-221), employers may not, as a condition of employment or continued employment, prevent prospective or current employees from making truthful statements or disclosures about alleged unlawful employment practices, including discrimination. Id. at 96/1-25.

The LLFPA clarifies that a discriminatory compensation decision or other practice occurs each time an employee is paid or receives a last benefits check pursuant to the discriminatory compensation decision as opposed to only from the time when the discriminatory compensation decision or other practice occurred. The Act has no legislative history available to define what the phrase *or other practice* might mean beyond a discriminatory compensation decision; however, in a guidance document, the U.S. Equal Employment Opportunity Commission (EEOC) states that practices "may include employer decisions about base pay or wages, job classifications, career ladder or other noncompetitive promotion denials, tenure denials, and failure to respond to requests for raises." See *Equal Pay Act of 1963 and Lilly Ledbetter Fair Pay Act of 2009* (2014), at: [www.eeoc.gov/laws/guidance/equal-pay-act-1963-and-lilly-ledbetter-fair-pay-act-2009](http://www.eeoc.gov/laws/guidance/equal-pay-act-1963-and-lilly-ledbetter-fair-pay-act-2009).

The Ill. Equal Pay Act of 2003 (EPA) offers additional protection by prohibiting the payment of wages to one sex less than the opposite sex or to an African-American less than a non-African-American *for the same or substantially similar work.* 820 ILCS 112/, amended by P.A. 101-177. The Ill. Dept. of Labor (IDOL) enforces the EPA. The EPA also prohibits employers from requesting or requiring applicants to disclose wage or salary history as a condition of being considered for employment or as a condition of employment. Id. at 112/10(b-5), added by P.A. 101-177. If an applicant voluntarily offers such information without prompting, an employer still cannot use that information in making an offer or determining future pay. See administrative procedure 5:30-AP1, *Interview Questions*, for sample permissible inquiries on this topic. Employers may seek wage or salary history from an applicant's current or former employer if that information is a matter of public record under the Freedom of Information Act (FOIA); however, districts that wish to undertake such searches should exercise caution; the fact a district seeks out publicly available wage information could still be used against it in a pay discrimination claim. Id. at 112/10(b-10), added by P.A. 101-177. Consult the board attorney for further guidance.

While not exhaustive, other laws protecting these and additional classifications are named in subsequent footnotes.

status;<sup>8</sup> arrest record;<sup>9</sup> military status; order of protection status;<sup>10</sup> unfavorable military discharge;<sup>11</sup> citizenship status provided the individual is authorized to work in the United States;<sup>12</sup> work

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<sup>3</sup> The IHRA defines race to include traits associated with race, including, but not limited to, hair texture and protective hairstyles such as braids, locks, and twists. 775 ILCS 5/1-103(M-5), added by P.A. 102-1102, eff. 1-1-23. The law allows employers to implement dress codes or adopt grooming policies that include restrictions on attire, clothing, or facial hair to maintain workplace safety or food sanitation. 775 ILCS 5/2-102(E-5). Title VII does not have a definition of race, but EEOC guidance provides that “[r]ace discrimination includes discrimination on the basis of ancestry or physical or cultural characteristics associated with a certain race, such as skin color, hair texture or styles, or certain facial features.” See the EEOC’s *Questions and Answers about Race and Color Discrimination in Employment*, at: [www.eeoc.gov/laws/guidance/questions-and-answers-about-race-and-color-discrimination-employment](http://www.eeoc.gov/laws/guidance/questions-and-answers-about-race-and-color-discrimination-employment).

<sup>4</sup> 775 ILCS 5/2-102 of the IHRA, amended by P.A.s ~~100-588~~ and 101-221 and 102-233, contains a *religious discrimination* subsection. It expressly prohibits employers from requiring a person to violate a sincerely held religious belief to obtain or retain employment unless, after engaging in a bona fide effort, the employer demonstrates that it is unable to reasonably accommodate the employee’s or prospective employee’s sincerely held religious belief, practice, or observance without undue hardship on the conduct of the employer’s business. Religious beliefs include, but are not limited to: the wearing of any attire, clothing, or facial hair in accordance with the requirements of his/her religion. 775 ILCS 5/2-102(E-5). Employers may, however, enact a dress code or grooming policy that restricts attire, clothing, or facial hair to maintain workplace safety or food sanitation. *Id.*

In addition to the IHRA and the federal EEOA (discussed in f/n 2), see 775 ILCS 35/, Religious Freedom Restoration Act.

<sup>5</sup> Discrimination on the basis of sex under the EEOA includes discrimination on the basis of sexual orientation or transgender status. *Bostock v. Clayton Cnty.*, 140 S.Ct. 1731 (2020); *Hively v. Ivy Tech*, 853 F.3d 339 (7th Cir. 2017). In addition to the IHRA and the federal EEOA (discussed in f/n 2), see Title IX of the Education Amendments of 1972 (Title IX). 20 U.S.C. §1681 *et seq.*; 34 C.F.R. Part 106. See [sample policy 2:265, Title IX Sexual Harassment Grievance Procedure](#). The federal Equal Pay Act prohibits an employer from paying persons of one sex less than the wage paid to persons of the opposite sex for equal work. 29 U.S.C. §206(d). See f/n 2 above for more information on State equal pay protections, including on the basis of sex. The LLFPA defines *date of underpayment* as each time wages are underpaid. Employees have one year from the time they become aware of the underpayment to file a complaint with the IDOL. 820 ILCS 112/15(b).

<sup>6</sup> *Sexual orientation* means actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identity; it does not include a physical or sexual attraction to a minor by an adult. 775 ILCS 5/1-103(O-1).

<sup>7</sup> Age Discrimination in Employment Act (ADEA) (29 U.S.C. §621 *et seq.*), amended by LLFPA (see f/n 2). 29 C.F.R. Part 1625, amended the EEOC regulations under ADEA to reflect the U.S. Supreme Court’s decision in *General Dynamic Systems, Inc. v. Cline*. 540 U.S. 581 (2004), holding the ADEA ~~to~~ permits employers to favor older workers because of age. Thus, favoring an older person over a younger person is not unlawful discrimination, even when the younger person is at least 40 years old.

<sup>8</sup> 105 ILCS 5/10-22.4 and 775 ILCS 5/1-103(Q), amended by P.A. 101-221. The term *marital status* means an individual’s legal status of being married, single, separated, divorced, or widowed. 775 ILCS 5/1-103(J). This statutory definition does not encompass the identity of one’s spouse. Thus, school districts may adopt no-spouse policies. *Boaden v. Dept. of Law Enforcement*, 171 Ill.2d 230 (Ill. 1996).

<sup>9</sup> Districts may not make employment decisions on the basis of arrest history, but may use job-disqualifying criminal convictions provided specific conditions are met. 775 ILCS 5/2-103 and 5/2-103.1, added by P.A. 101-656. See f/n 18, below. The Job Opportunities for Qualified Applicants Act prohibits an employer from asking about a criminal record until the employer determines that the applicant is qualified for the position; however, this does not apply when employers are required to exclude applicants with certain criminal convictions from employment. School employers should limit their requests for criminal convictions to *job-disqualifying* convictions, as permitted by the IHRA. 775 ILCS 5/2-103.1, added by P.A. 101-656; 820 ILCS 75/15. See also the IDHR’s guidance, *Conviction Record Protection – Frequently Asked Questions*, at: [www2.illinois.gov/dhr/Pages/Conviction\\_Record\\_Protection\\_Frequently\\_Asked\\_Questions.aspx](http://www2.illinois.gov/dhr/Pages/Conviction_Record_Protection_Frequently_Asked_Questions.aspx) and the EEOC’s guidance, *Consideration of Arrest and Conviction Records in Employment Decisions (2012)*, at: [www.eeoc.gov/laws/guidance/arrest\\_conviction.cfm](http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm).

<sup>10</sup> 775 ILCS 5/1-103(Q), amended by P.A. 101-221. The term *order of protection status* means a person protected under an order of protection issued pursuant to the Ill. Domestic Violence Act of 1986 (750 ILCS 60/), Article 112A of the Code of Criminal Procedure of 1963 (725 ILCS 5/112A-1.5), the Stalking No Contact Order Act (740 ILCS 21/), the Civil No Contact Order Act (740 ILCS 22/), or an order of protection issued by a court of another state. 775 ILCS 5/1-103(K-5).

authorization status;<sup>13</sup> use of lawful products while not at work;<sup>14</sup> being a victim of domestic violence, sexual violence, gender violence, or any other crime of violence;<sup>15</sup> genetic information;<sup>16</sup> physical or mental handicap or disability, if otherwise able to perform the essential functions of the job with reasonable accommodation;<sup>17</sup> pregnancy, childbirth, or related medical conditions;<sup>18</sup> credit

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<sup>11</sup> *Military status* means a person's status on active duty or in status as a veteran in the U.S. Armed Forces, veteran of any reserve component of U.S. Armed Forces, or current member or veteran of the Ill. Army National Guard or Ill. Air National Guard. 775 ILCS 5/1-103(J-1). *Unfavorable military discharge* does not include those characterized as RE-4 or *dishonorable*. 775 ILCS 5/1-103(P). The Uniformed Services Employment and Reemployment Rights Act of 1994 prohibits employers from discriminating or retaliating against any person for reasons related to past, present, or future service in a *uniformed service*. 38 U.S.C. §4301 et seq.

<sup>12</sup> 775 ILCS 5/1-102(C). According to the Immigration Reform and Control Act of 1986, all employers must verify that employees are either U.S. citizens or authorized to work in the U.S. 8 U.S.C. §1324(a) et seq.

<sup>13</sup> 775 ILCS 5/2-102(A), amended by P.A. 102-233. *Work authorization status* means the status of being a person born outside of the United States, and not a U.S. citizen, who is authorized by the federal government to work in the United States. 775 ILCS 5/2-101(L), added by P.A. 102-233. Under the IHRA, it is a civil rights violation for an employer to refuse to honor a legal work authorization; however, employers are not required to sponsor any applicant or employee to obtain or modify work authorization status, unless required by federal law. 775 ILCS 5/2-102(G), amended by P.A. 102-233; 775 ILCS 5/2-104(D), added by P.A. 102-233.

<sup>14</sup> The Right to Privacy in the Workplace Act prohibits discrimination based on use of lawful products, e.g., alcohol, cannabis, and tobacco, off premises during non-working hours. 820 ILCS 55/5, amended by P.A. 101-27.

<sup>15</sup> 820 ILCS 180/30, amended by P.A.s 101-221, ~~and 102-487~~, and 102-890, Victims' Economic Security and Safety Act. *Gender violence* means: (1) one or more acts of violence or aggression that are a criminal offense under State law committed, at least in part, on the basis of a person's actual or perceived sex or gender, (2) a physical intrusion or invasion of a sexual nature under coercive conditions that is a criminal offense under State law, or (3) a threat to commit one of these acts. 820 ILCS 180/10(12.5), added by P.A. 101-221. *Other crime of violence* means conduct prohibited by 720 ILCS 5/9 (homicide), 720 ILCS 5/11 (sex offenses), 720 ILCS 5/12 (bodily harm), 720 ILCS 5/26.5 (harassing and obscene communications), 720 ILCS 5/29D (terrorism), and 720 ILCS 5/33A (armed violence), or similar provision of the Criminal Code of 1961. 820 ILCS 180/10(2.5), added by P.A. 102-487.

An employer is prohibited from discriminating against any individual, e.g., an applicant for employment, because he or she "is an employee whose employer is subject to Section 21 of the Workplace Violence Prevention Act." The Workplace Violence Prevention Act allows an employer to seek a *workplace protection restraining order* when there is a credible threat of violence at the workplace. 820 ILCS 275/. Section 21 requires the employer seeking a *workplace protection restraining order* to notify the employee who is a victim of *unlawful violence*. 820 ILCS 275/21.

<sup>16</sup> Illinois' Genetic Information Privacy Act (GIPA) (410 ILCS 513/25) and Title II of Genetic Information Nondiscrimination Act (GINA) (42 U.S.C. §2000ff et seq.). Both laws protect job applicants and current and former employees from discrimination based on their genetic information. Note that GIPA provides greater protections to Illinois employees than Title II of GINA. GIPA prohibits employers from penalizing employees who do not disclose genetic information or do not choose to participate in a program requiring disclosure of the employee's genetic information. See f/n 12 in [sample](#) policy 2:260, *Uniform Grievance Procedure*, for the definition of genetic information and a detailed description of both statutes, including of Title I of GINA affecting the use of genetic information in health insurance. The EEOC vacated certain 2016 ADA and GINA wellness program regulations following an adverse court ruling. 83 Fed. Reg. 65296. Those rules provided guidance to employers on the extent to which they could use incentives (such as discounted health plan costs) to encourage employees to participate in wellness programs that asked for employee and family health information. Consult the board attorney for guidance regarding specific application of ADA and GINA and how they integrate with other related laws, e.g., the Family Medical Leave Act and other State laws governing time off for sickness and workers' compensation.

<sup>17</sup> Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. §12101 et seq.), amended by the Americans with Disabilities Act Amendments Act of 2008 (ADAAA) (Pub. L. 110-325) and modified by the LFPFA; Rehabilitation Act of 1973 (29 U.S.C. §701 et seq.).

<sup>18</sup> 775 ILCS 5/2-102(I). Employers must provide reasonable accommodations to employees with conditions related to pregnancy, childbirth, or related conditions. 775 ILCS 5/2-102(J). Employers are required to post a notice summarizing the right to be free from unlawful discrimination and the right to certain reasonable accommodations. 775 ILCS 5/2-102(K). The IDOL is required to prepare such a notice, retrievable from its website, which employers may use.

history, unless a satisfactory credit history is an established bona fide occupational requirement of a particular position;<sup>19</sup> conviction record, unless authorized by law;<sup>20</sup> or other legally protected categories.<sup>21 22 23 24</sup> No one will be penalized solely for his or her status as a registered qualifying

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Federal law also prohibits employers from discriminating against employees and applicants on the basis of pregnancy, childbirth, or related medical conditions. 42 U.S.C. §2000e(k). State law also prohibits the State, which includes school districts, from interfering with or discriminating against an individual's fundamental right to continue a pregnancy or to have an abortion. 775 ILCS 55/, added by P.A. 101-13. Pregnant workers with pregnancy-related impairments may have disabilities for which they may be entitled to reasonable accommodation under the ADA. Guidance from the EEOC (~~6-25-15~~) is available at: [www.eeoc.gov/pregnancy-discriminationwww.eeoc.gov/laws/guidance/pregnancy\\_ga.cfm](http://www.eeoc.gov/pregnancy-discriminationwww.eeoc.gov/laws/guidance/pregnancy_ga.cfm).

<sup>19</sup> 820 ILCS 70/, Employee Credit Privacy Act. Unless a satisfactory credit history is an *established bona fide occupational requirement* of a particular position, an employer may not: (1) refuse to hire, discharge, or otherwise discriminate against an individual with respect to employment because of the individual's credit history or credit report; (2) inquire about an applicant's or employee's credit history; or (3) order or obtain an applicant's or employee's credit report from a consumer reporting agency. The Act identifies circumstances that permit a satisfactory credit history to be a job requirement, such as, the position's duties include custody of or unsupervised access to cash or marketable assets valued at \$2,500 or more. [Id. at 70/10.](#)

<sup>20</sup> 775 ILCS 5/2-103.1(A), added by P.A. 101-656. The IHRA prohibits an employer from *disqualifying* or taking other *adverse action* against an applicant or employee based on a *conviction record* unless: (1) otherwise authorized by law; (2) there is a *substantial relationship* between the criminal offense and the employment sought; or (3) granting the employment would involve an *unreasonable risk* to property or to the safety or welfare of specific individuals or the general public. [Id.](#) Disqualification or adverse action includes refusal to hire, segregation, and actions with respect to recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure or terms, privileges, or conditions of employment. [Id.](#) If a board wants to terminate or take other adverse action against a *current* district employee based in whole or in part on a conviction record, it still must comply with all applicable statutory, policy, and bargaining agreement provisions. Boards should consult the board attorney to ensure all legal obligations are met.

Districts that wish to disqualify or take other adverse action against an applicant or employee based on a conviction record must first engage them in an *interactive assessment*, providing the individual with the opportunity to submit evidence in mitigation or to dispute the accuracy of the conviction record. See [sample](#) policy 5:30, *Hiring Process and Criteria*, at f/n 5, and administrative procedure 5:30-AP2, *Investigations*, for more information.

<sup>21</sup> Insert the following optional sentence (775 ILCS 5/1-103(A) and 29 U.S.C. §631):

*Age*, as used in this policy, means the age of a person who is at least 40 years old.

<sup>22</sup> Insert the following optional provision (29 U.S.C. §705(10)(A)-(B), (20)(C)(v), (20)(D) and 42 U.S.C. §12114):

*Handicap* and *disability*, as used in this policy, excludes persons:

1. Currently using illegal drugs;
2. Having a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, are unable to perform the duties of the job; or
3. Whose current alcohol use prevents them from performing the job's duties or constitutes a direct threat to the property or safety of others.

Persons who have successfully completed or are participating in a drug rehabilitation program are considered *disabled*.

<sup>23</sup> Districts may not make residency in the district a condition of employment for teachers or educational support personnel. 105 ILCS 5/24-4.1, 5/10-23.5. This ban on residency requirements for teachers applies only to instructional personnel, and not, for example, to assistant principals. [Owen v. Kankakee Sch. Dist.](#), 261 Ill.App.3d 298 (3rd Dist. 1994). Districts also may not ask an applicant, or the applicant's previous employer, whether the applicant ever received, or filed a claim for, benefits under the Workers' Compensation Act or Workers' Occupational Diseases Act. 820 ILCS 55/10(a). Districts are also prohibited from requiring, requesting, or coercing an employee or potential employee to provide a user name and password or any password or other related account information to gain or demand access to his or her personal online account. 820 ILCS 55/10(b). While the law does not prohibit employers from viewing public information, consult the board attorney before engaging in this practice.

<sup>24</sup> School districts must accommodate mothers who choose to continue breastfeeding after returning to work. See 740 ILCS 137/, Right to Breastfeed Act; 820 ILCS 260/, Nursing Mothers in the Workplace Act (NMWA); and 29 U.S.C. §207(r), Fair Labor Standards Act. At least one court has ruled an implied private right of action may exist under the NMWA. [Spriesch v. City of Chicago](#), 2017 WL 4864913 (N.D.Ill. 2017). See sample language for a personnel handbook in 5:10-AP, *Workplace Accommodations for Nursing Mothers*.

patient or a registered designated caregiver for purposes of the Compassionate Use of Medical Cannabis Program Act, 410 ILCS 130/.<sup>25</sup>

Persons who believe they have not received equal employment opportunities should report their claims to the Nondiscrimination Coordinator and/or a Complaint Manager for the Uniform Grievance Procedure. These individuals are listed below. No employee or applicant will be discriminated or retaliated against because he or she: (1) requested, attempted to request, used, or attempted to use a reasonable accommodation as allowed by the Illinois Human Rights Act, or (2) initiated a complaint, was a witness, supplied information, or otherwise participated in an investigation or proceeding involving an alleged violation of this policy or State or federal laws, rules or regulations, provided the employee or applicant did not make a knowingly false accusation nor provide knowingly false information.<sup>26</sup>

### Administrative Implementation

The Superintendent shall appoint a Nondiscrimination Coordinator for personnel who shall be responsible for coordinating the District's nondiscrimination efforts. The Nondiscrimination Coordinator may be the Superintendent or a Complaint Manager for the Uniform Grievance Procedure. The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator.<sup>27</sup>

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<sup>25</sup> 410 ILCS 130/40, amended by P.A. 101-363; 77 Ill.Admin.Code Part 946. To legally use medical cannabis, an individual must first become a *registered qualifying patient*. Their use of cannabis, e.g., permissible locations, is governed by the Compassionate Use of Medical Cannabis Program Act. 410 ILCS 130/, amended by P.A.s 100-660 and 101-363. There are many situations in which no one, even a registered qualifying patient, may possess or use cannabis except as provided under *Ashley's Law* (105 ILCS 5/22-33, added by P.A.s 100-660, and amended by P.A.s 101-363, and 101-370), including in a school bus or on the grounds of any preschool, or primary or secondary school. 410 ILCS 130/30(a)(2)(3), amended by P.A. 101-363. See [sample policy 5:50, Drug- and Alcohol-Free Workplace; E-Cigarette, Tobacco, and Cannabis Prohibition](#), at [fn 9](#) for further discussion.

<sup>26</sup> 775 ILCS 5/6-101. Discrimination on the basis of a request for or use of a reasonable accommodation is a civil rights violation under the IHRA. *Id.* Most discrimination laws prohibit retaliation against employees who oppose practices made unlawful by those laws, including, for example, the EEOA, Title IX, ADA, ADEA, Victims' Economic Security and Safety Act, the EPA, and the Ill. Whistleblower Act (IWA).

The IWA specifically prohibits employers from retaliating against employees for: (1) disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation (740 ILCS 174/15(b)); (2) disclosing information in a court, an administrative hearing, or before a legislative commission or committee, or in any other proceeding where the employee has reasonable cause to believe that the information reveals a violation of a State or federal law, rule or regulation (740 ILCS 174/15(a)); (3) refusing to participate in an activity that would result in a violation of a State or federal law, rule, or regulation, including, but not limited to, violations of FOIA (740 ILCS 174/20); and (4) disclosing or attempting to disclose public corruption or wrongdoing (740 ILCS 174/20.1). The definition of retaliation is expanded to include *other retaliation* and *threatening retaliation*. 740 ILCS 174/20.1, 20.2.

The Ill. False Claims Act defines *State* to include school districts. 740 ILCS 175/2(a). Thus, boards may seek a penalty from a person for making a false claim for money or property. 740 ILCS 175/4. For information regarding the IWA and the tort of retaliatory discharge, see *Thomas v. Guardsmark*, 487 F.3d 531 (7th Cir. 2007)(discussing the elements of retaliatory discharge and IWA); *Sherman v. Kraft General Foods, Inc.*, 272 Ill.App.3d 833 (4th Dist. 1995)(finding employee who reported asbestos hazard had a cause of action for retaliatory discharge).

<sup>27</sup> The Nondiscrimination and Title IX Coordinator(s) need not be the same person. If the district uses a separate Title IX Coordinator who does not also serve as the Nondiscrimination Coordinator, delete "~~The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator.~~" insert a hard return to create a new paragraph, and insert "The Superintendent shall appoint a Title IX Coordinator to coordinate the District's efforts to comply with Title IX." Then, list the Title IX and Nondiscrimination Coordinators' names and contact information separately in this policy.

The Superintendent shall insert into this policy the names, office addresses, email addresses, and telephone numbers of the District's current Nondiscrimination Coordinator and Complaint Managers.  
28

**Nondiscrimination Coordinator: 29**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email

\_\_\_\_\_  
Telephone

**Complaint Managers:**

_____ Name	_____ Name
_____ Address	_____ Address
_____ Email	_____ Email
_____ Telephone	_____ Telephone

The Superintendent shall also use reasonable measures to inform staff members and applicants that the District is an equal opportunity employer, such as, by posting required notices and including this policy in the appropriate handbooks.  
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<sup>28</sup> Title IX regulations require districts to designate and authorize at least one employee to coordinate their efforts to comply with Title IX and to refer to that employee as the *Title IX Coordinator*. 34 C.F.R. §106.8(a). Districts must identify the Title IX Coordinator by name, office address, email address, and telephone number. *Id.* See f/n 219 in [sample](#) policy 2:260, *Uniform Grievance Procedure*.

While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored.

<sup>29</sup> Best practice is that throughout the district's board policy manual, the same individual be named as Nondiscrimination Coordinator. In contrast, Complaint Managers identified in individual policies may vary depending upon local district needs.

<sup>30</sup> In addition to notifying employees of the Uniform Grievance Procedure, a district must notify them of the person(s) designated to coordinate the district's compliance with Title IX and the Rehabilitation Act of 1973. 34 C.F.R. §§106.8(a), 104.8(a). The Nondiscrimination Coordinator may be the same individual for both this policy and policy 7:10, *Equal Educational Opportunities*, as well as a Complaint Manager for [sample](#) policy 2:260, *Uniform Grievance Procedure*. A comprehensive faculty handbook can provide required notices, along with other important information, to recipients. The handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and school board. Any *working conditions* contained in the handbook may be subject to mandatory collective bargaining.

## Minority Recruitment <sup>31</sup>

The District will attempt to recruit and hire minority employees. The implementation of this policy may include advertising openings in minority publications, participating in minority job fairs, and recruiting at colleges and universities with significant minority enrollments. This policy, however, does not require or permit the District to give preferential treatment or special rights based on a protected status without evidence of past discrimination.

LEGAL REF.: 8 U.S.C. §1324a et seq., Immigration Reform and Control Act.  
20 U.S.C. §1681 et seq., Title IX of the Education Amendments of 1972; 34 C.F.R. Part 106.  
29 U.S.C. §206(d), Equal Pay Act.  
29 U.S.C. §621 et seq., Age Discrimination in Employment Act.  
29 U.S.C. §701 et seq., Rehabilitation Act of 1973.  
38 U.S.C. §4301 et seq., Uniformed Services Employment and Reemployment Rights Act (1994).  
42 U.S.C. §1981 et seq., Civil Rights Act of 1991.  
42 U.S.C. §2000e et seq., Title VII of the Civil Rights Act of 1964; 29 C.F.R. Part 1601.  
42 U.S.C. §2000ff et seq., Genetic Information Nondiscrimination Act of 2008.  
42 U.S.C. §2000d et seq., Title VI of the Civil Rights Act of 1964.  
42 U.S.C. §2000e(k), Pregnancy Discrimination Act.  
42 U.S.C. §12111 et seq., Americans with Disabilities Act, Title I.  
Ill. Constitution, Art. I, §§17, 18, and 19.  
105 ILCS 5/10-20.7, 5/10-20.7a, 5/10-21.1, 5/10-22.4, 5/10-23.5, 5/22-19, 5/24-4, 5/24-4.1, and 5/24-7.  
410 ILCS 130/40, Compassionate Use of Medical Cannabis Program Act.  
410 ILCS 513/25, Genetic Information Privacy Act.  
740 ILCS 174/, Ill. Whistleblower Act.  
775 ILCS 5/1-103, 5/2-101, 5/2-102, 5/2-103, 5/2-103.1, 5/2-104(D) and 5/6-101, Ill. Human Rights Act.  
775 ILCS 35/, Religious Freedom Restoration Act.  
820 ILCS 55/10, Right to Privacy in the Workplace Act.  
820 ILCS 70/, Employee Credit Privacy Act.  
820 ILCS 75/, Job Opportunities for Qualified Applicants Act.  
820 ILCS 112/, Ill. Equal Pay Act of 2003.  
820 ILCS 180/30, Victims' Economic Security and Safety Act.  
820 ILCS 260/, Nursing Mothers in the Workplace Act.

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<sup>31</sup> All districts must have a policy on minority recruitment. 105 ILCS 5/10-20.7a. Unlike minority recruitment efforts, affirmative action plans are subject to significant scrutiny because of the potential for reverse discrimination. The U.S. Constitution's guarantee of equal protection prohibits school districts from using racial hiring quotas without evidence of past discrimination. See 29 C.F.R. §1608.1 et seq. (EEOC's guidelines for affirmative action plans); Wygant v. Jackson Bd. of Ed., 476 U.S. 267 (1986) (The goal of remedying societal discrimination does not justify race-based layoffs.); City of Richmond v. J.A. Croson Co., 488 U.S. 469 (1989) (Minority contractor quota struck; quotas must be narrowly tailored to remedy past discrimination and the city failed to identify the need for remedial action and whether race-neutral alternatives existed.).

The IHRA states that it shall not be construed as requiring any employer to give preferential treatment or special rights based on sexual orientation or to implement affirmative action policies or programs based on sexual orientation. 775 ILCS 5/1-101.1.

CROSS REF.: 2:260 (Uniform Grievance Procedure), 2:265 (Title IX Sexual Harassment Grievance Procedure), 5:20 (Workplace Harassment Prohibited), 5:30 (Hiring Process and Criteria), 5:40 (Communicable and Chronic Infectious Disease), 5:50 (Drug- and Alcohol-Free Workplace; E-Cigarette, Tobacco, and Cannabis Prohibition), 5:70 (Religious Holidays), 5:180 (Temporary Illness or Temporary Incapacity), 5:200 (Terms and Conditions of Employment and Dismissal), 5:250 (Leaves of Absence), 5:270 (Employment, At-Will, Compensation, and Assignment), 5:300 (Schedules and Employment Year), 5:330 (Sick Days, Vacation, Holidays, and Leaves), 7:10 (Equal Educational Opportunities), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 8:70 (Accommodating Individuals with Disabilities)

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## Professional Personnel

### Teacher Qualifications <sup>1</sup>

A teacher, as the term is used in this policy, refers to a District employee who is required to be licensed under State law.<sup>2</sup> The following qualifications apply:

1. Each teacher must:<sup>3</sup>
  - a. Have a valid Illinois Professional Educator License issued by the State Superintendent of Education with the required endorsements as provided in the School Code.
  - b. Provide the District Office with a complete transcript of credits earned in institutions of higher education.
  - c. On or before September 1 of each year, unless otherwise provided in an applicable collective bargaining agreement, provide the District Office with a transcript of any credits earned since the date the last transcript was filed.
  - d. Notify the Superintendent of any change in the teacher's transcript.
2. All teachers working in a program supported with federal funds under Title I, Part A must meet applicable State certification and licensure requirements.<sup>4</sup>

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

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

<sup>2</sup> 105 ILCS 5/21B *et seq.*, amended by P.A. ~~102-894~~100-596; 23 Ill.Admin.Code §§1.610-*et seq.*, §1.705-*et seq.*, and Part 25 (*educator licensure*); 105 ILCS 5/27-24.2, amended by P.A. 101-450; and 23 Ill.Admin.Code Part 252 (contracted driver education teacher).

School boards may participate in the Illinois Teacher Corps; however as of 9-1-11 individuals may no longer be admitted to Illinois Teacher Corps programs. 105 ILCS 5/21-11.4, repealed in 2013.

<sup>3</sup> Subparagraph 1a is required for all teachers by 105 ILCS 5/21B-15 (qualifications of educators). Four types of educator licenses are listed in 105 ILCS 5/21B-20, amended by P.A.s ~~100-596 and 101-643 and 102-894~~: (1) Professional Educator License; (2) Educator License with Stipulations (including endorsements for alternative provisional educator, alternative provisional superintendent, career and technical educator, ~~provisional career and technical educator~~, transitional bilingual educator, language, visiting international educator, paraprofessional educator, chief school business official, provisional in-state educator, school support personnel intern, and special education area); (3) Substitute Teaching License; and (4) until 6-30-23, Short-Term Substitute Teaching License. Districts may not require an individual who holds a valid Professional Educator License or Educator License with Stipulations to seek or hold a Substitute Teaching License to teach as a substitute teacher. 105 ILCS 5/21B-20(3), ~~added by P.A. 100-596~~. See also 23 Ill.Admin.Code §§1.610-*et seq.*, §1.705-*et seq.* and Part 25 (per §25.100, teachers are no longer endorsed in any course subjects in which they earn grades lower than a "C-" *or equivalent* in college). The Ill. State Board of Education's (ISBE) *Educator Licensure Information System* (ELIS) is a web-based system that allows educators, administrators, and the public to access licensure information. See [www.isbe.net/Pages/Educator-Licensure-Information-System.aspx](http://www.isbe.net/Pages/Educator-Licensure-Information-System.aspx).

Subparagraph 1b and 1c are required of all teachers by 105 ILCS 5/24-23. Some boards add the word "official" to the phrase, "complete *official* transcript of credits."

Subparagraph 1d is optional but informs the superintendent when a teacher may be eligible to change lanes on the salary schedule.

The Superintendent or designee shall:

1. Monitor compliance with State and federal law requirements that teachers be appropriately licensed;<sup>5</sup>
2. Through incentives for voluntary transfers, professional development, recruiting programs, or other effective strategies, ensure that minority students and students from low-income families are not taught at higher rates than other students by unqualified, out-of-field, or inexperienced teachers; and
3. Ensure parents/guardians of students in schools receiving Title I funds are notified of their right to request their students' classroom teachers' professional qualifications.<sup>6</sup>

LEGAL REF.: 20 U.S.C. §6312(e)(1)(A).  
105 ILCS 5/10-20.15, 5/21-11.4, 5/21B-15, 5/21B-20, 5/21B-25, and 5/24-23.  
23 Ill.Admin.Code §1.610 et seq., §1.705 et seq., and Part 25.

CROSS REF.: 6:170 (Title I Programs)

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<sup>4</sup> The *highly qualified* teacher requirement of the No Child Left Behind Act, formerly found in §6319 of the Elementary and Secondary Education Act (ESEA, 20 U.S.C. §6319), was repealed by the Every Student Succeeds Act (ESSA, Pub. L. 114-95, eff. 12-10-15). ESEA federal implementing regulation 34 C.F.R. §200.55 was updated on 7-7-17 (82 Fed. Reg. 31706), ~~however and~~ State implementing regulations at 23 Ill. Admin.Code Part 25, Appendix D ([criteria for identification of teachers as highly qualified](#)) were finally repealed ~~have not been updated yet on 6-3-21. Information on State implementation of ESSA is available at: [www.isbe.net/essa](http://www.isbe.net/essa). In *Every Student Succeeds Act (ESSA) Frequently Asked Questions (8-12-16)* ([www.isbe.net/Documents/ESSA-faq.pdf](http://www.isbe.net/Documents/ESSA-faq.pdf)), ISBE advised that districts did not need to comply with the *highly qualified teacher requirement during the 2016-17 school year.*~~

ESEA, as amended by ESSA, requires that each state plan contain assurances that the state educational agency will ensure that all teachers and paraprofessionals meet state certification/licensure requirements. 20 U.S.C. §6311(g)(2)(J).

<sup>5</sup> See the ISBE webpage on educator licensure approval requirements at [www.isbe.net/Pages/educator-licensure-approvals.aspx](http://www.isbe.net/Pages/educator-licensure-approvals.aspx).

ESEA, as amended by ESSA, requires districts to provide parents timely notice that the parent's child has been assigned, or has been taught for four or more consecutive weeks by, a teacher who does not meet applicable State certification or licensure requirements at the grade level and subject area in which the teacher has been assigned. 20 U.S.C. §6312(e)(1)(B)(ii). For a sample notice, see 5:190-E2, *Notice to Parents When Their Child Is Assigned To or Has Been Taught for at Least Four Straight Weeks By a Teacher Who Does Not Meet Applicable State Certification/Licensure Requirements*.

<sup>6</sup> 20 U.S.C. §6312(e)(1)(A).

## Professional Personnel

### Terms and Conditions of Employment and Dismissal <sup>1</sup>

The School Board delegates authority and responsibility to the Superintendent to manage the terms and conditions for the employment of professional personnel. The Superintendent shall act reasonably and comply with State and federal law as well as any applicable individual employment contract or collective bargaining agreement in effect. The Superintendent is responsible for making dismissal recommendations to the Board consistent with the Board's goal of having a highly qualified, high performing staff. <sup>2</sup>

#### School Year

Teachers shall work according to the school calendar adopted by the Board, which shall have a minimum of 176 student attendance days and a minimum of 180 teacher work days, including teacher institute days.<sup>3</sup> Teachers are not required to work on legal school holidays unless the District has followed applicable State law that allows it to hold school or schedule teachers' institutes, parent-teacher conferences, or staff development on the third Monday in January (the Birthday of Dr. Martin Luther King, Jr.); February 12 (the Birthday of President Abraham Lincoln); the first Monday in March (known as Casimir Pulaski's birthday); the second Monday in October (Columbus Day); and November 11 (Veterans Day). <sup>4</sup>

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

<sup>1</sup> State or federal law controls this policy's content. This policy contains items on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. The local collective bargaining agreement may contain provisions that exceed these requirements. In such cases, the board policy should be amended to state, "Please refer to the applicable collective bargaining agreement."

Evaluation, tenure, and dismissals changed significantly from 2013 to 2016 as P.A.s 96-861, 97-8, and 98-513 were implemented. These public acts are referred to as *Education Reform* or *Education Reform Acts*.

<sup>2</sup> This paragraph is consistent with the IASB's *Foundational Principles of Effective Governance*, [at: www.iasb.com/IASB/media/Documents/found\\_prin.pdf](http://www.iasb.com/IASB/media/Documents/found_prin.pdf). Boards have three options for using this paragraph: (1) use it as an introduction to the policy; (2) use it alone leaving the specific other topics for administrative implementation; or (3) do not use it.

<sup>3</sup> 105 ILCS 5/10-19, amended by P.A.s 101-12 and 101-643. See 6:20, *School Year Calendar and Day*.

<sup>4</sup> 105 ILCS 5/24-2(b). See [sample policy](#) 5:330, *Sick Days, Vacation, Holidays, and Leaves*, for a holiday listing as well as a discussion of the case finding the State-mandated school holiday on Good Friday unconstitutional. 105 ILCS 5/24-2, amended by P.A.s 101-642, 102-14, 102-15, ~~and 102-334~~, ~~and 102-411~~, prohibits districts from making a deduction "from the time or compensation of a school employee on account of any legal or special holiday."

~~10 ILCS 5/2B-10, added by P.A. 101-642~~, 10 ILCS 5/2A-1.1c, added by P.A. 102-15 and scheduled to be repealed on 1-1-23, and 105 ILCS 5/24-2(e), amended by P.A.s 101-642 and 102-15, designated 2020 Election Day on 11-3-2020 and 2022 Election Day on 11-8-22 as legal school holidays for purposes of 105 ILCS 5/24-2. ~~10 ILCS 5/2B-10, added by P.A. 101-642, and~~ 10 ILCS 5/2A-1.1c, added by P.A. 102-15 and scheduled to be repealed on 1-1-23, requires any school closed on ~~2020 or~~ 2022 Election Day to make itself available to an election authority as a polling place on those days.

No waiver exists for 2022 Election Day. 105 ILCS 5/24-24(b) and (e), amended by P.A.s 101-642 and 102-15.

## School Day

Teachers are required to work the school day adopted by the Board.<sup>5</sup> Teachers employed for at least four hours per day shall receive a duty-free lunch equivalent to the student lunch period, or 30 minutes, whichever is longer.<sup>6</sup>

The District accommodates employees who are nursing mothers according to provisions in State and federal law.<sup>7</sup>

## Salary

Teachers shall be paid according to the salaries fixed by the Board, but in no case less than the minimum salary provided by the School Code.<sup>8</sup> Teachers shall be paid at least monthly on a 10- or 12-month basis.<sup>9</sup>

## Assignments and Transfers

The Superintendent is authorized to make teaching, study hall, extra class duty, and extracurricular assignments.<sup>10</sup> In order of priority, assignments shall be made based on the District's needs and best interests, employee qualifications, and employee desires.

## School Social Worker Services Outside of District Employment

School social workers may not provide services outside of their District employment to any student(s) attending school in the District. *School social worker* has the meaning stated in 105 ILCS 5/14-1.09a.<sup>11</sup>

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<sup>5</sup> A school day is required to consist of a minimum of five clock hours under the direct supervision of a teacher or non-teaching personnel or volunteer personnel that provides non-teaching or supervisory duties as specified in 105 ILCS 5/10-22.34(a) in order to qualify as a full day of attendance. 105 ILCS 5/10-19.05(a) and (j-5), added by P.A. 101-12 and amended by P.A. 101-643. See [www.isbe.net/school-calendar](http://www.isbe.net/school-calendar) for ISBE's instructional day changes notice regarding this law. See 105 ILCS 5/10-19.05, added by P.A. 101-12 and amended by P.A. 101-643, for additional exceptions to the attendance calculation.

<sup>6</sup> 105 ILCS 5/24-9.

<sup>7</sup> 740 ILCS 137/; 820 ILCS 260/. Ill. law requires more of employers than federal law. Consult the board attorney to ensure the district is properly accommodating nursing mothers. See 5:10-AP, *Workplace Accommodations for Nursing Mothers*.

<sup>8</sup> 105 ILCS 5/10-20.7, 5/10-21.1, 5/24-1, and 5/24-8, amended by P.A. 101-443 (minimum salary). Salaries are a mandatory subject of collective bargaining. 115 ILCS 5/10. Annually, by Oct. 1, each district must: (1) during an open school board meeting, report salary and benefits information for the superintendent, administrators, and teachers; (2) publish that information on the district's website, if any; and (3) provide this information to ISBE. 105 ILCS 5/10-20.47. According to a Public Access Counselor (PAC) *Informal Mediation* letter interpreting 5 ILCS 120/7.3, an IMRF employer must post on its website the names of employees having a total compensation package that exceeds \$75,000 per year. 2012 PAC 19808 (Informal Mediation by the Ill. Attorney General's Public Access Counselor (PAC)); see PAC Annual Report for 2012 at [https://foiapac.ilag.gov/viewpdf.aspx?P=~/content/pdf/Public\\_Access\\_Counselor\\_Annual\\_Report\\_2012.pdf](https://foiapac.ilag.gov/viewpdf.aspx?P=~/content/pdf/Public_Access_Counselor_Annual_Report_2012.pdf) [www.foia-ilatterneygeneral.net/pdf/Public\\_Access\\_Counselor\\_Annual\\_Report\\_2012.pdf](http://www.foia-ilatterneygeneral.net/pdf/Public_Access_Counselor_Annual_Report_2012.pdf)).

<sup>9</sup> 105 ILCS 5/24-21.

<sup>10</sup> Districts are required to have a policy on the distribution of the listed assignments. 23 Ill.Admin.Code §1.420(d).

Absent an individual or collective bargaining agreement, the board has unilateral discretion to assign or retain a teacher to or in an extracurricular duty. *Betebenner v. Bd. of Educ.*, 336 Ill.App. 448 (4th Dist. 1949); *Dist. 300 Educ. Assoc. v. Bd. of Educ.*, 31 Ill.App.3d 550 (2nd Dist. 1975); *Lewis v. Bd. of Educ.*, 181 Ill.App.3d 689 (5th Dist. 1989).

<sup>11</sup> Optional. This subhead provides information to district employees and the community that 105 ILCS 5/14-1.09a prohibits school social workers from moonlighting by providing services to students attending the districts in which they are employed. Delete "5/10-20.65, 5/14-1.09a," from the Legal References if the board deletes this subhead.

## Dismissal

The District will follow State law when dismissing a teacher. <sup>12</sup>

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<sup>12</sup> All dismissal laws in the chart below were amended by the *Education Reform Acts*. 105 ILCS 5/24A-5.5, added by P.A. 101-591, requires districts to develop and implement a local appeals process for unsatisfactory ratings issued to teachers under 105 ILCS 5/24A-5, amended by P.A.s 101-643, ~~and 102-252~~, and 102-729. Districts must: (1) develop the process in cooperation with the bargaining unit or teachers, if applicable, and (2) include an assessment of the original rating by a panel of qualified evaluators agreed to by the PERA joint committee (105 ILCS 5/24A-4(b)).

<b>Non-tenure Teacher Discharge</b>	105 ILCS 5/24-11, amended by P.A.s 101-643 and 102-552
<b>Tenured and Non-tenure Teachers Reduction in Force</b>	105 ILCS 5/24-12(b), amended by P.A. 101-643, and (c)
<b>Tenured Teacher Discharge Where Cause Remediable</b>	105 ILCS 5/24-12(d) (prior reasonable warning required), <u>amended by P.A.s 101-531, 101-643, and 102-708.</u> 105 ILCS 5/24-12(d) (procedural mandates), <u>amended by P.A.s 101-531, 101-643, and 102-708.</u> 105 ILCS 5/10-22.4 (general authority)
<b>Tenured Teacher Discharge Where Cause Irremediable</b>	105 ILCS 5/24-12(d) (no prior warning required) <u>amended by P.A.s 101-531, 101-643, 102-708.</u> 105 ILCS 5/24-12(d) (procedural mandates), <u>amended by P.A.s 101-531, 101-643, and 102-708.</u> 105 ILCS 5/10-22.4 (general authority)
<b>Tenured Teacher Discharge Failure to complete remediation plan with a rating of Proficient or Excellent</b>	105 ILCS 5/24A-5(m) (participation in remediation plan after unsatisfactory evaluation) 105 ILCS 5/24-12(d)(1), amended by P.A. 101-643 (no prior warning required if cause(s) were subject of remediation plan) 105 ILCS 5/24-12(d) (procedural mandates), <u>amended by P.A.s 101-531, 101-643, and 102-708.</u> 105 ILCS 5/10-22.4 (general authority)
<b>Tenured Teacher Discharge – Optional Alternative Evaluative Dismissal Process for PERA Evaluation Failure to complete remediation plan with a Proficient or better rating 105 ILCS 5/24A-2.5</b>	105 ILCS 5/24-16.5(d) (provide written notice) 105 ILCS 5/24-16.5 (pre-remediation and remediation procedural mandates) 105 ILCS 5/24-16.5(e) and (f) (school board makes final decision with only PERA-trained board members participating in vote)
<b>Tenured Teacher Discharge – Unsatisfactory PERA evaluation within 36 months of completing a remediation plan 105 ILCS 5/24A-2.5</b>	105 ILCS 5/24A-5(n), amended by P.A. 102-252 (forego remediation and proceed to dismissal) 105 ILCS 5/24-12(d) (procedural mandates), <u>amended by P.A.s 101-531, 101-643, 102-708.</u> 105 ILCS 5/10-22.4 (general authority)
<b>Educational Support Personnel Employees (non-licensed)</b>	105 ILCS 5/10-23.5, amended by P.A.s 101-46 and 102-854.
<b>Probationary Teacher (non-tenure teacher)</b>	105 ILCS 5/24-11, amended by P.A.s 101-643, 102-552, and 102-854.

Various components of a RIF (e.g., impact and decision to RIF) and an evaluation plan (e.g., development, implementation, and impact) may be subject to mandatory collective bargaining. *Central City Educ. Assoc. v. IELRB*, 149 Ill.2d 496 (Ill. 1992).

Teacher RIF procedures were changed by 105 ILCS 5/24-12(b), amended by P.A. 101-643, and (c). See *PERA Overview for School Board Members*, question 153, “What is the process for selecting teachers for a reduction in force/layoff (RIF)” at: [www.iasb.com/law/PERAoverview.pdf](http://www.iasb.com/law/PERAoverview.pdf).

State law does not prohibit a PERA joint committee from agreeing to put a teacher on a remediation plan if the teacher receives a second *needs improvement* (rather than *unsatisfactory*) rating after being on a professional development plan. *Bd. of Educ. Rockford Public Sch. v. Rentsch*, 2022 IL App (2d) 210187.

## Evaluation

The District's teacher evaluation system will be conducted under the plan developed pursuant to State law.<sup>13</sup>

On an annual basis, the Superintendent will provide the Board with a written report which outlines the results of the District's teacher evaluation system.

LEGAL REF.: 105 ILCS 5/10-19, 5/10-19.05, 5/10-20.65, 5/14-1.09a, 5/22.4, 5/24-16.5, 5/24-2, 5/24-8, 5/24-9, 5/24-11, 5/24-12, 5/24-21, 5/24A-1 through 24A-20.  
820 ILCS 260/, Nursing Mothers in the Workplace Act.  
23 Ill.Admin.Code Parts 50 (Evaluation of Educator Licensed Employees) and 51 (Dismissal of Tenured Teachers).  
Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532 (1985).

CROSS REF.: [5:120 \(Employee Ethics; Code of Professional Conduct; and Conflict of Interest\)](#),  
5:290 (Employment Termination and Suspensions), 6:20 (School Year Calendar and Day)

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According to a binding opinion from the Ill. Public Access Counselor, a board must identify an employee by name in a motion to dismiss him or her. PAO 13-16. As this may be a significant change in practice with possible other legal consequences, a board should consult with the board attorney on this issue before dismissing an employee.

<sup>13</sup> 105 ILCS 5/24A-5, amended by P.A.s 102-252 and 102-729. Teacher evaluation plans are covered in *PERA Overview for School Board Members* at: [www.iasb.com/law/PERAoverview.pdf](http://www.iasb.com/law/PERAoverview.pdf).

## Educational Support Personnel

### Employment At-Will, Compensation, and Assignment <sup>1</sup>

#### Employment At-Will <sup>2</sup>

Unless otherwise specifically provided, District employment is at-will, meaning that employment may be terminated by the District or employee at any time for any reason, other than a reason prohibited by law, or no reason at all.<sup>3</sup> Nothing in School Board policy is intended or should be construed as altering the employment at-will relationship.

Exceptions to employment at-will may include employees who are employed annually, have an employment contract, or are otherwise granted a legitimate interest in continued employment. The Superintendent is authorized to make exceptions to employing nonlicensed employees at-will but shall maintain a record of positions or employees who are not at-will.

#### Compensation

The Board will determine salary and wages for educational support personnel. Increments are dependent on evidence of continuing satisfactory performance. An employee covered by the overtime

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

A collective bargaining agreement may contain provisions that supersede this policy, in which case, the policy might state: "Please refer to the current bargaining agreement between the Educational Support Personnel and the School Board."

While the term *educational support personnel* is not defined in the School Code, at least one appellate court and one circuit court decision found in dicta that the term refers to nonlicensed employees, such as clerical workers, custodians, cafeteria workers, bus drivers, and teachers' aides. Laukhuf v. Congerville-Eureka-Goodfield School Dist, 2003 WL 23936148 (11th Cir. 2003)(non-precedential); Buckellew v. Georgetown-Ridge Farm Community Unit School Dist., 215 Ill.App.3d 506 (4th Dist. 1991).

<sup>2</sup> Illinois law does not specifically create a protected property interest in continued employment for nonlicensed employees, except in a reduction in force (RIF). However, whether an employee is actually employed at-will depends on the specific facts. This determination is important because the dismissal of an employee having a protected property right in continued employment requires a notice and hearing. Cleveland Bd of Educ. v. Loudermill, 470 U.S. 532 (1985). See also Griggsville-Perry Community Unit School Dist. v. Ill. Educ. Labor Relations Bd., 368 Ill.Dec. 494 (Ill. 2013)(upheld an arbitrator's finding that the requirement to provide a pre-discharge written notice was drawn from the essence of the agreement).

Even with this policy, it is safest to presume that all nonlicensed employees are at least employed annually. This is a good assumption because districts routinely assure next-year employment so that the employee will not qualify for summer unemployment. In addition, annual employment may be created through a collective bargaining agreement, past practice, an employees' handbook, personnel policy manual, or an oral promise. Arneson v. Bd of Trustees, McKendree College, 210 Ill.App.3d 844 (5th Dist. 1991). Moreover, there are several exceptions to at-will including prohibitions against discrimination and retaliatory discharge (Michael v. Precision Alliance Group, 351 Ill.Dec. 890 (5th Dist. 2011))(common law recognizes a cause of action for retaliatory discharge when the employee engaged in protected activity). Consult the board attorney for help determining whether an employee is employed *at-will*.

A district, by policy or handbook, may not take away a previously given property interest in continued employment to current employees; only those employees hired afterwards could be affected. Duldulao v. St. Mary of Nazareth Hospital, 115 Ill.2d 482 (1987); 136 Ill.App.3d 763 (1st Dist. 1985); Kaiser v. Dixon, 127 Ill.App.3d 251 (2nd Dist. 1984).

For a discussion of prohibited dismissal reasons, see 5:10, *Equal Employment Opportunity and Minority Recruitment*. Volunteer firefighters may not be fired for responding to an emergency. 50 ILCS 748/.

<sup>3</sup> 105 ILCS 5/10-23.5, amended by P.A. 102-854. For more information on RIF, see sample policy 5:290, *Employment Termination and Suspensions*.

provisions in State or federal law shall not work overtime without the prior authorization from the employee's immediate supervisor.<sup>4</sup> Educational support personnel are paid twice a month.<sup>5</sup>

Assignment

The Superintendent is authorized to make assignments and transfers of educational support personnel.

LEGAL REF.: 105 ILCS 5/10-22.34 and 5/10-23.5.

CROSS REF.: 5:10 (Equal Employment Opportunity and Minority Recruitment) 5:35 (Compliance with the Fair Labor Standards Act), 5:290 (Employment Termination and Suspensions), 5:310 (Compensatory Time-Off)

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<sup>4</sup> For information regarding overtime, see [sample policy 5:35, Compliance with the Fair Labor Standards Act](#).

<sup>5</sup> 820 ILCS 115/3. However, the wages of employees who are *exempt* as defined in the Fair Labor Standards Act (FLSA) (29 U.S.C. §201 *et seq.*) may be paid once a month. For a discussion of the FLSA, see [sample policy 5:35, Compliance with the Fair Labor Standards Act](#).



## Educational Support Personnel

### Employment Termination and Suspensions <sup>1</sup>

#### Resignation and Retirement

An employee is requested to provide two weeks' notice of a resignation.<sup>2</sup> A resignation notice cannot be revoked once given. An employee planning to retire should notify his or her supervisor at least two months before the retirement date.

#### Non-RIF Dismissal <sup>3</sup>

The District may terminate an at-will employee at any time for any or no reason, but not for a reason prohibited by State or federal law.

Employees who are employed annually or have a contract, or who otherwise have a legitimate expectation of continued employment, may be dismissed: (1) at the end of the school year or at the end of their respective contract after being provided appropriate notice and after compliance with any

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<sup>1</sup> State or federal law controls this policy's content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. School officials should consult with their attorneys before adopting this policy or taking any action under it.

If a local collective bargaining agreement contains provisions that exceed these requirements, it will supersede this policy for those covered employees. In such cases, the board policy should be amended to state, "Please refer to the applicable collective bargaining agreement." For employees not covered, the policy should reflect the board's current practice.

Administrative procedures implementing this policy should include guidelines for exit interviews. These guidelines should include a list of items to discuss with the employee, e.g., the reasons for the termination; how the district could improve its policies, procedures, and working conditions; how to reduce employee turnover; and information about the employee's benefits, including continued health insurance coverage.

<sup>2</sup> Optional provision:

In most cases, resigning employees are permitted to work until their effective resignation date.

<sup>3</sup> If employed at-will, the employee may be dismissed at any time for a non-discriminatory reason unless the dismissal is for a reduction in force. See [sample policy 5:270, Employment At-Will, Compensation, and Assignment](#). **Important:** whether a specific employee is actually employed at-will depends on the specific facts. [Griggsville-Perry Community Unit Sch. Dist. v. Ill. Educ. Labor Relations Bd.](#), 368 Ill. Dec. 494 (Ill. 2013) (upheld an arbitrator's finding that the requirement to provide a pre-discharge written notice was drawn from the essence of the agreement); [Cleveland Bd. of Educ. v. Loudermill](#), 470 U.S. 532 (1985). See also [Baird v. Warren Comm. Unit Sch. Dist.](#), 389 F.3d 685 (7th Cir. 2004) (because board members denied a dismissed superintendent procedural due process rights, they were denied qualified immunity).

It is safest to presume that all non-licensed employees are employed for the school year because districts routinely assure next-year employment so that the employee will not qualify for summer unemployment. In addition, annual employment may be created through a collective bargaining agreement, past practice, an employees' handbook, personnel policy manual, an oral promise, or any type of specific annual allocation per year, e.g., vacation or sick day allotments. Thus, the sample policy addresses those employees "with an annual or longer contract or who otherwise have a legitimate expectation of continued employment." A dismissal at the end of the school year or end of a contract generally requires only minimal due process. A mid-year or mid-contract dismissal will require significantly greater due process.

Even if an employee is at-will, a district should consider giving a dismissal reason. The failure to give a reason may provoke an employee into challenging the dismissal, e.g., by alleging illegal discrimination or retaliation for exercising a protected right or whistleblowing.

Consult the board attorney to determine: (1) which employees are at-will, have annual employment, or have a different expectation for their length of employment, and (2) the level of due process to provide specific employees in the event of a dismissal.

applicable contractual provisions, or (2) mid-year or mid-contract provided appropriate due process procedures are provided.

The Superintendent is responsible for making dismissal recommendations to the School Board consistent with the Board's goal of having a highly qualified, high performing staff. This includes recommending a non-licensed employee for immediate dismissal for willful or negligent failure to report an instance of suspected child abuse or neglect as required by 325 ILCS 5/.<sup>4</sup>

#### Reduction in Force and Recall<sup>5</sup>

The Board may, as necessary or prudent, decide to decrease the number of educational support personnel or to discontinue some particular type of educational support service and, as a result of that action, dismiss or reduce the hours of one or more educational support employees. When making decisions concerning reduction in force and recall, the Board will follow Sections 10-22.34c (outsourcing non-instructional services) and 10-23.5 (procedures) of the School Code, to the extent they are applicable and not superseded by legislation or an applicable collective bargaining agreement.

#### Final Paycheck

A terminating employee's final paycheck will be adjusted for any unused, earned vacation credit.<sup>6</sup> Employees are paid for all earned vacation. Terminating employees will receive their final pay on the next regular payday following the date of termination, except that an employee dismissed due to a reduction in force shall receive his or her final paycheck on or before the next regular pay date following the last day of employment.<sup>7</sup>

#### Suspension

Except as provided below, the Superintendent is authorized to suspend an employee without pay as a disciplinary measure, during an investigation into allegations of misconduct or pending a dismissal hearing whenever, in the Superintendent's judgment, the employee's presence is detrimental to the District. A disciplinary suspension shall be with pay: (1) when the employee is exempt from the

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<sup>4</sup> 105 ILCS 5/10-23.12(c), added by P.A. 101-531; 105 ILCS 5/21B-75(b), amended by P.A.s 101-531 and 102-702, eff. 7-1-23. For further discussion see f/n 3 in policy 2:20, *Powers and Duties of the School Board; Indemnification*.

<sup>5</sup> 105 ILCS 5/10-23.5, amended by P.A.s 101-46 and 102-854, grants educational support personnel significant protection during a RIF. Among those protections, support personnel maintain any rights accrued during their prior service if they are laid off and recalled to a vacant position within the statutory recall period. *Id.*

Unless otherwise defined by a collective bargaining agreement, the board can define the position categories for a seniority list. *Cook v. Eldorado Community Unit Sch. Dist.*, 354 Ill.App. 3d 256 (5th Dist. 2004). While the statute gives boards the discretion to define *categories of positions*, boards may not define *categories* differently for lay-off/recall purposes than for other purposes. 105 ILCS 5/10-22.34c governs layoffs as a result of a third party non-instructional services contract. See *Community Unit Sch. Dist. No. 5 v. Ill. Educ. Labor Relations Bd.*, 382 Ill.Dec. 120 (4th Dist. 2014) (no unfair labor practice occurred when a school employer outsourced its transportation services and dismissed bus drivers as a result of bona fide and legitimate reasons, not anti-union animus, and the district had bargained in good faith with the union).

<sup>6</sup> A district may also adjust an employee's final paycheck for advanced vacation leave, *provided* that the employee agreed to deduct a specified amount of pay equaling the advanced vacation. 56 Ill.Admin.Code §300.760. If employees are required to execute such an agreement before taking unearned vacation leave, add the following phrase to this sentence: "or, if the employee agreed in writing, vacation time taken that was not earned."

<sup>7</sup> These final paycheck requirements are in 105 ILCS 5/10-23.5(a).

overtime provisions,<sup>8</sup> or (2) until an employee with an employment contract for a definite term is provided a notice and hearing according to the suspension policy for professional employees.<sup>9</sup> Upon receipt of a recommendation from the Ill. Dept. Children and Family Services (DCFS) that the District remove an employee from his or her position when he or she is the subject of a pending DCFS investigation that relates to his or her employment with the District, the Board or Superintendent or designee, in consultation with the Board Attorney, will determine whether to:<sup>10</sup>

1. Let the employee remain in his or her position pending the outcome of the investigation; or
2. Remove the employee as recommended, proceeding with:
  - a. A suspension with pay; or
  - b. A suspension without pay.

Any criminal conviction resulting from the investigation or allegations shall require the employee to repay to the District all compensation and the value of all benefits received by the employee during the suspension. The Superintendent will notify the employee of this requirement when the employee is suspended.<sup>11</sup>

LEGAL REF.: [105 ILCS 5/10-22.34c and 5/10-23.5.](#)  
[5 ILCS 430 et seq., State Officials and Employees Ethics Act.](#)  
~~[105 ILCS 5/10-22.34e and 5/10-23.5.](#)~~  
[325 ILCS 5/7.4\(c-10\), Abused and Neglected Child Reporting Act.](#)  
[820 ILCS 105/4a, Minimum Wage Law.](#)

CROSS REF.: 5:90 (Abused and Neglected Child Reporting), [5:120 \(Employee Ethics; Code of Professional Conduct; and Conflict of Interest\)](#), 5:240 (Suspension), 5:270 (Employment At-Will, Compensation, and Assignment)

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<sup>8</sup> Employees who are exempt from overtime requirements become eligible for overtime if they are subject to disciplinary suspensions without pay. *Auer v. Robbins*, 519 U.S. 452 (1997). Although the U.S. Dept. of Labor modified this rule in 2004, the Illinois legislature rejected these rule changes. 820 ILCS 105/4a. Illinois employers must use the federal rules as they existed on March 30, 2003.

<sup>9</sup> A suspension of an employee having a protected property right in continued employment requires a notice and hearing. See f/n 3 for additional discussion.

<sup>10</sup> This sentence is optional. ~~325 ILCS 5/7.4(c-5), amended by P.A. 100-176.~~ Consult the board attorney about suspending an employee without pay pursuant to a *DCFS 325 ILCS 5/7.4(c-5)-recommendation*. This sample language balances the interests of student safety and employee due process when the district receives a recommendation to a remove an employee who is the subject of a DCFS investigation from employment.

**Note:** Liability may exist when a district receives a *325 ILCS 5/7.4(c-5)-recommendation* and does not remove the employee as a result. Consider *In re Estate of Stewart v. Oswego Comm. Unit. Sch. Dist. No. 308*, 406 Ill.Dec. 345 ([Ill. App. Ct.](#) 2nd Dist. 2016) (finding district's response to a student health emergency was willful and wanton as it had prior information regarding appropriate response protocols and denying tort immunity to district); *In re Estate of Stewart*, 412 Ill.Dec. 914 (Ill. 2017) (school district's appeal denied).

<sup>11</sup> The repayment requirements in the first sentence of this paragraph are in 5 ILCS 430/5-60(b). The second sentence is optional.

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- 6:110 Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program
- 6:120 Education of Children with Disabilities
  - 6:120-AP1 Administrative Procedure - Special Education Procedures Assuring the Implementation of Comprehensive Programming for Children with Disabilities
  - 6:120-AP1, E1 Exhibit - Notice to Parents/Guardians Regarding Section 504 Rights
  - 6:120-AP1, E2 Exhibit - Special Education Required Notice and Consent Forms
  - 6:120-AP2 Administrative Procedure - Access to Classrooms and Personnel
  - 6:120-AP2, E1 Exhibit - Request to Access Classroom(s) or Personnel for Special Education Evaluation and/or Observation Purposes
  - 6:120-AP3 Administrative Procedure - Service Animals
  - 6:120-AP3, E1 Exhibit - Guidelines for Service Animals in School Facilities
  - 6:120-AP4 Administrative Procedure - Care of Students with Diabetes
- 6:130 Program for the Gifted
- 6:135 Accelerated Placement Program
  - 6:135-AP Administrative Procedure - Accelerated Placement Program Procedures
- 6:140 Education of Homeless Children
  - 6:140-AP Administrative Procedure - Education of Homeless Children
- 6:145 Migrant Students
- 6:150 Home and Hospital Instruction
- 6:160 English Learners
- 6:170 Title I Programs
  - 6:170-AP1 Administrative Procedure - Checklist for Development, Implementation, and Maintenance of Parent and Family Engagement Compacts for Title I Programs
  - 6:170-AP1, E1 Exhibit - District-Level Parent and Family Engagement Compact
  - 6:170-AP1, E2 Exhibit - School-Level Parent and Family Engagement Compact
  - 6:170-AP2 Administrative Procedure - Notice to Parents Required by Elementary and Secondary Education, McKinney-Vento Homeless Assistance, and Protection of Pupil Rights Laws
  - 6:170-AP2, E1 Exhibit - District Annual Report Card Required by Every Student Succeeds Act (ESSA)
- 6:180 Extended Instructional Programs
- 6:185 Remote Educational Program
- 6:190 Extracurricular and Co-Curricular Activities

6:190-AP Administrative Procedure - Academic Eligibility for Participation in Extracurricular Activities

### Instructional Resources

- 6:200      **OPEN**
- 6:210      Instructional Materials
- 6:220      Bring Your Own Technology (BYOT) Program; Responsible Use and Conduct
- 6:220-E1   Exhibit - Authorization to Participate in the Bring Your Own Technology (BYOT) Program; Responsible Use and Conduct Agreement
- 6:220-E2   Exhibit - Bring Your Own Technology (BYOT) Program Student Guidelines
- 6:230      Library Media Program
- 6:235      Access to Electronic Networks
- 6:235-AP1 Administrative Procedure - Acceptable Use of the District's Electronic Networks
- 6:235-AP1, E1   Exhibit - Student Authorization for Access to the District's Electronic Networks
- 6:235-AP1, E2   Exhibit - Staff Authorization for Access to the District's Electronic Networks
- 6:235-AP2 Administrative Procedure - Web Publishing Guidelines
- 6:235-E3   Exhibit - Online Privacy Statement
- 6:235-E4   Exhibit - Keeping Yourself and Your Kids Safe On Social Networks
- 6:235-E5   Exhibit - Children's Online Privacy Protection Act
- 6:240      Field Trips
- 6:240-AP   Administrative Procedure - Field Trip Guidelines
- 6:250      Community Resource Persons and Volunteers
- 6:250-AP   Administrative Procedure – Resource Persons and/or School Volunteers; Screening
- 6:250-E   Exhibit - Resource Person and Volunteer Information Form and Waiver of Liability
- 6:255      Assemblies and Ceremonies
- 6:260      Complaints About Curriculum, Instructional Materials, and Programs
- 6:260-AP   Administrative Procedure - Responding to Complaints About Curriculum, Instructional Materials, and Programs
- 6:260-AP, E   Exhibit - Curriculum Objection Form

### Guidance and Counseling

- 6:270      Guidance and Counseling Program

Achievement

- 6:280 Grading and Promotion
  - 6:280-AP Administrative Procedure - Evaluating and Reporting Student Achievement
- 6:290 Homework
- 6:300 Graduation Requirements
  - 6:300-E1 Exhibit - Application for a Diploma for a Service Member Killed in Action or for Veterans of WW II, the Korean Conflict, or the Vietnam Conflict
  - 6:300-E2 Exhibit - State Law Graduation Requirements
  - 6:300-E3 Exhibit - Form for Exemption from Financial Aid Application Completion
- 6:310 High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students
  - 6:310-E Exhibit - Class Substitution Request
- 6:315 High School Credit for Students in Grade 7 or 8
- 6:320 High School Credit for Proficiency
- 6:330 Achievement and Awards
- 6:340 Student Testing and Assessment Program

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## 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>

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

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

<sup>2</sup> State-mandated school holidays are found in 105 ILCS 5/24-2, amended by P.A.s 101-642 and 102-15. See policy 5:330, *Sick Days, Vacation, Holidays, and Leaves*, for a holiday listing. The law allows a school board to hold school or schedule teachers' institutes, parent-teacher conferences, or staff development on five identified school holidays if: (1) the school board first holds a public hearing on the proposal; and (2) the person or persons honored by the holiday are recognized through instructional activities conducted on the school holiday or on the first school day preceding or following the school holiday. Districts must redo the public hearing process in the event they change plans for use of holidays. See Ill. State Board of Education (ISBE) guidance at: [www.isbe.net/Documents/district-holiday-plans13.pdf](http://www.isbe.net/Documents/district-holiday-plans13.pdf). This is an item on which collective bargaining may be required, and a board that wishes to implement this law should consult its attorney.

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

If the county board or board of election commissioners chooses a school to be a polling place, the school district must make the school available. 10 ILCS 5/11-4.1. For the Election Day, the law encourages a school district to either: (1) close the school; or (2) hold a teachers' institute on that day with the students not in attendance. *Id.* and 105 ILCS 5/24-2, amended by P.A.s 101-642 and 10 ILCS 5/2A-1.1c, added by P.A. 102-15 and repealing on 1-1-23, required all government offices, with the exception of election authorities, to be closed, unless authorized to be used as a location for election day services or as a polling place for *2020 General Election Day*, and it required schools to be available to an election authority as a polling place for *2020 General Election Day* and on 11-8-22 for *2022 General Election Day*. *Id.*

<sup>3</sup> The school calendar must have a minimum 185 days to ensure 176 days of actual pupil attendance that may include remote learning days, blended remote learning days, and up to five remote and blended remote learning planning days pursuant to 105 ILCS 5/10-30, added by P.A. 101-643. 105 ILCS 5/10-19, amended by P.A.s 101-12 and 101-643, and 5/24-1; 23 Ill.Admin.Code §1.420. See policy 4:180, *Pandemic Preparedness; Management; and Recovery*, for information about remote and/or blended remote learning day plans. 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.



## 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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E-learning days allow a school district to provide instruction to students electronically while they are not physically present due to inclement weather and other unexpected events. 105 ILCS 5/10-20.56, added by P.A. 101-12 and amended by P.A.s 101-643, ~~and 102-584 (e-learning days allowed when a school is selected as a polling place under the Election Code), and 102-697 opened the use of e-learning days from three pilot districts to all districts that meet the requirements of the statute.~~ Before a school district can implement an e-learning program and use e-learning days it must, along with other requirements (1) hold a public hearing on the initial proposal for the e-learning program, (2) obtain verification from the Regional Office of Education (ROE) or Intermediate Service Center (ISC) for the school district that the initial proposal meets the requirements specified in the law, and (3) by resolution adopt a research-based program for district-wide e-learning days. Before implementing an e-learning program, boards must collectively bargain the impact of the program on the wages, hours, terms, and conditions of employment with employee representative(s). More information about e-learning is available at: [www.isbe.net/Pages/Electronic-Learning.aspx](http://www.isbe.net/Pages/Electronic-Learning.aspx). ~~The law requires that districts pay employees and contractors who provide educational support services their regular rate of pay if the employee/contractor otherwise would have worked on an e-learning day. Id. at (d-10) and (d-15). Retroactive payments for e-learning days used during 2021-2022 school year are also required if employees or contractors were unpaid or employees were required to use earned paid time off. Id. at (d-20). However, payment is not required if the day(s) are (or were) rescheduled. Consult the board attorney regarding whether the board must pay contractors for consumables, such as fuel and school meals; the legislative history supports that consumables were not intended to be part of the payment. See 102nd General Assembly House Transcript 3-1-22, p. 77, available at: [www.ilga.gov/house/transcripts/htrans102/10200077.pdf](http://www.ilga.gov/house/transcripts/htrans102/10200077.pdf).~~

<sup>4</sup> 105 ILCS 5/24-2(c), amended by P.A. 102-411, lists the following as commemorative holidays: Jan. 17 (Muhammad Ali's birthday), Jan. 28 (Christa McAuliffe Day commemorating space exploration); Feb. 15 (Susan B. Anthony's birthday); Mar. 29 (Vietnam War Veterans' Day); Sept. 11 (Sept. 11th Day of Remembrance); the school day immediately preceding Veterans' Day (Korean War Veterans' Day); Oct. 1 (Recycling Day); Oct. 7 (Iraq and Afghanistan Veterans Remembrance Day); and Dec. 7 (Pearl Harbor Veterans' Day).

Other commemorative holidays include, but are not limited to: Arbor and Bird Day on the last Friday in April (105 ILCS 5/27-18); Leif Erickson Day on October 9 if a school day and otherwise on a school day nearest the date (105 ILCS 5/27-19); American Indian Day on the 4th Friday of September (105 ILCS 5/27-20); Ill. Law Week during the first full school week in May (105 ILCS 5/27-20.1); Just Say No Day on a school day in May designated by official proclamation of the Governor (105 ILCS 5/20.2); Ronald Reagan Day on Feb. 6 (5 ILCS 490/2); Barack Obama Day on August 4 (5 ILCS 490/3); Indigenous Peoples Day on the last Monday in September (5 ILCS 490/7); Lincoln's Birthday February 12 (5 ILCS 490/60); Juneteenth National Freedom Day on June 19 each year (5 ILCS 490/63, amended by P.A.s 102-14, eff. 1-1-22 (second to pass both houses and controlling (5 ILCS 70/6)) and 102-334 (first to pass both houses)) – potential conflicts related to celebrating Juneteenth when it falls on a Saturday or Sunday exist, e.g., P.A. 102-14 states “when June nineteenth falls on a Saturday or Sunday, neither the preceding Friday nor the following Monday shall be held or considered as a *paid* holiday” but contrast P.A. 102-334, stating “when June nineteenth falls on a Sunday, the following Monday shall be held and considered the holiday” – notice the word *paid* is missing; consult the board attorney about whether Juneteenth should be celebrated as an *unpaid holiday* on either the preceding Friday or the following Monday when it falls on a Saturday or Sunday, respectively, or not at all when it falls on a Saturday); Martin Luther King, Jr. Birthday the third Monday in January (5 ILCS 490/65); Prairie Week the third full week in September (5 ILCS 490/75); Retired Teachers' Week the fourth week in May (5 ILCS 490/80); Veterans Day November 11 (5 ILCS 490/90); Preventing Lost Potential Day September 19 (5 ILCS 490/141); Day of Remembrance of the Victims of Slavery and the Transatlantic Slave Trade on March 25 (5 ILCS 490/155); the first full week of January is Emancipation Proclamation Week (5 ILCS 490/160); Mother Mary Ann Bickerdyke Day on the second Wednesday in May (5 ILCS 490/175); April is Arab American Heritage Month (5 ILCS 490/6); and the first full week of April each year is Autism Acceptance Week (5 ILCS 490/137, added by P.A. 102-588).

## 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 is required to consist of a minimum five clock-hours under the direct supervision of a teacher or non-teaching personnel or volunteer personnel that provides non-teaching or supervisory duties as specified in 105 ILCS 5/10-22.34(a), in order to qualify as a full day of attendance, unless (1) the Governor issues a disaster declaration due to a public health emergency pursuant 20 ILCS 3305/7, and (2) the State Superintendent of Education establishes minimum clock-hour requirements to align with the circumstances of the Governor's disaster declaration. 105 ILCS 5/10-19.05, added by P.A. 101-12 and amended by P.A. 101-643. See [www.isbe.net/Documents/SB28Instructional-Day.pdf](http://www.isbe.net/Documents/SB28Instructional-Day.pdf) for ISBE's notice regarding this law. See 105 ILCS 5/10-19.05, added by P.A. 101-12 [and amended by P.A. 101-643](#), for additional exceptions to the attendance calculation.

Contrast 105 ILCS 5/18-12. It allows a partial day of attendance to be counted as a full day due to an adverse weather condition, condition beyond the control of the school district that poses a health and safety threat, or use of school facilities by local or county authorities for holding a memorial or funeral service in remembrance of a community member (up to two school days per school year) provided one of following conditions is met: (1) the school district has provided at least one hour of instruction prior to the closure of the school district; (2) a school building has provided at least one hour of instruction prior to the closure of the school building; or (3) the normal start time of the school district is delayed. The law also outlines the process to claim attendance prior to providing any instruction when a school district must close a building or buildings, but not the entire district, after consultation with a local emergency response agency or due to a condition beyond the control of the district. Additionally, 105 ILCS 5/18-12.5 outlines the process for claiming attendance when a school district must close a building or buildings, but not the entire district, specifically because of a public health emergency. Attendance for such days may only be claimed if the school building(s) was scheduled to be in operation on those days.

Alternative education programs may provide fewer than five hours under certain circumstances. [105 ILCS 5/2-3.33a and 105 ILCS 5/13B-50](#).

<sup>6</sup> 105 ILCS 5/27-3 requires the Pledge of Allegiance to be recited every day in elementary and secondary schools. Note that the Illinois statute does not require every student to recite the Pledge – that kind of mandatory participation would violate the U.S. Constitution. Schools may not coerce a student into saying the Pledge, nor may they punish students for refusing to participate in any aspect of the flag ritual, including standing, saluting the flag, and reciting the Pledge. [West Virginia State Bd. of Educ. v. Barnette](#), 319 U.S. 624 (1943); [Sherman v. Cmty. Consol. Sch. Dist. 21 of Wheeling Twp.](#), 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.

The Silent Reflection and Student Prayer Act mandates a *brief period of silence* for all Illinois public school students at the opening of each school day. 105 ILCS 20/1. A student filed a federal lawsuit challenging the constitutionality of this law under the First Amendment, but the law was ultimately upheld by the Appeals Court. [Sherman v. Koch](#), 623 F.3d 501 (7th Cir. 2010), *cert denied* by 565 U.S. 815 (2011). 105 ILCS 5/10-20.46 requires a moment of silence to recognize veterans during any type of event held at a district school on Nov. 11. [See fn 2 above for more discussion.](#)

LEGAL REF.: 105 ILCS 5/10-19, 5/10-19.05, 5/10-20.56, 5/10-20~~4~~.46, 5/10-30, 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, and 5/27-20.2, ~~and~~ 20/1.  
10 ILCS 5/11-4.1, Election Code.  
5 ILCS 490/, State Commemorative Dates Act.  
23 Ill.Admin.Code §1.420(f).  
Metzl v. Leininger, 850 F.Supp. 740 (N.D. Ill. 1994), *aff'd by* 57 F.3d 618 (7th Cir. 1995).

CROSS REF.: 2:20 (Powers and Duties of the School Board; Indemnification), 4:180 (Pandemic Preparedness; Management; and Recovery), 5:200 (Terms and Conditions of Employment and Dismissal), 5:330 (Sick Days, Vacation, Holidays, and Leaves), 6:60 (Curriculum Content), 6:70 (Teaching About Religions), 7:90 (Release During School Hours)

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## Instruction

### School Wellness <sup>1</sup>

Student wellness, including good nutrition and physical activity, shall be promoted in the District's educational program, school-based activities, and meal programs.<sup>2</sup> This policy shall be interpreted consistently with Section 204 of the Child Nutrition and WIC Reauthorization Act of 2004 and the Healthy Hunger-Free Kids Act of 2010 (HHFKA).<sup>3</sup>

The Superintendent will ensure: <sup>4</sup>

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<sup>1</sup> State or federal law requires this subject matter to be covered in policy and controls its content. The federal Child Nutrition and WIC Reauthorization Act of 2004 (Child Nutrition Act) requires school districts participating in a program authorized by the National School Lunch Act (NSLA) (42 U.S.C. §1751 *et seq.*) or the Child Nutrition Act to have a school wellness policy. Pub. L. 108-265, Sec. 204. State law required the Ill. State Board of Education (ISBE) to "establish a State goal that all school districts have a wellness policy." 105 ILCS 5/2-3.139. ISBE complied in October 2007 by "instruct[ing] all public school districts to establish a School Wellness Policy." The federal and State laws list mandatory topics for the policy. The second sentence of this policy should be deleted if the district does not participate in the NSLA or the Child Nutrition Act.

See ISBE's numerous resources at: [www.isbe.net/Pages/Nutrition-and-Wellness.aspx](http://www.isbe.net/Pages/Nutrition-and-Wellness.aspx). Action for Healthy Kids is a national organization dedicated to overcoming the "epidemic of overweight, undernourished and sedentary youth by focusing on changes in schools;" see its resources at: [www.actionforhealthykids.org/index.php](http://www.actionforhealthykids.org/index.php).

This sample policy seeks to be both legally compliant and consistent with good governance principles. Both federal and State laws allow each school district to determine how the required topics are addressed. Good governance principles suggest that the board should establish goals with community and stakeholder input. The administration should determine how to achieve the goals. The board should monitor this policy by requesting and reviewing periodic implementation data.

The Ill. Dept. of Agriculture and ISBE are directed to create the Farm Fresh Schools Program. 105 ILCS 124/, Farm Fresh Schools Program Act; 30 ILCS 105/5.728, Farm Fresh Schools Program Fund. They are also directed to administer a grant program to further the Program's intent of "reduc[ing] obesity and improve[ing] nutrition and public health, as well as strengthen[ing] local agricultural economies by increasing access to and promoting the consumption of locally grown fruits and vegetables in schools and increasing physical activities and programs that promote pupil wellness." 105 ILCS 124/10.

<sup>2</sup> 7 C.F.R. §210.31(a) and (c)(1). The law does not require *school-based activities* to be listed in policy – only that boards implement them. Federal law requires consideration of *evidence-based strategies and techniques* when implementing school-based activities. A board that chooses to list these activities must update them as they change by readopting the policy.

For boards that have developed and wish to list their chosen evidence-based school-based activities, add the following sentence to the paragraph as the second sentence: "The District's school-based activities include: [*list the chosen evidence-based school-based activities*]."

For boards that have not yet developed and implemented their evidence-based school-based activities and need technical assistance, see the websites for:

1. The U.S. Dept. of Agriculture (USDA) at: [www.fns.usda.gov/tn/local-school-wellness-policyhttps://healthymeals.fns.usda.gov/local-wellness-policy-resources/wellness-policy-elements/other-school-based-activities](https://www.fns.usda.gov/tn/local-school-wellness-policyhttps://healthymeals.fns.usda.gov/local-wellness-policy-resources/wellness-policy-elements/other-school-based-activities); and
2. The Alliance for a Healthier Generation (AHG) at: [www.healthiergeneration.org/](http://www.healthiergeneration.org/).

<sup>3</sup> Healthy Hunger-Free Kids Act of 2010 (HHFKA); 42 U.S.C. §1758b (Pub.L. 111-296); 7 C.F.R. §§210.10 and 210.31(a).

<sup>4</sup> *Id.*; 7 C.F.R. §210.31(c)(4) (identification of school official responsible for implementation of the policy), §210.31 (d)(2) (informing the public about the policy and making it available on an annual basis), §210.31 (d)(3) (informing the public of the progress toward meeting the goals of the policy by making triennial assessments available), and §210.31(e) (policy implementation, assessments, and updates). See also f/n 20, below.

1. Each school building complies with this policy;
2. The policy is available to the community on an annual basis through copies of or online access to the Board Policy Manual<sup>5</sup>; and
3. The community is informed about the progress of this policy's implementation.

### Goals for Nutrition Education and Nutrition Promotion <sup>6</sup>

The goals for addressing nutrition education and nutrition promotion include the following:

- Schools will support and promote sound nutrition for students.
- Schools will foster the positive relationship between sound nutrition, physical activity, and the capacity of students to develop and learn.
- Nutrition education will be part of the District's comprehensive health education curriculum. See Board policy 6:60, *Curriculum Content*. <sup>7</sup>

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This sample policy identifies the superintendent as the school official responsible to ensure compliance and oversee the policy. When the rules require specific identification of a school official, the policy does not include the delegation language *or designee*. **[School boards] must identify the [school official(s)] responsible for oversight of [its wellness policy] to ensure compliance. [Boards] have discretion and are the most qualified to identify the best candidate for [their wellness] policy leadership as size, resources, and needs vary greatly among [school districts]**. See Federal Register Vol. 81, No. 146 at 50155 at: [www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17230.pdf](http://www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17230.pdf).

For boards that wish to identify a school official other than the superintendent, delete ~~Superintendent~~ and replace it with the responsible school official's title.

The intent of the rule is that schools "notify households on an annual basis of the availability of the local school wellness policy information and provide information that would enable *interested households* to obtain additional details." Fed. Reg. Vol. 81, No. 146 at 50160. However, the rule states, "[i]nform the *public* about the content and implementation of the local school wellness policy, and make the policy and any updates to the policy available to the public on an annual basis."

To achieve the intent of this requirement, the regulations suggest several methods for districts, which include a common method many districts likely already use: post the policy on the websites for the *public*, and use the student handbook to distribute important information to *interested households*.

<sup>5</sup> For boards that distribute their wellness policies via student handbooks and want to list that in the text of their policies, insert "and distributed to students and their parents/guardians through student handbooks". For sample handbook language, see the Illinois Principals Association *Online Model Student Handbook (MSH)* at: [www.ilprincipals.org/resources/model-student-handbook](http://www.ilprincipals.org/resources/model-student-handbook) [www.ilprincipals.org/msh/](http://www.ilprincipals.org/msh/).

<sup>6</sup> Goals for nutrition education and nutrition promotion are required topics, but the local board may determine what goals are appropriate. Pub. L. 108-265, Sec. 204(a)(1) and Pub. L. 111-296; 105 ILCS 5/2-3.139(a)(2); and 7 C.F.R. §210.31(c)(1). Replace this policy's text with a board's own locally-developed nutritional education and promotion goals.

*Nutrition promotion*, required by Pub. L. 111-296, is not well-described or defined. The Food Nutrition Service (FNS) describes *nutrition promotion* more clearly in its technical assistance materials and the proposed 7 C.F.R. Part 210 rules (Fed. Reg. Vol. 79, No. 38 at 10695), dated Feb. 26, 2014, which state, "... evidence based techniques and scientifically-based nutrition messages targeted to a specific audience to inspire and motivate them to take action and use these techniques and messages to create environments and food service venues (classroom, cafeteria, a la carte, vending machines, school stores, snack bars, fundraisers, home, etc.) that encourage healthy nutrition choices, as well as enhance and encourage participation in school meal programs."

More specific materials about nutrition education and promotion, including songs, games, posters, videos, event-planning booklets, wellness communication toolkits, school garden activities, and a graphics library, have also been developed by the FNS' Team Nutrition at: [www.fns.usda.gov/tn/resource-library](http://www.fns.usda.gov/tn/resource-library).

Technical assistance for:

1. Nutritional promotion at: [www.fns.usda.gov/tn/local-school-wellness-policy/healthy-meals](http://www.fns.usda.gov/tn/local-school-wellness-policy/healthy-meals) [www.fns.usda.gov/local-wellness-policy-resources/wellness-policy-elements/nutrition-promotion](http://www.fns.usda.gov/local-wellness-policy-resources/wellness-policy-elements/nutrition-promotion).
2. Goals development for and implementation of nutrition education and promotion are available from AHG at: [www.healthiergeneration.org/](http://www.healthiergeneration.org/).

<sup>7</sup> 105 ILCS 110/3 and 23 Ill.Admin.Code §1.420(n).

## Goals for Physical Activity <sup>8</sup>

The goals for addressing physical activity include the following:

- Schools will support and promote an active lifestyle for students.
- Physical education will be taught in all grades and shall include 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. See policies 6:60, *Curriculum Content* and 7:260, *Exemption from Physical Education*. <sup>9</sup>
- During the school day, all students will be required to engage in a daily physical education course, unless otherwise exempted. See policies 6:60, *Curriculum Content* and 7:260, *Exemption from Physical Education*. <sup>10</sup>
- The curriculum will be consistent with and incorporate relevant *Illinois Learning Standards for Physical Development and Health* as established by the Ill. State Board of Education (ISBE). <sup>11</sup>

## Nutrition Guidelines for Foods Available During the School Day: Marketing Prohibited <sup>12</sup>

Students will be offered and schools will promote nutritious food and beverage choices during the school day that are consistent with Board policy 4:120, *Food Services* (requiring compliance with the nutrition standards specified in the U.S. Dept. of Agriculture's (USDA) *Smart Snacks* rules). <sup>13</sup>

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<sup>8</sup> This is a required topic, but the local board may determine what goals are appropriate. Pub.L. 108-265, Sec. 204(a)(1); 105 ILCS 5/2-3.139(a)(2); and 7 C.F.R. §210.31(a) and (c)(1).

<sup>9</sup> 105 ILCS 5/27-5 and 27-6, amended by P.A. 102-405; 23 Ill.Admin.Code §1.425. See also f/n 3129 in policy 6:60, *Curriculum Content*. For standards-based lesson plans and curricula for pre-kindergarten through grade 8, classroom-based lesson plans, recipes, guidance to improve the quality of school meals, and other materials for nutrition education and promotion, including songs, games, posters, videos, event-planning booklets, wellness communication toolkits, school garden activities, and a graphics library, see the resources developed by the FNS' Team Nutrition at: [www.fns.usda.gov/tn/resource-library](http://www.fns.usda.gov/tn/resource-library).

<sup>10</sup> Id. This policy's sample text is based upon federal and State *goals* while sample policy 6:60, *Curriculum Content's* text is based only upon State curriculum requirements that require a minimum of three days of physical education per five-day week. Ensure the text in this policy's goal aligns with the district's practice stated in policy 6:60 for meeting the minimum requirements of 23 Ill.Admin.Code §1.425(b).

<sup>11</sup> Schools must "set student learning objectives which meet or exceed goals established by the State." 105 ILCS 5/2-3.63. The *Learning Standards* can be found on ISBE's website at: [www.isbe.net/Pages/Standards-Courses.aspx](http://www.isbe.net/Pages/Standards-Courses.aspx) [www.isbe.net/Pages/Learning-Standards.aspx](http://www.isbe.net/Pages/Learning-Standards.aspx). See State goals 19-24 for physical education and health at: www.isbe.net/Documents/Goals-19-24-and-Perf-Descrip.pdf. ~~State Goal 20: Achieve and maintain a health-enhancing level of physical fitness based upon continual self-assessment at:~~

105 ILCS 5/27-6.5 describes physical fitness assessments required, beginning with the 2016-17 school year and every school year thereafter, for grades 3-12 in an effort to meet State Goal 20 of the *Illinois Learning Standards for Physical Development and Health*. See also 23 Ill.Admin.Code §1.425 (f) and (h); ISBE's *IL Fitness Assessments and Data Reporting Requirements Questions and Answers (Rev. 5-22-17Sept. 2021)* at: [www.isbe.net/Documents/Physical\\_Fitness\\_Assessment\\_FAQ.pdf](http://www.isbe.net/Documents/Physical_Fitness_Assessment_FAQ.pdf).

<sup>12</sup> The policy must include the nutrition guidelines selected by the board for "all foods available during the school day with the objective of promoting student health and reducing childhood obesity." Pub. L. 108-265, Sec. 204(a)(2); 105 ILCS 5/2-3.139(a)(1); and 7 C.F.R. §210.10 and 210.31(a), (c)(2), and (c)(3)(i)-(iv). 42 U.S.C. 1758b(b)(2)(A) requires that each local school wellness policy include nutrition guidelines for all foods and beverages available for sale on the school campus during the school day to ensure they are consistent with the statutory and regulatory provisions governing school meals (7 C.F.R. §§210.10, 220.8 and 220.10) and competitive foods (7 C.F.R. §210.11) as applicable.

Prior to July 2016 when 7 C.F.R. § 210.10 and 7 C.F.R. § 210.31(c) (respectively) became effective, the current *Dietary Guidelines for Americans* published jointly by the U.S. Depts. of Health and Human Services and Agriculture (USDA) were used as nutrition guidelines.

In addition, in order to promote student health and reduce childhood obesity,<sup>14</sup> the Superintendent or designee shall:

1. Restrict the sale of *competitive foods*, as defined by the USDA, in the food service areas during meal periods;
2. Comply with all ISBE rules; and
3. Prohibit marketing during the school day of foods and beverages that do not meet the standards listed in Board policy 4:120, *Food Services*, i.e., in-school marketing of food and beverage items must meet *competitive foods* standards.<sup>15</sup>

*Competitive foods* standards do not apply to foods and beverages available, but not sold in school during the school day; e.g., brown bag lunches, foods for classroom parties, school celebrations, and reward incentives.<sup>16</sup>

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<sup>13</sup> 7 C.F.R. §§210.10 (meal requirements for lunches and after-school snacks); 210.11(c) (general nutrition standards for competitive food, i.e., *Smart Snacks*); and 210.31(a) and (c) (encompassing all other nutrition requirements, including foods not sold to students during the school day (classroom parties)).

<sup>14</sup> 7 C.F.R. §210.31(c)(3)(iv).

<sup>15</sup> 7 C.F.R. §§210.11(a)(2) and 210.31(c)(3)(iii); 23 Ill. Admin. Code §305.5. For a definition of *competitive foods*, see 4:120-AP, *Food Services; Competitive Foods; Exemptions*.

<sup>16</sup> 7 C.F.R. §210.31(c)(2). This sample policy does not apply competitive food standards to foods not sold in schools; i.e., foods that students bring into the school from home, etc.

The final [federal] rule does not require that local school wellness policy standards for *foods provided in schools during the school day but not available for sale* conform to the school meal requirements or the competitive foods standards. In fact, the preamble to the final rule reiterates this saying, “[a]gain, it should be noted that with regard to foods provided, but not sold, in schools, local jurisdictions have the discretion to adopt standards that conform to [the competitive food standards] or to adopt more or less stringent standards.” Similarly, the preamble to the final rule clearly states the rule does not require school boards to address standards for food brought from home for individual consumption. See Federal Register Vol. 81, No. 146 at 50158 at: [www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17230.pdf](http://www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17230.pdf). Emphasis added.

This sample policy adopts less stringent standards for foods not sold in schools. For boards that wish to adopt standards that conform to the competitive food standards or apply even more stringent standards to foods available, but not sold during the school day, delete the last sentence of this subhead: *Competitive foods standards do not apply to foods and beverages available, but not sold in school during the school day; e.g., foods for classroom parties, school celebrations, and reward incentives.* and choose one of the following sentences to replace it:

**Option 1:** The District applies competitive foods standards listed in Board policy 4:120, Food Services, to foods available, but not sold, in schools.

**Option 2:** The District applies more stringent standards than the competitive foods standards to foods available, but not sold, in schools. These include [list the chosen standards to foods available, but not sold, in schools].

The AHG encourages school officials to consider prohibiting foods as a reward and using the *Smart Snacks* standards for foods available, but not sold during the school day. However, enforcing such standards against students who are sent to school with snacks from their parents/guardians is difficult and may be considered overreach. Further, such a standard may open the district to challenges. Consult the board attorney about enforcement of standards that meet the *competitive foods* standards – or even more stringent standards – upon foods available, but not sold during the school day, i.e., choosing Options 1 or 2, above.

### Exempted Fundraising Day (EFD) Requests <sup>17</sup>

All food and beverages sold to students on the school campuses of participating schools during the school day must comply with the “general nutrition standards for competitive foods” specified in federal law.

ISBE rules prohibit EFDs for grades 8 and below in participating schools.

The Superintendent or designee in a participating school may grant an EFD for grades 9 through 12 in participating schools. To request an EFD and learn more about the District’s related procedure(s), contact the Superintendent or designee. The District’s procedures are subject to change. The number of EFDs for grades 9 through 12 in participating schools is set by ISBE rule.

### Guidelines for Reimbursable School Meals <sup>18</sup>

Reimbursable school meals served shall meet, at a minimum, the nutrition requirements and regulations for the National School Lunch Program and/or School Breakfast Program. <sup>19</sup>

### Unused Food Sharing Plan <sup>20</sup>

In collaboration with the District’s local health department, the Superintendent or designee will:

1. Develop and support a food sharing plan (Plan) for unused food that is focused on needy students. <sup>21</sup>
2. Implement the Plan throughout the District.
3. Ensure the Plan complies with the Richard B. Russell National School Lunch Act, as well as accompanying guidance from the U.S. Department of Agriculture on the Food Donation Program. <sup>22</sup>
4. Ensure that any leftover food items are properly donated to combat potential food insecurity in the District’s community. *Properly* means in accordance with all federal regulations and State and local health and sanitation codes.

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<sup>17</sup> Required by 23 Ill.Admin.Code §305.15(c)(2), 7 C.F.R. §§210.11(b)(4), (c)(2) and 210.30(c)(2) for participating schools that want to grant EFDs.

For elementary districts, delete these sentences: ~~The Superintendent or designee in a participating school may grant an EFD for grades 9 through 12 in participating schools. To request an EFD and learn more about the District’s related procedure(s), contact the Superintendent or designee. The District’s procedures are subject to change. The number of EFDs for grades 9 through 12 in participating schools is set by ISBE rule.~~

For high school districts, delete this sentence: ~~EFDs are prohibited for grades eight and below in participating schools.~~

Detailed procedures are subject to change and are too complicated for policy text. This policy seeks to balance the requirement to include procedures in the policy for requesting an EFD by providing information about the initial steps and directing the superintendent or designee to inform the requestor of the current procedure. For a list of the number of available EFDs and a more detailed sample step-by-step procedure to request them, see 4:120-AP, *Food Services; Competitive Foods; Exemptions*.

<sup>18</sup> Inclusion in the policy is required for only those districts that participate in a program authorized by the NSLA or the Child Nutrition Act.

<sup>19</sup> Child Nutrition Act of 1966 (42 U.S.C. §1771 *et seq.*) and NSLA (42 U.S.C. §1758).

<sup>20</sup> 105 ILCS 5/2-3.1892, added by P.A. 102-359 [and renumbered by P.A. 102-813](#).

<sup>21</sup> *Needy students* is not defined by 105 ILCS 5/2-3.1892, added by P.A. 102-359 [and renumbered by P.A. 102-813](#).

<sup>22</sup> Required for districts that participate in child nutrition programs, the National School Lunch Program and National School Breakfast Program, the Child and Adult Care Food Program (CACFP), and the Summer Food Service Program (SFSF). See 105 ILCS 5/2-3.1892, added by P.A. 102-359 [and renumbered by P.A. 102-813](#).

Delete number 3 *only if* the district participates in none of the programs listed.

Food sharing plans will depend on many local factors and require local health department involvement, so because of that, a sample PRESS administrative procedure is not practical and does not exist.



### Monitoring<sup>23</sup>

At least every three years, the Superintendent shall provide implementation data and/or reports to the Board concerning this policy's implementation sufficient to allow the Board to monitor and adjust the policy (a triennial report).<sup>24</sup> This triennial report must include without limitation each of the following:

- An assessment of the District's implementation of the policy
- The extent to which schools in the District are in compliance with the policy
- The extent to which the policy compares to model local school wellness policies
- A description of the progress made in attaining the goals of the policy
- How the District will make the results of the assessment available to the public
- Where the District will retain records of the assessment<sup>25</sup>

The Board will monitor and adjust the policy pursuant to policy 2:240, *Board Policy Development*.

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<sup>23</sup> The policy must establish a plan for measuring implementation of the local wellness policy, including designation of one or more persons within the local educational agency at each school, as appropriate, charged with operational responsibility for ensuring that the school meets the local wellness policy. Pub. L. 108-265, Sec. 204(a)(4); 105 ILCS 5/2-3.139(a)(4); and 7 C.F.R. §210.31(c)(5), (6), and (e)(1). 105 ILCS 110/3.5(a) requires ISBE to develop and maintain a nutrition and physical activity best practices database. Materials may be found at: [www.isbe.net/Pages/Nutrition-and-Wellness.aspx](http://www.isbe.net/Pages/Nutrition-and-Wellness.aspx).

<sup>42</sup> U.S.C. §1758b (Pub. L. 111-296) requires the public to receive periodic measures with the listed items. The accepted practice is annual reports. There is very little guidance to assist school districts in complying with this requirement, and school districts were expected to be working toward developing a reasonable method to implement this requirement by the end of the 2011-2012 school year. Without guidance, to ensure compliance, superintendents should contact their Regional Office of Education or Intermediate Service Center regarding their school districts' efforts to comply with this requirement. A guide to help school districts conduct an evaluation of local wellness policies is available, along with more guidance at: [www.fns.usda.gov/tn/local-school-wellness-policy](http://www.fns.usda.gov/tn/local-school-wellness-policy) [www.fns.usda.gov/tn/healthy/wellnesspolicy\\_tools.html](http://www.fns.usda.gov/tn/healthy/wellnesspolicy_tools.html).

<sup>24</sup> 7 C.F.R. §210.31(e)(2)(i)-(iii) and (3).

<sup>25</sup> *Id.* and §210.31(f); see also the Local Records Act, 50 ILCS 205/. It governs retention of district records; its definition of *public record* is narrower than the definition in the Freedom of Information Act. These communications must be retained only when they contain: (1) evidence of the district's organization, function, policies, procedures, or activities, or (2) informational data appropriate for preservation. Consult the board attorney for a more thorough analysis and a legal opinion about how to meet both of the federal records retention requirements discussed in *f/n 285*, below, and the Local Records Act.

## Community Involvement<sup>26</sup>

The Board and Superintendent will actively invite suggestions and comments concerning the development, implementation, periodic reviews, and updates of the school wellness policy from parents, students, representatives of the school food authority, teachers of physical education, school health professionals, the school board, school administrators, and the community. Community involvement methods shall align their suggestions and comments to policy 2:140, *Communications To and From the Board* and/or the **Community Engagement** subhead in policy 8:10, *Connection with the Community*.<sup>27</sup>

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<sup>26</sup> A board must establish a plan in its wellness policy for involving parents, students, and representatives of the school food authority, teachers of physical education, school health professionals, the school board, school administrators, and the public in the development of the school wellness policy. Pub.L. 108-265, Sec. 204(a)(5), amended by 42 U.S.C. §1758b (Pub.L. 111-296); 105 ILCS 5/2-3.139(a)(3); 7 C.F.R. §210.31(c)(5) (requirement to describe involvement plan in policy), and 7 C.F.R. §210.31(d)(1), (requirement to allow certain stakeholders to participate in policy development, etc.).

School districts have discretion in exactly how they implement this requirement, and [e]ach [school district] is best suited to determine the distinctive needs of the community it serves. See Federal Register Vol. 81, No. 146 at 50155 at: [www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17230.pdf](http://www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17230.pdf).

This requirement's awkward wording notwithstanding, a board may take compliance steps by:

1. Seeking community input or involvement during this policy's adoption and monitoring phases, and inviting suggestions and comments during the public comment portion of board meetings from time to time. This method aligns with 2:140, *Communications To and From the Board* and 2:240, *Board Policy Development*.
2. Establishing a "local school wellness committee." This method is discussed in the preamble to 7 C.F.R. §210.31(d)(1), which suggests "identifying individuals" to serve on a "local school wellness policy committee." 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 policy above] to participate ... ." See also the citation to the Federal Register, in the second paragraph of this f/n, above, discussing policy implementation discretion.

The default text of this policy follows item #1 above and does not establish a local school wellness committee. For a district that wants to appoint or approve a local school wellness committee, add the following optional sentence as the last sentence of this subhead: "As necessary, the Superintendent or designee will convene a Wellness Committee with at least one representative from each of the listed groups." Also list the Wellness Committee in 2:150-AP, *Superintendent Committees*. As much of the work of developing a plan to involve local stakeholders is administrative/staff work rather than governance work, best practice is for a Wellness Committee be an administrative committee, but consult the board attorney for guidance. See f/n 3 in policy 2:150, *Committees*, for a discussion of Open Meetings Act implications of the Wellness Committee being a board committee.

If a board wants to comply with the USDA's *encouragement* to include Supplemental Nutrition Assistance Program Education (SNAP-ED) coordinators or educators in the group to provide input about the policy, add:

"Supplemental Nutrition Assistance Program Education (SNAP-ED) coordinators, educators" to the end of the first sentence in this subhead, immediately before: ", and community."

<sup>27</sup> If a board has not adopted the **Community Engagement** subhead in policy 8:10, *Connection with the Community*, delete the phrase at the end of the second sentence: "Individuals shall align their suggestions and comments to policy 2:140, *Communications To and From the Board* and/or the **Community Engagement** subhead in policy 8:10, *Connection with the Community*."

A board may also choose to post this policy on its website and include it in the student handbook.

Recordkeeping <sup>28</sup>

The Superintendent shall retain records to document compliance with this policy, the District's records retention protocols, and the Local Records Act.

LEGAL REF.: Pub. L. 108-265, Sec. 204, Child Nutrition and WIC Reauthorization Act of 2004.  
42 U.S.C. §1771 et seq., Child Nutrition Act of 1966.  
42 U.S.C. §1751 et seq., National School Lunch Act.  
42 U.S.C. §1758b, Pub. L. 111-296, Healthy, Hunger-Free Kids Act of 2010.  
42 U.S.C. §1779, as implemented by 7 C.F.R. §§210.11 and 210.31.  
50 ILCS 205/, Local Records Act.  
105 ILCS 5/2-3.139 and 5/2-3.189.  
23 Ill.Admin.Code Part 305, Food Program.  
ISBE's *School Wellness Policy* Goal, adopted Oct. 2007.

CROSS REF.: 2:140 (Communications To and From the Board), 2:150 (Committees), 2:240 (Board Policy Development), 4:120 (Food Services), 5:100 (Staff Development Program), 6:60 (Curriculum Content), 7:260 (Exemption from Physical Education), 8:10 (Connection with the Community)

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<sup>28</sup> 7 C.F.R. §210.31(f). Records must include: (1) the policy; (2) documentation demonstrating compliance with community involvement requirements, including requirements to make the local school wellness policy and triennial assessments available to the public; and (3) documentation of the triennial assessment of the local school wellness policy for each school under its jurisdiction.

See f/n <sup>2225</sup>, above regarding the Local Records Act and 2:250-AP2, *Protocols for Record Preservation and Development of Retention Schedules*.

While 7 C.F.R. §210.31(f) does not require the policy text to state what records must be kept, a board that wants to include that information may insert the following text: "Records must include: (1) this policy; (2) documentation demonstrating compliance with community involvement, including requirements to make the policy and triennial assessments available to the public; and (3) documentation of the triennial assessment of this policy for each school under its jurisdiction."

## Instruction

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

The curriculum shall contain instruction on subject 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 including the dangers of opioid abuse.<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> Daily time of at least 30 minutes (with a minimum of at least 15 consecutive minutes if divided) will be provided for supervised, unstructured, child-directed play for all students in kindergarten through grade 5.<sup>6</sup> Before the completion of grade 5, students will be offered

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<sup>1</sup> Districts must have a policy on physical education (23 Ill.Admin.Code §1.425) and what grade level(s) students will be offered cursive writing instruction (105 ILCS 5/27-20.7). Policies on the remaining topics in this policy are optional. State or federal law controls this policy's content. 23 Ill.Admin.Code §1.420, recommends that activities, including student internships and observations of government in action, be a part of the instructional program where appropriate.

State law mandates certain courses of study but local school boards may set requirements exceeding State-law mandated courses of study. 105 ILCS 5/10-20.8 and 5/27-1 et seq. [For a resource on instructional mandates, see Illinois Instructional Mandates \(formerly Mandated Units of Study\) at: www.isbe.net/Pages/Learning-Standards.aspx, under the Administrator Resources tab.](http://www.isbe.net/Pages/Learning-Standards.aspx)

<sup>2</sup> 105 ILCS 5/2-3.156 requires the Ill. State Board of Education (ISBE) to coordinate, adapt and develop middle and high school math curriculum models. There is no consistent definition for *middle school or high school* in either State or federal law. Districts are not required to use ISBE's models and may develop their own mathematics curricula.

The purpose of the math curriculum models will be to aid school districts and teachers in implementing the *Common Core Standards*. The ISBE has adopted new math and English language arts (ELA) standards for K-12 education referred to as the *New Ill. State Learning Standards Incorporating the Common Core*. The goal of incorporating the *Common Core Standards* into the *State Goals for Learning and Learning Standards* is to better prepare Ill. students for success in college and the workforce in a competitive global economy. See [www.isbe.net/Documents/ccs-faq-0813.pdf](http://www.isbe.net/Documents/ccs-faq-0813.pdf).

The terms *Common Core Standards* and the *New Ill. State Learning Standards Incorporating the Common Core* are synonymous. Referencing the Ill. Learning Standards includes them both. That is because they are incorporated by reference into ISBE's rules and *State Goals for Learning and Learning Standards*. 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, amended by P.A. 102-195, requires that in addition to instruction, study, and discussion of effective methods for the prevention and avoidance of drugs and substance abuse, the subject must also cover the dangers of opioid abuse.

<sup>5</sup> 105 ILCS 5/10-20.53.

<sup>6</sup> 105 ILCS 5/27-6.3, added by P.A. 102-357. Schools must provide at least 30 minutes of play time for any school day five clock hours or longer in length. For any school days less than that, the total time allotted during the school day must be at least one-tenth of a day of attendance for the student. Time spent dressing or undressing for outdoor play may not count towards the daily time allotment. Play time must be computer-, tablet-, phone-, and video-free. Play time may be withheld as a disciplinary or punitive action only if a student's participation poses an immediate threat to the safety of the student or others. Id.

at least one unit of cursive instruction.<sup>7</sup> In grades 6, 7, or 8, students must receive at least one semester of civics education in accordance with Illinois Learning Standards for social science<sup>8</sup>

2. In grades 9 through 12, subjects include:<sup>9</sup> (a) language arts, (b) writing intensive courses, (c) science, (d) mathematics,<sup>10</sup> (e) social studies including U.S. history, American government and one semester of civics,<sup>11</sup> (f) foreign language,<sup>12</sup> (g) music, (h) art, (i) driver and safety education,<sup>13</sup> and (j) vocational education.

Students otherwise eligible to take a driver education course must receive a passing grade in at least eight courses during the previous two semesters before enrolling in the course. The Superintendent or designee may waive this requirement if he or she believes a waiver to be in the student's best interest.<sup>14</sup> The course shall include: (a) instruction necessary for the safe operation of motor vehicles, including motorcycles, to the extent that they can be taught in

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<sup>7</sup> 105 ILCS 5/27-20.7 requires districts to offer students a unit of cursive instruction before they complete grade 5. Other than before completing grade 5, the law is silent about what grade level(s) in which students must receive their unit of cursive instruction. This provides an opportunity for a board to have a conversation with the superintendent about local community expectations and direct him or her to determine the appropriate grade level(s) in which students will be offered a unit of cursive instruction.

Use the following alternative if the board wants to specify grade level(s) before the end of grade 5 in which cursive instruction will be offered:

A unit of cursive instruction will be offered in grade(s) \_\_\_\_\_.

<sup>8</sup> 105 ILCS 5/27-3.10, added by P.A. 101-254. The statute specifically states that school districts may utilize private funding available for offering civics education.

<sup>9</sup> 105 ILCS 5/27-22, amended by P.A.s 101-643, ~~101-654~~, ~~102-366~~, ~~102-551~~, and ~~102-864~~; 23 Ill.Admin.Code §1.440. ISBE may adopt rules to modify these requirements for students in grades 9 through 12 if the Governor declares a disaster due to a public health emergency pursuant to 20 ILCS 3305/7. 105 ILCS 5/27-22(e)(3.5), amended by P.A. 101-654 and ~~102-864~~, and ~~5/27-22(e)(3.5)~~ and ~~(e-5)(3.5)~~; added by P.A. 102-864, requires "a year of a course that includes intensive instruction in computer literacy, which may be English, social studies, or any other subject." Because computer literacy may be included within another subject, it is not listed here, but in number 6 of this policy with f/n 25, below.

<sup>10</sup> 105 ILCS 5/2-3.156. See f/n 2.

105 ILCS 5/27-22(e)(3), amended by P.A. 101-464, allows the substitution of an advanced placement computer science course for a year of mathematics. For specific requirements, see 6:300-E2, *State Law Graduation Requirements*, and 6:310, *High School Credit for Non-District Experiences; Course Substitutions; Re-entering Students*.

<sup>11</sup> 105 ILCS 5/27-22(e)(5). The statute specifically states that school districts may utilize private funding available for offering civics education

<sup>12</sup> The General Assembly encouraged school boards to implement American Sign Language courses into the school foreign language curriculum. 105 ILCS 5/10-20.52. Senate Joint Resolution 68 (96th General Assembly, 2010) encourages school districts to explore the introduction of Arabic as a foreign language in their curriculums.

<sup>13</sup> The ISBE rule on driver education personnel is found at 23 Ill.Admin.Code §252.40. School districts may contract with a commercial driver training school (CDTS) for driver education. 105 ILCS 5/27-24.2, amended by P.A. 101-450. To qualify to contract with a school district, a CDTS must: (a) hold a valid license issued by the Ill. Sec. of State; (b) provide teachers who meet the educator licensure and endorsement requirements under 105 ILCS 5/21B; and (c) follow the same evaluation and observation requirements that apply to non-tenured teachers under 105 ILCS 5 24-A. Id. A district contracting with a CDTS must provide a list to ISBE of the CDTS instructors. Id. The list must include the name, personal ISBE identification number, birth date and driver's license number of each instructor who will teach driver education. Id. Although a formal waiver for outsourcing of driver's education is no longer required, districts must consider their applicable collective bargaining agreement(s), board policy, and the reduction in force (RIF) provisions of the School Code as they relate to outsourcing of instructional staff. Consult the board attorney for guidance.

A school district may decide to allow a student to take a portion of the driver education course through a distance learning course. This is determined on a case-by-case basis and must be approved by the district's administration, the student's driver's education teacher, and the student's parent/guardian. 105 ILCS 5/27-24.2, amended by P.A. 101-183; 23 Ill.Admin.Code §252.20(c)(2).

<sup>14</sup> 105 ILCS 5/27-24.1, amended by P.A. 102-455, ~~eff. 1-1-22~~, and 5/27-24.2; 23 Ill.Admin.Code §252.20(c)(2).

the classroom,<sup>15</sup> (b) classroom instruction on distracted driving as a major traffic safety issue,<sup>16</sup> (c) instruction on required safety and driving precautions that must be observed at emergency situations, highway construction and maintenance zones, and railroad crossings and their approaches,<sup>17</sup> and (d) instruction concerning law enforcement procedures for traffic stops, including a demonstration of the proper actions to be taken during a traffic stop and appropriate interactions with law enforcement.<sup>18</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>19</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>20</sup>

3. In grades 7 through 12, as well as in interscholastic athletic programs, steroid abuse prevention must be taught. <sup>21</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>22</sup> In addition, anti-bias education and intergroup conflict resolution may be taught as an effective method for preventing violence and lessening tensions in schools; these prevention methods are most effective when they are respectful of individuals and their divergent viewpoints and religious beliefs, which are protected by the First Amendment to the Constitution of the United States. <sup>23</sup>

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<sup>15</sup> Id.

<sup>16</sup> Id.

<sup>17</sup> Id.

<sup>18</sup> Id.

<sup>19</sup> 105 ILCS 5/27-17, amended by P.A. 102-971, eff. 1-1-23.

<sup>20</sup> The Ill. Vehicle Code, 625 ILCS 5/6-408.5, amended by P.A. 102-1100, contains these requirements; they are paraphrased below and may be added to the policy or otherwise disseminated.

Before a certificate of completion will be requested from the Secretary of State, a student must receive a passing grade in at least eight courses during the two semesters last ending before requesting the certificate. A certificate of completion will not be requested for any person less than 18 years of age who has dropped out of school unless the individual provides:

1. Written verification of his or her enrollment in a high school equivalency or alternative education program or a high school equivalency certificate State of Illinois High School Diploma (formerly GED certificate);

2. Written verification that before dropping out, the individual had received passing grades in at least eight courses during the two previous semesters last ending before requesting a certificate;

3. Written consent from the individual's parent/guardian and the Regional Superintendent; or

4. Written waiver from the Superintendent of the School District in which the individual resides or resided at the time he or she dropped out of school, or from the chief school administrator with respect to a dropout who attended a non-public high school. A waiver may be given if the Superintendent or chief administrator deems it to be in the individual's best interests.

<sup>21</sup> 105 ILCS 5/27-23.3.

<sup>22</sup> 105 ILCS 5/27-23.4.

<sup>23</sup> Optional. 105 ILCS 5/27-23.6 entitled Anti-bias education allows districts to incorporate activities to address intergroup conflict, with the objectives of improving intergroup relations on and beyond the school campus, defusing intergroup tensions, and promoting peaceful resolution of conflict.

Boards that adopt a policy to incorporate activities to address intergroup conflict pursuant to this law must make information available to the public that describes the manner in which the district has implemented the activities. Methods for making this information available include: the district's website, if any, and in the district's offices upon request. See 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. Districts may also include the information in a student handbook and in district newsletters. The Ill. Principals Association (IPA) maintains a handbook service that coordinates with PRESS material, Online Model Student Handbook (MSH), at: [www.ilprincipals.org/msh](http://www.ilprincipals.org/msh) [www.ilprincipals.org/resources/model-student-handbook](http://www.ilprincipals.org/resources/model-student-handbook)

See f/n 12 in sample policy 6:180, *Extended Instructional Programs*, and ensure that these policies align.

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>24</sup>
6. In all grades, students must receive developmentally appropriate opportunities to gain computer literacy skills that are embedded in the curriculum. <sup>25</sup>
7. In all grades, character education must be taught including respect, responsibility, fairness, caring, trustworthiness, and citizenship in order to raise students' honesty, kindness, justice, discipline, respect for others, and moral courage.<sup>26</sup> Instruction in all grades will include examples of behaviors that violate policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*. <sup>27</sup>
8. In all schools, citizenship values must be taught, including: (a) American patriotism, (b) principles of representative government (the American Declaration of Independence, the Constitution of the United States of America and the Constitution of the State of Illinois), (c)

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<sup>24</sup> 47 C.F.R. § 54.520 and 105 ILCS 5/27-13.3 control this section. "Grades kindergarten through 12" is used because federal law requires school districts that receive E-rate funding to certify that they have an Internet safety education policy for all minors. 47 C.F.R. §54.520(c)(1)(i). This federal law defines minors as any individual who has not attained the age of 17 years. 47 C.F.R. §54.520(a)(4)(i).

105 ILCS 5/27-13.3 only requires a unit on Internet safety for students in grades 3 or above. It recommends seven topics for the unit on Internet safety and required ISBE to "make available resource materials for educating children regarding child online safety." It also invites schools to "adopt an age-appropriate curriculum for Internet safety instruction of students in grades kindergarten through 12."

For boards that do not receive E-rate funds and do not want to exceed the requirements of the School Code, replace this section with the following sentence:

In grades 3 or above, the curriculum contains a unit on Internet safety, the scope of which shall be determined by the Superintendent or designee.

For boards that do not receive E-rate funds, but want to exceed the requirements of 105 ILCS 5/27-13.3 to include grades K-2, replace this section with the following sentences:

In grades 3 or above, the curriculum contains a unit on Internet safety, the scope of which shall be determined by the Superintendent or designee. In kindergarten through grade 2, age-appropriate Internet safety must be taught.

<sup>25</sup> 105 ILCS 5/10-20.73-79 (final citation pending), added by P.A. 101-654 and renumbered by P.A. 102-813, 5/10-20.74, and 5/27-22(e)(3.5), added by P.A. 101-654 and amended by P.A. 102-894, and 5/27-22(e-5)(3.5), added by P.A. 102-894. 105 ILCS 5/10-20.74, added by P.A. 101-654, requires that districts submit an annual report to ISBE regarding educational technology capacities and policies. See the subhead **Educational Technology Committee** and f/n 20 in 2:150-AP, *Superintendent Committees*.

<sup>26</sup> 105 ILCS 5/27-12.

<sup>27</sup> Required as part of a district's Bullying Prevention and Response Plan pursuant to 105 ILCS 5/27-23.7. Because of the negative outcomes associated with bullying in schools, the Ill. General Assembly has found "that [school districts] should educate students, parents, and [school district personnel] about what behaviors constitute prohibited bullying." 105 ILCS 5/27-23.7(a). This language aligns with policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.

The Ill. General Assembly invited boards to "make suitable provisions for instruction in gang resistance education and training in all grades and include such instruction in the courses of study regularly taught in those grades." See 105 ILCS 5/27-23.10(c). A board that shares this concern may add the following option: "In addition, in all grades gang resistance education and training must be taught."

proper use and display of the American flag, (d) the Pledge of Allegiance, and (e) the voting process.<sup>28</sup>

9. In all grades, physical education must be taught including a developmentally planned and sequential curriculum that fosters the development of movement skills, enhances health-related fitness, increases students' knowledge, offers direct opportunities to learn how to work cooperatively in a group setting, and encourages healthy habits and attitudes for a healthy lifestyle. Unless otherwise exempted, all students are required to engage in a physical education course with such frequency as determined by the Board after recommendation from the Superintendent,<sup>29</sup> but at a minimum of three days per five-day week.<sup>30</sup> For exemptions and substitutions, see policies 6:310, *High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students* and 7:260, *Exemption from Physical Education*.<sup>31</sup>
10. In all schools, health education must be stressed, including<sup>32</sup>: (a) proper nutrition, (b) physical fitness, (c) components necessary to develop a sound mind in a healthy body, (d)

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<sup>28</sup> 105 ILCS 5/27-3 requires the Pledge of Allegiance to be recited every day in elementary and secondary schools. See also *Palmer v. City of Chicago*, 466 F. Supp. 600 (N.D. Ill. 1979) (teacher would not teach and direct the Pledge of Allegiance to the flag of the United States for religious reasons and was terminated for not doing so because it was part of the curriculum). Requirements for displaying a U.S. flag at each school and in each classroom are found in 5 ILCS 465/3 and 465/3a.

Note that the Illinois statute does not require every student to recite the *Pledge* – that kind of mandatory participation would violate the U.S. Constitution. Schools may not coerce a student into saying the Pledge, nor may they punish students for refusing to participate in any aspect of the flag ritual, including standing, saluting the flag, and reciting the *Pledge*. *West Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624 (1943); *Sherman v. Cmty. Consol. Sch. Dist. 21 of Wheeling TWP.*, 980 F.2d 437 (7th Cir. 1992). Consider using permissive rather than mandatory language to introduce the recitation of the *Pledge*, such as, “You may now stand to recite the *Pledge*.” Schools may, of course, require that non-participants maintain order and decorum appropriate to the school environment.

<sup>29</sup> The phrase “after recommendation by the Superintendent” is optional. If a superintendent does not bring this topic to the board for discussion, the board may not have a trigger to make the determination.

<sup>30</sup> 23 Ill.Admin.Code §1.425(b). Boards that want their daily physical education requirement to align with their goal in policy 6:50, *School Wellness*, may replace “minimum of three days per five-day week” with their local daily requirements. See f/n 10 in [sample](#) policy 6:50, *School Wellness*.

<sup>31</sup> 105 ILCS 5/27-5 requires school boards to provide for students' physical education and allows the P.E. course offered in grades 5 through 10 to include the health education courses required by State law. See also 23 Ill.Admin.Code §1.425.

105 ILCS 5/27-6, describes when students may be excused from P.E. See also 23 Ill.Admin.Code §1.425(d).

105 ILCS 5/27-6 contains an exception to the minimum of three days per five-day week P.E. requirement for schools engaged in block scheduling; if this is applicable, substitute this sentence for the second-to-last sentence in this paragraph:

Unless otherwise exempted, all students are required to engage with such frequency as determined by the Board, but at a minimum of three days per five-day week, during the school day, except on block scheduled days, in a physical education course.

105 ILCS 5/27-6.5 describes physical fitness assessments required, beginning with the 2016-17 school year and every school year thereafter, for grades 3-12 in an effort to meet State Goal 20 of the Illinois Learning Standards for Physical Development and Health at: - [www.isbe.net/Pages/School-Health-Issues.aspx](http://www.isbe.net/Pages/School-Health-Issues.aspx) [www.isbe.net/Pages/Physical-Education-and-Health.aspx](http://www.isbe.net/Pages/Physical-Education-and-Health.aspx).

See also 23 Ill.Admin.Code §1.425 (f) and (h); ISBE's *IL Fitness Assessments and Data Reporting Requirements Questions and Answers* (Rev. 2017) at: -

[www.isbe.net/Documents/Physical\\_Fitness\\_Assessment\\_FAQ.pdf#search=Fitness%20Assessments%20and%20Data%20Reporting%20Requirements%20Questions%20and%20Answers](http://www.isbe.net/Documents/Physical_Fitness_Assessment_FAQ.pdf#search=Fitness%20Assessments%20and%20Data%20Reporting%20Requirements%20Questions%20and%20Answers)

105 ILCS 5/27-7 describes the goals and requirements for P.E. courses; these are re-stated in this sample policy.

<sup>32</sup> Citations for letters (a) - (e), required by the Comprehensive Health Education Program (105 ILCS 110/3) in this paragraph follow:

- (a) 105 ILCS 5/2-3.139 and 105 ILCS 5/27-7 (proper nutrition) and see also [sample](#) policy 6:50, *School Wellness*.
- (b) Id. (physical fitness) and see also [sample](#) policy 6:50, *School Wellness*.
- (c) Id. (sound mind and healthy body).



dangers and avoidance of abduction, and (c) age-appropriate and evidence-informed sexual abuse and assault awareness and prevention education in all grades.<sup>33</sup> The Superintendent shall implement a comprehensive health education program in accordance with State law.<sup>34</sup>

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(d) 105 ILCS 5/27-13.2 (dangers and avoidance of abduction). The Ill. State Police and ISBE must develop instruction on child abduction prevention. 20 ILCS 2605/2605-480.

(e) 105 ILCS 110/3, amended by P.A.s 101-305, 102-464, and 102-1034, eff. 1-1-23, and 105 ILCS 5/10-23.13, amended by P.A. 102-610 a/k/a *Erin's Law* (child sexual abuse prevention). While 105 ILCS 5/10-23.13(b) states pre-K through 12th, this policy uses *all grades* for brevity and ease of administration. *Erin's Law* requires a policy addressing child sexual abuse prevention and curriculum content on that subject (see sample policy 4:165, *Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors*). A sentence in 6:60-AP1, *Comprehensive Health Education Program*, restates the basic recommendations from page 16 of the *Erin's Law* Taskforce Final Report (Report) to Governor Quinn at: [www.isbe.net/Documents/erins-law-final0512.pdf](http://www.isbe.net/Documents/erins-law-final0512.pdf), which was the basis for P.A. 102-676, HB-1975 text, which did not pass in the first half of the 102nd Ill. General Assembly but is used as the basis for sample content to implement P.A. 102-610 due to that Public Act's vagueness. The professional educator training component of Erin's Law is addressed in sample policies 5:90, *Abused and Neglected Child Reporting* and 5:100, *Staff Development Program*. The Report also encouraged parental involvement because parents play a key role in protecting children from child sexual abuse.

<sup>33</sup> See fn 11 in sample policy 4:165, *Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors*, for a definition of *evidence-informed*. 105 ILCS 5/10-23.13, amended by P.A. 102-610.

<sup>34</sup> 105 ILCS 110/3, amended by P.A.s 101-305, and P.A. 102-464, and 102-1034, eff. 1-1-23; and 23 Ill. Admin. Code § 1.420(n). Each school system shall provide a program in compliance with the Critical Health Problems and Comprehensive Health Education Act, 105 ILCS 110/.

More detailed critical health problems and comprehensive health education program content is described in administrative procedure 6:60-AP1, *Comprehensive Health Education Program*. That procedure follows the Comprehensive Health Education Program law (CHEP), 105 ILCS 110/3, amended by P.A.s 101-305, 102-464, and 102-1034, eff. 1-1-23, and it formerly included the requirements for the development of the now-repealed family life and sex education programs in 105 ILCS 5/27-9.1 and 9.2, amended by P.A.s 100-684, 101-579, 102-412 and repealed by P.A. 102-522.

The former family life and sex education programs were replaced with the National Sex Education Standards (NSES) (105 ILCS 5/27-9.1a, added by P.A. 102-522) and a developmentally appropriate consent education curriculum (105 ILCS 5/27-9.1b, added by P.A. 102-522). But at the time of PRESS Issue 108's publication, the term *family life*, "including evidence-based and medically accurate information regarding sexual abstinence," remained in the CHEP (105 ILCS 110/3, amended by P.A.s 101-305, 102-464, and 102-1034, eff. 1-1-23). The CHEP also includes many other health education topics that all elementary and secondary schools in Illinois must provide, including teen dating violence (105 ILCS 110/3.10, see sample policy 7:185, *Teen Dating Violence Prohibited*, for the required "teen dating violence policy") and cardiopulmonary resuscitation and automated external defibrillator use. 105 ILCS 110/3-14. For ease of administration, 6:60-AP1, *Comprehensive Health Education Program*, content includes reference to the new NSES curriculum that is outlined in more detail at 6:60-AP2, *Comprehensive Personal Health and Safety and Sexual Health Education Program (National Sex Education Standards (NSES))*. 105 ILCS 5/27-9.1a, added by P.A. 102-522. While the NSES law is effective immediately, ISBE's has until 8-1-22 to develop its learning standards and resources are available at [www.isbe.net/sexualhealth](http://www.isbe.net/sexualhealth), and at the time of PRESS Issue 108's publication however, no guidance existed about whether districts that provide the now-repealed family life and sex education programs formerly in 105 ILCS 5/27-9.1 and 9.2, repealed by P.A. 102-522, could continue to do so for: (a) their 21-22 school years, and/or (b) continuing into the 22-23 school year and school years beyond that into the future. Consult the board attorney if the district offered the now-repealed family life and sex education program to assess whether that program may continue during the 21-22 school and/or school years beyond future school years.

Two choices exist for school boards related to providing students with a sex education curriculum:

1. No sex education; or
2. NSES a/k/a Comprehensive Personal Health and Safety and Sexual Health Education Program (105 ILCS 5/27-9.1a, added by P.A. 102-522, and see 6:60-AP2, *Comprehensive Personal Health and Safety and Sexual Health Education Program (National Sex Education Standards (NSES))*).

While boards are not required to include sex education curriculum information in their policies, if they offer it, the new law requires them to identify the curriculum their districts use along with the name and contact information, including an email address, of a school staff member who can respond to inquiries about instruction and materials. 105 ILCS 5/27-9.1a(e), added by P.A. 102-522. Methods for making this information available include: the district's website, if any, and in the district's offices upon request. See 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*.

11. In all schools, career/vocational education must be taught, including: (a) the importance of work, (b) the development of basic skills to enter the world of work and/or continue formal education, (c) good work habits and values, (d) the relationship between learning and work, and (e) if possible, a student work program that provides the student with work experience as an extension of the regular classroom. A career awareness and exploration program must be available at all grade levels. <sup>35</sup>
  
12. In grades 9 through 12, consumer education must be taught, including: (a) financial literacy, including consumer debt and installment purchasing (including credit scoring, managing credit debt, and completing a loan application); budgeting; savings and investing; banking (including balancing a checkbook, opening a deposit account, and the use of interest rates); understanding simple contracts; State and federal income taxes; personal insurance policies; the comparison of prices; higher education student loans; identity-theft security; and homeownership (including the basic process of obtaining a mortgage and the concepts of fixed and adjustable rate mortgages, subprime loans, and predatory lending); and (b) the roles

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**For boards that do offer NSES but do not wish to communicate it in this policy, ensure that superintendents:** (1) identify the curriculum along with the name and contact information, including an email address of the school staff member designated to respond to inquiries about instruction and materials (see 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*); and (2) implement both 6:60-AP1, *Comprehensive Health Education Program*, and 6:60-AP2, *Comprehensive Personal Health and Safety and Sexual Health Education Program (National Sex Education Standards (NSES))*.

For boards that want to communicate to their communities in this policy that they offer NSES, insert the following text into the last sentence in number 10:

The Superintendent shall implement a comprehensive health education program in accordance with State law, including a personal health and safety and sexual health education program (National Sex Education Standards) pursuant to 105 ILCS 5/27-9.1a.

Legal Reference insertions are not necessary with the statute in the text of the policy. Ensure: (1) the implementation of both 6:60-AP1, *Comprehensive Health Education Program* and 6:60-AP2, *Comprehensive Personal Health and Safety and Sexual Health Education Program (National Sex Education Standards (NSES))*, align with this policy; and (2) that the superintendent identifies the curriculum along with the name and contact information, including an email address of the school staff member designated to respond to inquiries about instruction and materials (see 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*).

For boards that communicated NSES in this policy and also want to communicate that they additionally offer developmentally appropriate consent education curriculum, insert the following sentence as the last sentence of the number 10 paragraph:

The Superintendent shall also implement a developmentally appropriate consent education curriculum pursuant to 105 ILCS 5/27-9.1b.

Legal Reference insertion is not necessary with the statute in the text of the policy. Ensure the implementation of 6:60-AP3, *Developmentally Appropriate Consent Education*, aligns with this policy.

For boards that do offer NSES and do not communicate that in policy AND/OR boards that do not offer NSES, but want to communicate that they offer developmentally appropriate consent education curriculum, insert the following text into the last sentence in number 10:

The Superintendent shall implement a comprehensive health education program in accordance with State law, including a developmentally appropriate consent education curriculum pursuant to 105 ILCS 5/27-9.1b.

Legal Reference insertion is not necessary with the statute in the text of the policy. Ensure that implementation of 6:60-AP3, *Developmentally Appropriate Consent Education*, aligns with this policy.

<sup>35</sup> 23 Ill.Admin.Code §1.420(i). See 105 ILCS 435/, Vocational Education Act

A unit or high school district may offer workplace preparation instruction in grades 9 through 12 that covers legal protections in the workplace, including protection against sexual harassment and racial and other forms of discrimination and protections for employees. 105 ILCS 5/27-23.14, added by P.A. 101-347 and renumbered by P.A. 102-558.

For high school and unit boards, insert “5/27-23.14,” after 105 ILCS 5/27-23.11 in the Legal References or if a board offers a course on hunting safety as part of its curriculum during the school day (see the option in *f/n* 52 below), after its Legal Reference 105 ILCS 5/27-23.13, and the following text to the end of number 11 if the board wants to offer workplace preparation instruction:

In grades 9-12, workplace preparation instruction will be offered, covering legal protections in the workplace, including protection against sexual harassment and racial and other forms of discrimination and protections for employees.

of consumers interacting with agriculture, business, labor unions and government in formulating and achieving the goals of the mixed free enterprise system. <sup>36 37</sup>

13. Beginning in the fall of 2022, in grades 9 through 12, intensive instruction in computer literacy, which may be included as a part of English, social studies, or any other subject. <sup>38</sup>
14. Beginning in the fall of 2022, in grades 9 through 12, a unit of instruction on media literacy that includes, but is not limited to, all of the following topics: (a) accessing information to evaluate multiple media platforms and better understand the general landscape and economics of the platforms, and issues regarding the trustworthiness of the source of information; (b) analyzing and evaluating media messages to deconstruct media representations according to the authors, target audience, techniques, agenda setting, stereotypes, and authenticity to distinguish fact from opinion; (c) creating media to convey a coherent message using multimodal practices to a specific target audience that includes, but is not limited to, writing blogs, composing songs, designing video games, producing podcasts, making videos, or coding a mobile or software application; (d) reflecting on media consumption to assess how media affects the consumption of information and how it triggers emotions and behavior; and (e) social responsibility and civics to suggest a plan of action in the class, school, or community for engaging others in a respectful, thoughtful, and inclusive dialogue over a specific issue using facts and reason. <sup>39</sup>
15. Beginning in the fall of 2023, in grades 9 through 12, an opportunity for students to take at least one computer science course aligned to Illinois learning standards. Computer science means the study of computers and algorithms, including their principles, hardware and software designs, implementation, and impact on society. Computer science does not include the study of everyday uses of computers and computer applications; e.g., keyboarding or accessing the Internet. <sup>40</sup>
16. In all schools, conservation of natural resources must be taught, including: (a) home ecology, (b) endangered species, (c) threats to the environment, and (d) the importance of the environment to life as we know it. <sup>41</sup>

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<sup>36</sup> 105 ILCS 5/27-12.1; 23 Ill.Admin.Code §1.420(k). P.A. 99-284 added these subjects to the required consumer education course: consumer debt, higher education student loans, and identity-theft security.

<sup>37</sup> For high school and unit boards that want to offer a unit of instruction about the process of naturalization pursuant to 105 ILCS 5/27-23.15~~16~~, added by P.A. 102-472 and renumbered by P.A. 102-813, insert an optional number 13, and amend numbers after it accordingly:

13. In grades 9 through 12, a unit of instruction about the process of naturalization by which a foreign citizen or foreign national becomes a U.S. citizen that includes content from the components of the naturalization test administered by the U.S. Citizenship and Immigration Services.

<sup>38</sup> 105 ILCS 5/27-22(e)(3.5), added by P.A. 101-654. *ISBE states that Computer literacy is broadly defined as one's knowledge of an ability to use computers and related technologies efficiently and effectively. See: [www.isbe.net/keeplearning](http://www.isbe.net/keeplearning) for more ISBE guidance on computer literacy. At the time of PRESS Issue 108's publication, no definition or further information from ISBE existed about what computer literacy means. A common sense approach presumes the term includes those concepts carved out of computer science, such as everyday use of computers, keyboarding, accessing the Internet, etc.*

<sup>39</sup> 105 ILCS 5/27-20.08, added by P.A. 102-55. *Media literacy* means the ability to access, analyze, evaluate, create, and communicate using a variety of objective forms, including, but not limited to, print, visual, audio, interactive, and digital texts.

<sup>40</sup> Optional until fall 2023; 105 ILCS 5/27-23.15(b), added by P.A. 101-654.

<sup>41</sup> 105 ILCS 5/27-13.1; 23 Ill.Admin.Code §1.420(l).

17. In all schools, United States (U.S.) history must be taught, including: (a) the principles of representative government, (b) the Constitutions of the U.S. and Illinois, (c) the role of the U.S. in world affairs, (d) the role of labor unions, (e) the role and contributions of ethnic groups, including but not limited to, the African Americans, Albanians, Asian Americans, Bohemians, Czechs, French, Germans, Hispanics (including the events related to the forceful removal and illegal deportation of Mexican-American U.S. citizens during the Great Depression), Hungarians, Irish, Italians, Lithuanians, Polish, Russians, Scots, and Slovaks in the history of this country and State, (f) a study of the roles and contributions of lesbian, gay, bisexual, and transgender (LGBT) people in the history of the U.S. and Illinois, (g) Illinois history, and (h) the contributions made to society by Americans of different faith practices, including, but not limited to, Muslim Americans, Jewish Americans, Christian Americans, Hindu Americans, Sikh Americans, Buddhist Americans, and any other collective community of faith that has shaped America. <sup>42</sup>

In addition, all schools shall hold an educational program on the United States Constitution on Constitution Day, each September 17, commemorating the September 17, 1787 signing of the Constitution. However, when September 17 falls on a Saturday, Sunday, or holiday, Constitution Day shall be held during the preceding or following week. <sup>43</sup>

18. In grade 7 and all high school courses concerning U.S. history or a combination of U.S. history and American government, students must view a Congressional Medal of Honor film made by the Congressional Medal of Honor Foundation, provided there is no cost for the film. <sup>44</sup>
19. In all schools, the curriculum includes instruction as determined by the Superintendent or designee on the Holocaust and crimes of genocide, including Nazi atrocities of 1933-1945,

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<sup>42</sup> 105 ILCS 5/27-21, amended by P.A.s 101-227 (adding the roles and contributions of LGBT people in U.S. and Illinois), 101-341 (Illinois history), 101-643 (during a public health emergency, allowing schools to obtain ~~demonstrated~~ evidence from students remotely that they have comprehensive knowledge of United States history), and 102-411 (adding contributions made to society by Americans of different faith practices); 23 Ill.Admin.Code §1.420(r). “[~~O~~btain ~~demonstrated~~ ~~evidence~~-Evidence of having comprehensive knowledge [of United States history], which may be administered from students remotely” is not clear. The practical reading is that it refers to teachers collecting evidence through remote assessments when students are engaged in a remote learning program during a disaster declaration due to a public health emergency.

105 ILCS 5/27-21, amended by P.A. 101-643, does not specify at what grade level districts must cover these topics as part of U.S. history instruction; however, no student may graduate from grade 8 unless the student has received instruction in U.S. history and demonstrated comprehensive knowledge of the subject matter.

For guidance about the requirements of adding the roles and contributions of LGBT people in U.S. and Illinois, see:

1. Inclusive Curriculum Law Frequently Asked Questions (FAQs) at: [www.phimc.org/wp-content/uploads/2020/05/Inclusive-Curriculum-FAQs.pdf](http://www.phimc.org/wp-content/uploads/2020/05/Inclusive-Curriculum-FAQs.pdf);
2. Inclusive Curriculum Law Overview at: [www.phimc.org/wp-content/uploads/2020/05/Inclusive-Curriculum-One-Pager.pdf](http://www.phimc.org/wp-content/uploads/2020/05/Inclusive-Curriculum-One-Pager.pdf); and
3. Inclusive Curriculum Implementation Guidance (Condensed Edition) at: [www.isbe.net/Documents/Support-Students-Implementation-Guidance.pdf](http://www.isbe.net/Documents/Support-Students-Implementation-Guidance.pdf)

<sup>43</sup> Section 111 of Division J of Pub. L. 108-447, the Consolidated Appropriations Act, 2005, 12-8-04; 118 Stat. 2809, 3344-45 (Section 111). Section 111(b) states: “[e]ach educational institution that receives Federal funds for a fiscal year shall hold an educational program on the U.S. Constitution on September 17 of such year for the student served by the educational institution.”

<sup>44</sup> 105 ILCS 5/27-3.5. The Congressional Medal of Honor film is available on ISBE’s website for no cost at: [www.isbe.net/Pages/Medal-of-Honor.aspx](http://www.isbe.net/Pages/Medal-of-Honor.aspx).

Armenian Genocide, the Famine-Genocide in Ukraine, and more recent atrocities in Cambodia, Bosnia, Rwanda, and Sudan. <sup>45</sup>

20. In all schools, the curriculum includes instruction as determined by the Superintendent or designee on the history, struggles, and contributions of women. <sup>46</sup>
21. In all schools, the curriculum includes instruction as determined by the Superintendent or designee on Black History, including the history of the pre-enslavement of Black people from 3,000 BCE to AD 1619, the African slave trade, slavery in America, the study of the reasons why Black people came to be enslaved, the vestiges of slavery in this country, the study of the American civil rights renaissance, as well as the struggles and contributions of African-Americans. <sup>47</sup>
22. In all schools offering a secondary agricultural education program, the curriculum includes courses as required by 105 ILCS 5/2-3.80. <sup>48</sup>
23. In all schools, instruction during courses as determined by the Superintendent or designee on disability history, awareness, and the disability rights movement. <sup>49</sup>
24. Beginning in the fall of 2022, in all schools, instruction as determined by the Superintendent or designee on the events of Asian American history, including the history of Asian Americans in Illinois and the Midwest, as well as the contributions of Asian Americans toward advancing civil rights from the 19th century onward, which must include the contributions made by individual Asian Americans in government and the arts, humanities, and sciences, as well as the contributions of Asian American communities to the economic, cultural, social, and political development of the United States. <sup>50</sup>

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<sup>45</sup> 105 ILCS 5/27-20.3. The statute requires the school board to determine the minimum amount of instructional time. The sample policy complies by delegating this responsibility to the superintendent or designee.

<sup>46</sup> 105 ILCS 5/27-20.5. The statute requires the school board to determine the minimum amount of instructional time. The sample policy complies by delegating this responsibility to the superintendent or designee. House Resolution 365 (98th General Assembly, 2013) and Senate Resolution 1073 (98th General Assembly, 2014) both urge all Illinois educators to share with students of an appropriate age the story of *comfort women* when discussing the history of Asia or World War II, or the issue of human trafficking.

<sup>47</sup> 105 ILCS 5/27-20.4, amended by P.A. 101-654. The statute requires the school board to determine the minimum amount of instructional time. The sample policy complies by delegating this responsibility to the superintendent or designee. A school may meet this curriculum requirement through an online program or course. *Id.*

<sup>48</sup> 105 ILCS 5/2-3.80(e) or (f), as applicable.

<sup>49</sup> 105 ILCS 5/27-23.8. The statute requires the school board to determine the minimum amount of instructional time. The sample policy complies by delegating this responsibility to the superintendent or designee. The statute requires that the instruction be founded on the principle that all students, including students with disabilities, have the right to exercise self-determination. It urges districts to request individuals with disabilities to assist with the development and delivery of this instruction and allows instruction to be supplemented by knowledgeable guest speakers.

<sup>50</sup> 105 ILCS 5/27-20.8, added by P.A. 102-44. *Id.* at (c) states that the regional superintendent of schools [or Intermediate Service Center Executive Director, whichever is appropriate] will monitor districts' compliance with this law during the annual compliance review visits. Districts may meet this law's requirements through online programs or courses. *Id.* at (d). 105 ILCS 5/3-0.01 states any reference to "regional superintendent" include the chief administrative officer of Intermediate Service Centers established under 105 ILCS 5/2-3.62.

25. In kindergarten through grade 8, education must be available to students concerning effective methods of preventing and avoiding traffic injuries related to walking and bicycling. <sup>51</sup> <sup>52</sup>

LEGAL REF.: Pub. L. No. 108-447, Section 111 of Division J, Consolidated Appropriations Act of 2005.  
Pub. L. No. 110-385, Title II, 122 stat. 4096 (2008), Protecting Children in the 21st Century Act.  
47 C.F.R. §54.520.  
5 ILCS 465/3 and 465/3a.  
20 ILCS 2605/2605-480.  
105 ILCS 5/2-3.80(e) and (f), ~~5/10-20.73-79(final citation pending)~~, 5/10-23.13, 5/27-3, 5/27-3.5, 5/27-5, 5/27-6, 5/27-6.5, 5/27-7, 5/27-12, 5/27-12.1, 5/27-13.1, 5/27-13.2, 5/27-20.08, 5/27-20.3, 5/27-20.4, 5/27-20.5, 5/27-20.7, 5/27-20.8, 5/27-21, 5/27-22, 5/27-23.3, 5/27-23.4, 5/27-23.7, 5/27-23.8, 5/27-23.10, 5/27-23.11, 5/27-23.15, [5/27-23.16](#), 5/27-24.1, and 5/27-24.2.  
105 ILCS 110/3, Comprehensive Health Education Program.  
105 ILCS 435/, Vocational Education Act.  
625 ILCS 5/6-408.5, Ill. Vehicle Code.  
23 Ill.Admin.Code §§1.420, 1.425, 1.430, and 1.440.

CROSS REF.: 4:165 (Awareness and Prevention of Child Sex Abuse and Grooming Behaviors), 6:20 (School Year Calendar and Day), 6:40 (Curriculum Development), 6:70 (Teaching About Religions), 6:235 (Access to Electronic Networks), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior), 7:260 (Exemption from Physical Education)

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<sup>51</sup> 105 ILCS 5/27-23.11 requires districts that maintain any of the grades kindergarten through 8 to adopt a policy. The law is silent about how to educate students on this topic. See 6:60-AP1, E2, *Resources for Biking and Walking Safety Education*, for additional information.

<sup>52</sup> A school district may offer a course on hunting safety as part of its curriculum during the school day. 105 ILCS 5/27-23.13, added by P.A. 101-152. No grade levels are specified in the statute. Insert “5/27-23.13,” after 105 ILCS 5/27-23.11 in the Legal References, and an optional number 26, if the board wants to offer a course on hunting safety as part of its curriculum: In grade(s) [*insert grade level(s)*], a course on hunting safety will be offered during the school day.

## Instruction

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

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

The Superintendent shall incorporate SEL into the District's curriculum and other educational programs consistent with the District's mission and the goals and benchmarks of the Ill. Learning Standards.<sup>3</sup> The Ill. Learning Standards include three goals for students: <sup>4</sup>

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

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

1. Classroom and school-wide programming to foster a safe, supportive learning environment where students feel respected and valued. This may include incorporating scientifically based, age-and-culturally appropriate classroom instruction, District-wide, and school-wide

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<sup>1</sup> State law requires this subject matter be covered by policy ~~(405 ILCS 49/15(b))~~, and it required districts to submit it to the Ill. State Board of Education (ISBE) once by 8-31-04. [405 ILCS 49/15\(b\)](#).

<sup>2</sup> This text paraphrases the definition in the Ill. Children's Mental Health Partnership's *Strategic Plan for Building a Comprehensive Children's Mental Health System* in Illinois, pg. 73, Appendix C, starting at pg. 69 at: [www.nashp.org/wp-content/uploads/sites/default/files/abcd/abcd.il.icmhpstrategic20050908.pdf](http://www.nashp.org/wp-content/uploads/sites/default/files/abcd/abcd.il.icmhpstrategic20050908.pdf)

<sup>3</sup> Required by the Children's Mental Health Act ~~of 2003~~, 405 ILCS 49/ amended by P.A. 102-899, eff. 1-1-23. ISBE incorporated social and emotional development standards into the Ill. Learning Standards. For more information see: [www.isbe.net/sel](http://www.isbe.net/sel) [www.isbe.net/pages/social-emotional-learning-standards.aspx](http://www.isbe.net/pages/social-emotional-learning-standards.aspx). School social workers may implement a continuum of social and emotional education programs and services in accordance with students' needs. 405 ILCS 49/15(b).

105 ILCS 5/2-3.147, added by P.A. 95-558 and repealed by P.A. 99-30, created the Ensuring Success in School Task Force. Supervised by ISBE, this task force developed policies, procedures, and protocols for school boards to adopt to address the education and related needs of students who are parents, expectant parents, or victims of domestic or sexual violence; the goal is to encourage these students to stay in school, stay safe while in school, and successfully complete their education. School boards and superintendents may want to create their own study group to prepare for implementing of the task force's policies, procedures, and protocols. A report of the task force's findings was made to the General Assembly and is available here: [www.isbe.net/Documents/ess-task-force-final-report0610.pdf](http://www.isbe.net/Documents/ess-task-force-final-report0610.pdf) [www.povertylaw.org/advocacy/women/pubs/essa-task-force-report](http://www.povertylaw.org/advocacy/women/pubs/essa-task-force-report).

<sup>4</sup> The goals, along with their benchmarks, performance descriptors and indicators are available at the link in f/n 3, above.

<sup>5</sup> The objectives are a matter of local school board discretion. A board may replace the sample objectives with its own local objectives. This sample policy lists the ISBE's SEL goals found on ISBE's website cited in f/n 3, above.

strategies that teach SEL skills, promote optimal mental health, and prevent risk behaviors for all students. <sup>6</sup>

2. Staff development and training to promote students' SEL development. This may include providing all personnel with age-appropriate academic and SEL and how to promote it. <sup>7</sup>
3. Parent/Guardian and family involvement to promote students' SEL development. This may include providing parents/guardians and families with learning opportunities related to the importance of their children's optimal SEL development and ways to enhance it. <sup>8</sup>
4. Community partnerships to promote students' SEL development. This may include establishing partnerships with diverse community agencies and organizations to assure a coordinated approach to addressing children's mental health and SEL development.
5. Early identification and intervention to enhance students' school readiness, academic success, and use of good citizenship skills. This may include development of a system and procedures for periodic and universal screening, assessment, and early intervention for students who have significant risk factors for social, emotional, or mental health conditions that impact learning. <sup>9</sup>
6. Treatment to prevent or minimize mental health conditions in students. This may include building and strengthening referral and follow-up procedures for providing effective clinical services for students with social, emotional, and mental health conditions<sup>10</sup> that impact learning. This may include student and family support services, school-based behavioral health services, and school-community linked services and supports.
7. Assessment and accountability for teaching SEL skills to all students. This may include implementation of a process to assess and report baseline information and ongoing progress about school climate, students' social and emotional development, and academic performance. <sup>11</sup>

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<sup>6</sup> 20 ILCS 1705/76, added by P.A. 101-45, ~~eff. 1-1-20~~, requires the Ill. Dept. of Public Health to create and maintain an online *Mental Health Database and Resource* page on its website with mental health resources to: (1) assist school social workers, school counselors, parents, teachers, and school support personnel with the goal of connecting them with mental health resources related to bullying and school shootings; and (2) encourage information sharing among educational administrators, school security personnel, and school resource officers. See the database at: [www.dhs.state.il.us/page.aspx?item=118331](http://www.dhs.state.il.us/page.aspx?item=118331) [www.dhs.state.il.us](http://www.dhs.state.il.us).

<sup>7</sup> See SEL resources to support instruction of the Ill. Learning Standards at: <https://ilclassroomtech.weebly.com/social-emotional-learning.html> [www.ilclassroomsinaction.org/](http://www.ilclassroomsinaction.org/).

<sup>8</sup> The Ill. Children's Mental Health Partnership provides family resources at: [www.icmhp.org/resources/media-library/](http://www.icmhp.org/resources/media-library/) [www.icmhp.org/icmhp-help-guide/family-resources/online-resources-for-parents-and-caregivers/](http://www.icmhp.org/icmhp-help-guide/family-resources/online-resources-for-parents-and-caregivers/).

<sup>9</sup> ~~The Ill. Children's Mental Health Partnership provides~~ information about Early Childhood Mental Health Consultation is available at: [www.icmhc.org/](http://www.icmhc.org/).

<sup>10</sup> 305 ILCS 5/5-5.23(g), added by P.A. 101-461, ~~eff. 1-1-20~~, created the *Family Support Program* (FSP) in the Dept. of Healthcare and Family Services. FSP is a restructure of the former Individual Care Grant program. Its purpose is to enable early treatment of youth, emerging adults, and transition-age adults with a serious mental illness or serious emotional disturbance. Eligibility criterion for FSP are established at 89 Ill. Adm. Code Part 139.

<sup>11</sup> For information on this objective, see ISBE's Comprehensive System of Learning Supports at: [www.isbe.net/Pages/Learning-Supports.aspx](http://www.isbe.net/Pages/Learning-Supports.aspx).

Information about school climate is available from ISBE at: [www.isbe.net/Pages/School-Climate.aspx](http://www.isbe.net/Pages/School-Climate.aspx).



LEGAL REF.: Children’s Mental Health Act ~~of 2003~~, 405 ILCS 49/.

CROSS REF.: 1:30 (School District Philosophy), 6:10 (Educational Philosophy and Objectives), 6:40 (Curriculum Development), 6:60 (Curriculum Content), 6:270 (Guidance and Counseling Program), 7:100 (Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:250 (Student Support Services)

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## Instruction

### English Learners <sup>1</sup>

The District offers opportunities for resident English Learners to achieve at high levels in academic subjects and to meet the same challenging State academic standards that all children are expected to meet. The Superintendent or designee shall develop and maintain a program for English Learners that will:

1. Assist all English Learners to achieve English proficiency, facilitate effective communication in English, and encourage their full participation in school activities and programs as well as promote participation by the parents/guardians of English Learners. <sup>2</sup>

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

<sup>1</sup> State or federal law controls this policy's content. The assessment and accountability provisions in the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act, and State law include English Learners. 20 U.S.C. §§6312, 6314, 6315, and 6318; ~~Note: Applicable regulations at 34 C.F.R. Part 200 have not been updated; amendments to the regulations are highly likely within the next year.~~ 34 C.F.R. Part 200.

ESEA Title III, Part A, also known as the English Language Acquisition, Language Enhancement, and Academic Achievement Act, provides funding to support schools' efforts to help children who are English learners "achieve at high levels in academic subjects so that all English learners can meet the same challenging State academic standards that all children are expected to meet." 20 U.S.C. §6812(2). Reimbursement for programs is contingent on the submission and approval of a program plan and request for reimbursement in accordance with the requirements in 105 ILCS 5/14C-12 and 23 Ill.Admin.Code Part 228. This policy uses *English Learners* (EL) rather than *English Language Learners* (ELL) or *Limited English Proficient* (LEP). LEP and ELL are no longer terms used generally among educators and researchers in the field of English language acquisition. 37 Ill. Reg. 16804. The Ill. State Board of Education (ISBE) now uses the term *English learners*, which are synonymous with LEP and ELL. P.A. 99-30 also deleted *language* from "English language learner."

For purposes of this policy, *English Learners* is synonymous with the School Code definition, which means: (1) all students in grades Pre-K through 12 who were not born in the United States, whose native tongue is a language other than English, and who are incapable of performing ordinary classwork in English; and (2) all students in grades Pre-K through 12 who were born in the United States of parents possessing no or limited English-speaking ability and who are incapable of performing ordinary classwork in English. 105 ILCS 5/14C-2. ~~Note: The Ill. Administrative Code definition of *English Learners* has not been amended since the effective date of P.A. 99-30 and~~ still provides that *English Learners* means any student in preschool, kindergarten or any of grades 1 through 12, whose home language background is a language other than English and whose proficiency in speaking, reading, writing, or understanding English is not yet sufficient to provide the student with: (1) the ability to meet the State's proficiency level of achievement on State assessments; (2) the ability to successfully achieve in classrooms where the language of instruction is English, or (3) the opportunity to participate fully in the school setting. 23 Ill.Admin.Code §228.10.

The Office for Civil Rights (OCR) at the U.S. Dept. of Education (DOE) and the Civil Rights Division at the U.S. Dept. of Justice (DOJ) have issued joint guidance to assist school districts and all public schools in meeting their legal obligations to ensure that English Learners can participate meaningfully and equally in educational programs and services. The guidance is available at: [www2.ed.gov/about/offices/list/ocr/letters/colleague-el-201501.pdf](http://www2.ed.gov/about/offices/list/ocr/letters/colleague-el-201501.pdf) (copy and paste link into browser if clicking doesn't work). In support of this guidance, the Office of English Language Acquisition released an *English Learner (EL) Tool Kit* to assist school districts in providing EL students with the support necessary to achieve their full academic potential. The *Tool Kit* is available at: [www2.ed.gov/about/offices/list/oela/english-learner-toolkit/index.html](http://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/index.html).

<sup>2</sup> This policy's first sentence and the first numbered paragraph both allow a school board to consider the goals for its English Learners programs; a board should amend the sample policy accordingly.

2. Appropriately identify students with limited English language proficiency. <sup>3</sup>
3. Comply with State law regarding the Transitional Bilingual Educational Program (TBE) or Transitional Program of Instruction (TPI), whichever is applicable. <sup>4</sup>
4. Comply with any applicable State and federal requirements for the receipt of grant money for English Learners and programs to serve them. <sup>5</sup>
5. Determine the appropriate instructional program and environment for English Learners. <sup>6</sup>
6. Annually assess the English proficiency of English Learners and monitor their progress in order to determine their readiness for a mainstream classroom environment. <sup>7</sup>
7. Include English Learners, to the extent required by State and federal law, in the District's student assessment program to measure their achievement in reading/language arts and mathematics. <sup>8</sup>
8. Provide information to the parents/guardians of English Learners about: (a) the reasons for their child's identification, (b) their child's level of English proficiency, (c) the method of instruction to be used, (d) how the program will meet their child's needs, (e) how the program will specifically help their child learn English and meet age-appropriate academic achievement standards for grade promotion and graduation, (f) specific exit requirements of the program, (g) how the program will meet their child's individualized education program, if applicable, and (h) information on parent/guardian rights. Parents/guardians will be regularly apprised of their child's progress and involvement will be encouraged. <sup>9</sup>

#### Parent Involvement <sup>10</sup>

Parents/guardians of English Learners will be informed how they can: (1) be involved in the education of their children; (2) be active participants in assisting their children to attain English proficiency, achieve at high levels within a well-rounded education, and meet the challenging State academic

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<sup>3</sup> 23 Ill.Admin.Code §228.15. Districts must administer a home language survey to each student entering the district's schools for the first time within 30 days after the student's enrollment. The survey's purpose is to identify students of non-English background. ISBE's website contains useful information about communicating with parents/guardians of English Learners ([www.isbe.net/Pages/Resources-for-Families-of-English-Learners.aspx](http://www.isbe.net/Pages/Resources-for-Families-of-English-Learners.aspx)), including sample Home Language Surveys and program letters in many languages ([www.isbe.net/Pages/Screening-for-English-Language-Proficiency.aspx](http://www.isbe.net/Pages/Screening-for-English-Language-Proficiency.aspx)), [www.isbe.net/Pages/English-Learners-Forms-and-Notifications.aspx](http://www.isbe.net/Pages/English-Learners-Forms-and-Notifications.aspx).

For purposes of identifying students eligible to receive special education, districts must administer non-discriminatory procedures to English Learners coming from homes in which a language other than English is used. (105 ILCS 5/14-8.02).

<sup>4</sup> 105 ILCS 5/14C-3, and 23 Ill.Admin.Code §§228.25, and 228.30.

<sup>5</sup> 20 U.S.C. §§6312, 6314, 6315, 6318, and 6801 *et seq.*; 34 C.F.R. Part 200; 105 ILCS 5/14C-1 *et seq.*; and 23 Ill.Admin.Code Part 228.

<sup>6</sup> 23 Ill.Admin.Code §228.25.

<sup>7</sup> 23 Ill.Admin.Code §228.25(b). Districts must annually assess the English language proficiency of all English learners using the assessment prescribed by the State Superintendent of Education. This assessment is the Assessing Comprehension and Communication in English State to State for English Language Learners (ACCESS for ELLs) test. See [www.isbe.net/Pages/AccessforELL.aspx](http://www.isbe.net/Pages/AccessforELL.aspx)

<sup>8</sup> 34 C.F.R. Part 200.

<sup>9</sup> 20 U.S.C. §6312(e)(3)(A) and 23 Ill.Admin.Code §228.40.

<sup>10</sup> 20 U.S.C. §6312(e)(3)(C) and 23 Ill.Admin.Code Part 228. 105 ILCS 5/14C-10 requires school districts to establish parental advisory committees for transitional bilingual education programs. See 2:150-AP, *Superintendent Committees*.

standards expected of all students; and (3) participate and serve on the District's Transitional Bilingual Education Programs Parent Advisory Committee.

LEGAL REF.: 20 U.S.C. §§6312, 6314, 6315, and 6318.  
20 U.S.C. §6801 et seq.  
34 C.F.R. Part 200.  
105 ILCS 5/14C-1 et seq.  
23 Ill.Admin.Code Part 228.

CROSS REF.: 6:15 (School Accountability), 6:170 (Title I Programs), 6:340 (Student Testing and Assessment Program)

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## Instruction

### Guidance and Counseling Program <sup>1</sup>

The School District provides a guidance and counseling program for students. <sup>2</sup> The Superintendent or designee shall direct the District's guidance and counseling program. School counseling services, as described by State law, may be performed by a qualified guidance specialist or any certificated staff member. <sup>3</sup>

*[For Elementary and Unit Districts]*

Each staff member is responsible for effectively guiding students under his/her supervision in order to provide early identification of intellectual, emotional, social, or physical needs, diagnosis of any learning disabilities, and development of educational potential. The District's counselors shall offer counseling to those students who require additional assistance.

*[For High School and Unit Districts]*

The guidance program will assist students to identify career options consistent with their abilities, interests, and personal values. Students shall be encouraged to seek the help of counselors to develop specific curriculum goals that conform to the student's career objectives. High school juniors and seniors will have the opportunity to receive career-oriented information. Representatives from colleges and universities, occupational training institutions and career-oriented recruiters, including

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

<sup>2</sup> School boards may employ counselors 105 ILCS 5/10-22.24a, amended by P.A. 102-894. 105 ILCS 5/10-22.24b, amended by P.A.s 101-290 and 102-876, eff. 1-1-23, provides an extensive but non-exhaustive list of 54 school counseling services, including counseling services for students in need of special education services or who have a federal Section 504 plan and discussion of all post-secondary education options, including four-year colleges or universities, community colleges, and vocational schools.

~~A program to assist educationally disadvantaged children may include special guidance and counseling. 105 ILCS 5/14B-2. All districts must conduct a comprehensive needs assessment to determine the scope of pupil needs in the areas of guidance and counseling, psychological, social work, and health. 23 Ill. Admin. Code § 1.420(q).~~

~~The Children's Mental Health Act of 2003 requires districts to develop protocols for responding to students with social, emotional, or mental health needs that impact learning. 405 ILCS 49/, amended by P.A. 102-899, eff. 1-1-23. 405 ILCS 5/2-3.142P.A. 95-558 created the Ensuring Success in School Task Force. This task force that developed policies, procedures, and protocols for school boards to adopt for the purpose of addressing the education and related needs of students who are parents, expectant parents, or victims of domestic or sexual violence to ensure their ability to stay in school, stay safe while in school, and successfully complete their education. See f/n 3 in sample policy 6:65, Student Social and Emotional Development, for further information. School boards and superintendents may want to create their own study group to prepare for implementing the task force's policies, procedures, and protocols. See policy 7:250, Student Support Services, and administrative procedure 7:250-AP2, Protocol for Responding to Students with Social, Emotional, or Mental Health Needs.~~

<sup>3</sup> Optional. 105 ILCS 5/10-22.24b, amended by P.A.s 101-290 and 102-876, eff. 1-1-23, provides that any qualified professional, including other certificated endorsed school support personnel, may provide school counseling services. The following optional sentence recognizes the importance of interventions; however, it creates duties that are not present in law. This is a classic "who, gets what, for how much" issue.

The counseling program will assist students with interventions related to academic, social and/or personal issues. Students shall be encouraged to seek academic, social, and/or personal assistance.

the military, may be given access to the school campus in order to provide students and parents/guardians with information. <sup>4</sup>

LEGAL REF.: 105 ILCS 5/10-22.24a and 5/10-22.24b.  
23 Ill.Admin.Code §1.420(q).

CROSS REF.: 6:50 (School Wellness), 6:65 (Student Social and Emotional Development), 6:110 (Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program), 6:120 (Education of Children with Disabilities), 6:130 (Program for the Gifted), 7:100 (Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students), 7:250 (Student Support Services), 7:290 (Suicide and Depression Awareness and Prevention)

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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>4</sup> A district must provide military recruiters access to students if it has provided such access to persons or groups who tell students about educational or occupational opportunities. 105 ILCS 5/10-20.5a. The Ill. State Board of Education issued a *Military Access—Recruitment Access Reminder* memo, available at: [www.isbe.net/Documents/Military-Access-Reminder.pdf](http://www.isbe.net/Documents/Military-Access-Reminder.pdf).

Federal law requires a secondary school to grant military recruiters and institutions of high learning, upon their request, access to secondary school students' names, addresses, and telephone numbers, unless the parents/guardians request that the information not be disclosed without prior written consent. 20 U.S.C. §7908. See also 7:340-AP1, *School Student Records*, and 7:340-AP1, E1, *Notice to Parents/Guardians and Students of Their Rights Concerning a Student's School Records*.

## Instruction

### Grading and Promotion <sup>1</sup>

The Superintendent or designee shall establish a system of grading and reporting academic achievement to students and their parents/guardians.<sup>2</sup> The system shall also determine when promotion and graduation requirements are met. The decision to promote a student to the next grade level shall be based on successful completion of the curriculum, attendance, and performance on the standardized tests required by the Ill. State Board of Education (ISBE) and/or other assessments.<sup>3</sup> A student shall not be promoted based upon age or any other social reason not related to academic performance.<sup>4</sup> The administration shall determine remedial assistance for a student who is not promoted.<sup>5</sup>

Every teacher shall maintain an evaluation record for each student in the teacher's classroom. A District administrator cannot change the final grade assigned by the teacher without notifying the teacher.<sup>6</sup> Reasons for changing a student's final grade include:

- A miscalculation of test scores,

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<sup>1</sup> State law requires districts to have a school board policy containing the reasons for which a grade may be changed and prohibiting social promotion. 105 ILCS 5/10-20.9a. State law controls this policy's content.

If a district uses weighted grades for classes by degree of difficulty, it must be reflected in the affected students' class ranking and permanent records. 105 ILCS 5/27-27.

<sup>2</sup> Absent a court order to the contrary, upon the request of either parent of a student whose parents are divorced, copies of report cards, along with other notices and records, must be furnished to both parents by the district. 105 ILCS 5/10-21.8.

<sup>3</sup> 105 ILCS 5/10-20.9a. Each board may determine its own promotion criteria and augment the statute's criteria. [105 ILCS 5/10-20.9a\(c\) and \(d\), added by P.A. 102-727, and inoperative "on and after three years" from 5-6-22, prohibits public high schools from withholding a student's grades, transcripts, or diploma because of an unpaid balance on the student's school account. Given potential different interpretations, the exact date on which this law expires is unclear; consult the board attorney for guidance on this issue. See also 105 ILCS 5/28-19.2, which prohibits student punishment of any kind, including the lowering of grades, if a parent/guardian is unable to pay school fees.](#)

105 ILCS 5/2-3.64 contained the State assessment program until it was repealed by P.A. 98-972.

105 ILCS 5/2-3.64a-5(b) requires ISBE to "establish the academic standards that are to be applicable to students who are subject to State assessments."<sup>5</sup> It contains the schedule for assessing students by calendar year and grade. ISBE selects standardized tests for the State assessment and accountability measure. In House Joint Resolution 54 (2015), members of the Ill. House and Senate encouraged school districts to not use results of the *Partnership for Assessment of Readiness for College and Careers* (PARCC) test for the 2014-2015 through the 2017-2018 school years "as a determining factor for making decisions about a student's educational opportunities, the evaluation of educators, and the allocation of resources based on educational achievement on this assessment." Starting in 2019, PARCC was no longer used by ISBE.

105 ILCS 5/2-3.64a-5(c), amended by P.A.s ~~100-7~~ and 101-643, requires that the assessment administered by ISBE for the purpose of student application to or admissions consideration by institutions of higher education be administered on a school day during regular student attendance hours. Assessments are not required if ISBE receives a waiver from the administration of assessments from the U.S. Dept. of Education. Id.

105 ILCS 5/2-3.64a-5(e), ~~amended by P.A. 100-222~~, no longer requires that the scores attained by a student on an assessment that includes a college and career readiness determination be entered on the student's transcript; however, the scores must still be placed in the student's permanent record. See also 23 Ill.Admin.Code §375.10.

<sup>4</sup> 105 ILCS 5/10-20.9a(b).

<sup>5</sup> Id.

<sup>6</sup> The specific reasons and procedure for changing a grade are at the local board's discretion; however, State law provides that no grade may be changed without notification to the teacher concerning the nature and reason for the change. 105 ILCS 5/10-20.9a(a). The person making the change must assume all responsibility and must initial the change. Id.

- A technical error in assigning a particular grade or score,
- The teacher agrees to allow the student to do extra work that may impact the grade,
- An inappropriate grading system used to determine the grade, or
- An inappropriate grade based on an appropriate grading system.

Should a grade change be made, the administrator making the change must sign the changed record.

LEGAL REF.: 105 ILCS 5/2-3.64a-5, 5/10-20.9a, 5/10-21.8, and 5/27-27.

CROSS REF.: 6:110 (Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program), 6:300 (Graduation Requirements), 6:340 (Student Testing and Assessment Program), 7:50 (School Admissions and Student Transfers To and From Non-District Schools)

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## Instruction

### Graduation Requirements <sup>1</sup>

To graduate from high school, unless otherwise exempted, each student is responsible for:

1. Completing all District graduation requirements that are in addition to the State requirements. <sup>2</sup>
2. Completing all courses as provided in the School Code, 105 ILCS 5/27-22. <sup>3</sup>
3. Completing all minimum requirements for graduation as specified in State law. <sup>4</sup>
4. Passing an examination on patriotism and principles of representative government, proper use of the flag, methods of voting, and the Pledge of Allegiance. <sup>5</sup>
5. Participating in State assessments that are required for graduation by State law. <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 this policy's content. Graduation requirements are often published in student handbooks. The Illinois Principals Association maintains a handbook service that coordinates with PRESS material, *Online Model Student Handbook (MSH)*, at: [www.ilprincipals.org/msh](http://www.ilprincipals.org/msh) [www.ilprincipals.org/resources/model-student-handbook](http://www.ilprincipals.org/resources/model-student-handbook).

In accordance with 105 ILCS 5/2-3.159, amended by P.A. 101-503, and 23 Ill.Admin.Code Part 680, a school district may establish a program to recognize high school graduates who attained a high level of proficiency in one or more languages in addition to English by designating on a student's diploma and transcript a State Seal of Bilingualism. See policy 6:320

[105 ILCS 5/10-20.9a\(c\) and \(d\), added by P.A. 102-727, and inoperative "on and after three years" from 5-6-22, prohibits public high schools from withholding a student's grades, transcripts, or diploma because of an unpaid balance on the student's school account. See sample policy 6:280, \*Grading and Promotion\*, at f/n 3, for a discussion about the expiration date of this law.](#)

<sup>2</sup> Optional. 23 Ill.Admin.Code §1.440(f). A school board should ensure that all district graduation requirements that are in addition to the State requirements are aligned with the district educational objectives. See policy 6:10, *Educational Philosophy and Objectives*.

<sup>3</sup> 105 ILCS 5/27-22(e), amended by P.A.s 101-464, 101-654, 102-366, ~~and 102-551~~, ~~and 102-864~~, contains the list of required courses in effect through the 2023-2024 school year. 105 ILCS 5/27-22(e-5), added by P.A. 101-654 ~~and amended by P.A. 102-864~~, contains the list of required courses effective beginning with the 2024-2025 school year (to include two years of laboratory science). 105 ILCS 5/27-22(e-10), added by P.A. 101-654, increases the foreign language requirement from one to two years beginning with the 2028-2029 school year. 105 ILCS 5/27-22(e)(3) ~~and (e-5)(3)~~ allows the substitution of an advanced placement computer science course for a year of mathematics, and it further states that a mathematics course that includes geometry content may be offered as an integrated, applied, interdisciplinary, or career and technical education course that prepares a student for a career readiness path. 105 ILCS 5/27-22(e)(5), amended by P.A. 102-366, ~~and 105 ILCS 5/27-22(e-5)(5)~~, ~~amended by P.A. 102-864~~, requires students entering the 9th grade in the 2016-2017 school year and each year thereafter to complete one semester of civics. As part of the two-year social studies requirement, districts may include a financial literacy course that is one semester or part of one semester. *Id.* For specific requirements, see 6:300-E2, *State Law Graduation Requirements*, and 6:310, *High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students*. The Ill. State Board of Education (ISBE) may adopt rules modifying graduation requirements for students in grades 9-12 if the Governor has declared a disaster due to a public health emergency under 20 ILCS 3305/7. 105 ILCS 5/27-22(i), added by P.A. 101-643.

<sup>4</sup> 105 ILCS 5/27-22(e), amended by P.A.s 101-464, 101-654, 102-~~326~~6, ~~and 102-551~~, ~~and 102-864~~; 23 Ill.Admin.Code §1.440.

<sup>5</sup> Required by 105 ILCS 5/27-3, amended by P.A. 101-643.

<sup>6</sup> 105 ILCS 5/2-3.64a-5(c), amended by P.A. ~~s~~101-643, states that "[s]tudents who do not take the State's final accountability assessment or its approved alternate assessment may not receive a regular high school diploma unless the student is exempted." Assessments are not required if ISBE receives a waiver from the administration of assessments from the U.S. Dept. of Education. *Id.*

6. Filing one of the following: (1) a Free Application for Federal Student Aid (FAFSA) with the U.S. Dept. of Education, (2) an application for State financial aid, or (3) an Ill. State Board of Education (ISBE) waiver form indicating that the student understands what these aid opportunities are and has chosen not to file an application. If the student is not at least 18 years of age or legally emancipated, the student's parent/guardian must file one of these documents on the student's behalf.

A student is exempt from this requirement if: (1) the student is unable to file a financial aid application or an ISBE waiver due to extenuating circumstances, (2) the Building Principal attests the District made a good faith effort to assist the student or the student's parent/guardian with filing a financial aid application or an ISBE waiver form, and (3) the student has met all other graduation requirements.<sup>7</sup>

The Superintendent or designee is responsible for:<sup>8</sup>

1. Maintaining a description of all course offerings that comply with the above graduation requirements.
2. Notifying students and their parents/guardians of graduation requirements.
3. Developing the criteria for #4 above.
4. Complying with State law requirements for students who transfer during their senior year because their parent(s)/guardian(s) are on active military duty. This includes making reasonable adjustments to ensure graduation if possible, or efforts to ensure that the original (transferor) school district issues the student a diploma.
5. Taking all other actions needed or necessary to implement this policy.

#### Early Graduation<sup>9</sup>

The Superintendent or designee shall implement procedures for students to graduate early, provided they finish seven semesters of high school and meet all graduation requirements.

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105 ILCS 5/2-3.64a-5(c), amended by P.A.101-643; 23 Ill.Admin.Code §1.30. Section 2-3.64a-5(c) requires that the assessment administered by ISBE for the purpose of student application to or admissions consideration by institutions of higher education be administered on a school day during regular student attendance hours.

105 ILCS 5/2-3.64a-5(e) no longer requires that the scores attained by a student on an assessment that includes a college and career readiness determination be entered on the student's transcript. The student's final accountability assessment scores, however, must be placed in the student's permanent record. See also 23 Ill.Admin.Code §375.10.

<sup>7</sup> 105 ILCS 5/22-87, added by P.A. 101-180: [23 Ill.Admin.Code §1.440\(c\)\(4\)](#). See 6:300-E3, *Form for Exemption from Financial Aid Application Completion*. ISBE provides a waiver form, the FAFSA Nonparticipation Form, for a parent/guardian or eligible student to opt of this graduation requirement at: [www.isbe.net/Pages/FAFSA.aspx](http://www.isbe.net/Pages/FAFSA.aspx) [www.isbe.net/Documents/FAFSA-Non-Participation-Form.pdf](http://www.isbe.net/Documents/FAFSA-Non-Participation-Form.pdf). The Alternative Application for Ill. Financial Aid referenced in that form is intended for use by qualifying undocumented and transgender students; and is available at: <https://studentportal.isac.org/alternativeapp>.

<sup>8</sup> Items #1 and #2 are required by 23 Ill.Admin.Code §1.440(d) and (e), respectively. Item #3 must be addressed because the law leaves many implementation issues unanswered. A comprehensive Student Handbook can provide notice of the district's graduation requirements, conduct rules, and other important information. Item #4 includes discussion of the adjustments required by the Educational Opportunity for Military Children Act, 105 ILCS 70/35(d).

<sup>9</sup> This is optional. State law and rules are silent regarding early graduation. As an alternative, a board may delete the phrase "finish 7 semesters of high school and."

### Certificate of Completion <sup>10</sup>

A student with a disability who has an Individualized Education Program prescribing special education, transition planning, transition services, or related services beyond the student's four years of high school, qualifies for a certificate of completion after the student has completed four years of high school. The student is encouraged to participate in the graduation ceremony of his or her high school graduation class. The Superintendent or designee shall provide timely written notice of this requirement to children with disabilities and their parents/guardians.

### Service Member Diploma <sup>11</sup>

The District will award a diploma to a service member who was killed in action while performing active military duty with the U.S. Armed Forces or an honorably discharged veteran of World War II, the Korean Conflict, or the Vietnam Conflict, provided that he or she (1) resided within an area currently within the District at the time he or she left high school, (2) left high school before graduating in order to serve in the U.S. Armed Forces, and (3) has not received a high school diploma.

LEGAL REF.: 105 ILCS 5/2-3.64a-5, 5/22-27, 5/22-87, 5/27-3, 5/27-22, and 5/27-22.10.  
105 ILCS 70/, Educational Opportunity for Military Children Act.  
23 Ill.Admin.Code §1.440.

CROSS REF.: 6:30 (Organization of Instruction), 6:310 (High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students), 6:315 (High School Credit for Students in Grade 7 or 8), 6:320 (High School Credit for Proficiency), 7:50 (School Admissions and Student Transfers To and From Non-District Schools)

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<sup>10</sup> Required by 105 ILCS 5/14-16.

<sup>11</sup> Optional. 105 ILCS 5/22-27, amended by P.A. 101-131, does not designate a time requirement for when the service member killed in action or veteran "resided within an area currently within the district." Thus, a reasonable interpretation may be adopted locally. The sample policy designates "at the time he or she left high school" as the pertinent time for residence. See 6:300-E1, *Application for a Diploma for a Service Member Killed in Action or for Veterans of WWII, the Korean Conflict, or the Vietnam Conflict*.

## Instruction

### Student Testing and Assessment Program <sup>1</sup>

The District student assessment program provides information for determining individual student achievement and instructional needs, curriculum and instruction effectiveness, and school performance measured against District student learning objectives and statewide norms.

The Superintendent or designee shall manage the student assessment program that, at a minimum:

1. Administers to students all standardized assessments required by the Ill. State Board of Education (ISBE) and/or any other appropriate assessment methods and instruments, including norm and criterion-referenced achievement tests, aptitude tests, proficiency tests, and teacher-developed tests.
2. Informs students of the timelines and procedures applicable to their participation in every State assessment. <sup>2</sup>
3. Provides each student's parents/guardians with the results or scores of each State assessment and an evaluation of the student's progress. See policy 6:280, *Grading and Promotion*. <sup>3</sup>
4. Utilizes professional testing practices. <sup>4</sup>

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

<sup>1</sup> State and federal law control this policy's content. 105 ILCS 5/2-3.64a-5(b) requires the Ill. State Board of Education (ISBE) to "establish the academic standards that are to be applicable to students who are subject to State assessments." It contains the schedule for assessing students by calendar year and grade. Further information on ISBE assessments is available at: [www.isbe.net/Pages/Assessment.aspx](http://www.isbe.net/Pages/Assessment.aspx) ~~www.isbe.net/Pages/IAR.aspx~~.

105 ILCS 5/2-3.64a-5(c), amended by P.A. 101-643, requires that the assessment administered by ISBE for the purpose of student application to or admissions consideration by institutions of higher education be administered on a school day during regular student attendance hours.

105 ILCS 5/2-3.64a-5(d) contains the requirements for assessing students receiving special education services and students determined to be English learners. 105 ILCS 5/2-3.64a-5(e) no longer requires that the scores attained by a student on an assessment that includes a college and career readiness determination be entered on the student's transcript. The scores, however, must be placed in the student's permanent record. See 23 Ill.Admin.Code §375.10. Scores received on state assessments administered in kindergarten through grade 8 must be placed in the student's temporary record. Id.

105 ILCS 5/2-3.64a-10(b), added by P.A. 101-654, requires ISBE to annually assess all public school students entering kindergarten using a common observational assessment tool, unless ISBE determines that a student is otherwise exempt. However, 105 ILCS 5/2-3.64a-15, added by P.A. 102-875, prohibits ISBE from requiring a standardized assessment for students enrolled or preparing to enroll in pre-K through grade 2. Standardized assessment does not include the observational assessment tool for students entering kindergarten, and ISBE may still require assessments used only for diagnostic and screening purposes, to determine if individual students need remedial instruction, special education, early intervention, bilingual education, dyslexia services, or other related educational services. Id. at (a) and (b), added by P.A. 102-875. The law does not prohibit districts or teachers from administering an assessment for an individual classroom, grade level, or group of grade levels in any subject area in pre-K through grade 2, nor does it limit a district's ability to evaluate students for special education services under federal law or to annually assess the English proficiency of English learners under the federal Elementary and Secondary Education Act. Id. at (d), (e), and (f), added by P.A. 102-875.

<sup>2</sup> Required by 105 ILCS 5/2-3.64a-5(c), amended by P.A. 101-643.

<sup>3</sup> 105 ILCS 5/2-3.64a-5(e) and 5/2-3.64a-10(c), added by P.A. 101-654, requires districts to provide State assessment results/scores to students' parents/guardians. The second part of this provision is optional and may be deleted, i.e., "~~and an evaluation of the student's progress.~~"

<sup>4</sup> 105 ILCS 5/2-3.107; 23 Ill.Admin.Code §1.30(b).

Overall student assessment data on tests required by State law will be aggregated by the District and reported, along with other information, on the District's annual report card.<sup>5</sup> All reliable assessments administered by the District and scored by entities outside of the District must be (1) reported to ISBE on its form by the 30<sup>th</sup> day of each school year, and (2) made publicly available to parents/guardians of students.<sup>6</sup> Board policy 7:340, *Student Records*, and its implementing procedures govern recordkeeping and access issues.<sup>7</sup>

LEGAL REF.: 20 U.S.C. §1232g, Family Educational Rights and Privacy Act.  
105 ILCS 10/, Illinois School Student Records Act.  
105 ILCS 5/2-3.63, 5/2-3.64a-5, 5/2-3.64a-10, [5/2-3.64a-15](#), 5/2-3.107, 5/2-3.153,  
5/10-17a, 5/22-82, and 5/27-1.  
23 Ill. Admin. Code §§1.30(b) and §375.10.

CROSS REF.: 6:15 (School Accountability), 6:280 (Grading and Promotion), 7:340 (Student Records)

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<sup>5</sup> Required by 105 ILCS 5/10-17a. School districts must annually, no more than 30 days after receipt from the State Superintendent release their district's and schools' report cards assessing the performance of its schools and students. Districts must: (1) present the report cards at a regular Board meeting, (2) post them on the District's website, (3) make them available to a newspaper of general circulation serving the District, and (4) upon request, send them home to parents/guardians. 105 ILCS 5/10-17a(5). The school report card must describe, among other items, student characteristics, curriculum information, student outcomes and progress, and school environment. The environment report must include indicators from the *school climate survey* approved under 105 ILCS 5/2-3.153 (requires ISBE, in addition to its default school climate survey, to identify two or three alternative school survey instruments from which districts may select).

<sup>6</sup> 105 ILCS 5/22-82 requires every school district to report to ISBE for each of its schools, by the 30th day of each school year, all reliable assessments the district administers that are scored by entities outside of the district. The district must make the report on an ISBE-provided form.

Each school must also make this information publicly available to the parents and guardians of its students through the district's Internet website or distribute the information in paper form. *Id.* at (b). See 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. Although not required by law, if a board wants to direct that this information be shared more broadly with the public for greater transparency, add "and to the community" after "parents/guardians of students."

<sup>7</sup> 105 ILCS 5/2-3.64a-5(e) governs recording assessment results in school student records. See also the Ill. School Student Records Act, 105 ILCS 10/; 23 Ill.Admin.Code §375.10.

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- 7:285-AP Administrative Procedure - Anaphylaxis Prevention, Response, and Management Program
- 7:285-AP, E Administrative Procedure - Allergy and Anaphylaxis Emergency Plan
- 7:290 Suicide and Depression Awareness and Prevention
- 7:290-AP Administrative Procedure - Resource Guide for Implementation of Suicide and Depression Awareness and Prevention Program

#### Activities

- 7:300 Extracurricular Athletics
- 7:300-E1 Exhibit - Agreement to Participate
- 7:300-E2 Exhibit - Certificate of Physical Fitness for Participation in Athletics
- 7:300-E3 Exhibit - Authorization for Medical Treatment
- 7:305 Student Athlete Concussions and Head Injuries
- 7:305-AP Administrative Procedure - Program for Managing Student Athlete Concussions and Head Injuries
- 7:310 Restrictions on Publications; Elementary Schools
- 7:310-AP Administrative Procedure - Guidelines for Student Distribution of Non-School Sponsored Publications; Elementary Schools
- 7:315 Restrictions on Publications; High Schools
- 7:315-AP Administrative Procedure - Guidelines for Student Distribution of Non-School Sponsored Publications; High Schools
- 7:320 **OPEN**
- 7:325 Student Fundraising Activities
- 7:325-E Exhibit - Application and Procedures to Involve Students in Fundraising Activities
- 7:330 Student Use of Buildings - Equal Access
- 7:330-E Exhibit - Application for Student Groups that Are Not School Sponsored to Request Free Use of School Premises for Meetings

#### Records

- 7:340 Student Records
- 7:340-AP1 Administrative Procedure - School Student Records
- 7:340-AP1, E1 Exhibit - Notice to Parents/Guardians and Students of Their Rights Concerning a Student's School Records

- 7:340-AP1, E2 Exhibit - Using a Photograph or Video Recording of a Student
- 7:340-AP1, E3 Exhibit - Letter to Parents and Eligible Students Concerning Military Recruiters and Postsecondary Institutions Receiving Student Directory Information
- 7:340-AP1, E4 Exhibit - Frequently Asked Questions Regarding Military Recruiter Access to Students and Student Information
- 7:340-AP1, E5 Exhibit - Biometric Information Collection Authorization
- 7:340-AP2 Administrative Procedure - Storage and Destruction of School Student Records
- 7:340-AP2, E1 Exhibit - Letter Containing Schedule for Destruction of School Student Records
- 7:345 Use of Educational Technologies; Student Data Privacy and Security
  - 7:345-AP Administrative Procedure - Use of Educational Technologies; Student Data Privacy and Security
  - 7:345-AP, E1 Exhibit - Student Covered Information Reporting Form
  - 7:345-AP, E2 Exhibit - Student Data Privacy; Notice to Parents About Educational Technology Vendors
  - 7:345-AP, E3 Exhibit - Parent Notification Letter for Student Data Breach
  - 7:345-AP, E4 Exhibit - Notice of Parent Rights Regarding Student Covered Information
  - 7:345-AP, E5 Exhibit - Parent Request Form for Student Covered Information
  - 7:345-AP, E6 Exhibit - Parent Request Form for Correction of Student Covered Information

## Students

### Equal Educational Opportunities <sup>1</sup>

Equal educational and extracurricular opportunities shall be available for all students without regard to color, race,<sup>2</sup> nationality, religion, sex, sexual orientation, ancestry, age, physical or mental disability, gender identity,<sup>3</sup> status of being homeless, immigration status, order of protection status, actual or potential marital or parental status, including pregnancy.<sup>4</sup> Further, the District will not knowingly enter into agreements with any entity or any individual that discriminates against students on the basis of sex or any other protected status, except that the District remains viewpoint neutral

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 this subject matter be covered by policy and controls this policy's content.

<sup>2</sup> [The Ill. Human Rights Act \(IHRA\) defines race to include traits associated with race, including, but not limited to, hair texture and protective hairstyles such as braids, locks, and twists. 775 ILCS 5/1-103\(M-5\), added by P.A. 102-1102, eff. 1-1-23. The Ill. Dept. of Human Rights' \(IDHR\) jurisdiction over schools as "places of public accommodation" is limited, see f/n 4, below. See also sample policy 7:160, \*Student Appearance, regarding hairstyles associated with race.\*](#)

<sup>3</sup> Adopting separate policies or inserting policy statements about accommodations and inclusion of transgender students in the educational program are unsettled areas of the law. Some lawyers believe doing so may open boards to equal protection challenges for not creating separate policies for other protected statuses, e.g., race, nationality, religion, etc. Executive Order (EO) 2019-11, titled "Strengthening Our Commitment to Affirming and Inclusive Schools" established the Affirming and Inclusive Schools Task Force (Task Force) to identify strategies and best practices for ensuring welcoming, safe, supportive, and inclusive school environments for transgender, nonbinary, and gender nonconforming students. The Task Force delivered a report that served as the basis for two non-regulatory guidance documents entitled *Supporting Transgender, Nonbinary and Gender Nonconforming Students* and *Sample District Policy and Administrative Procedures at www.isbe.net/supportallstudents*. The Ill. State Board of Education (ISBE) hosts these documents on its website.

Consult the board attorney if your board wishes to adopt a separate policy or insert policy statements about accommodations and inclusion of transgender students.

For boards that want to incorporate ISBE's *Sample District Policy and Administrative Procedures* policy recommendation into this policy, insert the following in place of "gender identity,": gender, gender identity (whether or not traditionally associated with the student's sex assigned at birth), gender expression.

**If the board inserts this option, it must also insert the options in f/n 7, below and in f/n 2 of sample policy 7:20, *Harassment of Students Prohibited*, BUT NOTE THE PROTECTED STATUSES LIST IN THIS POLICY IS DIFFERENT AND SHOULD NOT BE COPIED FROM HERE INTO 7:20, *HARASSMENT OF STUDENTS PROHIBITED*.**

See 7:10-API, *Accommodating Transgender Students or Gender Non-Conforming Students*, for a case-by-case procedure that school officials may use when a student requests an accommodation based upon his or her gender identity.

For a list of policies that address the equal educational opportunities, health, safety, and general welfare of students within the District, see 7:10-E, *Equal Educational Opportunities Within the School Community*.

<sup>4</sup> Many civil rights laws guarantee equal education opportunities; see citations in the Legal References.

In 23 Ill.Admin.Code §1.240, ISBE states that "no school system may deny access to its schools or programs to students who lack documentation of their immigration status or legal presence in the United States, and no school system may inquire about the immigration status of a student (*Plyler v. Doe*, 457 U.S. 202 (1982))."

The [Ill. Human Rights Act \(IHRA\)](#) and an ISBE rule prohibit schools from discriminating against students on the basis of *sexual orientation* and *gender identity*. 775 ILCS [5/1-103\(O\)](#), [5/5-101\(11\)](#), and [5/5-102](#); 23 Ill.Admin.Code §1.240. *Sexual orientation* is defined as the "actual or perceived heterosexuality, homosexuality, bisexuality, or gender related identity, whether or not traditionally associated with the person's designated sex at birth." 775 ILCS 5/1-103(O-1). *Gender identity* is included in the definition of sexual orientation in the Act. The Act permits schools to maintain single-sex facilities that are distinctly private in nature, e.g., restrooms and locker rooms. 775 ILCS 5/5-103. 775 ILCS 5/1-102(A) makes *order of protection status* a protected category.

The IHRA's jurisdiction is specifically limited to: (1) failing to enroll an individual, (2) denying [or refusing full and equal enjoyment of access to](#) facilities, goods, or services, or (3) failing to take corrective action to stop severe or pervasive harassment of an individual. 775 ILCS 5/5-102.2, [amended by P.A. 102-1102, eff. 1-1-23](#).

when granting access to school facilities under School Board policy 8:20, *Community Use of School Facilities*.<sup>5</sup> Any student may file a discrimination grievance by using Board policy 2:260, *Uniform Grievance Procedure*.<sup>6</sup>

### Sex Equity<sup>7</sup>

No student shall, based on sex, sexual orientation, or gender identity<sup>8</sup> be denied equal access to programs, activities, services, or benefits or be limited in the exercise of any right, privilege, advantage, or denied equal access to educational and extracurricular programs and activities.

Any student may file a sex equity complaint by using Board policy 2:260, *Uniform Grievance Procedure*. A student may appeal the Board's resolution of the complaint to the Regional

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<sup>5</sup> 23 Ill.Admin.Code §200.40(gb) prohibits entering into agreements with entities that discriminate against students on the basis on sex. Section 200.80(a)(4) contains an exception for single sex youth organizations, e.g., Boy and Girl Scouts. Note that the U.S. Supreme Court refused to apply N.J.'s public accommodation law to the Boy Scouts because forcing the Scouts to accept a homosexual as a member would violate the Scouts' freedom of expressive association. *Boy Scouts of America v. Dale*, 530 U.S. 640 (2002). When deciding whether to allow non-school groups to use its facilities, a public school district may not engage in viewpoint discrimination. *Good News Club v. Milford Central Sch.*, 533 U.S. 98 (2001).

<sup>6</sup> Districts must have a grievance procedure. See Legal References following policy. Absent a specific statute or rule, there is no consensus on whether students have the right to appeal a board's decision to the Regional Superintendent and thereafter to the State Superintendent pursuant to 105 ILCS 5/2-3.8.

<sup>7</sup> Every district must have a policy on sex equity. 23 Ill.Admin.Code §200.40(b). The IHRA, Public Accommodation section, prohibits schools from: (1) failing to enroll an individual, (2) denying or refusing an individual full and equal enjoyment of access to its facilities, goods, or services, or (3) failing take corrective action to stop severe or pervasive harassment of an individual (775 ILCS 5/5-102.2, amended by P.A. 102-1102, eff. 1-1-23), on the basis of the individual's sex or sexual orientation, among other classifications (775 ILCS 5/5-101(11)). Every four years, districts must periodically evaluate their policies and practices to identify and eliminate sex discrimination as well as evaluate course enrollment data to identify disproportionate enrollment based on sex. In-service training for all staff members is required. 23 Ill.Admin.Code §~~1.420~~200.40(e).

With some exceptions, Title IX of the Education Amendments of 1972 (Title IX) guarantees that "[n]o person in the United States shall, on the basis of gender, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance..." 20 U.S.C. §§1681(a). Equal participation and equal opportunity in athletics is addressed in the U.S. Dept. of Education's implementing rules. 34 C.F.R. §106.41. Generally, when a school district offers a team for one gender but not for the other, a member of the excluded gender is allowed to try out for the team unless the sport is a *contact sport*. Contact sports are boxing, wrestling, rugby, ice hockey, football, basketball, and other sports involving bodily contact. The rules also list the factors that determine whether equal opportunities are available to both genders. These include: whether the selection of athletics accommodates the interests and abilities of both genders; equipment and supplies; scheduling; opportunity to receive coaching and academic tutoring; locker rooms, practice facilities, and fields; and publicity. Title IX prohibits any person from sexually harassing a student. See sample policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, for further discussion.

105 ILCS 5/10-20.60 requires public schools to provide reasonable accommodations to breastfeeding students. See sample administrative procedure 7:10-AP-2, *Accommodating Breastfeeding Students*, for specific *reasonable accommodations* under Illinois law.

105 ILCS 5/10-20.63, amended by P.A. 102-340, requires school districts to make menstrual hygiene products (defined as tampons and sanitary napkins for use in connection with the menstrual cycle) available, at no cost to students, in bathrooms of every school building that is open for student use in grades 4 through 12 during the regular school day. **Note:** While P.A. 102-340 expanded the availability of menstrual hygiene products to students in grades 4 and 5, it did not expand the definition of *school building*, which remains defined as serving students in grades 6 through 12. Consult with the board attorney about implementing this law.

<sup>8</sup> For boards that want to incorporate ISBE's *Sample District Policy and Administrative Procedures* policy recommendations into this policy (see f/n 2 above), insert:

1. In place of "or gender identity" as follows: "~~or gender identity~~, or gender expression".
2. The following sentence as the second sentence of this subhead: "Students shall be supported in a manner consistent with their gender identity. This will include, but not be limited to, use of restrooms, locker rooms, and other facilities that correspond with the student's gender identity."

Superintendent (pursuant to 105 ILCS 5/3-10) and, thereafter, to the State Superintendent of Education (pursuant to 105 ILCS 5/2-3.8).<sup>9</sup>

#### Administrative Implementation

The Superintendent shall appoint a Nondiscrimination Coordinator, who also serves as the District's Title IX Coordinator.<sup>10</sup> The Superintendent and Building Principal shall use reasonable measures to inform staff members and students of this policy and related grievance procedures.<sup>11</sup>

LEGAL REF.: 20 U.S.C. §1681 et seq., Title IX of the Education Amendments of 1972; 34 C.F.R. Part 106.  
29 U.S.C. §791 et seq., Rehabilitation Act of 1973.  
42 U.S.C. §11431 et seq., McKinney-Vento Homeless Assistance Act.  
Good News Club v. Milford Central Sch., 533 U.S. 98 (2001).  
Ill. Constitution, Art. I, §18.  
105 ILCS 5/3.25b, 5/3.25d(b), 5/10-20.12, 5/10-20.60, 5/10-20.63, 5/10-22.5, and 5/27-1.  
775 ILCS 5/1-101 et seq., Illinois Human Rights Act.  
775 ILCS 35/5, Religious Freedom Restoration Act.  
23 Ill.Admin.Code §1.240 and Part 200.

CROSS REF.: 2:260 (Uniform Grievance Procedure), 2:265 (Title IX Sexual Harassment Grievance Procedure), 6:65 (Student Social and Emotional Development), 7:20 (Harassment of Students Prohibited), 7:50 (School Admissions and Student Transfers To and From Non-District Schools), 7:60 (Residence), 7:130 (Student Rights and Responsibilities), 7:160 (Student Appearance), 7:165 (School Uniforms), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:250 (Student Support Services), 7:330 (Student Use of Buildings - Equal Access), 7:340 (Student Records), 8:20 (Community Use of School Facilities)

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<sup>9</sup> Districts must have a grievance procedure and must tell students that they may appeal a board's resolution of a sex equity complaint to the Regional Superintendent and, thereafter, to the State Superintendent. 23 Ill.Admin.Code §200.40. Student complaints regarding breastfeeding accommodations must also be processed in accordance with these procedures. See sample policy 2:260, *Uniform Grievance Procedure*, at f/n 8.

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

<sup>10</sup> Required by regulations implementing Title IX. 34 C.F.R. ~~Part~~ §106.8(a). See f/n~~s~~ ~~19~~ 21 and 22 in sample policy 2:260, *Uniform Grievance Procedure*. If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, amend this sentence to state: "The Superintendent shall appoint a Nondiscrimination Coordinator and a Title IX Coordinator."

<sup>11</sup> Required by regulations implementing Title IX. 34 C.F.R. Part 106; 23 Ill.Admin.Code §200.40. Comprehensive faculty and student handbooks can provide required notices, along with other important information, to recipients. Handbooks can be developed by the building principal, but should be reviewed and approved by the superintendent and board. Faculty handbooks may contain working conditions and be subject to mandatory collective bargaining. The Ill. Principals Association (IPA) maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: [www.ilprincipals.org/msh-www.ilprincipals.org/resources/model-student-handbook](http://www.ilprincipals.org/msh-www.ilprincipals.org/resources/model-student-handbook).

## Students

### Harassment of Students Prohibited<sup>1</sup>

No person, including a School District employee or agent, or student, shall harass, intimidate, or bully a student on the basis of actual or perceived: race; color; national origin; military status; unfavorable discharge status from military service; sex; sexual orientation; gender identity<sup>2</sup>; gender-related identity or expression; ancestry; age; religion; physical or mental disability; order of protection status; status of being homeless; actual or potential marital or parental status, including pregnancy; association with a person or group with one or more of the aforementioned actual or perceived characteristics; or any other distinguishing characteristic. The District will not tolerate harassing, intimidating conduct, or bullying whether verbal, physical, sexual, or visual, that affects the tangible benefits of education, that unreasonably interferes with a student's educational performance, or that creates an intimidating, hostile, or offensive educational environment. Examples of prohibited conduct include name-calling, using derogatory slurs, stalking, sexual violence, causing psychological harm, threatening or causing physical harm, threatened or actual destruction of

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<sup>1</sup> State or federal law requires this subject matter be covered by policy, controls this policy's content, and 105 ILCS 5/10-20.71, added by P.A. 101-531 and renumbered by P.A. 102-558, requires that every two years, each district within an Illinois county served by an accredited Children's Advocacy Center review all its existing sexual abuse investigation policies and procedures to ensure consistency with 105 ILCS 5/22-85, added by P.A. 101-531. Each district must also have a policy on bullying. 105 ILCS 5/27-23.7; see sample policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.

This policy's list of protected classifications is identical to the list in 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*. The protected classifications are found in 105 ILCS 5/27-23.7(a); 775 ILCS 5/1-103, amended by P.A.s 101-221 and 102-896, eff. 1-1-23; and 23 Ill.Admin.Code §1.240.

The list of protected classifications in sample policy 7:10, *Equal Educational Opportunities*, is different – it does not contain the classifications that are exclusively identified in the bullying statute. 105 ILCS 5/27-23.7.

The Ill. Human Rights Act (IHRA) and an ISBE rule prohibit schools from discriminating against students on the basis of *sexual orientation and gender identity*. 775 ILCS 5/5-101(11); 23 Ill.Admin.Code §1.240. *Sexual orientation* is defined as the “actual or perceived heterosexuality, homosexuality, bisexuality, or gender related identity, whether or not traditionally associated with the person's designated sex at birth.” 775 ILCS 5/1-103(O-1). *Gender identity* is included in the definition of sexual orientation in the Act. The Act permits schools to maintain single-sex facilities that are distinctly private in nature, e.g., restrooms and locker rooms. 775 ILCS 5/5-103. Additionally, race is defined to include traits associated with race, including, but not limited to, hair texture and protective hairstyles such as braids, locks, and twists. 775 ILCS 5/1-103(M-5), added by P.A. 102-1102, eff. 1-1-23. 775 ILCS 5/1-102(A), added *order of protection status* to its list of protected categories. The IHRA's jurisdiction is specifically limited to: (1) failing to enroll an individual, (2) denying access to facilities, goods, or services, or (3) failing to take corrective action to stop severe or pervasive harassment of an individual. 775 ILCS 5/5-102.2, amended by P.A. 102-1102, eff. 1-1-23.

<sup>2</sup> See f/n 32 in sample policy 7:10, *Equal Educational Opportunities*, for a discussion about Executive Order (EO) 2019-11 establishing the Affirming and Inclusive Schools Task Force (Task Force) that made policy and administrative procedure recommendations to the Ill. State Board of Education (ISBE) that are discussed in its publication *Sample District Policy and Administrative Procedures* at [www.isbe.net/supportallstudents](http://www.isbe.net/supportallstudents).

For boards that want to incorporate ISBE's sample policy recommendation, insert the following in place of “gender identity;”: gender; gender identity (whether or not traditionally associated with the student's sex assigned at birth);

**If the board inserts this option, it must also insert the options in f/ns 32 and 87 of policy 7:10, *Equal Educational Opportunities*, BUT NOTE THE PROTECTED STATUSES LIST IN THIS POLICY IS DIFFERENT AND SHOULD NOT BE COPIED FROM HERE INTO 7:10, *EQUAL EDUCATIONAL OPPORTUNITIES*.**

property, or wearing or possessing items depicting or implying hatred or prejudice of one of the characteristics stated above.<sup>3</sup>

### Sexual Harassment Prohibited

The District shall provide an educational environment free of verbal, physical, or other conduct or communications constituting harassment on the basis of sex as defined and otherwise prohibited by State and federal law.<sup>4</sup> See policies 2:265, *Title IX Sexual Harassment Grievance Procedure*, and 2:260, *Uniform Grievance Procedure*.

### Making a Report or Complaint

Students are encouraged to promptly report claims or incidences of bullying, intimidation, harassment, sexual harassment, or any other prohibited conduct to the Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, a Complaint Manager, or any employee with whom the student is comfortable speaking.<sup>5</sup> A student may choose to report to an employee of the student's same gender.

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<sup>3</sup> This list of examples of prohibited conduct is optional. While hate speech is not specifically mentioned in this paragraph, any hate speech used to harass or intimidate is banned. Hate speech without accompanying misconduct may be prohibited in response to actual incidences when hate speech interfered with the educational environment. *West v. Derby Unified Sch. Dist.*, 206 F.3d 1358 (10th Cir. 2000).

<sup>4</sup> Two laws apply to sexual harassment of students in Illinois. Title IX of the Education Amendments of 1972 (Title IX) and the IHRA prohibit discrimination on the basis of sex and sexual harassment in any educational program or activity receiving federal financial assistance. 20 U.S.C. §1681. Title IX defines sexual harassment as conduct on the basis of sex that meets one or more of the following: (1) a district employee conditions the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct; (2) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it denies a person equal access to the District's education program or activity; or (3) sexual assault, dating violence, domestic violence, or stalking as defined in federal law. 34 C.F.R. §106.30. See sample policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, and sample exhibit 2:265-E, *Title IX Sexual Harassment Glossary of Terms*. Consult the board attorney to ensure the nondiscrimination coordinator and complaint managers are trained to appropriately respond to allegations of Title IX sexual harassment. See sample procedures 2:265-API, *Title IX Sexual Harassment Response*, and 2:265-AP2, *Formal Title IX Sexual Harassment Complaint Grievance Process*.

The IHRA prohibits any district employee or agent from sexually harassing a student, and defines sexual harassment as any unwelcome sexual advances or requests for sexual favors made to a student, or any conduct of a sexual nature toward a student, when: (1) such conduct has the purpose of substantially interfering with the student's educational performance or creating an intimidating, hostile or offensive educational environment; or (2) the district employee or agent either explicitly or implicitly makes the student's submission to or rejection of such conduct as a basis for making various enumerated education-related determinations. 775 ILCS 5/5A-1201(E).

School districts are liable for damage awards for an employee's sexual harassment of a student in limited situations. Liability occurs only when a district official who, at a minimum, has authority to institute corrective action, has actual notice of and is deliberately indifferent to the employee's misconduct. *Gebser v. Lago Vista Independent Sch. Dist.*, 524 U.S. 274 (1998). Schools are liable in student-to-student sexual harassment cases when school agents are deliberately indifferent to sexual harassment, of which they have actual knowledge that is so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school. *Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629 (1999). The Ill. Dept. of Human Rights investigates charges of sexual harassment in violation of the IHRA, and it is a civil rights violation when a district fails to take remedial or disciplinary action against an employee the district knows engaged in sexual harassment. 775 ILCS 5/5A-102.

<sup>5</sup> Using "or any employee with whom the student is comfortable speaking" ensures compliance with Title IX regulations providing that "any employee" of an elementary or secondary school who has notice of sexual harassment or allegations of sexual harassment is deemed to have *actual knowledge* which triggers a district's duty to respond. 34 C.F.R. §106.30. By including "any employee" in this list, this policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

Reports under this policy will be considered a report under Board policy 2:260, *Uniform Grievance Procedure*, and/or Board policy 2:265, *Title IX Sexual Harassment Grievance Procedure*. The Nondiscrimination Coordinator and/or Complaint Manager shall process and review the report according to the appropriate grievance procedure.<sup>6</sup> The Superintendent shall insert into this policy the names, office addresses, email addresses, and telephone numbers of the District's current Nondiscrimination Coordinator and Complaint Managers.<sup>7</sup> The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator.<sup>8</sup>

**Nondiscrimination Coordinator:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email

\_\_\_\_\_  
Telephone

**Complaint Managers:**

_____ Name	_____ Name
_____ Address	_____ Address
_____ Email	_____ Email
_____ Telephone	_____ Telephone

The Superintendent shall use reasonable measures to inform staff members and students of this policy by including:

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

<sup>6</sup> If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, supplement this sentence to state "The Nondiscrimination Coordinator, Title IX Coordinator, and/or Complaint Manager shall process and review the report according to the appropriate grievance procedure."

<sup>7</sup> While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored.

Each district must communicate its bullying policy to students and their parents/guardians. 105 ILCS 5/27-23.7; see sample policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.

<sup>8</sup> Title IX regulations require districts to identify the name, office address, email address, and telephone number of the person who is responsible for coordinating the district's compliance efforts. The Nondiscrimination and Title IX Coordinator(s) need not be the same person. If the district uses a separate Title IX Coordinator who does not also serve as the Nondiscrimination Coordinator, delete "~~The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator.~~," supplement the previous sentence to state "The Superintendent shall insert into this policy the names, office addresses, email addresses, and telephone numbers of the District's current Nondiscrimination Coordinator, Title IX Coordinator, and Complaint Managers." Then, list the Title IX and Nondiscrimination Coordinators' names and contact information separately in this policy.



1. For students, age-appropriate information about the contents of this policy in the District's student handbook(s), on the District's website, and, if applicable, in any other areas where policies, rules, and standards of conduct are otherwise posted in each school.<sup>9</sup>
2. For staff members, this policy in the appropriate employee handbook(s), if applicable, and/or in any other areas where policies, rules, and standards of conduct are otherwise made available to staff.

### Investigation Process

Any District employee who receives a report or complaint of harassment must promptly forward the report or complaint to the Nondiscrimination Coordinator or a Complaint Manager.<sup>10</sup> Any employee who fails to promptly comply may be disciplined, up to and including discharge.

Reports and complaints of harassment will be confidential to the greatest extent practicable, subject to the District's duty to investigate and maintain an educational environment that is productive, respectful, and free of unlawful discrimination, including harassment.

For any report or complaint alleging sexual harassment that, if true, would implicate Title IX of the Education Amendments of 1972 (20 U.S.C. §1681 et seq.), the Nondiscrimination Coordinator or designee<sup>11</sup> shall consider whether action under policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, should be initiated.

For any other alleged student harassment that does not require action under policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, the Nondiscrimination Coordinator or a Complaint Manager or designee shall consider whether an investigation under policies 2:260, *Uniform Grievance Procedure*, and/or 7:190, *Student Behavior*, should be initiated, regardless of whether a written report or complaint is filed.

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<sup>9</sup> In addition to notifying students of policies 2:260, *Uniform Grievance Procedure*, and 2:265, *Title IX Sexual Harassment Grievance Procedure*, a district must notify them of the name, office address, email address, and telephone number of district's Title IX Coordinator. 34 C.F.R. §106.8(a). 105 ILCS 5/10-20.69, added by P.A. 101-418, requires districts to maintain and implement an *age-appropriate* policy on sexual harassment that is included in the school district's student handbook, as well as on a district's website and, if applicable, other areas where such information is posted in each school. The law does not expressly state that the age-appropriate policy is for students; however, that is the most logical interpretation. In practice, most districts maintain a student handbook for each building. Because the law only requires one policy, this policy manages the age-appropriate requirement by directing age-appropriate explanations of the policy be included in the building-level student handbook(s). Student handbooks can be developed by the building principals, but should be reviewed and approved by the superintendent and school board.

The Illinois Principals Association maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: [www.ilprincipals.org/msh](http://www.ilprincipals.org/msh) ~~[www.ilprincipals.org/resources/model-student-handbook](http://www.ilprincipals.org/resources/model-student-handbook)~~

<sup>10</sup> If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, supplement this sentence to state "Any District employee who receives a report or complaint of harassment must promptly forward the report or complaint to the Nondiscrimination Coordinator, Title IX Coordinator, or a Complaint Manager."

<sup>11</sup> "Nondiscrimination Coordinator or designee" is used where Title IX is potentially implicated. In contrast, if Title IX is likely not implicated then "Nondiscrimination Coordinator or a Complaint Manager or designee" is used (see next paragraph in policy text). If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, delete "~~Nondiscrimination~~" and insert "Title IX" in its place.

## Reports That Involve Alleged Incidents of Sexual Abuse of a Child by School Personnel <sup>12</sup>

An *alleged incident of sexual abuse* is an incident of sexual abuse of a child, as defined in 720 ILCS 5/11-9.1A(b), that is alleged to have been perpetrated by school personnel, including a school vendor or volunteer, that occurred: on school grounds during a school activity; or outside of school grounds or not during a school activity.

Any complaint alleging an incident of sexual abuse shall be processed and reviewed according to policy 5:90, *Abused and Neglected Child Reporting*. In addition to reporting the suspected abuse, the complaint shall also be processed under policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, or policy 2:260, *Uniform Grievance Procedure*.

### Enforcement

Any District employee who is determined, after an investigation, to have engaged in conduct prohibited by this policy will be subject to disciplinary action up to and including discharge. Any third party who is determined, after an investigation, to have engaged in conduct prohibited by this policy will be addressed in accordance with the authority of the Board in the context of the relationship of the third party to the District, e.g., vendor, parent, invitee, etc. Any District student who is determined, after an investigation, to have engaged in conduct prohibited by this policy will be subject to disciplinary action, including but not limited to, suspension and expulsion consistent with the behavior policy. Any person making a knowingly false accusation regarding prohibited conduct will likewise be subject to disciplinary action.

### Retaliation Prohibited

Retaliation against any person for bringing complaints or providing information about harassment is prohibited (see policies 2:260, *Uniform Grievance Procedure*, and 2:265, *Title IX Sexual Harassment Grievance Procedure*).

Students should report allegations of retaliation to the Building Principal, an administrator, the Nondiscrimination Coordinator, and/or a Complaint Manager.

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<sup>12</sup> Required for districts located within a county served by an accredited Children's Advocacy Center (CAC). Delete this subhead if your school district is within a county not served by an accredited CAC. 105 ILCS 5/22-85, added by P.A. 101-531 (governing the investigation of an *alleged incident of sexual abuse* of any child within any Illinois counties served by a CAC). For a map of accredited CACs, and to identify a CAC that may serve your district, see [www.childrensadvocacycentersofillinois.org/about/map](http://www.childrensadvocacycentersofillinois.org/about/map). For further discussion see f/ns 14-16 in sample policy 5:90, *Abused and Neglected Child Reporting*.

LEGAL REF.: 20 U.S.C. §1681 et seq., Title IX of the Educational Amendments of 1972; 34 C.F.R. Part 106.  
105 ILCS 5/10-20.12, 5/10-22.5, 5/10-23.13, 5/27-1, and 5/27-23.7.  
775 ILCS 5/1-101 et seq., Illinois Human Rights Act.  
23 Ill.Admin.Code §1.240 and Part 200.  
Davis v. Monroe County Bd. of Educ., 526 U.S. 629 (1999).  
Franklin v. Gwinnett Co. Public Schs., 503 U.S. 60 (1992).  
Gebser v. Lago Vista Independent Sch. Dist., 524 U.S. 274 (1998).  
West v. Derby Unified Sch. Dist. No. 260, 206 F.3d 1358 (10th Cir. 2000).

CROSS REF.: 2:260 (Uniform Grievance Procedure), 2:265 (Title IX Sexual Harassment Grievance Procedure), 4:165 (Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors), 5:20 (Workplace Harassment Prohibited), 5:90 (Abused and Neglected Child Reporting), [5:120 \(Employee Ethics: Code of Professional Conduct; and Conflict of Interest\)](#), 7:10 (Equal Educational Opportunities), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior), 7:240 (Conduct Code for Participants in Extracurricular Activities)

DRAFT

## Students

### Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students <sup>1</sup>

#### Required Health Examinations and Immunizations

A student's parents/guardians shall present proof that the student received a health examination, with proof of the immunizations against, and screenings for, preventable communicable diseases, as required by the Illinois Department of Public Health (IDPH), within one year prior to:

1. Entering kindergarten or the first grade;<sup>2</sup>
2. Entering the sixth and ninth grades;<sup>3</sup> and
3. Enrolling in an Illinois school, regardless of the student's grade (including nursery school, special education, Head Start programs operated by elementary or secondary schools, and students transferring into Illinois from out-of-state or out-of-country). <sup>4</sup>

Proof of immunization against meningococcal disease is required for students in grades 6 and 12. <sup>5</sup>

As required by State law:

1. Health examinations must be performed by a physician licensed to practice medicine in all of its branches, an advanced practice registered nurse, or a physician assistant who has been delegated the performance of health examinations by a supervising physician. <sup>6</sup>
2. A diabetes screening is a required part of each health examination; diabetes testing is not required. <sup>7</sup>
3. An age-appropriate developmental screening and an age-appropriate social and emotional screening are required parts of each health examination.<sup>8</sup> A student will not be excluded from

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<sup>1</sup> State or federal law controls this policy's content. The policy restates 105 ILCS 5/27-8.1, amended by P.A.s ~~100-513, 100-977, and~~ 101-643. Immunization requirements are found in 77 Ill.Admin.Code §665.240. A Tuberculosis skin test is required if the student lives in an area designated by the Ill. Dept. of Public Health (IDPH) as having a high incidence of Tuberculosis. See also *Questions & Answers Regarding School Health Requirements/Record Issues*, revised May 2013, and available at: [www.dhs.state.il.us/onenetlibrary/27897/documents/schoolhealth/faq\\_2013.pdf](http://www.dhs.state.il.us/onenetlibrary/27897/documents/schoolhealth/faq_2013.pdf).

<sup>2</sup> 105 ILCS 5/27-8.1(1); 77 Ill.Admin.Code §§665.140 and 665.240 *et seq.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* If grade levels are not assigned, examinations must be completed within one year prior to the school year in which the child reaches the ages of five, 11, and 15. 77 Ill.Admin.Code §665.140(b).

<sup>5</sup> 410 ILCS 315/1.10; 77 Ill.Admin.Code §665.240(l). For students attending school programs where grade levels (kindergarten through 12) are not assigned, including special education programs, students must show proof that they have received one dose of meningococcal conjugate vaccine in the school year in which the child reaches age 11 and a second dose in the school year in which the child reaches age 16 (but if the first dose is administered when the child is 16 years of age or older, only one dose is required). Students eligible to remain in public school beyond grade 12 (special education) shall meet the requirements for 12th grade.

<sup>6</sup> 105 ILCS 5/27-8.1(2); ~~amended by P.A. 100-513~~; 77 Ill.Admin.Code §665.130 *et seq.*

<sup>7</sup> ~~Id. at ¶n 6 above~~ 105 ILCS 5/27-8.1(2); ~~and 77 Ill.Admin.Code §665.700~~ *et seq.*

<sup>8</sup> 105 ILCS 5/27-8.1(2); 77 Ill.Admin.Code Part 664, ~~amended by P.A.s 100-513 and 100-1011. The IDPH is to develop rules to implement these new screening requirements and revise the Child Health Examination form.~~ *Id.* The health care provider must only record whether or not the social and emotional screening was completed.

school due to his or her parent/guardian's failure to obtain a developmental screening or a social and emotional screening.<sup>9</sup>

4. Before admission and in conjunction with required physical examinations, parents/guardians of children between the ages of one and seven years must provide a statement from a physician that their child was *risk-assessed* or screened for lead poisoning.<sup>10</sup>
5. The IDPH will provide all students entering sixth grade and their parents/guardians information about the link between human papillomavirus (HPV) and HPV-related cancers and the availability of the HPV vaccine.<sup>11</sup>
6. The District will provide informational materials regarding influenza, influenza vaccinations, meningococcal disease, and meningococcal vaccinations developed, provided, or approved by the IDPH when it provides information on immunizations, infectious diseases, medications, or other school health issues to students' parents/guardians.<sup>12</sup>

Unless an exemption or extension applies, the failure to comply with the above requirements by October 15 of the current school year will result in the student's exclusion from school until the required health forms are presented to the District.<sup>13</sup> New students who register after October 15 of

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<sup>9</sup> 105 ILCS 5/27-8.1(2.5); [77 Ill.Admin.Code §664.140](#). Item #3 may be supplemented with any of the following options:

- Option 1:** If proof of the developmental screening or the social and emotional screening portions of the health examination are not presented by October 15 of the current school year, qualified school support personnel may, with a parent/guardian's consent, offer the screenings to the child.
- Option 2:** Once a student presents proof that he or she received a developmental screening or a social and emotional screening, the school may, with a parent/guardian's consent, make available appropriate school personnel to work with the parent/guardian, child, and provider who signed the screening form to obtain any appropriate evaluations and services.
- Option 3:** (The use of both Option 1 and 2.)
  - a. If proof of the developmental screening or the social and emotional screening portions of the health examination are not presented by October 15 of the current school year, qualified school support personnel may, with a parent/guardian's consent, offer the screenings to the child.
  - b. Once a student presents proof that he or she received a developmental screening or a social and emotional screening, the school may, with a parent/guardian's consent, make available appropriate school personnel to work with the parent/guardian, child, and provider who signed the screening form to obtain any appropriate evaluations and services.

**Note:** Even if the district does not offer the above optional services, consult the board attorney about whether the presence of developmental or social and emotional screening information on the Child Health Examination form triggers child find obligations under the Individuals with Disabilities Education Act and/or Section 504 of the Rehabilitation Act of 1973.

<sup>10</sup> Required by 410 ILCS 45/7.1. Physicians are required to screen children over 7 years of age for lead poisoning when, in the physician's judgment, a child is at risk. 410 ILCS 45/6.2, ~~amended by P.A. 100-513~~.

<sup>11</sup> This sentence restates the requirement in the Communicable Disease Prevention Act regarding HPV-related cancer prevention. 410 ILCS 315/2e, ~~amended by P.A. 100-741~~.

<sup>12</sup> 105 ILCS 5/27-8.1(8.5), ~~added by P.A. 100-977~~.

<sup>13</sup> 105 ILCS 5/27-8.1(5), amended by P.A. 101-513, requires compliance by October 15 unless a district establishes an earlier date with 60 days' notice. If an earlier date is established, replace "October 15" in this paragraph with the earlier locally established date. During any student's exclusion from school for non-compliance with this policy, the student's parents/guardians shall be considered in violation of 105 ILCS 5/26-1 and subject to any penalty imposed by 105 ILCS 5/26-10, as provided in 105 ILCS 5/27-8.1(5). 105 ILCS 5/27-8.1(2.5) exempts developmental or social and emotional screenings from the exclusion from school requirement.

the current school year shall have 30 days following registration to comply with the health examination and immunization regulations.<sup>14</sup> If a medical reason prevents a student from receiving a required immunization by October 15, the student must present, by October 15, an immunization schedule and a statement of the medical reasons causing the delay.<sup>15</sup> The schedule and statement of medical reasons must be signed by the physician, advanced practice registered nurse, physician assistant, or local health department responsible for administering the immunizations.

A student transferring from out-of-state who does not have the required proof of immunizations by October 15 may attend classes only if he or she has proof that an appointment for the required vaccinations is scheduled with a party authorized to submit proof of the required vaccinations.<sup>16</sup> If the required proof of vaccination is not submitted within 30 days after the student is permitted to attend classes, the student may no longer attend classes until proof of the vaccinations is properly submitted.<sup>17</sup>

### Eye Examination <sup>18</sup>

Parents/guardians are encouraged to have their children undergo an eye examination whenever health examinations are required.<sup>19</sup>

Parents/guardians of students entering kindergarten or an Illinois school for the first time shall present proof before October 15 of the current school year that the student received an eye examination within one year prior to entry of kindergarten or the school. A physician licensed to practice medicine in all of its branches, or a licensed optometrist, must perform the required eye examination.

If a student fails to present proof by October 15, the school may hold the student's report card until the student presents proof: (1) of a completed eye examination, or (2) that an eye examination will take place within 60 days after October 15. The Superintendent or designee shall ensure that

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**Note:** 77 Ill.Admin.Code §665.240(n) states "It is not the intent of this Part that any child whose parents comply with the intent of this Part, the Act or the School Code should be excluded from a child care facility or school. A child or student shall be considered in compliance with the law if there is evidence of the intent to comply. Evidence may be: 1) a signed statement from a health care provider that he or she has begun, or will begin, the necessary immunization procedures; or 2) the parent's or legal guardian's written consent for the child's participation in a school or other community immunization program." Consult with the board attorney about the impact this regulation may have on the district's ability to and procedures for excluding students for non-compliance with this policy.

<sup>14</sup> This sentence is optional. The timeframe of 30 days is a matter of local discretion except that out-of-state transfer students who fail to provide proof of the required vaccinations after 30 days must be excluded until such proof is properly submitted. 105 ILCS 5/27-8.1(5), ~~amended by P.A. 100-513~~. Consult the board attorney about establishing timeframes other than 30 days.

<sup>15</sup> This sentence and the following sentence restate 105 ILCS 5/27-8.1(5), ~~amended by P.A. 100-513~~.

<sup>16</sup> Id. The special treatment of out-of-state transfer students resulted from the enactment of the Educational Opportunity for Military Children Act, 105 ILCS 70/. There are no more sunset dates in this law, which eliminates its constituents' need to continually revisit the law and extend its effective dates.

<sup>17</sup> 105 ILCS 5/27-8.1, amended by P.A.s ~~100-513, 100-977, and~~ 101-643.

<sup>18</sup> Required by 105 ILCS 5/27-8.1(1.10), amended by P.A. 101-643, and 5/27-8.1(2). The IDPH's rules are published at 77 Ill.Admin.Code §665.610 et seq. §§665.150 and 630 prescribe the statewide eye examination report form, available at: [www.idph.state.il.us/HealthWellness/EyeExamReport.pdf](http://www.idph.state.il.us/HealthWellness/EyeExamReport.pdf) or 77 Ill.Admin.Code §665, Appendix A.

<sup>19</sup> While 105 ILCS 5/27-8.1 requires eye examinations for students entering kindergarten or an Illinois school for the first time, it still encourages parents/guardians to have their children undergo eye examinations at the same points in time as their required health examinations. The IDPH must require that individuals conducting vision screenings give a child's parent/guardian a written notification stating (105 ILCS 5/27-8.1(2)):

Vision screening is not a substitute for a complete eye and vision evaluation by an eye doctor. Your child is not required to undergo this vision screening if an optometrist or ophthalmologist has completed and signed a report form indicating that an examination has been administered within the previous 12 months.

parents/guardians are notified of this eye examination requirement in compliance with the rules of the IDPH. Schools shall not exclude a student from attending school due to failure to obtain an eye examination.

#### Dental Examination <sup>20</sup>

All children in kindergarten and the second, sixth, and ninth grades must present proof of having been examined by a licensed dentist before May 15 of the current school year in accordance with rules adopted by the IDPH.

If a child in the second, sixth, or ninth grade fails to present proof by May 15, the school may hold the child's report card until the child presents proof: (1) of a completed dental examination, or (2) that a dental examination will take place within 60 days after May 15. The Superintendent or designee shall ensure that parents/guardians are notified of this dental examination requirement at least 60 days before May 15 of each school year.

#### Exemptions <sup>21</sup>

In accordance with rules adopted by the IDPH, a student will be exempted from this policy's requirements for:

1. Religious grounds, if the student's parents/guardians present the IDPH's Certificate of Religious Exemption form to the Superintendent or designee. When a Certificate of Religious Exemption form is presented, the Superintendent or designee shall immediately inform the parents/guardians of exclusion procedures pursuant to Board policy 7:280, *Communicable and Chronic Infectious Disease*, and State rules if there is an outbreak of one or more diseases from which the student is not protected. <sup>22</sup>
2. Health examination or immunization requirements on medical grounds, if the examining physician, advanced practice registered nurse, or physician assistant provides written verification.
3. Eye examination requirement, if the student's parents/guardians show an undue burden or lack of access to a physician licensed to practice medicine in all of its branches who provides eye examinations or a licensed optometrist.
4. Dental examination requirement, if the student's parents/guardians show an undue burden or a lack of access to a dentist.

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<sup>20</sup> Required by 105 ILCS 5/27-8.1(1.5), amended by P.A. ~~100-829~~ and 101-643. The IDPH's rules are published at 77 Ill.Admin.Code §665.410 et seq. §§665.150 and 430 prescribe the statewide dental examination report form, available at: [www.idph.state.il.us/HealthWellness/oralhlth/DentalExamProof10.pdf](http://www.idph.state.il.us/HealthWellness/oralhlth/DentalExamProof10.pdf) or 77 Ill.Admin.Code §665, Appendix D.

<sup>21</sup> Id.; 105 ILCS 5/27-8.1(1.10), amended by P.A. 101-643, and 5/27-8.1(8), ~~amended by P.A. 100-513.~~

<sup>22</sup> Id.; 77 Ill.Admin.Code §665.510. The Certificate of Religious Exemption form is available on IDPH's website at: [www.dph.illinois.gov/sites/default/files/forms/religious-exemption-form-081815-040816.pdf](http://www.dph.illinois.gov/sites/default/files/forms/religious-exemption-form-081815-040816.pdf) <https://dph.illinois.gov/content/dam/soi/en/web/idph/files/forms/religious-exemption-form-081815-040816.pdf>. To direct parents/guardians to the detailed exclusionary requirements pursuant to 77 Ill.Admin.Code Part 690, see 7:280-E2, *Exhibit - Reporting and Exclusion Requirements for Common Communicable Diseases*. The IDPH maintains a helpful school health communicable diseases chart detailing mode of transmission, symptoms, incubation period, period of communicability, criteria for exclusion from school, reporting requirements, and prevention and control measures at: [www.dph.illinois.gov/sites/default/files/publications/commchartschool-032817.pdf](http://www.dph.illinois.gov/sites/default/files/publications/commchartschool-032817.pdf) <https://dph.illinois.gov/content/dam/soi/en/web/idph/files/publications/commchartschool-032817.pdf>.

## Homeless Child

Any homeless child shall be immediately admitted, even if the child or child's parent/guardian is unable to produce immunization and health records normally required for enrollment.<sup>23</sup> School Board policy 6:140, *Education of Homeless Children*, governs the enrollment of homeless children.

LEGAL REF.: 42 U.S.C. §11431 et seq., McKinney-Vento Homeless Assistance Act,  
105 ILCS 5/27-8.1 and 45/1-20.  
410 ILCS 45/7.1, [Lead Poisoning Prevention Act](#).  
~~410 ILCS and~~ 315/2e, [Communicable Disease Prevention Act](#).  
23 Ill.Admin.Code §1.530.  
[77 Ill. Admin.Code Part 664, Socio-Emotional and Developmental Screening](#).  
77 Ill.Admin.Code Part 665, [Child and Student Health Examination and Immunization](#).  
77 Ill.Admin.Code Part 690, [Control of Communicable Diseases](#).

CROSS REF.: 6:30 (Organization of Instruction), 6:140 (Education of Homeless Children),  
6:180 (Extended Instructional Programs), 7:50 (School Admissions and Student  
Transfers To and From Non-District Schools), 7:280 (Communicable and  
Chronic Infectious Disease)

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<sup>23</sup> Required by 105 ILCS 45/1-20 (Education for Homeless Children Act). Also required by the McKinney-Vento Homeless Assistance Act, 42 U.S.C. §11432(g)(3)(C)(i).



## Students

### Prevention of and Response to Bullying, Intimidation, and Harassment<sup>1</sup>

Bullying, intimidation, and harassment diminish a student's ability to learn and a school's ability to educate. Preventing students from engaging in these disruptive behaviors and providing all students equal access to a safe, non-hostile learning environment are important District goals.

Bullying on the basis of actual or perceived race, color, national origin, military status, unfavorable discharge status from the military service, sex, sexual orientation, gender identity, gender-related identity or expression, ancestry, age, religion, physical or mental disability, order of protection status, status of being homeless, or actual or potential marital or parental status, including pregnancy, association with a person or group with one or more of the aforementioned actual or perceived characteristics, or any other distinguishing characteristic **is prohibited** in each of the following situations:<sup>2</sup>

1. During any school-sponsored education program or activity.
2. While in school, on school property, on school buses or other school vehicles, at designated school bus stops waiting for the school bus, or at school-sponsored or school-sanctioned events or activities.
3. Through the transmission of information from a school computer, a school computer network, or other similar electronic school equipment.
4. Through the transmission of information from a computer that is accessed at a nonschool-related location, activity, function, or program or from the use of technology or an electronic device that is not owned, leased, or used by the School District or school if the bullying causes a substantial disruption to the educational process or orderly operation of a school.

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<sup>1</sup> All districts must have a policy on bullying, monitor it, review and re-evaluate it, and file it with the Ill. State Board of Education (ISBE) every two years, no later than September 30 of the review year (see f/n 16, below). 105 ILCS 5/27-23.7, amended by P.A. 102-894; 23 Ill.Admin.Code §1.295. The policy must contain all requirements of 105 ILCS 5/27-23.7, indicate the date of adoption (by month, day, and year), and be filed electronically each review year through ISBE's IWAS system. 23 Ill.Admin.Code §1.295(b), (c). If a district fails to file its policy by the deadline or submits a deficient policy, ISBE will provide a written request for filing and provide the district with technical assistance and resources to assist it in meeting bullying policy requirements and, as appropriate, notify the district's regional office of education or intermediate service center. 105 ILCS 5/27-23.7(d), amended by P.A. 102-894; 23 Ill.Admin.Code §1.295(e). If the district still fails to file its policy within 14 days of receipt of ISBE's written request, ISBE shall issue a letter of non-compliance (23 Ill.Admin.Code §1.295(e)(3)) and publish notice of non-compliance on its website (105 ILCS 5/27-23.7(d)).

This sample policy's first paragraph allows a school board to consider its goals for preventing bullying and remedying its consequences; it may be amended.

In addition to a bullying prevention policy, all districts must have a policy on student behavior. 105 ILCS 5/10-20.14; 23 Ill.Admin.Code §1.280. Boards must, in consultation with their parent-teacher advisory committees and other community-based organizations, address aggressive behavior, including bullying, in their student behavior policy. See sample policy 7:190, Student Behavior; 7:190-E1, Aggressive Behavior Reporting Letter and Form.

This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. See f/n ~~910~~, below.

<sup>2</sup> This paragraph and its subparts 1-4 are from the bullying prevention statute. 105 ILCS 5/27-23.7(a); see also 775 ILCS 5/1-103 and 23 Ill.Admin.Code §1.240. The protected statuses are mandated by the bullying prevention statute; the list of protected statuses is identical to the list in sample policy 7:20, Harassment of Students Prohibited.

This paragraph (item #4) applies only when a school administrator or teacher receives a report that bullying through this means has occurred; it does not require staff members to monitor any nonschool-related activity, function, or program.

Definitions from 105 ILCS 5/27-23.7<sup>3</sup>

*Bullying* includes *cyberbullying* and means any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward a student or students that has or can be reasonably predicted to have the effect of one or more of the following:

1. Placing the student or students in reasonable fear of harm to the student's or students' person or property;
2. Causing a substantially detrimental effect on the student's or students' physical or mental health;
3. Substantially interfering with the student's or students' academic performance; or
4. Substantially interfering with the student's or students' ability to participate in or benefit from the services, activities, or privileges provided by a school.

*Bullying* may take various forms, including without limitation one or more of the following: harassment, threats, intimidation, stalking, physical violence, sexual harassment, sexual violence, theft, public humiliation, destruction of property, or retaliation for asserting or alleging an act of bullying. This list is meant to be illustrative and non-exhaustive.

*Cyberbullying* means bullying through the use of technology or any electronic communication, including without limitation any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic system, photo-electronic system, or photo-optical system, including without limitation electronic mail, Internet communications, instant messages, or facsimile communications. *Cyberbullying* includes the creation of a webpage or weblog in which the creator assumes the identity of another person or the knowing impersonation of another person as the author of posted content or messages if the creation or impersonation creates any of the effects enumerated in the definition of *bullying*. *Cyberbullying* also includes the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons if the distribution or posting creates any of the effects enumerated in the definition of *bullying*.

*Restorative measures* means a continuum of school-based alternatives to exclusionary discipline, such as suspensions and expulsions, that: (i) are adapted to the particular needs of the school and community, (ii) contribute to maintaining school safety, (iii) protect the integrity of a positive and productive learning climate, (iv) teach students the personal and interpersonal skills they will need to be successful in school and society, (v) serve to build and restore relationships among students, families, schools, and communities, (vi) reduce the likelihood of future disruption by balancing accountability with an understanding of students' behavioral health needs in order to keep students in school, and (vii) increase student accountability if the incident of bullying is based on religion, race, ethnicity, or any other category that is identified in the Ill. Human Rights Act.<sup>4</sup>

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<sup>3</sup> All definitions are directly from 105 ILCS 5/27-23.7. See also resources from Cyberbullying Research Center, available at: <https://www.cyberbullying.org/>, and the U.S. School Safety Clearinghouse website at [www.SchoolSafety.gov](http://www.SchoolSafety.gov), discussed in f/n 1, para. 3 of [sample policy 4:170](#), *Safety*.

<sup>4</sup> 105 ILCS 5/27-23.7(b), amended by P.A. 102-241.

*School personnel* means persons employed by, on contract with, or who volunteer in a school district, including without limitation school and school district administrators, teachers, ~~school counselors~~, school social workers, school counselors, school psychologists, school nurses, cafeteria workers, custodians, bus drivers, school resource officers, and security guards. <sup>5</sup>

### Bullying Prevention and Response Plan

The Superintendent or designee shall develop and maintain a bullying prevention and response plan that advances the District's goal of providing all students with a safe learning environment free of bullying and harassment. This plan must be consistent with the requirements listed below; each numbered requirement, 1-12, corresponds with the same number in the list of required policy components in 105 ILCS 5/27-23.7(b) 1-12. <sup>6</sup>

1. The District uses the definition of *bullying* as provided in this policy. <sup>7</sup>
2. Bullying is contrary to State law and the policy of this District. However, nothing in the District's bullying prevention and response plan is intended to infringe upon any right to exercise free expression or the free exercise of religion or religiously based views protected under the First Amendment to the U.S. Constitution or under Section 3 of Article I of the Illinois Constitution.
3. Students are encouraged to immediately report bullying. A report may be made orally or in writing to the Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, a Complaint Manager, or any staff member with whom the student is comfortable speaking. <sup>8</sup> Anyone, including staff members and parents/guardians, who has information about actual or threatened bullying is encouraged to report it to the District named officials or any staff member. The District named officials and all staff members are available for help with a bully or to make a report about bullying. <sup>9</sup> Anonymous reports are also accepted; however, this shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report.

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<sup>5</sup> 105 ILCS 5/27-23.7(b), amended by P.A. 102-197.

<sup>6</sup> As each numbered requirement, 1-12, corresponds with the same number in 5/27-23.7(b)1-12, there are no reference citations in footnotes. All non-statutory requirements, plus alternatives and optional provisions, are described in footnotes.

<sup>7</sup> 105 ILCS 5/27-23.7(b), para. 3(1). See f/n 4, above and ISBE's *School Policies for Bullying Prevention* at: [www.isbe.net/Documents/Bullying-Prev-Policy-Req.pdf](http://www.isbe.net/Documents/Bullying-Prev-Policy-Req.pdf)

A board may augment the School Code requirement by using this alternative:

Using the definition of *bullying* as provided in this policy, the Superintendent or designee shall emphasize to the school community that: (a) the District prohibits bullying, and (b) all students should conduct themselves with a proper regard for the rights and welfare of other students. This may include a process for commending or acknowledging students for demonstrating appropriate behavior.

<sup>8</sup> The statute requires that the policy contain the email address and telephone number for the staff person(s) responsible for receiving bullying reports. Using the district Nondiscrimination Coordinator and Complaint Managers is consistent with [sample policy 2:260, Uniform Grievance Procedure](#). While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored. A telephone number for making anonymous reports may also be added.

<sup>9</sup> 105 ILCS 5/27-23.7(d), requires that "[s]chool personnel available for help with a bully or to make a report about bullying" be made known to parents/guardians, students, and school personnel.

**Nondiscrimination Coordinator: 10**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email

\_\_\_\_\_  
Telephone

**Complaint Managers:**

_____ Name	_____ Name
_____ Address	_____ Address
_____ Email	_____ Email
_____ Telephone	_____ Telephone

4. Consistent with federal and State laws and rules governing student privacy rights, the Superintendent or designee shall promptly inform the parent(s)/guardian(s) of every student involved in an alleged incident of bullying and discuss, as appropriate, the availability of social work services, counseling, school psychological services, other interventions, and restorative measures. <sup>11</sup>
5. The Superintendent or designee shall promptly investigate and address reports of bullying, by, among other things:
  - a. Making all reasonable efforts to complete the investigation within 10 school days after the date the report of a bullying incident was received and taking into consideration additional relevant information received during the course of the investigation about the reported bullying incident.
  - b. Involving appropriate school support personnel and other staff persons with knowledge, experience, and training on bullying prevention, as deemed appropriate, in the investigation process.
  - c. Notifying the Building Principal or school administrator or designee of the reported incident of bullying as soon as possible after the report is received.

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<sup>10</sup> Sample policy 2:260, *Uniform Grievance Procedure*, states that a district's Nondiscrimination Coordinator also serves as its Title IX Coordinator. If the district uses a separate Title IX Coordinator who does not also serve as the Nondiscrimination Coordinator, list the Title IX and Nondiscrimination Coordinators' names separately in this policy. Best practice is that throughout the district's board policy manual, the same individual be named as Nondiscrimination Coordinator. In contrast, Complaint Managers identified in individual policies may vary depending upon local district needs.

<sup>11</sup> 105 ILCS 5/10-20.14 contains a similar requirement. See 7:190-E1, *Aggressive Behavior Reporting Letter and Form*.

- d. Consistent with federal and State laws and rules governing student privacy rights, providing parents/guardians of the students who are parties to the investigation information about the investigation and an opportunity to meet with the Building Principal or school administrator or his or her designee to discuss the investigation, the findings of the investigation, and the actions taken to address the reported incident of bullying.

The Superintendent or designee shall investigate whether a reported incident of bullying is within the permissible scope of the District's jurisdiction and shall require that the District provide the victim with information regarding services that are available within the District and community, such as counseling, support services, and other programs. <sup>12</sup>

6. The Superintendent or designee shall use interventions to address bullying, that may include, but are not limited to, school social work services, restorative measures, social-emotional skill building, counseling, school psychological services, and community-based services. <sup>13</sup>
7. A reprisal or retaliation against any person who reports an act of bullying **is prohibited**. Any person's act of reprisal or retaliation will be subject to disciplinary action, up to and including discharge with regard to employees, or suspension and/or expulsion<sup>14</sup> with regard to students.
8. A student will not be punished for reporting bullying or supplying information, even if the District's investigation concludes that no bullying occurred. However, a person who is found to have falsely accused another of bullying, as a means of retaliation, as a means of bullying, or provided false information will be treated as either: (a) *bullying*, (b) student discipline up to and including suspension and/or expulsion, and/or (c) both (a) and (b) for purposes of determining any consequences or other appropriate remedial actions.
9. The District's bullying prevention and response plan is based on the engagement of a range of school stakeholders, including students and parents/guardians.
10. The Superintendent or designee shall post this policy on the District's website, if any, and include it in the student handbook, and, where applicable, post it where other policies, rules, and standards of conduct are currently posted. The policy must be distributed annually to parents/guardians, students, and school personnel (including new employees when hired), and must also be provided periodically throughout the school year to students and faculty. <sup>15</sup>
11. Pursuant to State law and policy 2:240, *Board Policy Development*, the Board monitors this policy every two years by conducting a review and re-evaluation of this policy to make any necessary and appropriate revisions. The Superintendent or designee shall assist the Board with its re-evaluation and assessment of this policy's outcomes and effectiveness. Updates to

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<sup>12</sup> This sentence contains requirements found in 105 ILCS 5/27-23.7(d), [amended by P.A. 102-894](#).

<sup>13</sup> A grant may be available from ISBE for the promotion of a safe and healthy learning environment. 105 ILCS 5/2-3.180 and 3.181, added by P.A. 101-438 and renumbered by P.A. 102-558. A list of grant funding opportunities is available at: [www.isbe.net/Pages/Grants.aspx](http://www.isbe.net/Pages/Grants.aspx).

<sup>14</sup> Consult the board attorney about the potential conflict of 105 ILCS 5/27-23.7(b)(7) (allowance of suspension and/or expulsion of students for reprisal/retaliation against reports of bullying) with 105 ILCS 5/10-22.6(b-20) (districts must resolve threats, address disruptions, and minimize the length (and implementation of) suspensions and expulsions to the greatest extent practicable). See [sample policy 7:200, Suspension Procedures](#), at f/n 8 and [sample policy 7:210, Expulsion Procedures](#), at f/ns 11 and 13.

<sup>15</sup> 105 ILCS 5/27-23.7(b)(10).

this policy will reflect any necessary and appropriate revisions. This process shall include, without limitation: <sup>16</sup>

- a. The frequency of victimization;
- b. Student, staff, and family observations of safety at a school;
- c. Identification of areas of a school where bullying occurs;
- d. The types of bullying utilized; and
- e. Bystander intervention or participation.

The evaluation process may use relevant data and information that the District already collects for other purposes. Acceptable documentation to satisfy the re-evaluated policy submission include one of the following:

- 1) An updated version of the policy with the amendment/modification date included in the reference portion of the policy;
- 2) If no revisions are deemed necessary, a copy of board minutes indicating that the policy was re-evaluated and no changes were deemed to be necessary, ~~or a signed statement from the board~~; or
- 3) A signed statement from the Board President indicating that the Board re-evaluated the policy and no changes to it were necessary.

The Superintendent or designee must post the information developed as a result of the policy re-evaluation on the District's website, or if a website is not available, the information must be provided to school administrators, Board members, school personnel, parents/guardians, and students. Reviews and re-evaluations in years they are due must be submitted to ISBE by September 30.

12. The Superintendent or designee shall fully implement the Board policies, including without limitation, the following: <sup>17</sup>

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<sup>16</sup> 105 ILCS 5/27-23.7. See the ISBE guidance document that is cited in f/n 7, above. ~~In 2020, ISBE extended submission to 12-30 in 2020.~~

<sup>17</sup> The statute requires that the bullying policy *be consistent with* other board policies. The list of policies may be deleted and the following alternative used: "12. The District's bullying prevention plan must be consistent with other Board policies." If a policy list is included, be sure the referenced policies were adopted locally and amend the list accordingly.

The bullying statute does not identify staff member duties regarding the prevention of or response to student bullying. The following optional provision addresses staff member responsibilities and may be added as a new paragraph 13:

13. The Superintendent or designee shall fully inform staff members of the District's goal to prevent students from engaging in bullying and the measures being used to accomplish it. This includes each of the following:
  - a. Communicating the District's expectation and State law requirement that teachers and other certificated or licensed employees maintain discipline.
  - b. Establishing the expectation that staff members: (1) intervene immediately to stop a bullying incident that they witness or immediately contact building security and/or law enforcement if the incident involves a weapon or other illegal activity, (2) report bullying, whether they witness it or not, to an administrator, and (3) inform the administration of locations on school grounds where additional supervision or monitoring may be needed to prevent bullying.
  - c. Where appropriate in the staff development program, providing strategies to staff members to effectively prevent bullying and intervene when it occurs.
  - d. Establishing a process for staff members to fulfill their obligation to report alleged acts of bullying.

- a. 2:260, *Uniform Grievance Procedure*. A student may use this policy to complain about bullying.
- b. 2:265, *Title IX Sexual Harassment Grievance Procedure*. Any person may use this policy to complain about sexual harassment in violation of Title IX of the Education Amendments of 1972.
- c. 6:60, *Curriculum Content*. Bullying prevention and character instruction is provided in all grades in accordance with State law.
- d. 6:65, *Student Social and Emotional Development*. Student social and emotional development is incorporated into the District's educational program as required by State law.
- e. 6:235, *Access to Electronic Networks*. This policy states that the use of the District's electronic networks is limited to: (1) support of education and/or research, or (2) a legitimate business use.
- f. 7:20, *Harassment of Students Prohibited*. This policy prohibits any person from harassing, intimidating, or bullying a student based on an identified actual or perceived characteristic (the list of characteristics in 7:20 is the same as the list in this policy).
- g. 7:185, *Teen Dating Violence Prohibited*. This policy prohibits teen dating violence on school property, at school sponsored activities, and in vehicles used for school-provided transportation.
- h. 7:190, *Student Behavior*. This policy prohibits, and provides consequences for, hazing, bullying, or other aggressive behaviors, or urging other students to engage in such conduct.
- i. 7:310, *Restrictions on Publications; Elementary Schools*, and 7:315, *Restrictions on Publications; High Schools*. These policies prohibit students from and provide consequences for: (1) accessing and/or distributing at school any written, printed, or electronic material, including material from the Internet, that will cause substantial disruption of the proper and orderly operation and discipline of the school or school activities, and (2) creating and/or distributing written, printed, or electronic material, including photographic material and blogs, that causes substantial disruption to school operations or interferes with the rights of other students or staff members. <sup>18</sup>

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<sup>18</sup> For elementary districts, delete: and ~~7:315, *Restrictions on Publications; High Schools*~~ and delete the Cross Reference to ~~7:315, *Restrictions on Publications; High Schools*~~. For high school districts, delete ~~7:310, *Restrictions on Publications; Elementary Schools*~~, and delete the Cross Reference to ~~7:310, *Restrictions on Publications; Elementary Schools*~~. In both cases, revise the beginning of the sentence to read: "These policies prohibits students from and provides."

LEGAL REF.: 105 ILCS 5/10-20.14, 5/10-22.6(b-20), 5/24-24, and 5/27-23.7.  
405 ILCS 49/, Children's Mental Health Act.  
775 ILCS 5/1-103, Ill. Human Rights Act.  
23 Ill.Admin.Code §§1.240, ~~and §1.280,~~ and 1.295.

CROSS REF.: 2:240 (Board Policy Development), 2:260 (Uniform Grievance Procedure), 2:265 (Title IX Sexual Harassment Grievance Procedure), 4:170 (Safety), 5:230 (Maintaining Student Discipline), 6:60 (Curriculum Content), 6:65 (Student Social and Emotional Development), 6:235 (Access to Electronic Networks), 7:20 (Harassment of Students Prohibited), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior), 7:220 (Bus Conduct), 7:230 (Misconduct by Students with Disabilities), 7:240 (Conduct Code for Participants in Extracurricular Activities), 7:285 (~~Food Allergy Management Program~~Anaphylaxis Prevention, Response, and Management Program), 7:310 (Restrictions on Publications; Elementary Schools), 7:315 (Restrictions on Publications; High Schools)

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