

**IASB POLICY REFERENCE MANUAL
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School Board

Board Member Qualifications ¹

A School Board member must be, on the date of election or appointment, a United States citizen, at least 18 years of age, a resident of Illinois and the District for at least one year immediately preceding the election, and a registered voter.

Reasons making an individual ineligible for Board membership include holding an incompatible office, certain types of State or federal employment, and conviction of an infamous crime.^{2 3} A child sex offender, as defined in State law, is ineligible for School Board membership.⁴

LEGAL REF.: Ill. Constitution, Art. II, §1; Art. IV, §2(e); Art. VI, §13(b).
105 ILCS 5/10-3 and 5/10-10.

CROSS REF.: 2:30 (School District Elections), 2:70 (Vacancies on the School Board - Filling Vacancies)

The footnotes should be removed before the material is used.

¹ State law controls this policy's content. Election qualifications are found in 105 ILCS 5/10-3 and 5/10-10. Except for possible residency requirements, there are no general eligibility qualifications for appointment to a board; this sample policy, however, applies the election qualifications to appointments. This is possible because the board controls the appointment process. See sample board policy 2:70, *Vacancies on the School Board - Filling Vacancies*. Boards may describe additional residency requirements, if any, in the following optional sentence:

On the date of election or appointment, Board members must also meet the following residential requirement: *[insert]*.

105 ILCS 5/10-10 allows a board to appoint a student to the board to serve in an advisory capacity for a term the board determines. The student may not vote or attend any closed board meeting. A board that desires to appoint a student member may include this paragraph at the end of this policy, adding the manner in which the student member is selected as appropriate:

The Board will annually appoint a student member to serve in an advisory capacity. The student member will not have any voting privileges and may not attend executive sessions of the Board.

² Prohibitions on simultaneously holding more than one public office, known as the doctrine of incompatibility of offices, arise from the constitutional concept of separation of offices. Appellate decisions have held that incompatibility arises if the duties of one office would necessarily prevent the office holder from faithfully performing all the duties of the other office. Express statutory prohibitions involving a school board member and another office are rare but do exist. For example, a school trustee may not also be a board member. 105 ILCS 5/10-3 and 5/10-10. Dual office holding is discussed in the Ill. Council of School Attorneys' publications, *Answers to FAQs, Conflict of Interest and Incompatible Offices*, www.iasb.com/law/COI_FAQ.pdf, and *Answers to FAQs, Vacancies on the Board of Education*, www.iasb.com/law/vacancies.cfm.

³ Individuals who have been or are convicted of an infamous crime are ineligible for board membership. 105 ILCS 5/10-11. In *People ex rel. Lyons, et al. v. Parker*, 2012 WL 7005827 (3rd Dist. 2012), a potential school board candidate had two felony convictions; the trial court allowed the State's quo warranto action barring him from running for the school board and the appellate court affirmed the decision. Examples of an infamous crime include, not are not limited to, any felony, bribery, and perjury. *Id.*; 5 ILCS 280/1. Consult with the board attorney regarding other possible infamous crimes.

⁴ 105 ILCS 5/10-3 and 5/10-10. The definition of child sex offender is found in 720 ILCS 5/11-9.3 and is contained in sample administrative procedure 8:30-AP, *Definition of Child Sex Offender*.

School Board

Board Member Removal from Office ¹

If a majority of the School Board determines that a Board member has willfully failed to perform his or her official duties, it may request the Regional Superintendent to remove such member from office. ²

LEGAL REF.: 105 ILCS 5/3-15.5.

CROSS REF.: 2:70 (Vacancies on the School Board - Filling Vacancies)

The footnotes should be removed before the material is used.

¹ State or federal law controls this policy's content.

² Neither the voters nor the board has the authority to recall or remove a board member from office. The Regional Superintendent has the power to remove any board member from office for willful failure to perform official duties. 105 ILCS 5/3-15.5. The "majority of the board" requirement in this policy has no legal significance other than being standard operating procedure. The Regional Superintendent may act on his or her initiative.

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

A *quo warranto* action is a rarely used method to remove a board member from office. This type of lawsuit is generally used to remove someone who holds office unlawfully, among other things. 735 ILCS 5/18-101. These actions are generally brought by the Ill. Atty. Gen. (AG) or the appropriate State's Attorney. If neither of them brings the suit, it may be brought by a plaintiff after (1) he or she requests the AG and State's Attorney to bring a quo warranto lawsuit, (2) they fail to do it, and (3) the circuit court with jurisdiction grants permission for the plaintiff to file the lawsuit (see the Niekamp case below). After receiving a court's permission to bring the suit, a plaintiff must post a bond when filing the proceeding. If the lawsuit is unsuccessful, the plaintiff must pay the defendant's attorney fees and costs. Depending upon the violation, the law allows the court to impose a \$25,000 fine or remove the board member from office. Notable cases involving quo warranto actions against school board members in Illinois include:

1. Ballard v. Niekamp, 961 N.E.2d 288 (Ill. App. Ct. 2011) (affirming the ousting of a school board member for holding an incompatible office; the fellow school board members brought a quo warranto action asking the court to remove him from the school board).
2. People ex rel. Lyons, et al. v. Parker, 2012 WL 7005827 (Ill. App. Ct. 2012) (potential school board candidate had two felony convictions; the trial court allowed the State's quo warranto action barring him from running for the school board and the appellate court affirmed the decision); Parker v. Lyons et al., 940 F.Supp.2d 832 (C.D. Ill. 2013) (the court granted defendants' motion to dismiss in part and denied it in part related to certain federal claims); Parker v. Illinois, 569 U.S. 933 (2013) (petition for writ of certiorari to the U.S. Supreme Court, denied).

School Board

Communications To and From the Board ¹

The School Board welcomes communications from staff members, parents/guardians, students, and community members. Individuals may submit questions or communications for the School Board’s consideration to the Superintendent or may use the electronic link to the Board’s email address(es) posted on the District’s website.² The Superintendent or designee shall: ³

The footnotes should be removed before the material is used.

¹ State law controls portions of this policy but does not require a policy on any topic covered.

An alternative to the opening sentence follows: “The School Board welcomes communications from the school community.”

² School districts that maintain an Internet website, other than a social media or social networking website, must post a “mechanism, such as a uniform single email address, for members of the public to electronically communicate with elected officials.” 50 ILCS 205/20. The sample policy’s default language may be used even when the district provides each board member with an individual email address. The language permits every board member to read all emails sent to the electronic link. This aligns with IASB’s *Foundational Principles of Effective Governance* (www.iasb.com/conference-training-and-events/training/trainingresources/foundational-principles-of-effective-governance/) because all members receive the same information and communications as illustrated below:

- a. When the district provides individual email addresses to board members, it can post a hyperlink on the district home page to an email address that will forward the communication to all board members’ email addresses simultaneously.
- b. When the district does not provide individual email addresses to board members, it can post a hyperlink on the district’s home page to one email address that every board member may access.

Other ways to comply should ensure that all board members have equal access to communications. For example, posting a hyperlink on the district home page to a list of individual board member email addresses would not ensure that all board members have equal access to questions or communications for the board’s consideration.

Whenever a district provides email addresses to individual board members, all emails sent to individual email addresses are subject to disclosure under the Freedom of Information Act (FOIA). *City of Champaign v. Madigan*, 992 N.E.2d 629 (Ill. App. Ct. 2013). 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. See PAO 16-6. Consult the board attorney when searching board members’ personal email addresses and/or devices may be necessary to respond to a FOIA request.

If the district does not maintain an Internet website, delete all text in the first paragraph after the word *Superintendent* and delete the entire second and third paragraphs, i.e.:

~~or may use the electronic link to the Board’s email address(es) posted on the District’s website.~~

~~The Superintendent or designee shall:~~

- ~~3. Ensure that the home page for the District’s website contains an active electronic link to the email address(es) for the School Board, and~~
- ~~4. During the Board’s regular meetings, report for the Board’s consideration all questions or communications submitted through the active electronic link along with the status of the District’s response in the Board meeting packet.~~

³ Directive #1 to the superintendent restates the statutory requirement to post a hyperlink to the email address on the district’s home page. 50 ILCS 205/20. Directive #2 is optional and adds a step to increase efficient responses to communications concerning the operation or management of the district or a school. Adding this text allows a board to (1) monitor its compliance with 50 ILCS 205/20, (2) ensure that all board members stay informed of all questions and communications to the board, (3) align with IASB’s *Foundational Principles of Effective Governance*, and (4) mirror a School Code requirement (105 ILCS 5/10-16) for the superintendent to report any FOIA requests during the board’s regular meetings along with the status of the district’s response.

Before adoption of this text, each board may want to have a conversation with the superintendent about the difference between “staff work questions or communications” that do not need to be submitted to the board and “questions or communications submitted for the school board’s consideration” that do need to be submitted to the board.

1. Ensure that the home page for the District’s website contains an active electronic link to the email address(es) for the School Board, and
2. During the Board’s regular meetings, report for the Board’s consideration all questions or communications submitted through the active electronic link along with the status of the District’s response in the Board meeting packet.

If contacted individually, Board members will refer the person to the appropriate level of authority, except in unusual situations. Board members’ questions or communications to staff or about programs will be channeled through the Superintendent’s office. Board members will not take individual action that might compromise the Board or District. There is no expectation of privacy for any communication sent to the Board or its members, whether sent by letter, email, or other means.

Board Member Use of Electronic Communications ⁴

For purposes of this section, *electronic communications* includes, without limitation, electronic mail, electronic chat, instant messaging, texting, and any form of social networking.⁵ Electronic communications among a majority or more of a Board-quorum shall not be used for the purpose of discussing District business. Electronic communications among Board members shall be limited to: ⁶ (1) disseminating information, and (2) messages not involving deliberation, debate, or decision-making. The following list contains examples of permissible electronic communications:

- Agenda item suggestions
- Reminders regarding meeting times, dates, and places
- Board meeting agendas or information concerning agenda items
- Individual emails to community members, subject to the other limitations in this policy

The footnotes should be removed before the material is used.

For districts that maintain an Internet website but do not wish to adopt Directive #2, delete Directive #2 and amend the policy as follows:

The Superintendent or designee shall ensure that the home page for the District’s website contains an active electronic link to the email address(es) for the School Board.

A public body is not required to reply to communications. Likewise, the FOIA does not require questions to be answered. *Chicago Tribune Co. v. Dept. of Financial & Professional Reg.*, 8 N.E.3d 11 (Ill. App. Ct. 2014). For more information about districts governed by a board of school directors, see f/n 6 of sample policy 2:220, *School Board Meeting Procedure*.

⁴ With some exceptions, OMA requires that a board conduct its deliberations and business during meetings that the public may attend. A meeting means “any gathering, whether in person or by video or audio conference, telephone call, electronic means (such as, without limitation, electronic mail, electronic chat, and instant messaging), or other means of contemporaneous interactive communication, of a majority of a quorum of the members of a public body held for the purpose of discussing public business or, for a five-member public body, a quorum of the members of a public body held for the purpose of discussing public business.” 5 ILCS 120/1.02. Thus, any *electronic communication* discussing district business that circulates among a majority of a quorum of the board (or majority of the Board, in case of a five-member board) may qualify as a meeting for purposes of the OMA and may be illegal. A violation of OMA is a Class C misdemeanor. 5 ILCS 120/4.

The Local Records Act (50 ILCS 205/) governs retention of district records; its definition of *public record* is more narrow than the definition in FOIA. 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. While this is a slippery slope without definitive parameters, electronic communication among board members that are permissible under this policy may generally be deleted; consult the board attorney for a more thorough analysis and a legal opinion.

⁵ The examples of *electronic communications* are optional and may be amended.

⁶ Complying with these restrictions will help avoid an OMA violation.

In accordance with the Open Meetings Act and the Oath of Office taken by Board members, individual Board members will not (a) reply to an email on behalf of the entire Board, or (b) engage in the discussion of District business through electronic communications with a majority of a Board-quorum.⁷

LEGAL REF.: 5 ILCS 120/, Open Meetings Act.
50 ILCS 205/20, Local Records Act.

CROSS REF.: 2:220 (School Board Meeting Procedure), 3:30 (Chain of Command), 8:110 (Public Suggestions and Concerns)

The footnotes should be removed before the material is used.

⁷ The oath of office in 105 ILCS 5/10-16.5 requires board members to swear or affirm that they “shall recognize that a board member has no legal authority as an individual and that decisions can only be made by a majority vote at a public board meeting.” Deliberations of the board must be conducted openly; a meeting occurs whenever a majority of a quorum discusses public business; meetings must occur at a properly noticed board meeting that is open to the public. 5 ILCS 120/1, 1.02, and 2. For additional information, see f/ns above and sample exhibit 2:140-E, *Guidance for Board Member Communications, Including Email Use*.

School Board

Exhibit - Guidance for Board Member Communications, Including Email Use¹

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

Communications Between or Among Board Members and/or the Superintendent Outside of a Properly Noticed Board Meeting

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

The footnotes should be removed before the material is used.

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

When Must the Electronic Communications Sent or Received by Individual Board Members Be Disclosed Pursuant to a Freedom of Information Act (FOIA) Request?

An electronic communication must be disclosed if it is a *public record* as defined by FOIA, unless a specific exemption applies. A public record is any recorded information “pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of any public body.” 5 ILCS 140/2. Email sent or received by an individual Board member may be, depending on the content and circumstances, subject to disclosure as a *public record* (unless a FOIA exemption is applicable).

If a Board member uses a District-provided device or email address to discuss public business, the email is subject to disclosure under FOIA, barring an applicable exemption. If a Board member uses a private device and email address, the communication is subject to FOIA if it satisfies this test:

First, the communication pertains to the transaction of public business, and

Second, the communication was: (1) prepared by a public body, (2) prepared for a public body, (3) used by a public body, (4) received by a public body, (5) possessed by a public body, and/or (6) controlled by a public body.

This test is from the appellate court decision in City of Champaign v. Madigan, 992 N.E.2d 629 (Ill. App. Ct. 2013).

The following *examples* describe FOIA’s treatment of electronic communications:

1. If an electronic communication does not pertain to public business, it is not a public record and is not subject to a FOIA request.
2. An electronic communication pertaining to public business that is:
 - a. Sent and/or received by an individual Board member using a personal electronic device and personal email address while he or she is at home or work would not be a public record. Individual Board members, alone, cannot conduct school District business. As stated earlier, emails among a majority or more of a Board-quorum violate OMA and, thus, are subject to disclosure during proceedings to enforce OMA.
 - b. Sent and/or received by an individual Board member on a District-issued device or District-issued email address **will be a public record** and subject to FOIA. The electronic communication is under the control of the District.
 - c. Received by an individual Board member on a personal electronic device and then forwarded by the Board member to a District-owned device or server **will be a public record** and subject to FOIA. The electronic communication is under the control of the District.
 - d. Received by an individual Board member using a personal electronic device and personal email address, and then forwarded by the Board member to enough members to constitute a majority or more of a Board-quorum **will be a public record** and subject to FOIA. The electronic communication is in the District’s possession.
 - e. Either sent to or from a Board member’s personal electronic device during a Board meeting **will be a public record** and subject to FOIA. The electronic communication is in the District’s possession because Board members were functioning collectively as a public body.

The District’s Freedom of Information Officer and/or Board Attorney will help determine when a specific communication must be disclosed pursuant to a FOIA request.

When Must Electronic Communications Be Retained?

Email that qualifies under FOIA as a *public record* will need to be stored pursuant to the Local Records Act (LRA), only if it is evidence of the District's organization, function, policies, procedures, or activities or contains informational data appropriate for preservation. 50 ILCS 205/. An example is any email from a Board officer concerning a decision made in his or her capacity as an officer. If a Board member uses his or her personal email, he or she must copy this type of email to the appropriate District office where it will be stored. If made available, Board members should use their email accounts provided by the District, and the District will automatically store the official record messages. The District will delete these official record messages as provided in an applicable, approved **retention schedule**. Of course, email pertaining to public business that is sent or received by a Board Member using a District-issued device or email address will be subject to FOIA, even if the email does not need to be retained under the LRA.

Important: Do not destroy any email concerning a topic that is being litigated without obtaining the Board attorney's direction. In federal lawsuits, there is an automatic discovery of virtually all types of electronically created or stored data that might be relevant. Attorneys will generally notify their clients at the beginning of a legal proceeding not to destroy any electronic records that might be relevant. This is referred to as a litigation hold. For more discussion of a *litigation hold*, see 2:250-AP2, *Protocols for Record Preservation and Development of Retention Schedules*. In addition, any person who knowingly with the intent to defraud any party destroys, removes, or conceals any public record commits a Class 4 felony. 50 ILCS 205/4.

School Board

Administrative Procedure - Superintendent Committees

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

Communicable and Chronic Infectious Disease Program Task Force

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

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

Communicable and Chronic Infectious Disease Review Team

This review team monitors those employees and students who have a communicable and chronic infectious disease, and:

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

Team members may include the District's medical advisor, a school nurse, the Building Principal, and the Superintendent or designee.²

The footnotes should be removed before the material is used.

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

² The team members listed align with joint guidance of the Ill. State Board of Education (ISBE) and the Ill. Dept. of Public Health. See www.isbe.net/Pages/Special-Education-Administrators.aspx.

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

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

Anaphylaxis Prevention, Response, and Management Committee

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

Committee members may include District-level administrators, Building Principals, the District Safety Coordinator (see 4:170-AP1, *Comprehensive Safety and Security Plan, Part C, District Safety Coordinator and Safety Team; Responsibilities*), District 504 Coordinator (see policy 6:120, *Education of Children with Disabilities*), staff members, parents/guardians, community members, and students.

Employee Substance Abuse Prevention Committee

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

1. Cooperates with community and State agencies on substance abuse programs.
2. Gathers information about substance abuse and suggests methods to disseminate it to employees.
3. Develops a support network that encourages employees to self-refer for treatment and suggests procedures for early identification and treatment.
4. Recommends procedures that would protect the privacy of employees while taking into consideration any directives from the Board to the Superintendent regarding the District's obligation to provide a safe environment and to ensure high-quality performance, which may include but not be limited to:
 - a. Securing training for designated district employees to educate them to identify symptoms of being impaired by or under the influence of substances prohibited by policy. For guidance about what impaired by or under the influence of means, see:
 - i. Footnote discussions in numbers five and six in policy 5:50, *Drug- and Alcohol-Free Workplace; E-Cigarette, Tobacco, and Cannabis Prohibition*;
 - ii. 625 ILCS 5/11-501.2 and 5/11-501.9, amended by P.A. 101-27 (chemical and other tests, validity, etc., a/k/a *field sobriety tests*);
 - iii. 410 ILCS 705/10-50(d), added by P.A. 101-27 ("An employer may consider an employee to be impaired or under the influence of cannabis if the employer has a *good faith belief* that an employee manifests specific, articulable symptoms while working that decrease or lessen the employee's performance of the duties or tasks of the employee's job position, including symptoms of the employee's speech, physical dexterity, agility, coordination, demeanor, irrational or unusual behavior, or negligence or carelessness in operating equipment or machinery;

disregard for the safety of the employee or others, or involvement in any accident that results in serious damage to equipment or property; disruption of a production or manufacturing process; or carelessness that results in any injury to the employee or others.”) (Note: Consult the Board Attorney about identifying cannabis use); and

- iv. Professional development opportunities in the area, e.g., local law enforcement agencies may be a place to begin.
- b. Implementing a reasonable suspicion and/or drug testing³ program(s) to enhance the District’s ability to identify and discipline employees suspected of being impaired by and/or under the influence of prohibited substances. **Note:** Consult the Board Attorney before implementing any drug-testing program(s) or disciplining employees based upon the results of these programs. Drug testing will likely assist the District with the challenges of identifying cannabis-related issues, but the science behind impairment identification and behavioral testing for cannabis impairment is new and emerging.
- c. Addressing expectations for employees in positions of leadership who are perpetually on call⁴ due to the nature of their positions and responsibilities.
- d. Holding licensed educators to a higher standard than non-licensed employees due to their professional code of conduct expectations.
- e. Holding employees working directly with students to a higher standard than employees not working directly with students.
- f. Recommends a method to explicitly inform employees of the consequences of violating the District’s policy.
- g. Recommends best practices for discipline of employees who are suspected of violating or are violating the District’s policy. ⁵

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

Pandemic Planning Team

This team builds a strong relationship with the local health department and emergency medical agencies and uses their assistance to develop and implement a comprehensive pandemic influenza

The footnotes should be removed before the material is used.

³ The best practice for ensuring the strongest defense when disciplining an employee for undertaking tasks while being impaired by and/or under the influence of prohibited substances is a confirmed, positive, drug test used in combination with reasonable suspicion of impairment. Drug testing may be cost prohibitive and disruptive for school districts while also presenting several other legal considerations, including possible collective bargaining implications upon request by the employee representative. For example, while the Americans with Disabilities Act allows the results of such tests to be used as the basis for disciplinary action (42 U.S.C. §12114; 29 C.F.R. §1630.16(c)), drug tests may still violate other laws, e.g., Title VI and the Rehabilitation Act (42 U.S.C. §2000e *et seq.*; and 29 U.S.C. §701 *et seq.*). Identifying and disciplining employees for cannabis use on a drug test alone may present a unique set of challenges because cannabis can remain in a person’s system for weeks.

⁴ See f/n 3 of sample policy 5:50, *Drug- and Alcohol-Free Workplace; E-Cigarette, Tobacco, and Cannabis Prohibition*.

⁵ Consult the board attorney regarding any disciplinary action explored for employees based solely on a positive cannabis test result. Employee discipline is an item on which collective bargaining may be required.

school action plan and build awareness of the final plan among staff, students, and the community. See policy 4:180, *Pandemic Preparedness; Management; and Recovery*, and its procedures.

Team members may include one or two Board members, administrators, and staff members. It reports directly to the Superintendent or designee.

Sex Equity Committee

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

School Violence Prevention Team

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

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

All Building Principals or their designees must serve on this team.⁶ Other team members may include the District Safety Coordinator (see procedure 4:170-AP1, *Comprehensive Safety and Security Plan, Part C, District Safety Coordinator and Safety Team; Responsibilities*), law enforcement representatives, Board Attorney, District psychologist(s), mental health workers and/or social service agencies, faith leaders, community members, and students. It reports directly to the Superintendent or designee.

Transitional Bilingual Education (TBE) Programs Parent Advisory Committee⁷

This committee is required. The committee maximizes the practical involvement of parents/guardians of students in the District's TBE program(s). Its purpose is to:

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

All Building Principals or their designees serve on this team.⁸ Other committee members must include parents/guardians of students enrolled in the District's TBE program(s), transitional bilingual education teachers, counselors, and representatives from community groups. A majority of the

The footnotes should be removed before the material is used.

⁶ Including building principals on this team aligns with administrative procedure 4:190-AP1, *Targeted School Violence Prevention Program*, which provides that "Building Principals are mandatory for successful implementation" of a Targeted School Violence Prevention Plan.

⁷ 105 ILCS 5/14C-10.

⁸ Optional. If building principals do not serve on this committee and the district deletes this sentence, amend the next sentence's introductory words as follows: "~~Other~~ Committee members must include ...".

committee members (or if the District has multiple committees, each committee) must be parents/guardians of students enrolled in the District's TBE program(s).⁹

This committee must elect officers, establish internal rules, guidelines, and procedures.¹⁰ It reports directly to the Superintendent or designee.

Title I Parent Advisory Committee

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

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

Committee members include parents/guardians and family members of Title I children.¹¹ It reports directly to the Superintendent or designee.

PERA (Performance Educational Reform Act) Joint Committee and the RIF (Reduction in Force) Joint Committee¹²

Each committee listed below is required until its function has been fulfilled.

1. **PERA joint committee.** This mandatory committee develops a plan for incorporating data and indicators of student growth into the evaluation plan. The joint committee is "composed of equal representation selected by the district and its teachers, or where applicable, the exclusive bargaining representative of its teachers." 105 ILCS 5/24A-4(b). If, within 180 calendar days of the committee's first meeting, the committee does not reach an agreement on the plan, the District must implement ISBE's model evaluation plan with respect to the use of data and indicators on student growth. The amendment of an evaluation plan continues to be a mandatory subject of bargaining. This committee also agrees to the panel of qualified evaluators that reviews appeals of unsatisfactory performance ratings and determines the criteria for successful appeals.¹³ 105 ILCS 5/24A-5.5. This committee must also establish: (a) a teacher evaluation plan that ensures that each tenured teacher whose performance is rated as either excellent or proficient is evaluated at least once in the course of the three school years after receipt of the rating, and (b) implement

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⁹ 105 ILCS 5/14C-10.

¹⁰ *Id.*

¹¹ Inclusion of parents/guardians and family members of Title I children on this committee aligns with 20 U.S.C. §6318(a)(2)(A), which requires a district to involve them in the joint development of a district's plan to help low-achieving children meet challenging achievement and academic standards, and in the development of comprehensive and targeted support and improvement plans.

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

¹³ The PERA joint committee does not determine what rating will be issued to replace an unsatisfactory rating in the event of a successful appeal; that issue must be collectively bargained. 105 ILCS 5/24A-5.5.

an informal teacher observation plan established by ISBE rule and by agreement of this committee to ensure that each tenured teacher in this category is at least informally observed at least once in the course of the two school years after receipt of the excellent or proficient rating. 105 ILCS 5/24A-5, amended by P.A. 102-252.

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

Concussion Oversight Team ¹⁴

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

Wellness Committee ¹⁵

The Wellness Committee includes at least one representative from each of the following groups: parents, students, representatives of the school food authority, teachers of physical education, school health professionals, a member of the Board,¹⁶ school administrators,¹⁷ and members of the community. Individuals of this committee will participate in the development, implementation, periodic reviews, and updates of policy 6:50, *School Wellness*. 7 C.F.R. §210.31(d)(1).

The footnotes should be removed before the material is used.

¹⁴ 105 ILCS 5/22-80(d).

¹⁵ Establishing a wellness committee is optional; if established, it should be listed here, or delete it if the board has not directed the superintendent to convene a wellness committee in policy 6:50, *School Wellness*. See f/n 27 in sample policy 6:50, *School Wellness*. The preamble to 7 C.F.R. §210.31(d)(1) suggests one method to comply with the rules is by: “identifying individuals” to serve on a “local school wellness policy committee.” However, the final text of 7 C.F.R. §210.31(d)(1) does not specifically require districts to establish a local school wellness policy committee – only that they “permit [groups listed in the procedure above] to participate ...”.

¹⁶ See f/n 1 above. As much of the work of developing a plan to involve local stakeholders is administrative/staff work rather than governance work, the best practice is to have a wellness committee be an administrative committee, but consult the board attorney for guidance about the application of OMA when three or more board members serve on this committee.

¹⁷ If a board wants to comply with the U.S. Dept. of Agriculture’s encouragement to include Supplemental Nutrition Assistance Program Education (SNAP-ED) coordinators or educators in the group to provide input about the wellness policy, insert: “Supplemental Nutrition Assistance Program Education (SNAP-ED) coordinators, educators.” immediately before: “, and members of the community.”

Children’s Advocacy Center Communication Committee ¹⁸

This committee supports the implementation of the Alleged Incidents of Sexual Abuse; Investigations subhead of policy 5:90, *Abused and Neglected Child Reporting*. It includes the District Nondiscrimination Coordinator, District Safety Coordinator, and at least one representative from each of the following groups: District-level administrators, Building Principals, school personnel, and employees from the accredited Children’s Advocacy Center (CAC) that serves the District. The CAC Communication Committee reports directly to the Superintendent or designee. See policy 5:90, *Abused and Neglected Child Reporting*, and administrative procedure 5:90-AP, *Coordination with Children’s Advocacy Center*.

Educational Technology Committee ¹⁹

This committee supports the implementation of policy 7:345, *Use of Educational Technologies; Student Data Privacy and Security*. Committee members may include the Head of Information Technology, District-level administrators, Building Principals, and teachers. See administrative procedure 7:345-AP, *Use of Educational Technologies; Student Data Privacy and Security*.

This committee also supports the District’s submission of an annual report to ISBE regarding educational technology capacities and policies. ²⁰

Remote Learning Committee ²¹

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

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

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

The footnotes should be removed before the material is used.

¹⁸ Establishing a Children’s Advocacy Center (CAC) communication committee is optional and only applies to school districts within a county served by an accredited CAC. See f/n 13 in sample policy 5:90, *Abused and Neglected Child Reporting*, and sample administrative procedure 5:90-AP, *Coordination with Children’s Advocacy Center*.

¹⁹ Establishing an Educational Technology Committee is optional. The Student Online Personal Protection Act (SOPPA), 105 ILCS 85/, centralizes decision making about what K-12 online sites, services, and applications will be used in schools by requiring boards to adopt a policy for designating which district employees are authorized to enter into agreements with *operators* who collect personally identifiable information about students. See sample policy 7:345, *Use of Educational Technologies; Student Data Privacy and Security*, and sample administrative procedure 7:345-AP, *Use of Educational Technologies; Student Data Privacy and Security*. See <https://lrc.illinois.tfaforms.net/f/FY23TechSurvey>.

²⁰ 105 ILCS 5/10-20.74. The sample policies that apply to this submission include, but are not limited to: 4:10, *Fiscal and Business Management*; 5:125, *Personal Technology and Social Media; Usage and Conduct*; 6:220, *Bring Your Own Technology (BYOT) Program; Responsible Use and Conduct*; 6:230, *Library Media Program*; 6:235, *Access to Electronic Networks*; and 7:345, *Use of Educational Technologies; Student Data Privacy and Security*.

²¹ Establishing this committee is optional. 105 ILCS 5/10-30, requires “the district to adopt a remote and blended remote learning day plan approved by the district superintendent” when certain emergency conditions exist that are related to the management of a public health emergency under the Ill. Emergency Management Act. See f/n 1 in sample administrative procedure 6:20-AP, *Remote and/or Blended Remote Learning Day Plan(s)*. A committee can assist the superintendent to ensure all the statutory requirements for implementing, monitoring, and amending the plan are met.

Time Out and Physical Restraint Oversight Team²²

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

1. A school district plan, including school-specific considerations,²³ for reducing and eventually eliminating the use of isolated time out, time out, and physical restraint in accordance with the goals and benchmarks established by ISBE;²⁴ and
2. Procedures to implement the plan and make the plan available for review by parents/guardians.

The Team also supported the District's submission to ISBE of the plan by July 1, 2022, and of progress reports annually thereafter through July 1, 2024, as well as notification to parents/guardians when plans and progress reports are available for review.

The footnotes should be removed before the material is used.

²² 105 ILCS 5/2-3.130(e), added by P.A. 102-339, requires boards to create a Time Out and Physical Restraint Oversight Team. As this is administrative/staff work rather than governance work, the best practice is to have the team be an administrative committee but consult the board attorney for guidance.

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

A plan is required unless a district can show that it: (1) has not used physical restraint, time out, and isolated time out (RTO) within the previous three years, (2) has adopted a policy prohibiting the use of RTO, and (3) enforces the policy. 105 ILCS 5/2-3.130(f); 23 Ill.Admin.Code §1.285(1)(1)(B). Consult the board attorney to determine if a team is required for a district; a team may still be required by law even if no plan is required.

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

²⁴ ISBE's initial goal is for a 25% reduction in the use of RTO over a 12-month period for students experiencing five-plus instances in a 30-day period. ISBE intends to periodically revise this goal in order to systemically reduce and eventually eliminate the use of RTO. See www.isbe.net/Pages/restraint-time-out.aspx for further information, including ISBE's *RTO Reduction Plan Directions and Checklist*, and *Reduction Plan Submittal Template*.

School Board

Administrative Procedure - Qualification Based Selection

These procedures describe how the District will procure architectural, engineering, and land surveying services; the Local Government Professional Services Selection Act will control in the event of a conflict. 50 ILCS 510/. The Superintendent will modify these procedures whenever the School Board determines by resolution that an emergency exists and a firm must be selected in an expeditious manner, or the cost of architectural, engineering, and land surveying services for the project is expected to be less than \$40,000. 50 ILCS 510/8. Effective January 1, 2019, this amount increases annually by a percentage equal to the annual unadjusted percentage increase, if any, as determined by the consumer price index published by the U.S. Department of Labor Bureau of Labor Statistics for all urban consumers (CPI-U), available at: www.bls.gov/regions/new-england/data/consumerpriceindex_us_table.htm.

Actor	Action
Architectural, engineering, or land surveying firms	May annually file a statement of qualifications and performance data with the District. 50 ILCS 510/4.
Superintendent and/or designee	<p>Store statements of qualifications and performance data received from firms engaged in architectural, engineering, or land surveying services.</p> <p>Unless the District has a satisfactory relationship for services with one or more firms, request a statement of interest in the specific project utilizing <i>one or more</i> of the following methods:</p> <ol style="list-style-type: none"> 1. Mail or email notices of the proposed project to firms that have current statements of qualifications and performance data on file. 2. Advertise in a daily newspaper of general circulation in the District. The advertisement must request a statement of qualifications and performance data from those firms which do not have a statement on file with the District, and must state the day, hour, and location that the statements of interest and qualifications and performance data are due. 3. Advertise on the District’s website. The advertisement must include a description of the project and state the time and place for interested firms to submit their letters of interest and statements of qualifications and performance data, as required. 50 ILCS 510/4. <p>Unless the District has a satisfactory relationship for services with one or more firms, evaluate the firms that submitted interest letters, according to criteria for ranking described in the last section of this procedure. The Superintendent or designee may conduct discussions with and require public presentations by firms deemed to be the most qualified regarding their qualifications, approach to the project, and ability to furnish the required services. 50 ILCS 510/5.</p> <p>Do not, prior to selecting a firm for contract negotiation, seek formal or informal submission of verbal or written estimates of costs or proposals</p>

Actor	Action
	<p>in terms of dollars, hours required, percentage of construction cost, or any other measure of compensation. 50 ILCS 510/5.</p> <p>Select no less than three firms, who would be most qualified to provide services, and rank them in order of their qualifications. If fewer than three firms submit interest letters and the Board determines that one or both of those firms are so qualified, negotiate a contract as provided herein. 50 ILCS 510/6.</p> <p>Attempt to negotiate a contract at a fair and reasonable compensation, taking into account the estimated value, scope, complexity, and professional nature of the services to be rendered. 50 ILCS 510/5.</p> <p>If unable to agree on a satisfactory contract, terminate negotiations and proceed to negotiate with the firm ranked next in qualifications. 50 ILCS 510/5.</p> <p>If unable to negotiate a satisfactory contract with any of the three originally-selected firms, inform the Board. The District will re-evaluate the services requested, compile a second list of not less than three qualified firms, and continue the process. 50 ILCS 510/5.</p>

Criteria for Ranking Firms

Unless the District has a satisfactory relationship for services with one or more firms, the criteria for evaluating the firms submitting letters of interest may include, but are not limited to:

Required Criteria for Consideration (50 ILCS 510/5)

- Qualifications and ability of professional personnel
- Past record and experience
- Performance data
- Acceptance of District's time and budget requirements
- Location of firm's administrative offices
- Workload

Permissive Criteria for Consideration

- Firm's credit rating
- Firm's financial stability
- Reputation
- Technological resources

LEGAL REF.: 50 ILCS 510/, Local Government Professional Services Selection Act.
105 ILCS 5/10-20.21.

School Board

Exhibit - Written Request for District Public Records

All requests to inspect and/or to obtain a copy of a District record must be made in writing. This form is provided for convenience – its use is not required. Please submit all requests to the District’s Freedom of Information Act (FOIA) Officer. Copying fees, if any, must be paid before copies will be provided. The FOIA Officer can give you an estimate of the copying fees, if any.

Name of individual(s) requesting District records	Email address
Address	Telephone number
City	State
Zip	Date of request

Please check if this request of records is being made for a commercial purpose. 5 ILCS 140/2(c-10) states: “*Commercial purpose* means the use of any part of a public record or records, or information derived from public records, in any form for sale, resale, or solicitation or advertisement for sales or services. For purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered to be made for a *commercial purpose* when the principal purpose of the request is (i) to access and disseminate information concerning news and current or passing events, (ii) for articles of opinion or features of interest to the public, or (iii) for the purpose of academic, scientific, or public research or education.” 5 ILCS 140/3.1(c) states: “It is a violation of [FOIA] for a person to knowingly obtain a public record for a commercial purpose without disclosing that it is for a commercial purpose, if requested to do so by the public body.”

Please check if a fee waiver or reduction is being requested. 5 ILCS 140/6(c) states: “Documents shall be furnished without charge or at a reduced charge, as determined by the public body, if the person requesting the documents states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest. Waiver or reduction of the fee is in the public interest if the principal purpose of the request is to access and disseminate information regarding the health, safety and welfare or the legal rights of the general public and is not for the principal purpose of personal or commercial benefit.”

Please indicate your reason for requesting a fee waiver: _____

Check if you are requesting:

Record description <i>(Please be specific)</i>	Electronic Copy <i>(Specify format)</i>	Inspection	Copy

School Board

Exhibit - Immediately Available District Public Records and Web-Posted Reports and Records ¹

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

The District’s Freedom of Information Officer designates the public records that are listed in this table as being immediately available to the public. The records that are asterisked (*) are posted on the District’s website and may be immediately inspected, downloaded, printed, and/or copied. Any asterisked public record is also immediately available for inspection or copying upon request at the District’s administrative office during its regular business hours, provided any applicable fees are paid. Records not asterisked (*) will be provided within five business days as allowed by the Freedom of Information Act, provided any applicable fees are paid.

Web-posted records and information (use of an * is explained in the paragraph above this table)	Web-posting statutory reference and special instructions
<p>*Annual schedule of regular meetings for the current school year that are posted at the beginning of each calendar or fiscal year</p> <p>*Public notice of each Board meeting that is posted at least 48 hours before the meeting and remains posted until the meeting is concluded</p> <p>*Agenda of each regular meeting that is posted at least 48 hours before a meeting and remains posted until the meeting is concluded</p> <p>Note: For school districts that do not post board meeting notices and/or agendas on a website (because they do not have a website maintained by a full-time staff member), the notice and agenda must be continuously available for public review during the entire 48-hour period preceding</p>	<p>5 ILCS 120/2.02.</p>

The footnotes should be removed before the material is used.

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

Districts may respond to a FOIA request for a public record published on the district website by directing the requester to the website. However, if the requester is unable to reasonably access the record, the requester may re-submit his or her request, and the district must then make the record available for inspection and copying. See 5 ILCS 140/8.5; see also reference in Ill. Public Access Counselor binding opinion 10-1. Consult the board attorney for ideas to manage the district’s specific FOIA compliance issues.

Web-posted records and information (use of an * is explained in the paragraph above this table)	Web-posting statutory reference and special instructions
the meeting	
*Official open meeting minutes that are posted within 10 days of the Board's approval and remain posted for at least 60 days (required if the District has a website maintained by a full-time staff member)	5 ILCS 120/2.06(b).
<p>*Description of the District and its records including:</p> <ol style="list-style-type: none"> 1. Summary of the District's purpose 2. Functional subdivisions 3. Total amount of operating budget 4. Number and location of all of its separate offices 5. Approximate number of full- and part-time employees (see also, salary and benefits information report for the Superintendent, administrators, and teachers, District's Statement of Affairs) 6. Identification and membership of the Board 7. Brief description of the methods whereby the public may request information and public records 8. Directory information for the Freedom of Information Officer 9. Address where requests for public records should be directed 10. Fees 	<p>5 ILCS 140/4.</p> <p>The District must prominently post the list at each administrative office and make it available for inspection and copying.</p>
*A hyperlink to an email address(es) for members of the public to communicate with members of the Board	<p>50 ILCS 205/20.</p> <p>The hyperlink must be easily accessible from the District's home page.</p>
Annual budget for current fiscal year, itemized by receipts and expenditures	<p>105 ILCS 5/17-1.2.</p> <p>This may be accomplished using the Ill. State Board of Education (ISBE) <i>School District Budget Form</i> (50-36) or the summary pages from it. ²</p> <p>The District must notify its students' parents/guardians when the budget is web-posted along with its website address.</p>

The footnotes should be removed before the material is used.

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

Web-posted records and information (use of an * is explained in the paragraph above this table)	Web-posting statutory reference and special instructions
*Notice of a public hearing under the Truth in Taxation Law, when applicable (required if the District has a website maintained by a full-time staff member)	35 ILCS 200/18-75. The notice must be posted not more than 14 days nor less than seven days prior to the date of the public hearing. <i>Id.</i> at 18-80.
*Notice of public hearing on waiver or modification of a School Code mandate, when applicable	105 ILCS 5/2-3.25g(c-5). The time, date, place, and general subject matter of the public hearing must be posted least 14 days prior to the hearing. If the District is requesting to increase the fee charged for driver education authorized pursuant to 105 ILCS 5/7-24.2, the website information must include the proposed amount of the fee the district will request. See 2:20-E, <i>Waiver and Modification Request Resource Guide</i> .
*District Report Card and a Report Card for each School (the Report Cards will be provided by ISBE by Oct. 31 of each year, unless otherwise provided by law)	105 ILCS 5/10-17a, amended by P.A.s 102-16 and 102-539. Annually, no more than 30 calendar days after receiving the Report Cards from the State Superintendent, the District must: (1) present them at a regular Board meeting, (2) post them 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 District also must send a written notice home to parents/guardians stating: (1) that the Report Cards are available on the website, (2) the website's address, (3) that a printed copy will be sent upon request, and (4) the telephone number to request a printed copy. <i>Id.</i>
*The District's discipline plan and progress on the plan, in the event the District is identified by ISBE to be in the top 20% (for three consecutive years) of districts for out-of-school suspensions, out-of-school expulsions, or racial disproportionality in the use of out-of-school suspensions and expulsions	105 ILCS 5/2-3.162. If the District is required to submit a plan to ISBE, it must be approved at a public board meeting and posted on the District's website. Within one year after being identified by ISBE, the District must submit to ISBE and post on its website a progress report describing implementation

Web-posted records and information (use of an * is explained in the paragraph above this table)	Web-posting statutory reference and special instructions
	of the plan and the results achieved.
*A list of all contracts in excess of \$25,000 and any contracts with an exclusive bargaining representative	105 ILCS 5/10-20.44. There is no statutory timeline for web-posting. Each year, in conjunction with the submission of the Statement of Affairs to ISBE, before Dec. 1, the District must submit to ISBE an annual report on all contracts over \$25,000 awarded during the previous fiscal year.
*Contract(s) with any commercial driver training school(s) for driver education	105 ILCS 5/27-24.2. The District is required to web-post this document if it has a website. If the District has no website, it must make the contract available upon request.
Annual Statement of Affairs	105 ILCS 5/10-17. The District is not required to web-post this document. It must, annually by Dec. 1, submit the Statement to ISBE for posting on ISBE’s website, have copies of the Statement available in the main administrative office, and publish a summary of the Statement in a newspaper of general circulation published in the District.
*Fiscal Efficiency Report, summarizing the District’s attempts to improve fiscal efficiency through shared services or outsourcing in the prior fiscal year	105 ILCS 5/17-1.1, amended by P.A. 102-1088. The report must be: (1) approved by the Board at an open meeting, ³ and (2) primarily in checklist form and approximately one page in length.
Beginning in levy year 2022, if the District has an aggregate property tax levy greater than \$5,000,000, it	35 ILCS 200/18-50.2, added by P.A. 102-265.

The footnotes should be removed before the material is used.

³ 105 ILCS 5/17-1.1, amended by P.A. 102-1088, specifies that the report must be approved by the board at an “open meeting that allows for public comment.” The public comment qualification is omitted here because it is redundant; all open meetings must have a period during which the public can offer comments. See sample policy 2:230, *Public Participation at School Board Meetings and Petitions to the Board*. This report is included in a district’s annual financial report as the *Report on Shared Services or Outsourcing*. See www.isbe.net/Pages/Annual-Financial-Report.aspx.

Web-posted records and information (use of an * is explained in the paragraph above this table)	Web-posting statutory reference and special instructions
<p>will make good faith efforts to electronically publish the following data from all vendors and subcontractors doing business with the District:</p> <ol style="list-style-type: none"> 1. Whether the vendor or subcontractor is minority-owned, women-owned, or veteran-owned 2. Whether the vendor or subcontractor holds a certification as a minority-owned, women-owned, or veteran-owned business as defined in 30 ILCS 575/, or if they are self-certifying; and 3. If the vendor self-certifies, whether it qualifies as a small business under federal Small Business Administration standards (See www.sba.gov/federal-contracting/contracting-guide/size-standards). 	<p>The law does not define <i>electronically publish</i>; website posting is a means of compliance. This item is not asterisked should the District choose to electronically publish the information offline.</p>
<p>*Notice of a public hearing at which the Board will consider closing a school, when applicable</p>	<p>105 ILCS 5/10-22.13. The notice of the public hearing must be provided at least 10 days prior to the hearing and include the time, date, place, and name or description of the school building that the Board is considering closing.</p>
<p>*Explanation of the data elements of <i>covered information</i>⁴ that the District collects, maintains, or discloses to any person, entity, third party, or governmental agency.</p> <p>*A description of the procedures⁵ that parents/guardians may use to carry out their rights under 105 ILCS 85/33(c)(1), (2), & (3), including the right to:</p> <ol style="list-style-type: none"> 1. Inspect and review their child’s covered information 2. Request a paper or electronic copy of their 	<p>105 ILCS 85/27(a)(1).</p> <p>The explanation of data elements of covered information must be clear and understandable by a layperson and cover the following: (1) how the District uses the covered information; (2) to whom or what entities the District discloses the covered information; and (3) for what purpose the District discloses the covered information.</p> <p>The explanation of data elements and</p>

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⁴ *Covered information* means personally identifiable information or material (PII) or information linked to PII in any media or format that is not publicly available and is any of the following: (1) created by or provided to an operator by a student or the student’s parent/guardian in the course of the student’s/guardian’s use of the operator’s site, service or application for K-12 school purposes; (2) created by or provided to an operator by an employee or agent of the District; or (3) gathered by an operator through the operation of its site, service, or application. 105 ILCS 85/5. *Operators* are entities that operate Internet websites, online services, online applications, or mobile applications that are designed, marketed, and used for K-12 school purposes. *Id.* See sample administrative procedure 7:345-AP, *Use of Educational Technologies; Student Data Privacy and Security*, for additional information regarding posting requirements under Student Online Personal Protection Act, 105 ILCS 85/, and sample exhibit 7:345-AP, E1, *Student Covered Information Reporting Form*, for a sample reporting format.

⁵ See 7:345-AP, E4, *Notice of Parent Rights Regarding Student Covered Information*. Districts may choose to, but are not required to, include a description of these procedures in a student handbook.

Web-posted records and information (use of an * is explained in the paragraph above this table)	Web-posting statutory reference and special instructions
<p>child's covered information</p> <p>3. Request corrections for factual inaccuracies contained in their child's covered information</p>	<p>description of parent rights procedures must be updated by Jan. 31 and July 31 each year, as needed.</p>
<p>*A list of operators with whom the District has written agreements and the following for each operator:</p> <ol style="list-style-type: none"> 1. Copy of the agreement 2. Business address 3. List of any subcontractors to whom covered information may be disclosed or a link to a page on the operator's website that clearly lists the subcontractors 	<p>105 ILCS 85/27(a)(2) & (3).</p> <p>The District must post new operator contracts and an explanation of the data elements of covered information disclosed to the operator (see immediate row above) within 10 business days after entering into the contract. 105 ILCS 85/27(c).</p> <p>This list must also be updated by Jan. 31 and July 31 each year, as needed.</p>
<p>*A list of <i>breaches</i> of covered information maintained by the school or an operator involving 10% or more of the District's student enrollment. The list must include:</p> <ol style="list-style-type: none"> 1. Number of students whose covered information was involved in the breach, unless the breach involved <i>personal information</i> as defined in the Personal Information Protection Act, 815 ILCS 530/5, in which case the number of students involved may not be disclosed 2. Date, estimated date, or estimated date range of the breach 3. Name of the operator, if applicable 	<p>105 ILCS 85/27(a)(5).</p> <p>The District must update breach information by Jan. 31 and July 31 each year, and it must remain on the District's website for at least five years after the District adds it to the list. Breaches that occurred (or were estimated to have occurred) prior to 7-1-21 or breaches that were posted more than five years prior to updating the current list do not need to be posted.⁶</p>
<p>*Board policy 7:180, <i>Prevention of and Response to Bullying, Intimidation, and Harassment</i></p> <p>*Information developed as a result of the evaluation and assessment of the bullying policy's outcomes and effectiveness</p>	<p>105 ILCS 5/27-23.7(b)(10) and (11).</p>
<p>*Contact information for the District's Title IX Coordinator(s) and Board policies 2:260, <i>Uniform Grievance Procedure</i>; and 2:265, <i>Title IX Grievance Procedure</i></p>	<p>34 C.F.R. §106.8.</p>
<p>*Training materials for any individuals designated as</p>	<p>34 C.F.R. §106.45(b)(10)(i)(D).</p>

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⁶ 105 ILCS 85/27(d) states that individual notification to the parent/guardian of a child whose covered information was breached may be delayed if a law enforcement agency determines that notification will interfere with a criminal investigation and provides the District with a written request for a delay of notice. This basis for delay does not specifically apply to the more general website notification of a breach, however, such a delay may also be warranted depending upon the circumstances. Consult the board attorney for guidance on this issue.

Web-posted records and information (use of an * is explained in the paragraph above this table)	Web-posting statutory reference and special instructions
Title IX Coordinator(s), investigators, decision-makers, and informal resolution facilitators	Naming only the training provider and course does not meet this requirement. The U.S. Dept. of Education (DOE) requires training materials be publicly available “so that a district’s approach to training Title IX personnel may be transparently viewed by the [district’s] educational community and the public, including for the purpose of holding a [district] accountable for using training materials that comply with [Title IX] regulations.” 85 Fed. Reg. 30254. Consult the Board Attorney regarding this requirement; making training materials of third-party consultants publicly available may violate their intellectual property rights. The DOE acknowledged the potential for intellectual property violations, suggesting that districts either “secure permission from the consultant to publish the training materials” or create their own training materials. 85 Fed. Reg. 30412.
*Board policy 7:20, <i>Harassment of Students Prohibited</i> , and age-appropriate explanations of its contents in student handbook(s)	105 ILCS 5/10-20.69. The District must have an age-appropriate policy on sexual harassment (1) in the student handbook(s), (2) posted on the District’s website, and (3) posted in any other area where policies, rules and standards of conduct are posted in each school.
*Board policy 7:290, <i>Suicide and Depression Awareness and Prevention</i>	105 ILCS 5/2-3.166, amended by P.A. 102-267.
*Contact information for the National Suicide Prevention Lifeline (988) and Crisis Text Line (Text 741741), if the District does not issue student identification cards to all students	105 ILCS 5/10-20.81, added by P.A. 102-416 and renumbered by P.A. 102-813, amended by P.A. 103-143.

Web-posted records and information (use of an * is explained in the paragraph above this table)	Web-posting statutory reference and special instructions
*Administrator and Teacher Salary and Benefits Report (itemized salary report for the Superintendent and all administrators and teachers); <i>benefits</i> includes, without limitation, vacation days, sick days, bonuses, annuities, and retirement enhancements	105 ILCS 5/10-20.47. ⁷ Annually on or before Oct. 1: (1) the information must be presented at a regular Board meeting and posted on the District’s website, and (2) after the Board meeting at which the information was presented, the Report must be provided to ISBE.
*All records pertaining to the creation, alteration or revision of school attendance areas shall be open to the public	105 ILCS 5/10-21.3. This law also requires school attendance areas to be periodically revised, if necessary, to prevent or eliminate segregation by color, race, or nationality. See Board policy 7:30, <i>Student Assignment and Intra-District Transfer</i> .
*Vacancies for teaching positions in a subject shortage area, before hiring a retired teacher to any such position	40 ILCS 5/16-150.1, amended by P.A. 102-440. The District must, on an ongoing basis, post the vacancy for a period of at least 90 days during the six months preceding either the fall or spring term for which it seeks to employ a retired teacher in a subject shortage area. This posting requirement is in effect for employment ending no later than June 30, 2024.
*Information regarding a Severance Agreement entered into because an employee or contractor was found to have engaged in sexual harassment or sexual discrimination	50 ILCS 205/3c. Within 72 hours of Board approval, the District must post: (1) the name/title of person receiving payment under the severance agreement, (2) the amount of payment, (3) that the employee or contractor was found to have engaged in sexual harassment or sexual discrimination, as applicable, and (4) the date, time, and location of the meeting at which the agreement was approved.

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⁷ 105 ILCS 5/10-20.47 does not specify whether a district must provide employee names as part of its salary and benefits report. The general practice of districts has been to include names in the report. Consult the board attorney for guidance on this issue.

Web-posted records and information (use of an * is explained in the paragraph above this table)	Web-posting statutory reference and special instructions
	<p>Note: The Government Severance Pay Act (GSPA), 5 ILCS 415/10(a)(2), prohibits an employee of a school district with contract provisions for severance pay from receiving any severance if the employee is fired by the board for <i>misconduct</i>, which includes sexual harassment and/or discrimination. <u>Id.</u> at 415/5. For more discussion about the reconciling these laws, see f/n 6 in sample policy 2:260, <i>Uniform Grievance Procedure</i>.</p>
<p>*As an employer that participates in the Ill. Municipal Retirement Fund (IMRF), a compensation report for employees who have a total compensation package that exceeds \$75,000 per year; <i>total compensation package</i> means salary, health insurance, a housing allowance, a vehicle allowance, a clothing allowance, bonuses, loans, vacation days granted, and sick days granted</p>	<p>5 ILCS 120/7.3.</p> <p>The report must be posted within six business days after the District approves a budget. The District may choose to post a physical copy of this information at its principal office in lieu of posting the information directly on the website in which case it must post directions on the website for accessing that information.</p> <p>The Ill. Attorney General’s office has not provided guidance concerning whether this requirement applies to employees who do not participate in IMRF, e.g., Teachers’ Retirement System (TRS) participants.</p>
<p>*As an employer that participates in the IMRF, a compensation report for employees who have a total compensation package that is equal to or in excess of \$150,000 per year; total compensation package means payment by the employer to the employee for salary, health insurance, a housing allowance, a vehicle allowance, a clothing allowance, bonuses, loans, vacation days granted, and sick days granted</p>	<p>5 ILCS 120/7.3.</p> <p>The report must be posted at least six days before the District approves an employee’s total compensation package that is equal to or in excess of \$150,000. The District may choose to post a physical copy of this information at its principal office in lieu of posting the information directly on the website in which case it must post directions on the website for accessing that information.</p> <p>The Ill. Attorney General’s office has not provided guidance concerning whether this requirement applies to employees who do not participate in IMRF, e.g., TRS</p>

Web-posted records and information (use of an * is explained in the paragraph above this table)	Web-posting statutory reference and special instructions
	participants.
*As an employer that participates in IMRF, a link to information posted on the IMRF website at: www.imrf.org/en/about-imrf/transparency/employer-cost-and-participation-information	40 ILCS 5/7-135.5.
*Board policy 5:120, <i>Employee Ethics; Code of Professional Conduct; and Conflict of Interest</i>	105 ILCS 5/22-85.5(e), added by P.A. 102-676.
A description of activities to address intergroup conflict (an optional program authorized by 105 ILCS 27-23.6)	105 ILCS 5/27-23.6(c).
<p>The total number of personnel with a school support personnel endorsement, and for each endorsement area:</p> <ol style="list-style-type: none"> 1. Those actively employed by the District on a full-time basis; 2. Those actively employed by the District on a part-time basis; and 3. Those actively employed by a special education cooperative providing services to students in the District 	<p>105 ILCS 5/10-20.80, added by P.A. 102-302 and renumbered by P.A. 102-813.</p> <p>Annually by Dec. 1, the District must report its school support personnel information as of Oct. 1 to ISBE and web-post it.</p>
The total number of students enrolled in the District and of that total, the number of students with an individualized education program (IEP) or Section 504 plan	<p>105 ILCS 5/2-3.182, added by P.A. 102-302 and renumbered by P.A. 102-813.</p> <p>Annually by Dec. 1, the District must report its enrollment information as of Oct. 1 to ISBE and web-post it.</p>
*Notice that students with disabilities who do not qualify for an IEP may qualify for services under Section 504	<p>105 ILCS 5/14-6.01, amended by P.A. 102-1072. The notice shall: (1) identify the location and phone number of the District office or employee to whom inquiries about the identification, assessment, and placement of children with disabilities should be directed, and (2) inform parents/guardians who are deaf or do not typically communicate using spoken English that they are entitled to the services of an interpreter when participating in a Section 504 meeting.</p>
*Names of Board members who have completed professional development leadership training	<p>105 ILCS 5/10-16a, amended by P.A. 102-638, requires the District to post on its website the names of all Board members who have completed</p>

Web-posted records and information (use of an * is explained in the paragraph above this table)	Web-posting statutory reference and special instructions
	<p>professional development leadership training. The web-posting may be expanded to log all Board members' training and development activities.</p> <p>5 ILCS 120/1.05(b) and (c) require each Board member to complete training on the Open Meetings Act. After completing the training, each Board member must file a copy of their certificate of completion with the Board.</p> <p>105 ILCS 5/24-16.5 requires each Board member to complete a training program on performance evaluations before voting on a dismissal based on a performance evaluation pursuant to the Performance Evaluation Reform Act.</p>
Immunization data reported to ISBE by each Nov. 15	<p>105 ILCS 5/27-8.1(6).</p> <p>By Dec. 1, the District must annually make the immunization <i>data</i> that it must report to ISBE each year publicly available. The data, not its format, must be identical to the data reported to ISBE. Boards have control over the method(s) used to make this data publicly available. One method is to instruct the reader to ask for the data directly from ISBE.</p>
Information on mental health issues and local treatment resources	<p>The Ill. House of Representatives encouraged this in HR 478 (99th General Assembly, 5-31-15).</p>
*All reliable assessments, scored by entities other than the District that are administered in each of the District's schools	<p>105 ILCS 5/22-82(b).</p> <p>These must be made available to parents and/or guardians through the District's website or paper handouts.</p>
*The District's Remote and/or Blended Remote Learning Day Plan, when the Governor has declared a public health emergency pursuant to 20 ILCS 3305/7.	<p>105 ILCS 5/10-30(6).</p>
<p>*When the Board allows for student participation in registered apprenticeship programs:</p> <ol style="list-style-type: none"> 1. Notification to students and parents of the opportunities for registered apprenticeships, 	<p>23 Ill.Admin.Code §255.200(b)(4) and (c).</p>

Web-posted records and information (use of an * is explained in the paragraph above this table)	Web-posting statutory reference and special instructions
<p>which includes the following statements:</p> <ol style="list-style-type: none"> a. Students may participate in any registered apprenticeship program listed by the District, and b. Students may find a registered, but not listed, apprenticeship program with a business or organization if a registered apprenticeship program is not offered in the District. <ol style="list-style-type: none"> 2. Board policy 6:310, <i>High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students</i> (specifically, the section titled Registered Apprenticeship Program) 3. A form for a parent/guardian to request that when their child successfully completes a registered apprenticeship program, it be substituted for a course 	
<p>*If offered by the District, identification of the curriculum the District uses to provide comprehensive personal health and safety and comprehensive sexual health education (National Sex Education Standards (NSES)), the scope and sequence of these instructional materials, and the name and contact information, including an email address, of a school staff member who can respond to inquiries about instruction and materials</p>	<p>105 ILCS 5/27-9.1a, added by P.A. 102-522.</p>
<p>*Board policy 6:135, <i>Accelerated Placement Program</i></p>	<p>23 Ill.Admin.Code §227.60(a).</p>
<p>*Board policy 7:70, <i>Attendance and Truancy</i></p>	<p>23 Ill.Admin.Code §207.20(b).</p>
<p>*Board policy 2:270, <i>Discrimination and Harassment on the Basis of Race, Color, and National Origin Prohibited</i></p>	<p>105 ILCS 5/22-95 (final citation pending), added by P.A. 103-472, eff. 8-1-24.</p>
<p>*The name(s) of designated Prioritization of Urgency of Need for Services (PUNS)-trained employee(s) in each school within the District.</p>	<p>105 ILCS 5/2-3.163(c), amended by P.A. 103-504. Every public school must designate at least one employee to take the Ill. Dept. of Human Services' PUNS training. <i>Id.</i> See Board policy 5:100, <i>Staff Development Program</i>.</p>
<p>*If the District has one or more school buses equipped with an automated traffic law enforcement system, notice to drivers that its buses are so equipped.</p>	<p>625 ILCS 5/11-208.9(m).</p>

School Board

Uniform Grievance Procedure ¹

A student, parent/guardian, employee, or community member should notify any District Complaint Manager if he or she believes that the School Board, its employees, or its agents have violated his or her rights guaranteed by the State or federal Constitution, State or federal statute, or Board policy², or have a complaint regarding any one of the following: ³

1. Title II of the Americans with Disabilities Act, 42 U.S.C. §12101 et seq. ⁴

The footnotes should be removed before the material is used.

¹ State or federal law requires this subject matter be covered by policy and controls this policy's content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. Employee grievance procedures are a mandatory subject of bargaining and cannot be changed without the employee exclusive representative's consent. This policy and its companion sample policy 2:265, *Title IX Grievance Procedure*, are in addition to, and not a substitute for, the employee grievance procedure contained in a collective bargaining agreement.

A grievance procedure is required by many civil rights acts and implementing regulations, including those listed. For the sake of consistency and ease of administration, this policy consolidates all board grievance procedures, excluding Title IX sexual harassment complaints (see sample policy 2:265, *Title IX Grievance Procedure*) into one policy, except those contained in collective bargaining agreements. See the cross references for the policies referring to this uniform grievance procedure policy.

² Including the phrase "guaranteed by the State or federal Constitution, State or federal statute, or Board policy" broadens the scope of this policy beyond the items listed. Consult the board attorney regarding whether to retain this phrase and/or to otherwise limit the scope of this policy.

³ The Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §1400 et seq.) is not included in the list of statutes that may serve as the basis of a grievance, and attorneys disagree whether it should be. Many believe that IDEA provides the exclusive remedy; others believe that including IDEA allows parents/guardians an opportunity to get their position before the board. Unique and specific complaint resolution mechanisms are expressly provided under IDEA, Article 14 of the School Code, and their respective implementing regulations. These mechanisms follow: (1) IDEA at 20 U.S.C. §1415 (procedural safeguards-mediation and due process); (2) IDEA regulations at 34 C.F.R. §§300.151-300.153 (state complaints), 300.506 (mediation), and 300.507 et seq. (due process); (3) School Code at §§14/8.02a (mediation and due process) and 14/8.02b (expedited due process); and (4) special education regulations at 23 Ill.Admin.Code §§226.560 (Mediation), 226.570 (State Complaint Procedures), and Subpart G (due process). A board that would like to include IDEA should consult the board attorney.

⁴ The Americans with Disabilities Act Amendments Act (ADAAA) (Pub. L. 110-325), made significant changes to the Americans with Disabilities Act's definition of disability by broadening the scope of coverage. The ADAAA also overturned a series of U.S. Supreme Court decisions that interpreted the Americans with Disabilities Act of 1990 in a way that made it difficult to prove that impairments were a disability. The U.S. Equal Employment Opportunity Commission's (EEOC) regulations, 29 C.F.R. Part 1630, are at: www.eeoc.gov/laws/types/disability_regulations.cfm.

Boards should consult with their attorneys regarding how the ADAAA and its implementing regulations impact their districts.

Title II of the ADA of 1990 also includes website accessibility. Addressing website accessibility is complicated. Many entities addressing website accessibility use *Web Content Accessibility Guidelines* (WCAG) 2.0 or 2.1, a frequently cited accessibility standard that contains guidelines developed by a private group of accessibility experts. See www.w3.org/WAI/standards-guidelines/wcag/. While WCAG is not adopted as the formal federal legal standard for public accommodation websites, it has been used in many consent decrees and settlement agreements, and it is required by the School Code. 105 ILCS 5/10-20.75, added by P.A. 102-238, requires school districts to ensure their *Internet websites or web services* comply with Level AA of the WCAG 2.1 or any revised version of those guidelines. *Internet website or web service* means "any third party online curriculum that is made available to enrolled students or the public by a school district through the Internet." Id.

2. Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 *et seq.*, excluding Title IX sexual harassment complaints governed by Board policy 2:265, *Title IX Grievance Procedure*
3. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §791 *et seq.*⁵
4. Discrimination and/or harassment on the basis of race, color, or national origin prohibited by the Illinois Human Rights Act, 775 ILCS 5/; Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d *et seq.*; and/or Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e *et seq.* (see Board policy 2:270, *Discrimination and Harassment on the Basis of Race, Color, and National Origin Prohibited*)⁶
5. Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e *et seq.* (see also number 4, above, for discrimination and/or harassment on the basis of race, color, or national origin)
6. Sexual harassment prohibited by the State Officials and Employees Ethics Act⁷, 5 ILCS 430/70-5(a); Illinois Human Rights Act, 775 ILCS 5/; and Title VII of the Civil Rights Act of

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⁵ See f/n 4's discussion of website accessibility above. See also the discussion in f/n 2 of sample policy 8:70, *Accommodating Individuals with Disabilities*.

⁶ 105 ILCS 5/22-95(b)(1)(B) (final citation pending), added by P.A. 103-472, eff. 8-1-24, requires a district to have an internal process for filing a complaint regarding a violation of its policy (or policies) prohibiting discrimination and harassment on the basis of race, color, national origin, and retaliation. Sample policy 2:270, *Discrimination and Harassment on the Basis of Race, Color, and National Origin Prohibited*, utilizes this policy as an internal complaint process. See also sample administrative procedure 2:270-AP, *Prevention and Response Program for Complaints of Discrimination and Harassment Based on Race, Color, and National Origin*, which includes additional procedures to be followed when responding to complaints of discrimination and harassment on the basis of race, color, and national origin.

⁷ 5 ILCS 430/70-5(a) requires governmental entities (including school districts) to adopt an ordinance or resolution establishing a policy to prohibit sexual harassment that contains certain prescribed elements. See sample policy 5:20, *Workplace Harassment Prohibited*, at f/n 3 and subhead **Complaints of Sexual Harassment Made Against Board Members by Elected Officials** in sample policy 2:105, *Ethics and Gift Ban*, for further detail. Complaints of sexual harassment made against board members by fellow board members or other elected officials of governmental units must undergo an *independent review*, which is not a term defined in the statute. Unlike the powers granted by the Ill. General Assembly to municipalities to pass ordinances, school boards govern by rules referred to as *policies*. 105 ILCS 5/10-20.5. Further, school boards may only exercise powers given to them that are consistent with the School Code that may be requisite or proper for the maintenance, operation, and development of any school or schools under the jurisdiction of the board. 105 ILCS 5/10-20. School districts are also required to create, maintain, and implement an age-appropriate sexual harassment policy. 105 ILCS 5/10-20.69. See sample policy 7:20, *Harassment of Students Prohibited*, and its f/n 9 for further information.

50 ILCS 205/3c requires a school district to post on its website and make available to news media specific information about severance agreements that it enters into because an employee or contractor was "found to have engaged in sexual harassment or sexual discrimination, as defined by the Ill. Human Rights Act or Title VII of the Civil Rights Act of 1964." Consult the board attorney about the word *found*. It raises many practical application questions, e.g., when does the word *found* trigger a board's compliance responsibility pursuant to this law. Such questions include, but are not limited to:

1. Must a school board make a *finding* to trigger this requirement? If the severance agreement is entered into post-termination, a record of board *findings* rarely exists.
2. Are charges for termination *findings*? Often superintendents submit charges for termination, but these are not technically *findings*.
3. Are charges based on a complaint manager's report and determination(s) *findings* under the law when a board still has the ability to review and reject the complaint manager's determination(s)?

Next, contrast the above publication law with the Government Severance Pay Act (GSPA), 5 ILCS 415/10(a)(2). GSPA prohibits an employee of a school district with contract provisions for severance pay from receiving any severance if he or she is fired for *misconduct* by the board. GSPA defines *misconduct* to include sexual harassment and/or discrimination. *Id.* at 415/5.

Consult the board attorney about how to reconcile whether sexual harassment and/or sexual discrimination is misconduct for which a severance would be prohibited under the GSPA, and therefore, not available to be published under 50 ILCS 205/3c. And for further discussion and other applicable transparency laws that apply to this issue, see also f/n 16 in sample policy 5:20, *Workplace Harassment Prohibited*.

1964, 42 U.S.C. §2000e et seq. (Title IX sexual harassment complaints are addressed under Board policy 2:265, *Title IX Grievance Procedure*)⁸

7. Breastfeeding accommodations for students, 105 ILCS 5/10-20.60⁹
8. Bullying, 105 ILCS 5/27-23.7¹⁰
9. Misuse of funds received for services to improve educational opportunities for educationally disadvantaged or deprived children¹¹
10. Curriculum, instructional materials, and/or programs
11. Victims' Economic Security and Safety Act, 820 ILCS 180/
12. Illinois Equal Pay Act of 2003, 820 ILCS 112/
13. Provision of services to homeless students
14. Illinois Whistleblower Act, 740 ILCS 174/¹²
15. Misuse of genetic information prohibited by the Illinois Genetic Information Privacy Act, 410 ILCS 513/; and Titles I and II of the Genetic Information Nondiscrimination Act, 42 U.S.C. §2000ff et seq.¹³

The footnotes should be removed before the material is used.

⁸ Consult the board attorney regarding proper filing and storage of these investigation documents, including whether certain student-related investigation documents are *sole possession records*, a Family Policy Compliance Office (FPCO)-created exemption to the Family Education Rights Privacy Act (FERPA) (20 U.S.C. §1232g). See *Letter to Ruscio*, 115 LRP 18601 (FPCO 12-17-14).

⁹ 105 ILCS 5/10-20.60 requires schools to implement the Ill. sex equity grievance procedures when processing student complaints about breastfeeding accommodations. Complainants must be informed that the board's decision may be appealed to the Regional Superintendent (or appropriate Intermediate Service Center Executive Director) and, thereafter, to the State Superintendent. 23 Ill.Admin.Code §200.40. **Note:** Certain claims brought under 105 ILCS 5/10-20.60 may also be covered by the anti-discrimination protections of Title IX; consult the board attorney for further advice. Guidance from U.S. Dept. of Education on Title IX requirements for pregnant and parenting students (June 2013) is available at: www2.ed.gov/about/offices/list/ocr/frontpage/pro-students/issues/sex-issue03.html.

¹⁰ All districts must 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*. The inclusion of *bullying* in the list of topics that may serve as the basis of a grievance furthers the obligation to communicate this policy to students and their parents/guardians.

¹¹ Parents/guardians of educationally disadvantaged children may sue a district for misuse of funds allocated by State law for the benefit of such children. *Noyola v. Bd. of Educ.*, 179 Ill.2d 121 (Ill. 1997) (affirming the appellate court's conclusion in *Noyola v. Bd. of Educ.*, 284 Ill.App.3d 128 (1st Dist. 1996) that parents/guardians may pursue a claim to enforce the requirements of the School Code but holding that the proper action for enforcement is by means of mandamus not an implied right of action).

¹² The Whistleblower Act (740 ILCS 174/) includes school districts in the definition of employer. It protects employees from employer retaliation for disclosing information to a government or law enforcement agency. Section 15 also contains language prohibiting employers from retaliating against employees who disclose information in a court, an administrative hearing, or before a legislative commission or committee, or in any other proceeding where the employee has reasonable cause to believe that the information reveals a violation of a State or federal law, rule or regulation. The Ill. False Claims Act (740 ILCS 175/) includes school districts in its definition of *State*. A strict interpretation of this language appears to allow school boards to collect civil penalties and costs against someone making a false claim. Before disciplining any employee, boards should thoroughly investigate the ramifications of these acts in consultation with their attorney and liability insurance carriers.

¹³ The Genetic Information Nondiscrimination Act (GINA) (42 U.S.C. §2000ff et seq.) is a federal law. Title I addresses the use of genetic information pertaining to health insurance. Title II protects job applicants, current and former employees, labor union members, and apprentices and trainees from discrimination based on their genetic information. GINA covers employers with 15 or more employees.

16. Employee Credit Privacy Act, 820 ILCS 70/ 14

The Complaint Manager will first attempt to resolve complaints without resorting to this grievance procedure. If a formal complaint is filed under this policy, the Complaint Manager will address the complaint promptly and equitably. A student and/or parent/guardian filing a complaint under this policy may forego any informal suggestions and/or attempts to resolve it and may proceed directly to this grievance procedure. The Complaint Manager will not require a student or parent/guardian complaining of any form of harassment to attempt to resolve allegations directly with the accused (or the accused's parents/guardians); this includes mediation.

Right to Pursue Other Remedies Not Impaired

The right of a person to prompt and equitable¹⁵ resolution of a complaint filed under this policy shall not be impaired by the person's pursuit of other remedies, e.g., criminal complaints, civil actions, etc. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies and use of this grievance procedure does not extend any filing deadline related to the pursuit of other remedies. If a person is pursuing another remedy subject to a complaint under this policy, the District will continue with a simultaneous investigation under this policy.

The footnotes should be removed before the material is used.

GINA broadly defines genetic information to include information about an individual's genetic tests, their family members, and, among other things, the manifestation of a disease or disorder in the individual or the individual's family members. Information about an individual's or family member's age or gender is excluded from genetic information. Its remedies mirror those available under a Title VII of the Civil Rights Act claim: back pay, reinstatement, attorneys' fees and compensatory and punitive damages. Retaliation against an individual who brings a claim under GINA is also prohibited. Federal regulations are available at 29 C.F.R. Part 1635, and background information on these regulations is available at: www.eeoc.gov/regulations-related-genetic-discrimination. An FAQ entitled *FAQs on the Genetic Information Nondiscrimination Act* is available at: www.dol.gov/agencies/ebsa/laws-and-regulations/laws/gina.

The Ill. Genetic Information Protection Act (GIPA) (410 ILCS 513/) also prohibits employers from making employment decisions on the basis of any employee's genetic testing information and from penalizing employees who do not want to disclose their genetic information as part of a workplace wellness program. GIPA includes the federal GINA's definition of genetic information and creates more stringent obligations on Ill. employers. While the federal GINA exempts small employers (those with less than 15 employees), Illinois' GIPA covers all employers, even those with one employee. GIPA also provides penalties for negligent and intentional mishandling of genetic information. Note that Title II of GINA does not preempt GIPA's greater protections to Illinois employees.

Before using any sort of genetic information, consult the board attorney for guidance regarding GINA's and GIPA's specific applications to the district and how these laws integrate with other related federal laws, such as the Family and Medical Leave Act (29 U.S.C. §2612 *et seq.*) and the ADA, and State laws governing time off for sickness and workers' compensation.

¹⁴ 820 ILCS 70/. Unless a satisfactory credit history is an *established bona fide occupational requirement* of a particular position, an employer may not: (1) refuse to hire, discharge, or otherwise discriminate against an individual with respect to employment because of the individual's credit history or credit report; (2) inquire about an applicant's or employee's credit history; or (3) order or obtain an applicant's or employee's credit report from a consumer reporting agency. The Act identifies circumstances that permit a satisfactory credit history to be a job requirement, such as, when the position's duties include custody of or unsupervised access to cash or marketable assets valued at \$2,500 or more. 820 ILCS 70/10(b). A person who is injured by a violation of this Act may bring a civil action to obtain injunctive relief and/or damages. 820 ILCS 70/25. The court must award costs and reasonable attorneys' fees to a prevailing plaintiff. *Id.*

¹⁵ The phrase "prompt and equitable resolution" comes from Title IX implementing regulation 34 C.F.R. §106.8(c) which requires schools to "adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints" of sex discrimination.

Deadlines

All deadlines under this policy may be extended by the Complaint Manager as he or she deems appropriate. As used in this policy, *school business days* means days on which the District's main office is open.

Filing a Complaint

A person (hereinafter Complainant) who wishes to avail him or herself of this grievance procedure may do so by filing a complaint with any District Complaint Manager. The Complainant shall not be required to file a complaint with a particular Complaint Manager and may request a Complaint Manager of the same gender.¹⁶ The Complaint Manager may request the Complainant to provide a written statement regarding the nature of the complaint or require a meeting with a student's parent(s)/guardian(s). The Complaint Manager shall assist the Complainant as needed.

For any complaint alleging bullying and/or cyberbullying of students, the Complaint Manager shall process and review the complaint according to Board policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*, in addition to any response required by this policy. For any complaint alleging sexual harassment or other violation of Board policy 5:20, *Workplace Harassment Prohibited*, the Complaint Manager shall process and review the complaint according to that policy, in addition to any response required by this policy.

Investigation Process

The Complaint Manager will investigate the complaint or appoint a qualified person to undertake the investigation on his or her behalf.¹⁷ The Complaint Manager shall ensure both parties have an equal opportunity to present evidence during an investigation. If the Complainant is a student under 18 years of age, the Complaint Manager will notify his or her parents/guardians that they may attend any investigatory meetings in which their child is involved. The complaint and identity of the Complainant will not be disclosed except: (1) as required by law, this policy, or any collective bargaining agreement, (2) as necessary to fully investigate the complaint, or (3) as authorized by the Complainant.

The identity of any student witnesses will not be disclosed except: (1) as required by law, this policy, or any collective bargaining agreement, (2) as necessary to fully investigate the complaint, or (3) as authorized by the parent/guardian of the student witness, or by the student if the student is 18 years of age or older.

The Complaint Manager will inform, at regular intervals, the person(s) filing a complaint under this policy about the status of the investigation. Within 30 school business days after the date the complaint was filed, the Complaint Manager shall file a written report of his or her findings with the Superintendent. The Complaint Manager may request an extension of time.

The Superintendent will keep the Board informed of all complaints.

The footnotes should be removed before the material is used.

¹⁶ This is a best practice.

¹⁷ This policy gives complaint managers the flexibility to appoint another individual to conduct an investigation, which may be appropriate in cases where the neutrality or efficacy of the complaint manager is an issue, and/or where the district wishes to have the expertise and related attorney-client and work product privileges that an in-house or outside attorney may afford an investigation. Such alternative appointments are often made in consultation with the superintendent or other district-level administrator (except in cases involving complaints about those individuals).

If a complaint contains allegations involving the Superintendent or Board member(s), the written report shall be filed directly with the Board, which will make a decision in accordance with paragraph four of the following section of this policy.

Decision and Appeal

Within five school business days after receiving the Complaint Manager's report, the Superintendent shall mail his or her written decision to the Complainant and the accused by registered mail, return receipt requested, and/or personal delivery¹⁸ as well as to the Complaint Manager. All decisions shall be based upon the *preponderance of evidence* standard.¹⁹

Within 10 school business days after receiving the Superintendent's decision, the Complainant or the accused may appeal the decision to the Board by making a written request to the Complaint Manager. The Complaint Manager shall promptly forward all materials relative to the complaint and appeal to the Board.

Within 30 school business days after an appeal of the Superintendent's decision, the Board shall affirm, reverse, or amend the Superintendent's decision or direct the Superintendent to gather additional information. Within five school business days after the Board's decision, the Superintendent shall inform the Complainant and the accused of the Board's action.

For complaints containing allegations involving the Superintendent or Board member(s), within 30 school business days after receiving the Complaint Manager's or outside investigator's report, the Board shall mail its written decision to the Complainant and the accused by registered mail, return receipt requested, and/or personal delivery²⁰ as well as to the Complaint Manager.

This policy shall not be construed to create an independent right to a hearing before the Superintendent or Board. The failure to strictly follow the timelines in this grievance procedure shall not prejudice any party.²¹

The footnotes should be removed before the material is used.

¹⁸ Optional; using a delivery method that allows the district to verify the date of receipt is a best practice.

¹⁹ *Preponderance of evidence* is a standard used in civil cases. It means "the greater weight of the evidence, not necessarily established by the greater number of witnesses testifying to a fact but by evidence that has the most convincing force." See *Black's Law Dictionary, 11th ed. 2019*.

²⁰ See f/n 18, above.

²¹ The Ill. sex equity regulations require districts to have "specific timelines for completion of each step and rendering of a written decision, and shall provide for final appeal of grievance decisions made at the system level to the system's governing board." 23 Ill.Admin.Code §200.40(c)(1). To avoid arguments over these timelines, this sample policy provides that the failure to strictly follow the timelines does not prejudice any party. The grievance procedure is worthless if complaints are not thoroughly and promptly investigated.

Appointing a Nondiscrimination Coordinator and Complaint Managers ²²

The Superintendent shall appoint a Nondiscrimination Coordinator to manage the District’s efforts to provide equal opportunity employment and educational opportunities and prohibit the harassment of employees, students, and others. The Nondiscrimination Coordinator also serves as the District’s Title IX Coordinator. ²³

The Superintendent shall appoint at least one Complaint Manager to administer this policy. If possible, the Superintendent will appoint two Complaint Managers, each of a different gender. The District’s Nondiscrimination Coordinator may be appointed as one of the Complaint Managers.

The Superintendent shall insert into this policy and keep current the names, office addresses, email addresses, and telephone numbers of the Nondiscrimination Coordinator and the Complaint Managers.²⁴

Nondiscrimination Coordinator:

Name

Address

The footnotes should be removed before the material is used.

²² Title IX regulations require districts to designate and authorize at least one employee to coordinate 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.

A district must prominently display its Title IX non-discrimination policies (this policy 2:260, *Uniform Grievance Procedure*, and sample policy 2:265, *Title IX Grievance Procedure*) and contact information for its Title IX coordinator(s) on its website, if any, and in each handbook made available to students, applicants for employment, parents/guardians, employees, and collective bargaining units. 34 C.F.R. §106.8(a) and (b). Notifications must state that nondiscrimination extends to employment, and that inquiries about the application of Title IX and its regulations may be referred to the district’s Title IX coordinator, to the U.S. Dept. of Education’s Assistant Secretary of Education, or both. 34 C.F.R. §106.8(b). See sample exhibit 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*.

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.

²³ 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.

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

²⁴ The board may include the following option to address publication of such contact information:
“The Superintendent or designee shall ensure that students, parents/guardians, employees, and members of the community are informed of the contact information for the District’s Nondiscrimination Coordinator and Complaint Managers on an annual basis.”

Publicizing the contact information for the Nondiscrimination Coordinator and Complaint Managers through personnel handbooks, student handbooks, and/or on the district’s website is a best practice. The Ill. Principals Association (IPA) maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: www.ilprincipals.org/msh/.

Email

Telephone

Complaint Managers:

Name

Name

Address

Address

Email

Email

Telephone

Telephone

LEGAL REF.: 8 U.S.C. §1324a et seq., Immigration Reform and Control Act.
 20 U.S.C. §1232g, Family Education Rights Privacy Act.
 20 U.S.C. §1400, The Individuals with Disabilities Education Act.
 20 U.S.C. §1681 et seq., Title IX of the Education Amendments; 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. §791 et seq., Rehabilitation Act of 1973.
 29 U.S.C. §2612, Family and Medical Leave Act.
 42 U.S.C. §2000d et seq., Title VI of the Civil Rights Act of 1964.
 42 U.S.C. §2000e et seq., Title VII of the Civil Rights Act of 1964.
 42 U.S.C. §2000ff et seq., Genetic Information Nondiscrimination Act.
 42 U.S.C. §11431 et seq., McKinney-Vento Homeless Assistance Act.
 42 U.S.C. §12101 et seq., Americans With Disabilities Act.
 105 ILCS 5/2-3.8, 5/3-10, 5/10-20, 5/10-20.5, 5/10-20.7a, 5/10-20.60, 5/10-20.69
 5/10-20.75, 5/10-22.5, 5/22-19, 5/22-95 (final citation pending), 5/24-4, 5/27-1,
 5/27-23.7, and 45/1-15.
 5 ILCS 415/10(a)(2), Government Severance Pay Act.
 5 ILCS 430/70-5(a), State Officials and Employees Ethics Act.
 410 ILCS 513/, Ill. Genetic Information Privacy Act.
 740 ILCS 174/, Whistleblower Act.
 740 ILCS 175/, Ill. False Claims Act.
 775 ILCS 5/, Ill. Human Rights Act.
 820 ILCS 180/, Victims' Economic Security and Safety Act; 56 Ill.Admin.Code
 Part 280.
 820 ILCS 112/, Equal Pay Act of 2003.
 820 ILCS 70/, Employee Credit Privacy Act.
 23 Ill.Admin.Code §§1.240, 200.40, 226.50, and 226.570.

CROSS REF.: 2:105 (Ethics and Gift Ban), 2:265 (Title IX Grievance Procedure), 2:270
 (Discrimination and Harassment on the Basis of Race, Color, and National
 Origin Prohibited), 5:10 (Equal Employment Opportunity and Minority
 Recruitment), 5:20 (Workplace Harassment Prohibited), 5:30 (Hiring Process and
 Criteria), 5:90 (Abused and Neglected Child Reporting), 6:120 (Education of
 Children with Disabilities), 6:140 (Education of Homeless Children), 6:170 (Title
 I Programs), 6:260 (Complaints About Curriculum, Instructional Materials, and
 Programs), 7:10 (Equal Educational Opportunities), 7:15 (Student and Family
 Privacy Rights), 7:20 (Harassment of Students Prohibited), 7:180 (Prevention of
 and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating
 Violence Prohibited), 7:310 (Restrictions on Publications; Elementary Schools),
 7:315 (Restrictions on Publications; High Schools), 8:70 (Accommodating
 Individuals with Disabilities), 8:95 (Parental Involvement), 8:110 (Public
 Suggestions and Concerns)

School Board

Administrative Procedure - Guidelines for Investigating Complaints Filed Under Policy 2:260, Uniform Grievance Procedure, and Allegations of Misconduct

All complaints are to be investigated, even when the complainant requests that nothing be done or is anonymous. For complaints of discrimination or harassment based on race, color, or national origin, refer to this procedure and 2:270-AP, *Prevention and Response Program for Complaints of Discrimination and Harassment Based on Race, Color, and National Origin*.

Step 1: Before the Investigation

- A. School employees must immediately report a suspicion of child abuse or neglect to the Illinois Department of Child and Family Services in compliance with State law and policy 5:90, *Abused and Neglected Child Reporting*. Reporting is required before proceeding further with the investigation.
- B. Consistent with Board policy 2:260, *Uniform Grievance Procedure*, the Superintendent appoints at least one District Complaint Manager to administer the complaint process. If possible, the Superintendent will appoint two Complaint Managers, each of a different gender. A Complaint Manager investigates: (1) complaints filed under Board policy 2:260, *Uniform Grievance Procedure*, and (2) allegations of employee misconduct (for student misconduct allegations, see **Step 1: C.**, below).
- C. The appropriate Building Principal or designee investigates all allegations of student misconduct.
- D. Anyone with a complaint or making an allegation of misconduct should be referred to a Complaint Manager of their choosing or a Building Principal without delay.
- E. A Complaint Manager or Building Principal (hereafter referred to as *investigator*) investigates all complaints or allegations of misconduct, except that, depending on the circumstances, the Superintendent or School Board may appoint a special investigator. Whenever the Superintendent deems necessary, an attorney may serve as a special investigator. See *considerations* under **Step 1: F.**, below. The investigator should not have any involvement with the complainant or the alleged wrongdoer outside of the investigation. The Superintendent ensures that investigators have sufficient authority and resources, including access to the Board Attorney.
- F. The Board Attorney provides information and advice regarding the investigation process, including without limitation:
 1. Whether the investigator's notes and investigation records (including, without limitation, any audio or video recordings, photographs, or electronic images) are education records for purposes of the federal Family Education Rights and Privacy Act (FERPA) and/or school student records as defined in the Ill. School Student Records Act (105 ILCS 10/, implemented by 23 Ill.Admin.Code §375.10)?
 2. Whether the investigator's notes and investigation records (including, without limitation, any audio or video recordings, photographs, or electronic images) are subject to disclosure pursuant to a Freedom of Information Act (FOIA) request? A PAC opinion, binding on the parties, found that a city's investigatory records of an employee were not private or adjudicatory records and must be disclosed pursuant to a FOIA request (PAC Opinion 13-110).

3. Whether to record conversations, and if so, how to obtain and document consent under the criminal eavesdropping statute? 720 ILCS 5/14-1 et seq. prohibits recording a conversation in which someone has a reasonable expectation of privacy without the consent of all parties.
4. Whether the Board Attorney should participate in or conduct the investigation? Whether an outside attorney should serve as a special investigator? Considerations include:
 - a. The U.S. Supreme Court has held that a private attorney temporarily retained by government to perform an investigation of an employee is entitled to seek qualified immunity from suit under Section 1983. Filarsky v. Delia, 566 U.S. 377 (2012).
 - b. The FOIA exemption for communications between a public body and its attorney is available in only limited situations. See PAC Opinion 14-02 interpreting 5 ILCS 140/7(m).
 - c. Documents prepared by attorneys conducting an investigation under the prospect of litigation will not be subject to discovery during a subsequent lawsuit. Sandra TE v. South Berwyn School Dist., 600 F. 3d 612 (7th Circuit 2010) (when attorneys, as attorneys, perform a factual investigation, their documents are protected by the attorney-client privilege and the work-product doctrine).
- G. The investigator provides a fair opportunity for both sides to be heard.
- H. The investigator begins by carefully reading the complaint, and reviewing applicable Board policies, administrative procedures and manuals, laws, regulations, and collective bargaining agreements.
- I. The investigator develops a plan, including:
 1. Witness list
 2. Order of interviews
 3. Questions for witnesses
 4. Physical evidence needed, e.g., records, documents, reports, photos, and letters
- J. The investigator makes logistical arrangements, e.g., determine interview location and the need for photographs and/or a video or audio recording.
- K. If the investigator encounters an issue with legal ramifications outside of his/her understanding, either before or during the investigation, he/she consults the Board Attorney before proceeding further on that legal issue, as well as any other areas of the investigation it impacts.

Step 2: Investigator Responsibilities During the Investigation

- A. Typically, the complainant is interviewed first, then the subject of the investigation, and, finally, all witnesses. The following applies to all interviews:
 1. When possible, ensures that statements are written, dated, and signed by the person being interviewed. Does not audio or video record statements without first obtaining the Board Attorney's advice concerning legal prerequisites and treatment of the recordings.
 2. Asks open-ended questions and does not suggest answers to questions.
 3. Records important details, essentially who, did what, to whom, when, and how done and, if appropriate, why?

4. Is objective and nonjudgmental; does not prejudge an alleged wrongdoer's guilt. Never show outrage or dismay.
 5. Asks for the names of any other witnesses.
 6. Deals with emotional outbursts and anger by patiently explaining that details are needed for an accurate investigation.
 7. If a witness cannot be interviewed, records the reason.
- B. While confidentiality should be maintained, does not make promises of confidentiality or anonymity. Only the Superintendent may promise confidentiality or anonymity.
 - C. Keeps the Superintendent informed, but does not discuss the investigation with Board members in order to avoid the appearance of prejudice or unfairness.
 - D. Obtains copies of all relevant written or electronic communications. Originals are not needed, but records how to get them.
 - E. Collects physical evidence and photographs. Keeps a record of when, and where, or from whom physical evidence was gathered.
 - F. Documents any information about the interview that is relevant, or may become relevant, including the person's demeanor, gestures, accuracy of memory, and overall credibility.
 - G. During the investigation, keeps the investigation file separate from personnel or student record files. In a subsequent hearing, the opposing side may be able to view the investigation file. Records relating to a public body's adjudication (hearing) of employee grievances or disciplinary cases are exempt from FOIA public records requests under 5 ILCS 140/7(1)(n). However, the exemption does not extend to the final outcome of cases in which discipline is imposed.

Step 3: Investigator's Actions Following the Investigation

- A. Reports to the Superintendent or designee the investigation results, that is, the matters investigated, facts, conclusions, and recommendations. Prepares a written report if appropriate or requested.
 1. Answers who, what, when, where, why, and how.
 2. Bases factual findings on whether an incident's occurrence is more likely than not. Identifies as many factual findings as possible to support a conclusion. In a "he said, she said" scenario, a decision can be based on the credibility of the parties and witnesses. Includes in the report any findings that are inconclusive.
 3. Makes a determination regarding credibility of specific evidence, that is, how believable is it and why by explaining the basis for the determination. Credible evidence is capable of belief by a reasonable person.
- B. Is prepared to testify as to the fairness of the investigation, the authenticity of the evidence, and the contents of the investigation report.

ADMIN PROC.: 2:270-AP (Prevention and Response Program for Complaints of Discrimination and Harassment Based on Race, Color, and National Origin)

School Board

Administrative Procedure – Nondiscrimination Coordinator and Complaint Manager¹

The Nondiscrimination Coordinator directs the District's compliance with federal and State laws governing discrimination and harassment. The Complaint Manager administers the complaint process in Board policy 2:260, *Uniform Grievance Procedure*.

Superintendent Responsibilities

- A. Appoints individuals to serve as Nondiscrimination Coordinator and Complaint Manager whose skill set suggests they could effectively fulfill the responsibilities identified in this procedure. One individual may serve in both capacities. The Superintendent may serve in either capacity. If possible, at least two Complaint Managers are appointed, each of a different gender.
- B. Identifies individuals to supervise the performance of the Nondiscrimination Coordinator and Complaint Manager. The supervisor must understand the responsibilities of each role and have authority to take action. If possible, a different individual is assigned to supervise each role as a control measure, e.g., the Human Resources Manager supervises the Nondiscrimination Coordinator's performance and the Superintendent supervises the Complaint Manager's performance.
- C. Requires each Nondiscrimination Coordinator and Complaint Manager to possess or obtain:
 1. In-depth knowledge of Board policies as well as rules and conduct codes for students and employees.
 2. General knowledge of State and federal laws concerning equal employment and educational opportunities.
 3. Ability to:
 - a. Communicate effectively, both orally and in writing, and to establish rapport with others;
 - b. Plan, implement, evaluate, and report activities conducted;
 - c. Be both consistent and flexible as circumstances warrant; and
 - d. Analyze, clarify, and mediate differences of opinion.
- D. Facilitates the effective performance of the Nondiscrimination Coordinator and Complaint Managers by:
 1. Providing them with clear expectations concerning their roles and responsibilities.
 2. Communicating to employees and students their functions and responsibilities.
 3. Providing them resources and professional development opportunities.
 4. Providing them access to the Board Attorney for legal advice concerning their responsibilities.

The footnotes should be removed before the material is used.

¹ This sample procedure must be customized to assure alignment with the district's policies, procedures, and practices. At least one employee must be designated to complete the coordinator/complaint manager responsibilities. 34 C.F.R. §106.8(a); see also 29 C.F.R. §1604.11. Even small districts should strongly consider having a coordinator/complaint manager of each gender – this is an important measure to uncover sexual harassment and minimize liability exposure.

Nondiscrimination Coordinator Responsibilities

- A. Directs the District's efforts to provide equal employment and educational opportunities and prohibit the harassment of employees, students, and others. Manages compliance with Board policies 2:260, *Uniform Grievance Procedure*; 2:265, *Title IX Grievance Procedure*; 2:270, *Discrimination and Harassment on the Basis of Race, Color, and National Origin Prohibited*; 5:10, *Equal Employment Opportunity and Minority Recruitment*; 5:20, *Workplace Harassment Prohibited*; 5:90, *Abused and Neglected Child Reporting*; 7:10, *Equal Educational Opportunities*; 7:20, *Harassment of Students Prohibited*; 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*; and 7:185, *Teen Dating Violence Prohibited*.
- B. Develops and manages a program that will fully inform all employees and students about the District's commitment to equal employment and educational opportunities and a harassment-free environment. A component of this program is to inform employees and students about Board policies and administrative procedures.
- C. Provides ongoing consultation, technical assistance, and information services regarding compliance requirements and programs.
- D. Assists the Human Resources Manager with monitoring compliance with the recordkeeping and notice requirements contained in federal and State laws concerning discrimination and harassment in schools and the workplace.
- E. Maintains grievance and compliance records and files.
- F. Makes recommendations for action by appropriate decision makers.
- G. Establishes a positive climate for nondiscrimination compliance efforts. This effort includes encouraging individuals to come forward with suggestions and complaints.

Complaint Manager Responsibilities

- A. Implements and administers the grievance process contained in Board policy 2:260, *Uniform Grievance Procedure*.
- B. Manages complaints alleging a violation of any Board policy or procedure listed in the next section.
- C. Assists complainants and potential complainants by, among other things, providing consultation and information to them.
- D. Attempts to resolve complaints without resorting to the formal grievance process provided in Board policy 2:260, *Uniform Grievance Procedure*.
- E. Informs potential complainants, complainants, and witnesses that the District prohibits any form of retaliation against anyone who, in good faith, brings a complaint or provides information to the individual investigating a complaint.
- F. Receives formal complaints and notifies relevant individuals of the ensuing process.
- G. Investigates complaints or appoints a qualified individual to undertake the investigation on his or her behalf. Each complaint shall be investigated promptly, thoroughly, and impartially, and as confidentially as possible.
- H. For each formal complaint, prepares a comprehensive written report describing the: (a) complaint, (b) investigation, and (c) findings and recommendations. Provides the report to the Superintendent or School Board if the Superintendent is an alleged responsible party.
- I. Receives a request from a complainant to appeal the Superintendent's resolution of the complaint and promptly forwards all relevant material to the Board.

J. Monitors compliance with all requirements and timelines specified in Board policy 2:260, *Uniform Grievance Procedure*.

Applicable Policies and Procedures

Section 2

- 2:260 Uniform Grievance Procedure
- 2:260-AP2 Nondiscrimination Coordinator and Complaint Manager
- 2:265 Title IX Grievance Procedure
- 2:265-AP1 Title IX Response
- 2:265-AP2 Formal Title IX Complaint Grievance Process
- 2:270 Discrimination and Harassment on the Basis of Race, Color, and National Origin Prohibited
- 2:270-AP Prevention and Response Program for Complaints of Discrimination and Harassment Based on Race, Color, and National Origin

Section 5

- 5:10 Equal Employment Opportunity and Minority Recruitment
- 5:20 Workplace Harassment Prohibited
- 5:20-AP Sample Questions and Considerations for Conducting the Internal Harassment in the Workplace Investigation

Section 6

- 6:120 Education of Children with Disabilities
- 6:140 Education of Homeless Children
- 6:140-AP Education of Homeless Children
- 6:170 Title I Programs
- 6:260 Complaints About Curriculum, Instructional Materials, and Programs

Section 7 - Students

- 7:10 Equal Educational Opportunities
- 7:10-AP1 Accommodating Transgender Students or Gender Non-Conforming Students; Inclusion
- 7:20 Harassment of Students Prohibited

Section 8 - Community Relations

- 8:70 Accommodating Individuals with Disabilities
- 8:110 Public Suggestions and Concerns

Resources

U.S. Equal Employment Opportunity Commission, www.eeoc.gov.

“Laws and Guidance,” U.S. Equal Employment Opportunity Commission,
<https://www.eeoc.gov/laws-guidance-0>.

“Frequently Asked Questions,” U.S. Dept. of Education, Office for Civil Rights,
www2.ed.gov/about/offices/list/ocr/faqs.html.