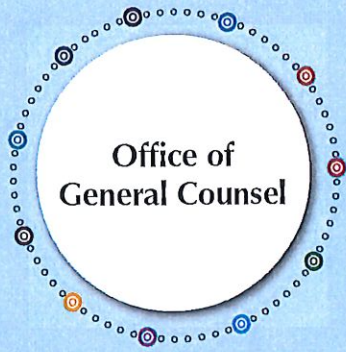


Revisions to Policies, Administrative Procedures, and Exhibits — *continued*

7:250, Student Support Services	<p>The policy, Legal References, and footnotes are updated. The policy is updated in response to 105 ILCS 5/10-20.59, amended by P.A. 102-199, requiring districts to appoint a liaison to DCFS. The Legal References are updated for the same reason as the policy and in response to the CMHA, amended by P.A. 102-899, renaming the Children’s Mental Health Act of 2003. The footnotes are updated for the same reasons as the policy and Legal References and in response to:</p> <ol style="list-style-type: none"> 1. 105 ILCS 5/10-22.24a and 5/14-1.09.2, amended by P.A. 102-894, updating the terms <i>certified</i> and <i>certification</i> to <i>licensed</i> and <i>license</i> throughout the School Code; 2. 105 ILCS 5/22-93, added by P.A. 102-327, and renumbered by P.A. 102-813, updating the final citation to the school guidance counselor gift ban; and 3. Continuous improvement. 	<input type="checkbox"/>
7:250-AP2, Protocol for Responding to Students with Social, Emotional, or Mental Health Needs	The procedure is updated in response to CMHA, 405 ILCS 49/, amended by P.A. 102-899, eff. 1-1-23, modifying the duties of the Ill. Children’s Mental Health Partnership and renaming the Children’s Mental Health Act of 2003, and for continuous improvement.	<input type="checkbox"/>
7:285, Anaphylaxis Prevention, Response, and Management Program	The policy, Legal References and footnotes are updated. The policy is updated for continuous improvement. The Legal References and footnotes are updated in response to 105 ILCS 5/2-3.190, amended by P.A. 102-413 and renumbered by P.A. 102-813, updating the final citation to the requirement for boards to adopt an anaphylaxis policy in accordance with ISBE’s model policy. Continuous improvement updates are also made to the footnotes.	<input type="checkbox"/>
7:285-AP, Anaphylaxis Prevention, Response, and Management Program	The procedure is updated for the reasons stated in 7:285, <i>Anaphylaxis Prevention, Response, and Management</i> , and to incorporate new PRESS exhibit 7:285-AP, E, <i>Allergy and Anaphylaxis Emergency Plan</i> .	<input type="checkbox"/>
7:285-AP, E, Allergy and Anaphylaxis Emergency Plan	NEW. The exhibit is created in response to 105 ILCS 5/2-3.190, amended by P.A. 102-413 and renumbered by P.A. 102-813, requiring boards to adopt an anaphylaxis policy in accordance with ISBE’s model policy. This exhibit was adapted with the permission of the American Academy of Pediatrics.	<input type="checkbox"/>
7:290, Suicide and Depression Awareness and Prevention	<p>The policy, Legal References, and footnotes are updated in response to:</p> <ol style="list-style-type: none"> 1. CMHA, 405 ILCS 49/, amended by P.A. 102-899, eff. 1-1-23, renaming the Children’s Mental Health Act of 2003; 2. Student Confidential Reporting Act, 5 ILCS 860/, added by P.A. 102-752, eff. 1-1-23; and 3. Continuous improvement. 	<input type="checkbox"/>
7:290-AP, Resource Guide for Implementation of Suicide and Depression Awareness and Prevention Program	The procedure and its footnote are updated for the reasons stated in 7:290, <i>Suicide and Depression Awareness and Prevention</i> , above.	<input type="checkbox"/>
7:340, Student Records	The policy, Legal References, and footnotes are updated. The policy is updated in response to Ill. School Student Records Act (ISSRA), 105 ILCS 10/, amended by P.A. 102-199, giving DCFS certain rights to access student records of children in its custody. The Legal References are updated with a style change. The footnotes are updated for the same reason as the policy and for continuous improvement.	<input type="checkbox"/>

Revisions to Policies, Administrative Procedures, and Exhibits — *continued*

7:340-AP1, School Student Records	<p>The procedure is updated in response to:</p> <ol style="list-style-type: none"> 1. ISSRA, 105 ILCS 10/, amended by P.A. 102-199, giving DCFS certain rights to access student records of children in its custody; and 2. 105 ILCS 5/10-20.9a(c) and (d), added by P.A. 102-727, and inoperative “on and after three years” from 5-6-22, prohibiting public high schools from withholding a student’s grades, transcripts, or diploma due to an unpaid balance on the student’s account. 	<input type="checkbox"/>
7:340-AP1, E4, Frequently Asked Questions Regarding Military Recruiter Access to Students and Student Information	The exhibit is updated with current contact information for the U.S. Dept. of Education’s Student Privacy Policy Office and for continuous improvement.	<input type="checkbox"/>
7:340-AP2, Storage and Destruction of School Student Records	The procedure is updated in response to ISSRA, 105 ILCS 10/, amended by P.A. 102-199, requiring districts to give DCFS notice of the destruction of student records for children in its custody.	<input type="checkbox"/>
7:340-AP2, E1, Letter Containing Schedule for Destruction of School Student Records	The exhibit is updated for the same reason as 7:340-AP2, <i>Storage and Destruction of School Student Records</i> , above.	<input type="checkbox"/>
8:30-AP, Definition of Child Sex Offender	The procedure is updated in response to a five-year review.	<input type="checkbox"/>
8:95-AP, Parental Involvement	The procedure is updated in response to 105 ILCS 5/10-22.34 and 5/10-22.34a, amended by P.A. 102-894, replacing the term <i>non-certificated</i> with <i>nonlicensed</i> in reference to personnel.	<input type="checkbox"/>



The IASB Office of General Counsel's mission is to honestly, professionally, and credibly protect and preserve IASB through legal risk management and compliance services for the IASB Board of Directors and staff; promote best practices to IASB members; create educational products and services; and maintain strong, collaborative relationships with the public education community.

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School Board

Powers and Duties of the School Board; Indemnification

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

1. Organizing the Board after each consolidated election by electing officers and establishing its regular meeting schedule and, thereafter, taking action during lawfully called meetings to faithfully fulfill the Board's responsibilities in accordance with State and federal law. ¹
2. Formulating, adopting, and modifying Board policies, at its sole discretion, subject only to mandatory collective bargaining agreements and State and federal law. ²
3. Employing a Superintendent and other personnel, making employment decisions, dismissing personnel, including determining whether an employee has willfully or negligently failed to report an instance of suspected child abuse or neglect as required by 325 ILCS 5/,³ and establishing an equal employment opportunity policy that prohibits unlawful discrimination. ⁴
4. Directing, through policy, the Superintendent, in his or her charge of the District's administration. ⁵
5. Approving the annual budget, tax levies, major expenditures, payment of obligations, annual audit, and other aspects of the District's financial operation; and making available a statement of financial affairs as provided in State law. ⁶
6. Entering contracts using the public bidding procedure when required. ⁷

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

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

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

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

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

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

⁴ 105 ILCS 5/10-21.4 (employing superintendent); 5/10-20.7 and 5/10-21.1 (teachers); 5/10-21.9 (criminal history records checks); 5/10-22.34, amended by P.A. 102-894 (nonlicensed personnel); 5/10-22.4 (dismissing teachers for cause); and 5/10-23.5 and 5/24-12 (reduction in force). See policies in the **PRESS Policy Reference Manual** Sections 3, General School Administration, and 5, Personnel.

⁵ 105 ILCS 5/10-16.7.

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

7. Providing, constructing, controlling, and maintaining adequate physical facilities; making school buildings available for use as civil defense shelters; and establishing a resource conservation policy. ⁸
8. Establishing an equal educational opportunities policy that prohibits unlawful discrimination. ⁹
9. Approving the curriculum, textbooks, and educational services. ¹⁰
10. Evaluating the educational program and approving School Improvement and District Improvement Plans. ¹¹
11. Presenting the District report card and School report card(s) to parents/guardians and the community; these documents report District, School, and student performance. ¹²
12. Establishing and supporting student behavior policies designed to maintain an environment conducive to learning, including deciding individual student suspension or expulsion cases brought before it. ¹³
13. Establishing attendance units within the District and assigning students to the schools. ¹⁴
14. Establishing the school year. ¹⁵
15. Requiring a moment of silence to recognize veterans during any type of school event held at a District school on November 11. ¹⁶
16. Providing student transportation services pursuant to State law. ¹⁷
17. Entering into joint agreements with other boards to establish cooperative educational programs or provide educational facilities. ¹⁸
18. Complying with requirements in the Abused and Neglected Child Reporting Act (ANCRA). Specifically, each individual Board member must, if an allegation is raised to the member during an open or closed Board meeting that a student is an abused child as defined in ANCRA, direct or cause the Board to direct the Superintendent or other equivalent school

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⁷ 105 ILCS 5/10-20.21, amended by P.A. 102-1101. See policy 4:60, *Purchases and Contracts*.

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

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

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

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

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

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

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

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

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

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

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

administrator to comply with ANCRA's requirements concerning the reporting of child abuse. ¹⁹

19. Notifying the State Superintendent of Education promptly and in writing of the name of a licensed teacher who was convicted of a felony, along with the conviction and the name and location of the court where the conviction occurred. ²⁰
20. Notifying the Teachers' Retirement System (TRS) of the State of Ill. Board of Trustees promptly and in writing when it learns that a teacher as defined in the Ill. Pension Code was convicted of a felony, along with the name and location of the court where the conviction occurred, and the case number assigned by that court to the conviction. ²¹
21. Communicating the schools' activities and operations to the community and representing the needs and desires of the community in educational matters. ²²

Indemnification ²³

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

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

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

²⁰ 105 ILCS 5/21B-85(a).

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

²² See policy 8:10, *Connection with the Community*.

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

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

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

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

School Board

School District Elections ¹

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

The Board, by proper resolution, may cause to be placed on the ballot: (a) public policy referendum according to Article 28 of the Election Code, or (b) advisory questions of public policy according to Section 9-1.5 of the School Code.⁶

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

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

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

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

³ 10 ILCS 5/2A-1.1.

⁴ 10 ILCS 5/2A-1.1a.

⁵ The appropriate *election authority* (county clerk or election commission) canvasses the vote for school district elections. 10 ILCS 5/1-8. The election authority must canvass the vote within 21 days after the election. 10 ILCS 5/22-17 and 5/22-18. Within 40 days after the consolidated election, boards must hold an organizational meeting to elect officers and fix a time and place for regular meetings. 105 ILCS 5/10-16, amended by P.A. 102-798. See sample policy 2:210, *Organizational School Board Meeting*.

⁶ This policy addresses two types of public questions: (1) binding referendum governed by 10 ILCS 5/28, and (2) advisory questions of public policy governed by 105 ILCS 5/9-1.5. An advisory question must be authorized by majority vote of the board. A third type of public question – a voter-initiated petition – is not covered in the policy; the board does not have any duties regarding this type of petition. A voter-initiated petition must be filed with the school board secretary who, if the timelines are met, must certify the question to be placed on the ballot to the county clerk. 10 ILCS 5/10-15, 5/28-2, and 5/28-5.

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

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

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

School Board

Board Member Term of Office¹

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

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

The term ends 4 years later when the successor assumes office.³

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

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

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

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

² The oath requirement is mandated by 105 ILCS 5/10-16.5.

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

The election authority must canvass the vote within 21 days after the election. See 10 ILCS 5/22-17 and 5/22-18. Within 40 days after the consolidated election, boards must hold an organizational meeting to elect officers and fix a time and place for the regular meetings. 105 ILCS 5/10-16, amended by P.A. 102-798.

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

School Board

Board Member Conflict of Interest¹

No School Board member shall: (1) have a beneficial interest directly or indirectly in any contract, work, or business of the District unless permitted by State or federal law;² or (2) solicit or accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to agreements or contracts with the District.³ Situations in which the interest is not substantial or the gift is an unsolicited item of nominal value must comply with State law and Board policy 2:105, *Ethics and Gift Ban*.⁴

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

¹ State law and federal regulations control this policy's content. Conflict of interest is comprehensively discussed in the Ill. Council of School Attorneys' publication, **Answers to FAQs Regarding Conflict of Interest and Incompatible Offices**, available at: www.iasb.com/law/COI_FAQ.pdf.

² The School Code prohibits a school board member from having an interest in a contract with the district he or she serves. Exceptions to this rule permit a board member to provide materials, merchandise, property, services, or labor if: (1) the board member has less than a 7½% share in the ownership of the business; the board member publicly discloses the interest; the board member abstains from voting on the contract; the contract is approved by a majority vote; the contract is awarded after sealed bids to the lowest responsible bidder if the amount of the contract exceeds \$1,500, or awarded without bidding if the amount of the contract is less than \$1,500; and the award of the contract would not cause the aggregate amount of all such contracts so awarded in the same fiscal year to exceed \$25,000; OR (2) the contract is approved by a majority vote, provided that any such interested member shall abstain from voting; the amount of the contract does not exceed \$1,000 or the award of the contract does not cause the aggregate amount of such contracts to the same individual to exceed \$2,000 in the same fiscal year, or \$5,000 in the same fiscal year if the labor or materials to be provided are not otherwise available in the district; and the interested member publicly discloses the interest. See 105 ILCS 5/10-9 for other exceptions.

A board member does not have a prohibited interest in a contract with the district he or she serves "if the board member is an employee of a business that is involved in the transaction of business with the school district, provided that the board member has no financial interests other than as an employee." 105 ILCS 5/10-9(a).

The Public Officer Prohibited Activities Act prohibits a governing body member from being "in any manner financially interested directly in his own name or indirectly in the name of any other person, association, trust, or corporation, in any contract or the performance of any work in the making or letting of which such officer may be called upon to act or vote." 50 ILCS 105/3(a). Exceptions to this prohibition are similar to those in the School Code.

Generally, an individual may be a board member at a school district that employs his or her spouse. Indeed, 105 ILCS 5/10-22.3a specifically allows a board member to participate in a group health insurance program provided to a district employee if the board member is that employee's dependent, i.e., spouse or child. However, this is a fact-sensitive inquiry; a board member should seek legal counsel before voting on anything related to his or her spouse. See the **Answers to FAQs**, referenced in f/n 1.

A violation of the School Code or Public Officer Prohibited Activities Act is a Class 4 felony. Due to the severity of this penalty as well as to avoid the appearance of impropriety, a legal opinion should be obtained before a board member becomes financially interested in any contract with his or her district. Abstaining on the vote, or absence from the meeting when the vote is taken, does not negate an otherwise illegal conflict of interest.

³ 2 C.F.R. §200.318(c)(1).

⁴ *Id.* The rule provides flexibility for school districts to "set standards for situations in which the financial interest is not substantial, or the gift is an unsolicited item of nominal value," along with "disciplinary actions to be applied for violations." Referring to sample policy 2:105, *Ethics and Gift Ban*, for these standards provides clarity and consistency. Policy 2:105, *Ethics and Gift Ban*, refers to **Limitations on Receiving Gifts** in the Ethics Act at 5 ILCS 430/10-10 through 10-30, along with discussion of the specific penalties available under the Ethics Act at 5 ILCS 430/50-5 in its **Enforcement** subhead.

Board members must annually file a *Statement of Economic Interests* as required by the Illinois Governmental Ethics Act.⁵ Each Board member is responsible for filing the statement with the county clerk of the county in which the District's main office is located by May 1.

Federal and State Grant Awards⁶

No Board member shall participate in the selection, award, or administration of a contract supported by a federal award or State award governed by the Grant Accountability and Transparency Act (GATA) (30 ILCS 708/) if he or she has a real or apparent conflict of interest. A conflict of interest arises when a Board member or any of the following individuals has a financial or other interest in or a tangible benefit from the entity selected for the contract:

1. A member of the Board member's immediate family;
2. The Board member's partner;⁷ or
3. An entity that employs or is about to employ the Board member or one of the individuals listed in one or two above.

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⁵ 5 ILCS 420/4A-101.5, 4A-105, and 4A-106.5, amended by P.A. 101-221; 5 ILCS 420/4A-102 and 4A-107, amended by P.A.s 101-221 and 102-664; 5 ILCS 420/4A-103, amended by P.A. 102-664. Any county clerk may implement a system of Internet-based filing for economic interest statements. 5 ILCS 420/4A-108, amended by P.A.s 101-221 and 102-664. If an Internet-based filing system is used, the clerk must post the statements, without filers' addresses or signatures, on a publicly accessible website. *Id.*

Each candidate for the school board must file with the county clerk or the county board of election commissioners, whichever is applicable, a receipt from the county clerk showing that the candidate has filed a *Statement of Economic Interests* as required by the Ill. Governmental Ethics Act. 5 ILCS 420/4A-108(b)(3). A candidate's name will be stricken from the ballot if he or she files the incorrect *Statement of Economic Interests* form. Ferrand v. Chicago Bd. of Election Comm., 379 Ill.Dec. 451 (1st Dist. 2014); Cortez v. Mun. Officers Electoral Bd., 369 Ill.Dec. 376 (1st Dist. 2013).

⁶ 2 C.F.R. §200.318(c)(1) prohibits employees, officers, or agents of a school district from participating in the selection, award, or administration of a contract supported by a federal award if they have a *real or apparent conflict of interest*. The term *participate* is not specifically defined in the federal regulation; consult the board attorney regarding other actions the board can take to limit the influence of a conflicted board member, beyond abstention from the board's evaluation and vote on a contract. The uniform federal rules on procurement standards in 2 C.F.R. Part 200 also apply to eligible State grants through the Grant Accountability Transparency Act (GATA), 30 ILCS 708/. Authoritative sources and guidance regarding conflict of interest and financial disclosure are provided through the GATA Resource Library at www.grants.illinois.gov. The State guidance provides examples of situations which may be prohibited or may present a potential conflict of interest. See also the Ill. State Board of Education's *Procurement and Purchasing Checklist* at: www.isbe.net/Pages/Federal-and-State-Monitoring.aspx.

The law does not specifically define an *apparent conflict of interest*. For a discussion of what an *apparent conflict of interest* may mean, see the discussion about avoiding the *appearance of impropriety* in the **Answers to FAQs**, cited above in f/n 1.

If the district has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-federal entity must also maintain written standards of conduct covering organizational conflicts of interest. *Organizational conflicts of interest* means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization. 2 C.F.R. §200.318(c)(2).

⁷ The law does not define *partner*; consult the board attorney about whether this term includes domestic partners, business partners, or both.

LEGAL REF.: 105 ILCS 5/10-9.
5 ILCS 420/, III. Governmental Ethics Act.
30 ILCS 708/, Grant Accountability and Transparency Act.
50 ILCS 105/3, Public Officer Prohibited Activities Act.
2 C.F.R. §200.318(c)(1).

CROSS REF.: 2:105 (Ethics and Gift Ban), 4:60 (Purchases and Contracts), 5:120 (Employee Ethics; Code of Professional Conduct; and Conflict of Interest)

School Board

Ethics and Gift Ban¹

Prohibited Political Activity

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

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

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

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

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

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

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

Limitations on Receiving Gifts ⁴

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

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

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

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

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

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

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

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

www.iasb.com/law/COI_FAQ.pdf.

⁵ 105 ILCS 5/22-93, added by P.A. 102-327 and renumbered by P.A. 102-813, bans high school guidance counselors from intentionally soliciting or accepting gifts from a *prohibited source*, narrowly defined as “any person who is employed by an institution of higher education or is an agent or spouse of or an immediate family member living with a person employed by an institution of higher education.” *Id.* Exceptions exist for certain circumstances, e.g., gifts from a relative or based on a personal friendship. A guidance counselor does not violate this law if he or she promptly takes reasonable action to return the gift to the prohibited source or donates the gift or an amount equal to its value to a tax-exempt charity. *Id.*

stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiancé or fiancée.

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

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

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

Enforcement

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

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

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

Definitions⁸

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

Political activity means:

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

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

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

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

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

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

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

Prohibited source means any person or entity who:

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

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

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